

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RHONDA LYNN BRUCKNER,

Defendant-Appellant.

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UNPUBLISHED

November 22, 2005

No. 257356

Kalkaska Circuit Court

LC No. 04-002455-FC

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

A jury convicted defendant of two counts of first-degree criminal sexual conduct under MCL 750.520b(1)(a) and two counts of first-degree criminal sexual conduct under MCL 750.520b(1)(b)(i). Defendant was sentenced to four concurrent prison terms of ten to twenty years. We affirm. This case is being decided without oral argument under MCR 7.214(E).

Defendant's sole argument on appeal is that in sentencing her, the trial court relied on facts neither admitted nor found by a jury in violation of *Blakely v Washington*, 542 US 296, 124 S Ct 2531, 159 L Ed 2d 403 (2004) and *Apprendi v New Jersey*, 530 US 466; 120 S Ct 2348; 147 L Ed 2d 435 (2000). Specifically, defendant argues that the trial court violated her constitutional rights when it scored offense variables 4, 10, and 13 based on facts that were neither proven to the jury beyond a reasonable doubt nor admitted by defendant.

In *People v Claypool*, 470 Mich 715, 730 n 14; 684 NW2d 278 (2004), our Supreme Court explained that Michigan's sentencing scheme is unaffected by the holding in *Blakely*. In *People v Drohan*, 264 Mich App 77, 89 n 4; 689 NW2d 750 (2004), lv gtd 472 Mich 881 (2005), the Court held that *Claypool* was binding precedent. Accordingly, defendant's claim must fail.

Affirmed.

/s/ Michael R. Smolenski

/s/ Bill Schuette

/s/ Stephen L. Borrello