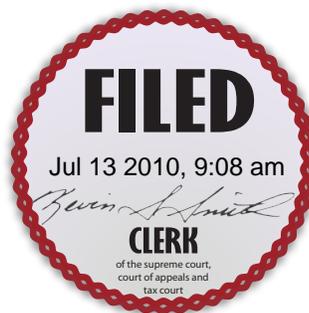


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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RONALD WRIGHT, )  
 )  
 Appellant-Defendant, )  
 )  
 vs. ) No. 46A03-0912-CR-594  
 )  
 STATE OF INDIANA, )  
 )  
 Appellee-Plaintiff. )

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APPEAL FROM THE LAPORTE SUPERIOR COURT  
The Honorable Walter P. Chapala, Judge  
Cause No. 46D01-0008-CF-103

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**July 13, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**VAIDIK, Judge**

## Case Summary

Ronald Wright, *pro se*, appeals the trial court's denial of his motion to correct erroneous sentence. Because Wright's motion does not establish facial error and instead requires an analysis of matters beyond the face of the sentencing judgment, we affirm.

### Facts and Procedural History

In April 2001 Wright was convicted of two counts of felony murder, robbery, criminal confinement, and unlawful possession of a firearm by a serious violent felon (SVF). He was also found to be a habitual offender. The trial court merged the robbery and felony murder convictions and sentenced Wright to fifty-five years for felony murder, a concurrent term of ten years for criminal confinement, and a consecutive term of ten years for unlawful possession of a firearm by an SVF. After this Court remanded the case on direct appeal because the trial court failed to specify which count was enhanced by the habitual offender finding, *see Wright v. State*, No. 46A03-0112-CR-400 (Ind. Ct. App. Apr. 4, 2002), the trial court amended the sentencing order. *See* Appellant's App. p. 7 (CCS entry merely reflecting that amendment to sentencing order was entered but not detailing substance of amendment). Although Wright does not include the amended order in the record on appeal, the trial court's order denying his motion to correct erroneous sentence reflects that on remand the trial court enhanced Wright's felony murder conviction by thirty years for the habitual offender finding.

In October 2009 Wright filed a *pro se* motion to correct erroneous sentence, also which Wright does not include in the record on appeal. The trial court's order denying Wright's motion to correct erroneous sentence provides:

Defendant, pro se, filed Motion to Correct Erroneous Sentence.

Being duly advised, the Court now finds that the Defendant was sentenced on May 10, 2001, on Count [IV] [criminal confinement] to ten (10) years in the Department of Correction, on Count [I] [felony murder] to fifty-five (55) years with an enhancement of thirty (30) years in the Department of Correction, and on Count V [SVF] to ten (10) years in the Department of Correction. The sentences for Count I and Count IV to run concurrent, and the sentence for Count V to run consecutive to Counts I and IV. The sentence imposed by this Court is proper and appropriate under Indiana law.

IT IS THEREFORE, ORDERED that Court's Sentencing Order and Abstract of Judgment are correct and without error. Defendant's Motion is DENIED.

*Id.* at 9. Wright now appeals.

### **Discussion and Decision**

Wright contends that the trial court erred in denying his motion to correct erroneous sentence. Specifically, he contends that his consecutive sentences for felony murder enhanced by the habitual offender finding and unlawful possession of a firearm by an SVF violate our Supreme Court's opinions in *Pedraza v. State*, 887 N.E.2d 77 (Ind. 2008), and *Sweatt v. State*, 887 N.E.2d 81 (Ind. 2008), because the trial court used the same 1992 robbery conviction to establish that he was a habitual offender and an SVF. The State responds that because this alleged sentencing error is not clear from the face of the sentencing judgment, a motion to correct erroneous sentence is the wrong vehicle in which to bring this claim.

An inmate who believes he has been erroneously sentenced may file a motion to correct the sentence pursuant to Indiana Code section 35-38-1-15:

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.

*Neff v. State*, 888 N.E.2d 1249, 1250-51 (Ind. 2008). Such a motion may only be filed to address a sentence that is “erroneous on its face.” *Id.* at 1251 (citing *Robinson v. State*, 805 N.E.2d 783, 786 (Ind. 2004)). Other sentencing errors must be addressed via direct appeal or post-conviction relief. *Id.* In addition, a motion to correct erroneous sentence may only arise out of information contained on the formal judgment of conviction, and not from the abstract of judgment. *Id.* However, if the county does not issue judgments of conviction (at the time of the opinion in *Neff* only Marion County qualified), then the trial court’s abstract of judgment will serve as an appropriate substitute for purposes of making the claim. *Id.*

We first note that Wright, a *pro se* litigant who is held to the same standard as trained legal counsel and is required to follow procedural rules, *Evans v. State*, 809 N.E.2d 338, 344 (Ind. Ct. App. 2005), *trans. denied*, has failed to include any sentencing order in the record on appeal, including either the amended judgment of conviction or abstract of judgment. Moreover, he alleges that the same 1992 robbery conviction was used to establish that he was a habitual offender and an SVF, but there is nothing in the record to support this, much less on the face of the judgment of conviction, which again we do not have. Wright has therefore failed to establish any facial error in his sentencing judgment. Consideration of his contention requires an analysis of matters beyond the face of the sentencing judgment, including what convictions were used to prove that Wright was a habitual offender and an SVF. If Wright is indeed correct that his

consecutive sentences for felony murder enhanced by the habitual offender finding and unlawful possession of a firearm by an SVF violate *Pedraza* and *Sweatt* because the same conviction was used to establish both of them, then he must bring this issue in a petition for post-conviction relief. We therefore affirm the trial court's denial of Wright's motion to correct erroneous sentence.

Affirmed.

NAJAM, J., and BROWN, J., concur.