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**IN THE  
COURT OF APPEALS OF INDIANA**

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ANTRELL LAMAR BLISSETT, )

Appellant-Defendant, )

vs. )

STATE OF INDIANA, )

Appellee-Plaintiff. )

No. 45A03-0610-CR-459

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APPEAL FROM THE LAKE SUPERIOR COURT  
The Honorable Kathleen Sullivan, Judge Pro Tempore  
Cause No. 45G02-0308-FB-64

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**February 14, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAKER, Judge**

Appellant-defendant Antrell Lamar Blissett appeals the trial court's order denying his "Motion to Amend Abstract of Judgment for Correction of Erroneous Sentence." Specifically, Blissett contends that the abstract of judgment and sentencing order, which provide that Blissett received an eighteen-year sentence, are erroneous because they are contrary to the trial court's oral pronouncement during the sentencing hearing that Blissett would receive a fifteen-year sentence. Finding no error, we affirm the trial court's order denying Blissett's motion.

### FACTS

In August 2003, Blissett was charged with class B felony robbery. A jury trial commenced in June 2004, and the jury found Blissett guilty as charged. On July 28, 2004, the trial court held a sentencing hearing and found Blissett's criminal history and recent probation violation to be aggravators, and no mitigating circumstances were identified. During the hearing, the trial court orally indicated that it was sentencing Blissett to a term of fifteen years. Specifically, the sentencing transcript provides: "The defendant is now ordered committed to the Department of Corrections for classification and confinement in a medium security facility for a period of fifteen (15) years (sic)." Appellant's App. p. 75. Also on July 28, 2004, the trial court issued its written sentencing order, which provides: "The defendant is committed to the custody of the Indiana Department of Correction for classification and confinement in a medium security facility for a period of eighteen (18) years." *Id.* at 29. The abstract of judgment, signed by the trial court judge on July 28, 2004, provides that Blissett was sentenced to

“18 yrs.[,]” and the chronological case summary indicates that was “sentenced to 18 years DOC.” Id. at 3, 31.

Blissett belatedly appealed his conviction and sentence to this court. In his appellant’s brief, Blissett raised the “troublesome problem of the court’s order stating eighteen (18) years, while in open court the judge imposed fifteen (15) years.” Id. at 97. In an August 17, 2005, memorandum decision, a panel of this court stated that Blissett received an eighteen-year sentence and addressed Blissett’s “problem” by noting that:

It appears that the trial court misspoke during the sentencing hearing leading to the insertion of “(sic)” by the transcriptionist after the term of imprisonment was specified. The sentencing order, which controls, indicates that the sentence imposed was eighteen years. See Robinson v. State, 805 N.E.2d 783, 794 (Ind. 2004).

Blissett v. State, No. 45A04-0409-CR-511 slip op. at 2 n.2 (Ind. Ct. App. Aug. 17, 2005).

See also Appellant’s App. p. 119.

On August 28, 2006, Blissett, pursuant to Indiana Code section 35-38-1-15, filed a “Motion to Amend Abstract of Judgment for Correction of Erroneous Sentence” and moved the trial court “to amend the Abstract of Judgment to reflect the original in-court sentence which imposed confinement for a period of fifteen (15) years.” Appellant’s App. p. 46. That same day, the trial court denied Blissett’s motion and issued an order, which provides, in part: “The eighteen (18) years indicated on the Abstract of Judgment reflects the eighteen (18) years ordered in the Court’s sentencing order. As the Appellate Court noted in the Memorandum Decision, it is the sentencing order that controls.” Id. at 56. Blissett now appeals.

## DISCUSSION AND DECISION

Blissett argues that the trial court erred by denying his motion to correct erroneous sentence. Specifically, Blissett contends that the abstract of judgment and sentencing order, which provide that Blissett received an eighteen-year sentence, are erroneous because they are contrary to the trial court's oral pronouncement during the sentencing hearing that Blissett would receive a fifteen-year sentence.

Blissett filed his motion to amend his abstract of judgment under Indiana Code section 35-38-1-15, which provides:

If the convicted person is erroneously sentenced, the mistake does not render the sentence void. The sentence shall be corrected after written notice is given to the convicted person. The convicted person and his counsel must be present when the corrected sentence is ordered. A motion to correct sentence must be in writing and supported by a memorandum of law specifically pointing out the defect in the original sentence.

Although not raised by the parties, we conclude that the trial court properly denied Blissett's motion to correct erroneous sentence because Blissett's claim is barred by res judicata. Res judicata provides that a judgment on the merits is an absolute bar to a subsequent action on the same claim between the same parties. Smith v. State, 825 N.E.2d 783, 789 (Ind. 2005). Res judicata "prevents the repetitious litigation of that which is essentially the same dispute." Id. (citation omitted).

When Blissett filed his direct appeal following his conviction, he raised the "troublesome problem of the court's order stating eighteen (18) years, while in open court the judge imposed fifteen (15) years." Appellant's App. p. 97. In our 2005 memorandum decision, we addressed Blissett's "problem" by noting that "the trial court

misspoke during the sentencing hearing leading to the insertion of ‘(sic)’ by the transcriptionist after the term of imprisonment was specified” and that “[t]he sentencing order, which controls, indicates that the sentence imposed was eighteen years.” Blissett, slip op. at 2 n.2. See also Appellant’s App. p. 119. In his motion to correct erroneous sentence, Blissett argued to the trial court that his sentence should be modified to fifteen years based upon the trial court’s oral sentencing pronouncement. Appellant’s App. p. 46. Because we had already addressed Blissett’s argument regarding a sentencing discrepancy, the trial court correctly denied Blissett’s motion to correct erroneous sentence.

Moreover, even if not barred by res judicata, we conclude that the trial court properly denied Blissett’s motion based on Robinson v. State, 805 N.E.2d 783 (Ind. 2004). In Robinson, our Supreme Court clarified the circumstances under which it is proper for a defendant to raise sentencing errors in a motion to correct sentence. The Robinson court explained:

When claims of sentencing errors require consideration of matters outside the face of the sentencing judgment, they are best addressed promptly on direct appeal and thereafter via post-conviction relief proceedings where applicable. Use of the statutory motion to correct sentence should thus be narrowly confined to claims apparent from the face of the sentencing judgment, and the “facially erroneous” prerequisite should henceforth be strictly applied . . . We therefore hold that a motion to correct sentence may only be used to correct sentencing errors that are clear from the face of the judgment imposing the sentence in light of the statutory authority. Claims that require consideration of the proceedings before, during, or after trial may not be presented by way of a motion to correct sentence.

Robinson, 805 N.E.2d at 787 (footnote and citations omitted).

In Robinson, the defendant filed a motion to correct erroneous sentence asserting that the trial court's sentence improperly failed to award credit for time served and good time credit. Id. at 785. The court explained that “[i]t is the court’s judgment of conviction and not the abstract of judgment that is the official trial court record and which thereafter is the controlling document. Therefore, a motion to correct erroneous sentence may not be used to seek corrections of claimed errors or omissions in an abstract of judgment.” Id. at 794.

In Blissett’s “Motion to Amend Abstract of Judgment for Correction of Erroneous Sentence[,]” he specifically challenged the abstract of judgment. Accordingly, the trial court did not err in denying his motion. See id.; see also Pettiford v. State, 808 N.E.2d 134, 136 (Ind. Ct. App. 2004) (holding that the trial court did not err in denying the defendant’s motion to correction erroneous sentence where he challenged the abstract of judgment).

On appeal, Blissett now also challenges the trial court’s sentencing order, arguing that it—along with the abstract of judgment—are erroneous because they are contrary to the trial court’s oral pronouncement during the sentencing hearing. First, Blissett did not allege to the trial court that there was any error in the sentencing order. Thus, he has waived any such argument on appeal. See McClendon v. State, 671 N.E.2d 486, 489 (Ind. Ct. App. 1996) (“An issue cannot be raised for the first time on appeal.”). Moreover, Blissett’s claim regarding the discrepancy in the sentencing order raises an error that requires consideration of matters outside the face of the sentencing judgment. Thus, pursuant to Robinson, it may not be presented by way of a motion to correct

erroneous sentence. See Robinson, 805 N.E.2d at 787; see also Murfitt v. State, 812 N.E.2d 809, 811 (Ind. Ct. App. 2004) (affirming the trial court's denial of the defendant's motion to correct erroneous sentence where the defendant's claim raised an error that required consideration of matters outside the face of the sentencing judgment). Accordingly, the trial court properly denied Blissett's motion.

The judgment of the trial court is affirmed.

DARDEN, J., and ROBB, J., concur.