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

KEYTRON W. JOHNSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A04-1101-PC-45
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
Cause No. 02D04-0004-CF-232

SEPTEMBER 6, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Keytron W. Johnson appeals the denial of his motion to correct erroneous sentence. We affirm.

ISSUE

Johnson raises three issues, which we consolidate and restate as: whether the trial court erred by denying Johnson's motion to correct erroneous sentence.

FACTS AND PROCEDURAL HISTORY

Johnson pleaded guilty to one count of burglary, a Class A felony. Ind. Code § 35-43-2-1 (1999). On July 30, 2001, the trial court sentenced Johnson to thirty-five years. Johnson did not appeal. Next, Johnson filed a petition for post-conviction relief. On May 5, 2009, the trial court granted Johnson's request to withdraw his petition without prejudice. Johnson has not filed another petition.

On December 16, 2010, Johnson filed a motion to correct erroneous sentence. The State filed a response, and Johnson filed a reply. The trial court denied Johnson's motion without a hearing. This appeal followed.

DISCUSSION AND DECISION

Motions to correct erroneous sentence are governed by Indiana Code section 35-38-1-15 (1983), 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 purpose of this statute is to provide prompt, direct access to an uncomplicated legal process for correcting the occasional erroneous or illegal sentence. *Robinson v. State*, 805 N.E.2d 783, 785 (Ind. 2004). Our Supreme Court has determined that a motion to correct erroneous sentence is an appropriate avenue for relief in specific circumstances, as follows:

> 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.

Id. at 787.

On appeal, Johnson argues that his sentence is erroneous because it violates the holding in *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004). Specifically, Johnson claims that if he had gone to trial and been found guilty, a jury would have been required to determine the facts "legally essential to his sentence." Appellant's Br. p. 6. Johnson further alleges that he would not have pleaded guilty had he known that he was entitled to have the facts relevant to his sentence determined by a jury. To address Johnson's claim, this Court would have to consider matters beyond the face of the sentencing order, including the sentencing transcript. Consequently, this claim is not appropriately raised in a motion to correct erroneous sentence, and the trial court did not err by denying Johnson's motion.

Johnson cites *Kleinrichert v. State*, 260 Ind. 537, 297 N.E.2d 822 (1973), for the proposition that a sentencing error may be raised at any time. *Kleinrichert* is not controlling here. That case concerned a direct appeal, not an appeal from the denial of a motion to correct erroneous sentence. Furthermore, in *Kleinrichert* the sentencing error was apparent on the face of the sentencing judgment because the trial court sentenced the defendant to imprisonment and ordered him to pay a fine, when the controlling statute authorized imprisonment or imposition of a fine, but not both. 260 Ind. at 543, 297 N.E.2d at 826. By contrast, in the current case we would have to look beyond the face of the sentencing order to address Johnson's *Blakely* claim.

CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

Affirmed.

VAIDIK, J., and CRONE, J., concur.