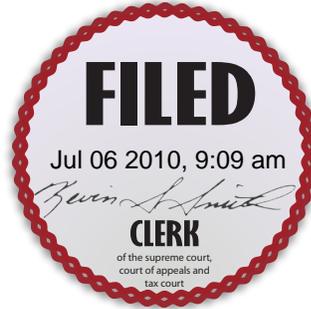


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

VIDAL CLAYTON,)	
)	
Appellant/Petitioner,)	
)	
vs.)	No. 21A01-1001-CR-9
)	
STATE OF INDIANA,)	
)	
Appellee/Respondent.)	

APPEAL FROM THE FAYETTE CIRCUIT COURT
The Honorable Daniel L. Pflum, Judge
Cause No. 21C01-0202-FA-32

July 6, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant/Petitioner Vidal Clayton appeals from the trial court's order that the sentence imposed following his guilty plea to Class A felony Conspiracy to Commit Murder¹ be served consecutively to a sentence imposed following an unrelated conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

On or about August 6, 2003, Clayton and the State entered into a plea agreement providing, *inter alia*, that he would plead guilty to one count of Class A felony conspiracy to commit murder and that his sentence would be served consecutive to that imposed in Marion County cause number 49G20-0105-CF-105843 ("Cause CF-105843"). On September 5, 2003, Clayton pled guilty to conspiracy to commit murder and the trial court subsequently sentenced him to thirty years of incarceration with ten years suspended, to be served consecutive to the sentence imposed in Cause CF-105843. On September 29, 2009, Clayton filed a motion to correct erroneous sentence on the basis that he could not have legally been ordered to serve the two sentences consecutively, which the trial court denied the next day.

DISCUSSION AND DECISION

An erroneous sentence may be corrected through a motion filed pursuant to Indiana Code section 35-38-1-15 (2009). This statute, however, is only applicable where a sentence is erroneous on its face, and "[c]laims that require consideration of the proceedings before, during, or after trial may not be presented by way of a motion to

¹ Ind. Code § 35-41-5-2. We cannot determine which year's version of section 35-41-5-2 applies here, as Clayton has failed to provide anything that indicates when he committed his crime.

correct sentence.” *Robinson v. State*, 805 N.E.2d 783, 787 (Ind. 2004). Clayton’s claim is that bond imposed in Cause CF-105843 was revoked before charges were filed in this case, rendering his consecutive sentences illegal. Clearly, this claim is not based on the face of the judgment in this case and would require us to consider proceedings in another cause from a different county.

The judgment of the trial court is affirmed.

RILEY, J., and MATHIAS, J., concur.