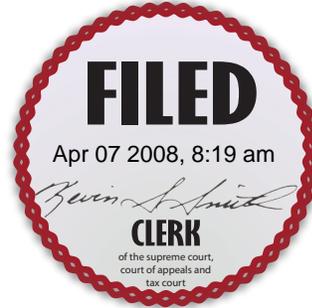


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

ATTORNEYS FOR APPELLEE:

**TRAVIS L. EPPERT**  
Westville, Indiana

**STEVE CARTER**  
Attorney General of Indiana

**J.T. WHITEHEAD**  
Deputy Attorney General  
Indianapolis, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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TRAVIS L. EPPERT, )  
)  
Appellant-Defendant, )  
)  
vs. )  
)  
STATE OF INDIANA, )  
)  
Appellee-Plaintiff. )

No. 20A03-0705-CR-245

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APPEAL FROM THE ELKHART CIRCUIT COURT  
The Honorable James Rieckhoff, Judge  
Cause No. 20D05-0506-FD-00238

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**April 7, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

Travis L. Eppert (“Eppert”) was sentenced in Elkhart Circuit Court to an aggregate term of twelve years with four years suspended to probation. He appeals, pro se, raising the following restated and consolidated issue: whether the trial court erred when it denied his motion to correct erroneous sentence.

We affirm.

### **Facts and Procedural History**

On October 3, 2005, Eppert pleaded guilty to Class D felony operating while intoxicated, Class D felony auto theft, and Class D felony operating a vehicle as a habitual traffic violator. The trial court further adjudicated Eppert a habitual substance offender during the plea. That same day, Eppert was sentenced to three years for operating while intoxicated and that sentence was enhanced by eight years for the habitual substance offender adjudication. He was also sentenced to one year for auto theft to be served consecutively to the operating while intoxicated sentence, and three years for operating a vehicle as a habitual traffic violator to be served concurrently to the other charges. The trial court further ordered that four years be suspended to probation.

On March 28, 2007, Eppert filed a pro se motion to correct erroneous sentence. The trial court denied the motion. Eppert now appeals.

### **Discussion and Decision**

Eppert’s motion to correct erroneous sentence is based on Indiana Code section 35-38-1-15 (2004) 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.

The statute provides prompt, direct access to an uncomplicated legal process for correcting an erroneous or illegal sentence. Robinson v. State, 805 N.E.2d 783, 785 (Ind. 2004).

A motion to correct sentence is a remedy that is only appropriate when the sentence is “erroneous on its face.” Mitchell v. State, 726 N.E.2d 1228, 1243 (Ind. 2000). A motion to correct sentence should be narrowly confined to claims apparent from the “face of the sentencing judgment, and the ‘facially erroneous’ prerequisite should henceforth be strictly applied.” Robinson, 805 N.E.2d at 787. If a sentencing claim is not facially apparent then a motion to correct sentence is not a proper remedy. Id.

The trial court properly denied Eppert’s motion. The trial court had sentenced Eppert to the maximum three years for the Class D felony operating while intoxicated conviction. The trial court enhanced this sentence by eight years based on the habitual substance offender finding. The trial court imposed the maximum sentence of eleven years with four years suspended. See Indiana Code § 35-50-2-10. This sentence is within the statutory limits and is not erroneous on its face. Additionally, Eppert alleges that the trial court improperly imposed a consecutive three-year sentence for operating a vehicle as a habitual traffic violator. However, the sentencing order shows that this sentence was to be served concurrently with the other charges. Appellant’s App. at 7.

Eppert also argues that the habitual substance offender count subjected him to double enhancement of his sentence. However, our court has determined that “double

enhancements under the habitual substance offender statute and the operating while intoxicated statute are proper.” Schnepp v. State, 768 N.E.2d 1002, 1007 (Ind. Ct. App. 2002). Eppert’s sentence is therefore not facially erroneous.

The trial court properly denied Eppert’s motion to correct sentence and properly enhanced the sentence for his Class D felony operating while intoxicated conviction.

We affirm.

FRIEDLANDER, J., and ROBB, J., concur.