

Tommy L Reives contends the trial court erred in denying his petition for earned credit time, presenting the denial of that petition as the sole issue on appeal.

We affirm.

The relevant facts are that on June 21, 2005, Reives was convicted of dealing in cocaine as a class B felony and sentenced to twenty years in prison, with five years suspended. On April 14, 2010, he filed a “Verified Motion for Additional Earned Credit Time for the Completion of an [sic] Life Skill Program.” *Appellant’s Appendix* at 3. In support of this motion, Reives alleged that he completed fourteen named programs. The trial court denied the motion on May 20 and Reives appeals.

Reives presented his request via a verified motion for additional education credit time. This court has held that such a motion should be treated as a petition for post-conviction relief. *See Wilson v. State*, 785 N.E.2d 1152 (Ind. Ct. App. 2003). “Post-conviction procedures do not afford a petitioner with a ‘super-appeal.’” *Williams v. State*, 808 N.E.2d 652, 659 (Ind. 2004). Rather, they create a narrow remedy for subsequent collateral challenges to convictions that must be based on grounds enumerated in the post-conviction rules. *Wrinkles v. State*, 749 N.E.2d 1179 (Ind. 2001), *cert. denied*, 535 U.S. 1019 (2002). Pursuant to Ind. Post-Conviction Rule 1(5), a petitioner must establish the grounds for relief by a preponderance of the evidence. A petitioner appealing from the denial of post-conviction relief appeals from a negative judgment. *Wrinkles v. State*, 749 N.E.2d 1179. Accordingly, the petitioner must convince the reviewing court that the evidence as a whole leads unerringly and unmistakably to a decision opposite that reached by the post-conviction court. *Id.* “In other words, the defendant must convince [the court] that there is no way

within the law that the court below could have reached the decision it did.” *Stevens v. State*, 770 N.E.2d 739, 745 (Ind. 2002), *cert. denied*, 540 U.S. 830 (2003).

Reives sought credit under Ind. Code Ann. § 35-50-6-3.3(b)(3)(C) (West, Westlaw through 2010 2nd Regular Sess.), which provides as follows:

In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

- (1) is in credit Class I;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:

* * * * *

- (C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

The State responded that Reives failed to demonstrate that he exhausted his administrative remedies before filing this request with the court. We note in this regard the State argued below that Reives did not provide any documentation to support his claim that he had exhausted his administrative remedies before filing the instant petition. Indeed, it appears that he failed to do so. Upon appeal, however, Reives filed several documents purporting to show that Reives presented his request to the DOC, but the request was denied. Thus, these documents tend to show that Reives exhausted his administrative remedies before filing his motion with the trial court. Noting that these documents had not been presented to the trial court and “are not therefore properly part of the record on appeal”, the State indicated it was “contemporaneously filing a motion to strike these documents from the Appendix.” *Appellee’s Brief* at 5 n.1. We can find no such motion to strike in the appellate

record. Rather, the State renewed its argument that Reives did not establish that he exhausted his administrative remedies prior to filing the motion for education credit time with the trial court. It appears, however, that this argument depends upon a successful ruling on a motion to strike that the State, in fact, never filed. We therefore proceed upon the assumption that Reives established that he exhausted his administrative remedies prior to filing his motion, and decide the issue on the merits of the motion for educational credit time.

The State contends that Reives did not satisfy the requirements for educational credit time under I.C. § 35-50-6-3.3(b)(3)(C). Reives sought credit under this provision for attaining “[a] certificate of completion of a literacy and basic life skills program approved by the department of correction.” Pursuant to Executive Directive #08-70, Commissioner Edwin G. Buss clarified that the Department of Correction “has chosen to continue to use the ‘*Thinking for a Change*’ program developed by the National Institute of Corrections as the basis for the life skills portion of” the literacy and life skills program authorized by the General Assembly for awarding credit time. *Appellee’s Appendix* at 1. In his verified motion for additional earned credit time, Reives sought an award of credit time “for the completion of the above listed Life Skill/Literacy programs.” *Appellant’s Appendix* at 4. As indicated earlier, Reives listed fourteen programs that he allegedly completed, six of which he labeled as fitting in the category of “life skill” programs.¹ Significantly, he did not allege that he had completed the only program that the DOC has determined satisfies the “life skills” component of the literacy and life skills credit time authorized under I.C. § 35-50-6-

¹ These included (1) Anger Management, (2) Stress Management, (3) Changing Life Through Literature, (4) Long Distance Dads, (5) Sleep Hygiene, Meditation, and (6) Personal Management Skills.

3.3(b)(3)(C), i.e., *Thinking for a Change*. Therefore, the trial court did not err in denying Reives’s “Verified Motion for Additional Earned Credit Time for the Completion of an [sic] Life Skill Program.” *Appellant’s Appendix* at 3.

Judgment affirmed.

MAY, J., and MATHIAS, J., concur.