



Defendant-Appellant Jason B. Brown (“Brown”) appeals from the denial of his motion to correct erroneous sentence. We affirm.

### ISSUES

Brown raises several issues for our review. However, we combine and restate them as whether the trial court had the authority to order Brown to serve his sentence consecutive to another sentence.

### FACTS

In February, 2005, after a jury trial and conviction, Brown was sentenced to serve five years executed on the Class C felony offense of operating a vehicle with a lifetime suspension, and six months each on two counts of the Class A misdemeanor offense of resisting law enforcement. The two misdemeanor counts were to be served consecutive to each other, and were to be served concurrent with the felony sentence. The trial court also ordered that the sentence be served consecutive to a ten year executed sentence Brown previously had received under another unrelated cause number.

Brown took a direct appeal of his conviction. This court’s opinion affirming the convictions is found at *Brown v. State*, 830 N.E.2d 956 (Ind. Ct. App. 2005). Brown then filed a motion to correct erroneous sentence that was denied. This appeal is from that decision.

### DISCUSSION AND DECISION

Brown filed his motion to correct erroneous sentence pursuant to Ind. Code §35-38-1-15. That statute was interpreted by our supreme court in *Robinson v. State*, 805 N.E.2d 783, 787 (Ind. 2004), as follows:

When claims of sentencing errors require consideration of matters outside the face of the sentencing judgment, they are best addressed promptly on direct appeal and thereafter via post-conviction relief proceedings where applicable. Use of the statutory motion to correct sentence should thus be narrowly confined to claims apparent from the face of the sentencing judgment, and the “facially erroneous” prerequisite should henceforth be strictly applied, notwithstanding [prior cases]. We therefore hold that 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.

The sentencing judgment for Brown on the class C felony of operating a vehicle after a lifetime suspension, in pertinent part, reads:

“...the defendant shall be imprisoned in the Indiana Department of Correction for a period of five (5) years with said sentence to be served consecutively with the sentence imposed in the Jay Circuit Court in Case No. 38C01-0407-FC-006;...”

Appellant’s App. p. 18-19.

We are of the opinion that the error raised by Brown is not facially erroneous, and therefore not eligible for consideration under a motion to correct erroneous sentence, the reason being that it requires consideration of matters by the trial court that occurred before, during, or after trial. *Robinson*, 805 N.E.2d at 787.

### CONCLUSION

The trial court’s denial of Brown’s motion to correct erroneous sentence is affirmed.

SHARPNACK, J., and NAJAM, J., concur.