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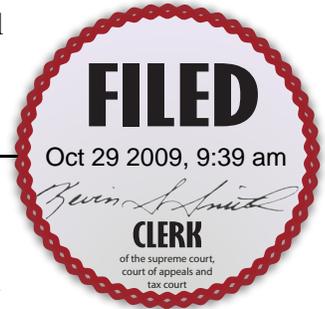
APPELLANT PRO SE:

LEON MOORE
Westville, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

JODI KATHRYN STEIN
Deputy Attorney General
Indianapolis, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

LEON MOORE,)
)
Appellant-Petitioner,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Respondent.)

No. 20A05-0907-CR-393

APPEAL FROM THE ELKHART CIRCUIT COURT
The Honorable Gene Duffin, Sr. Judge
Cause No. 20C01-9410-CF-68

October 29, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Leon Moore appeals pro se the denial of his motion to correct erroneous sentence. The sole issue is whether the trial court abused its discretion in denying his motion. We affirm.

On October 21, 1994, the State charged Moore with murder. On February 9, 1995, Moore pled guilty to class A felony manslaughter with a deadly weapon. On March 16, 1995, the trial court sentenced Moore to forty-five years, citing as aggravating circumstances his two prior juvenile weapons offenses, his two prior commitments to the Indiana Boys School, his use of a .357 magnum to commit the offense, and his recent release from parole.¹

Between 1998 and 2009, Moore filed one petition for post-conviction relief, which he withdrew, five petitions for sentence modification, all of which were denied, and two motions for credit time, one of which was denied and one of which was granted. On June 2, 2009, he filed a motion to correct erroneous sentence. The trial court denied the motion without a hearing on the same date. This appeal ensued.

Moore contends that the trial court erred in denying his motion to correct erroneous sentence. We review a trial court's ruling on a motion to correct erroneous sentence for an abuse of discretion. *Parrett v. State*, 800 N.E.2d 620, 622 (Ind. Ct. App. 2003). An abuse of discretion occurs where the trial court's decision is against the logic and effect of the facts and circumstances before it. *Myers v. State*, 718 N.E.2d 783, 789 (Ind. Ct. App. 1999).

¹ Indiana Code Section 35-50-2-4 (1977) provided for a fifty-year maximum sentence for a class A felony conviction.

Moore filed a motion to correct erroneous sentence pursuant to Indiana Code Section 35-38-1-15, 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.

A motion to correct erroneous sentence may only be used to correct sentencing errors that are clear from the face of the judgment. *Robinson v. State*, 805 N.E.2d 783, 786 (Ind. 2004). “A sentence is facially defective if it violates express statutory authority at the time it is imposed.” *Parrett*, 800 N.E.2d at 622. Claims that require consideration of the proceedings before, during, or after trial may not be presented by way of a motion to correct erroneous sentence. *Robinson*, 805 N.E.2d at 786. Here, Moore bases his motion to correct erroneous sentence on the trial court’s allegedly improper consideration of certain aggravating circumstances in imposing his forty-five-year sentence. This claim would require consideration of his plea agreement and sentencing transcripts. As such, it is not the proper subject for a motion to correct erroneous sentence. Thus, the trial court acted within its discretion in denying his motion. Accordingly, we affirm.

Affirmed.

MAY, J., and BROWN, J., concur.