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**IN THE
COURT OF APPEALS OF INDIANA**

THOMAS MORGAN,)
)
 Appellant-Petitioner,)
)
 vs.) No. 29A02-0601-CR-59
)
 STATE OF INDIANA,)
)
 Appellee-Respondent.)

APPEAL FROM THE HAMILTON CIRCUIT COURT
The Honorable Judith Proffit, Judge
Cause No. 29C01-0204-FA-23

September 14, 2006

MEMORANDUM OPINION – NOT FOR PUBLICATION

BAKER, Judge

Appellant-defendant Thomas Morgan appeals from the trial court's denial of his motion for jail time credit. Finding no error, we affirm the judgment of the trial court.

FACTS

On April 19, 2002, Morgan was arrested and later charged in Hamilton County with two counts of class A felony dealing in cocaine. On December 3, 2002, Morgan was transported to Marion County, where he was sentenced for an unrelated conviction. Morgan began serving his Marion County sentence on December 4, and within a day or two, he was transported back to Hamilton County to answer to the charges pending there. On May 30, 2003, Morgan pleaded guilty to one count of class B felony dealing in cocaine, and the trial court sentenced him on September 2, 2003, to an executed term of fifteen years.

The trial court awarded Morgan 229 days of jail time credit for his pretrial confinement between April 19, 2002, when he was arrested, and December 3, 2002, when he was transported to Marion County. On November 21, 2005, Morgan filed a motion for jail time credit, arguing that he should have received credit for the entire period of time between April 19, 2002, and September 2, 2003, when he was sentenced on the instant charge. On December 20, 2005, the trial court denied Morgan's motion, and Morgan now appeals.

DISCUSSION AND DECISION

Initially, we observe that Morgan's motion, although styled as a "motion for jail time credit," is essentially a motion to correct erroneous sentence pursuant to Indiana Code section 35-38-1-15, which provides as follows:

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.

When we review the trial court's decision on a motion to correct erroneous sentence, we defer to the trial court's factual findings and review its decision for an abuse of discretion. Parrett v. State, 800 N.E.2d 620, 622 (Ind. Ct. App. 2003). An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. Id. We review a trial court's legal conclusions, however, under a de novo standard of review. Id.

When sentencing errors require consideration of matters outside the face of the sentencing judgment, they are best addressed promptly on direct appeal and thereafter by a post-conviction relief proceeding. Robinson v. State, 805 N.E.2d 783, 786-88 (Ind. 2004). Thus, "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. Because ruling on Morgan's motion requires consideration of matters outside the face of the sentencing judgment, his claim may not be presented by way of a motion to correct erroneous sentence, and the trial court properly denied it.

Procedural impropriety notwithstanding, we observe that a person imprisoned for a crime or confined awaiting trial or sentencing earns one day of credit time for each day he is imprisoned or confined. Stephens v. State, 735 N.E.2d 278, 284 (Ind. Ct. App. 2000). A

defendant is entitled to pretrial credit if he is subject to pretrial confinement that is the result of the criminal charge for which the sentence is being imposed. Id. If a person incarcerated awaiting trial on more than one charge receives consecutive terms, he is only allowed credit time against the aggregate of the terms so that he does not receive “double or extra credit” for pretrial confinement. Payne v. State, 838 N.E.2d 503, 510 (Ind. Ct. App. 2005), trans. denied.

Here, Morgan was confined awaiting disposition of this cause from April 19, 2002, to December 3, 2002, the date on which he was transferred to Marion County for sentencing on a separate conviction. From December 4, 2002, onward, Morgan was serving his Marion County sentence even though he was transferred back to Hamilton County to resolve the instant cause. Thus, Morgan’s confinement between December 4, 2002, and September 3, 2003, was the result of the Marion County conviction and sentence, not the Hamilton County charge. Moreover, Morgan’s sentence for the instant conviction was ordered to be served consecutively to the Marion County sentence. Therefore, to award him credit time in Hamilton County from December 4, 2002, onward would improperly allow him to receive double credit. The trial court properly calculated the amount of jail time credit to which Morgan is entitled.

The judgment of the trial court is affirmed.

SULLIVAN, J., and MAY, J., concur.