

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES MARTEZ BRAGG, a/k/a JAMES MARTEZ  
BRAGGS,

Defendant-Appellant.

UNPUBLISHED

May 23, 1997

No. 185473

Kalamazoo Circuit Court

LC No. 94-001480-FH

---

Before: Young, Jr., P.J., and Doctoroff, and Cavanagh, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of unarmed robbery, MCL 750.529; MSA 28.797, and fleeing or eluding a police officer, MCL 750.479a; MSA 28.747(1). He was sentenced as a second-felony habitual offender, MCL 769.10; MSA 28.1082, to a term of 6 to 22-1/2 years' imprisonment for the unarmed robbery conviction and 135 days' in jail for the fleeing or eluding conviction, to be served concurrently. He appeals as of right. We affirm.

The trial court did not err in giving the People's special jury instruction based on *People v Dandron*, 70 Mich App 439; 245 NW2d 782 (1976). The instruction is legally correct in substance. *People v Mooney*, 216 Mich App 367, 375; 549 NW2d 65 (1996), lv pending; *People v Wolford*, 189 Mich App 478, 481-482; 473 NW2d 767 (1991); *Dandron, supra*. Second, because CJI2d 4.1 does not expressly discuss use of a defendant's false statement as circumstantial evidence of guilt, giving the *Dandron* instruction in conjunction with CJI2d 4.1 did not unduly emphasize this principle to the jury.

Next, defendant's 6 to 22-1/2 year habitualized sentence for unarmed robbery, which is within the sentencing guidelines recommended minimum sentence range for the underlying conviction, is not disproportionate to the circumstances surrounding the offense and defendant's prior criminal history. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh