

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Charlie Davis Leshore, Jr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

March 13, 2023

Court of Appeals Case No.
22A-CR-2439

Appeal from the Allen Superior
Court

The Honorable David M. Zent,
Judge

Trial Court Cause No.
02D04-9804-CF-207

Memorandum Decision by Judge Weissmann
Judges Bailey and Brown concur.

Weissmann, Judge.

- [1] Charles Davis Leshore, Jr., appeals the denial of his motion to correct erroneous sentence, claiming the trial court that sentenced him two decades ago failed to specify the full amount of sentencing credit he was owed. Finding Leshore’s motion improper, we affirm.

Facts

- [2] In 1999, Leshore pleaded guilty to burglary, rape, and two counts each of robbery and criminal confinement. The trial court sentenced Leshore to 70 years imprisonment in an order specifying: “[Leshore] is granted credit for 336 days served in jail.” App. Vol. II, p. 39. At the time, criminal defendants routinely were entitled to “one (1) day of credit time for each day” that the defendants spent “confined awaiting trial or sentencing.” Ind. Code §§ 35-50-6-3(a), -4(a) (1999).
- [3] More than two decades after his sentencing, Leshore filed a motion to correct erroneous sentence. He alleged the sentencing court violated Indiana Code § 35-38-3-2 by failing to specify the amount of credit time to which he was entitled as a result of the 336 days he spent in jail before his sentencing. At the time of Leshore’s sentencing, Indiana Code § 35-38-3-2 (1999) required the court’s judgment to include “the amount of credit, including credit time earned, for time spent in confinement before sentencing.”
- [4] In his motion to correct erroneous sentence and related filings, Leshore relied on *Robinson v. State*, 805 N.E.2d 783, 789 (Ind. 2004). In *Robinson*, our Supreme

Court ruled that the relevant version of Indiana Code § 35-38-3-2 required that “a trial court’s judgment of conviction separately include both the amount of time spent by the defendant prior to imposition of sentence and also the amount of credit time earned in accordance with the defendant’s credit time class.” 805 N.E.2d at 789. Leshore claimed that the trial court’s 1999 judgment violated Indiana Code § 35-48-3-2 by only specifying his presentence jail time (336 days) and not any resulting credit time (another 336 days, according to Leshore).

- [5] In response to Leshore’s motion, the Allen County Assistant Chief Probation Officer contacted the Indiana Department of Correction (DOC). The probation officer reported to the trial court that DOC had confirmed Leshore received credit for the 336 days of incarceration plus “all applicable good time credit.” App. Vol. II, p. 31. The trial court denied Leshore’s motion without a hearing, leading to this appeal.

Discussion and Decision

- [6] Leshore argues that the trial court erroneously denied his motion to correct erroneous sentence because the sentencing court did not comply with Indiana Code § 35-38-3-2. We review a trial court’s decision on a motion to correct erroneous sentence only for an abuse of discretion. *Davis v. State*, 978 N.E.2d 470, 472 (Ind. Ct. App. 2012). We conclude the trial court did not abuse its discretion in denying Leshore’s motion because a sentencing court’s noncompliance with Indiana Code § 35-38-3-2 cannot be challenged through a motion to correct erroneous sentence.

[7] *Robinson v. State*—the appellate decision on which Leshore hinges his claim of error—also closes the door on his request for relief. In *Robinson*, our Supreme Court adopted an “appellate presumption” that is dispositive here. 805 N.E.2d at 792. The Court ruled that “[s]entencing judgments that report only days spent in pre-sentence confinement and fail to expressly designate credit time earned shall be understood by courts and by the [DOC] automatically to award the number of credit time days equal to the number of pre-sentence confinement days.” *Id.* “In the event of any pre-sentence deprivation of credit time, the trial court must report it in the sentencing judgment.” *Id.* “Because the omission of designation of the statutory credit time entitlement is thus corrected by this presumption,” the *Robinson* Court ruled that the omission of credit time in the sentencing judgment may not be raised in a motion to correct erroneous sentence. *Id.*

[8] The order sentencing Leshore reports only the days he spent in presentence confinement. It does not designate the credit time he earned from that jail time. Therefore, under *Robinson*, the judgment must be construed as awarding the number of credit time days (336) equal to the number of presentence confinement days (336). As this appellate presumption effectively corrects the sentencing court’s omission of credit time from its judgment, Leshore’s motion to correct erroneous sentence was unnecessary and improper. The trial court correctly denied the motion.

[9] We therefore affirm the trial court's judgment.

Bailey, J., and Brown, J., concur.