STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RANDY LEE BEGAY,

Defendant-Appellant.

UNPUBLISHED
December 14, 2006

No. 269772
Chippewa Circuit Court
LC No. 00-006946-FC

Before: Meter, P.J., and O'Connell and Davis, JJ.

MEMORANDUM.

In 2001, defendant pleaded no contest to armed robbery, MCL 750.529, for which the trial court sentenced him to serve a term of imprisonment of twenty to thirty years, with no jail credit. In 2005, defendant moved for resentencing on the grounds that he was entitled to jail credit and that several of the variables under the sentencing guidelines were incorrectly scored. On March 30, 2006, the trial court entered an amended judgment of sentence, retaining the original minimum and maximum sentences, but awarding 380 days' jail credit. Defendant appeals by delayed leave granted. We affirm. We decide this appeal without oral argument in accordance with MCR 7.214(E).

Having won the sentencing credit he sought, defendant now challenges his sentence solely by asserting that the trial court erred in scoring several of the guidelines variables on the basis of information neither proved to a jury beyond a reasonable doubt, nor admitted by defendant as part of his plea. We disagree. Defendant relies on *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004), in which the United States Supreme Court held that "every defendant has the *right* to insist that the prosecutor prove to a jury all facts legally essential to the punishment." *Id.* at 313. However, our Supreme Court recently reiterated that "'the Michigan system is unaffected by the holding in *Blakely* . . . .'" *People v Drohan*, 475 Mich 140, 164; 715 NW2d 778 (2006), quoting *People v Claypool*, 470 Mich 715, 730 n 14; 684 NW2d 278 (2004). The Court elaborated, "a defendant does not have a right to anything less than the maximum sentence authorized by the jury's verdict, and, therefore, judges may make certain factual findings to select a specific minimum sentence from within a defined range." *Drohan*, *supra* at 159. Therefore, defendant's reliance on *Blakely*, *supra*, is misplaced. Although defendant summarily asserts that *Drohan* "was wrongly decided," we are clearly bound by the decision and its sound reasoning. *Boyd v WG Wade Shows*, 443 Mich 515, 523; 505 NW2d 544 (1993). Defendant fails to demonstrate that the sentencing court improperly considered anything other than the facts and circumstances of the crime and the history of the

criminal, as determined from various legitimate sources. See *People v Potrafka*, 140 Mich App 749, 751-752; 366 NW2d 35 (1985).

Affirmed.

/s/ Patrick M. Meter
/s/ Peter D. O'Connell
/s/ Alton T. Davis