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**IN THE
COURT OF APPEALS OF INDIANA**

TERRENCE L. WISE,)
)
Appellant-Defendant,)
)
vs.) No. 20A04-0708-PC-430
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE ELKHART SUPERIOR COURT
The Honorable Stephen Bowers, Judge
Cause No. 20D02-0409-FC-198

December 13, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

Terrence L. Wise appeals the trial court's denial of his motion for credit time. Wise raises one issue, which we restate as whether the trial court abused its discretion by denying Wise's motion for credit time. We affirm.

On February 6, 2003, Wise was sentenced to the Indiana Department of Correction.¹ Wise was paroled on January 31, 2004. In September 2004, the State charged Wise with four counts of forgery as class C felonies under Cause No. 20D02-0409-FC-198 ("FC-198"). The State also charged Wise with armed robbery as a class B felony under Cause No. 20D02-0503-FB-58 ("FB-58"). Wise pleaded guilty to one count of forgery in FC-198, and the trial court sentenced him on June 6, 2005, to four years suspended with two years probation and fifteen days of credit time. On June 6, 2005, the trial court also sentenced Wise in FB-58 to twelve years in the Indiana Department of Correction with four years suspended and fourteen days of credit time.

On May 25, 2007, Wise filed a pro se Petition to Amend Abstract of Judgment requesting 272 days of credit for time spent in confinement prior to sentencing ("Motion for Credit Time"). The trial court ordered the probation department to recalculate Wise's credit time. On June 20, 2007, the trial court issued the following order denying Wise's motion for credit time:

Probation files memorandum with respect to credit time calculation. Credit time of 15 days plus 15 days good time credit confirmed for [CF-198].

¹ The record provided to us does not indicate the length of his sentence or the reason for his sentence. According to Wise, he was sentenced to serve eighteen months in the Indiana Department of Correction, but the State alleges that Wise was sentenced to serve three years in the Indiana Department of Correction.

With respect to [FB-58], court finds that the defendant's credit time is calculated from the completion of his commitment under 20c01-0210-fc-107 through the date of sentencing. Defendant granted 14 days plus 14 days good time credit as reflected in the presentence investigation which the court confirms.

Docket of FC-198 attached to Notice of Completion of Clerk's Record.

The issue on appeal is whether the trial court abused its discretion by denying Wise's motion for credit time. Wise argues that he was entitled to 272 days of credit from September 9, 2004, through June 6, 2005.

We first note that Wise did not present his motion for credit time argument by way of a petition for post-conviction relief. Rather, in essence, he filed a motion to correct sentence. See Murfitt v. State, 812 N.E.2d 809, 810 (Ind. Ct. App. 2004). In Robinson v. State, 805 N.E.2d 783, 787 (Ind. 2004), the Indiana Supreme Court addressed the difference between a motion to correct erroneous sentence and a petition for post-conviction relief. The court held that a motion to correct erroneous sentence may only be used to correct sentencing errors that are clear from the face of the judgment. Robinson, 805 N.E.2d at 787. 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. Id. Sentencing claims that are not facially apparent "may be raised only on direct appeal and, where appropriate, by post-conviction proceedings." Id.

Resolution of Wise's credit time argument necessarily requires consideration of factors outside of the face of the judgment. As the State notes, "[i]nformation regarding the duration of Wise's parole and any disposition regarding violation of his parole terms are necessary to calculate credit time for his current convictions." Appellee's Brief at 4.

As noted above, a motion to correct erroneous sentence is “available only to correct sentencing errors clear from the face of the judgment.” Robinson, 805 N.E.2d at 794. This argument is not properly presented by way of a motion to correct erroneous sentence (or a motion for additional credit time). As a result, we cannot say that the trial court abused its discretion by denying Wise’s motion for additional credit time. See, e.g., Murfitt, 812 N.E.2d at 811 (holding that the trial court properly denied the defendant’s motion for credit time because such a claim must be presented by way of a petition for post-conviction relief).

For the foregoing reasons, we affirm the trial court’s denial of Wise’s motion for credit time.

Affirmed.

RILEY, J. and FRIEDLANDER, J. concur