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**IN THE
COURT OF APPEALS OF INDIANA**

SANDERS WILLIAMS,)
)
 Appellant-Defendant,)
)
 vs.) No. 49A04-0906-CR-351
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Carol Orbison, Judge
The Honorable Amy J. Barbar, Magistrate
Cause No. 49G22-0705-FC-82076

October 8, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Pursuant to a guilty plea, Sanders Williams was convicted of class C felony robbery and adjudicated a habitual offender.¹ The trial court sentenced Williams to four years in prison for the robbery, enhanced by four years for being a habitual offender. Williams subsequently filed a pro se motion to correct erroneous sentence. Williams, pro se, appeals the denial of that motion.

We affirm.

In sentencing Williams on September 18, 2007, the trial court indicated on the abstract of judgment that Williams had been confined 155 days prior to sentencing, without expressly designating credit time earned. On April 23, 2009, Williams filed his pro se motion to correct erroneous sentence, contending that the sentencing order was faulty in that it did not include both credit time earned and time spent in pre-sentence confinement. He requested that the trial court correct those purported deficiencies by issuing an amended sentencing order.

Williams appeals the denial of his motion to correct erroneous sentence under Ind. Code Ann. § 35-38-1-15 (West, PREMISE through 2009 Public Laws approved and effective through 4/20/2009). Such a motion may only be filed to address a sentence that is erroneous on its face. *Neff v. State*, 888 N.E.2d 1249 (Ind. 2008). “An allegation by an inmate that the trial court has not included credit time earned in its sentencing is the type of claim appropriately advanced by a motion to correct sentence.” *Id.* at 1251.

¹ Williams inexplicably indicates in his appellate brief that he was convicted of dealing in cocaine, resisting law enforcement, and striking or interfering with a law enforcement animal.

It is undisputed that I.C. § 35-38-3-2 (West, PREMISE through 2009 Public Laws approved and effective through 4/20/2009) requires the judgment of conviction to report “not only the number of days confined while imprisoned before sentence but also must separately designate the credit time earned for the said period of confinement[.]” *Robinson v. State*, 805 N.E.2d 783, 794 (Ind. 2004). Our Supreme Court further held in *Robinson*, “that judgments reporting pre-sentence confinement time but omitting credit time will be presumed to designate credit time days equal to days of pre-sentence confinement[.]” *Id.* This presumption “remove[s] the need for state courts to adjudicate these types of sentence claims on an individual basis.” *Neff v. State*, 888 N.E.2d at 1252.

In *Neff*, our Supreme Court indicated that, in certain cases, “an abstract of judgment may function in the place of a judgment of conviction” for purposes of applying the *Robinson* presumption. *Id.* The Court explicitly identified convictions emanating from Marion County as apt for applying this principle on the basis that trial courts in Marion County do not regularly issue formal judgments of conviction, but instead issue abstracts of judgment. Such was the case here.

Both the State and Williams agree that he was entitled to credit for 155 days of pre-sentencing incarceration, which is reflected in the entry on the abstract of judgment recording the number of days confined prior to sentencing. Both also agree that Williams is entitled to 155 days of credit time. To be sure, by application of *Neff* and *Robinson*, the 2007 abstract of judgment is presumed to designate 155 days of credit time in addition to the 155 days of pre-sentencing confinement. Thus, there is no need to issue a corrected abstract of judgment or a

judgment of conviction. The trial court did not err in denying Williams's Motion to Correct Erroneous Sentence and Issue a New Judgment of Conviction and Order of Commitment.

Judgment affirmed.

BAKER, C.J., and RILEY, J., concur.