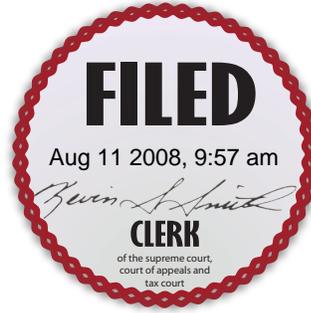


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

TERRENCE WEBBS,)
)
 Appellant-Defendant,)
)
 vs.) No. 46A03-0712-CR-587
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE LaPORTE SUPERIOR COURT
The Honorable Kathleen Lang, Judge
Cause No. 46D01-0605-FA-0078

AUGUST 11, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

HOFFMAN, Senior Judge

Terrence Webbs appeals the denial of his motion to correct erroneous sentence. We reverse and remand with instructions for the trial court to correct the sentencing order.

The sole issue for our review is whether the trial court erroneously sentenced Webbs for the habitual offender adjudication.

In 2007, Webbs pled guilty to one count of child molesting as a class C felony. Shortly thereafter, Webbs admitted to being an habitual offender. The trial court sentenced Webbs as follows in its written sentencing order:

The Court finds the defendant is guilty of Child Molesting, Class C Felony, and sentences him to the Department of Correction for classification and confinement for a determinate period of eight (8) years. . . . As to Count II, Habitual Offender allegation, Court sentences the defendant to the Department of Correction for classification and confinement for a determinate period of five (5) years. The sentences shall run consecutively.

Appellant's Brief.

In October 2007, Webbs filed a Motion to Correct Erroneous Sentence, which the trial court denied. Webbs appealed the denial. In March 2008, this court issued an order requiring Webbs to show cause why his appeal should not be dismissed. Webbs filed a response, and this court issued an order finding that Webbs had shown good cause for not dismissing the appeal in its entirety. The order permitted Webbs' appeal to go forward on his claim that the trial court erroneously treated his sentence enhancement as a separate offense for sentencing purposes rather than an enhancement to his class C felony conviction and dismissed Webbs' other claims.

An habitual offender finding does not constitute a separate crime nor does it result in a separate sentence. *Barnett v. State*, 834 N.E.2d 169, 173 (Ind. Ct. App. 2005). Rather, it results in a sentence enhancement imposed upon the conviction of a subsequent felony. *Id.* Hence, the State concedes that the trial court erred in imposing a separate, consecutive five-year sentence for the habitual offender adjudication. The sentencing order must be corrected to reflect that Webbs was sentenced to eight-years for his conviction, enhanced by five years for the habitual offender adjudication, for a sentence of thirteen years. *See id.*

Reversed and remanded with instructions for the trial court to correct the sentencing order.

RILEY, J., and BAILEY, J., concur.