

STATE OF OHIO)
)ss:
COUNTY OF MEDINA)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C. A. No. 04CA0085-M

Appellee

v.

CHARLES MARONE

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF MEDINA, OHIO
CASE No. 04 CR 0273

Appellant

DECISION AND JOURNAL ENTRY

Dated: May 18, 2005

This cause was heard upon the record in the trial court. Each error assigned has been reviewed and the following disposition is made:

MOORE, Judge.

{¶1} Appellant, Charles Marone, appeals from his sentence which was imposed by the Medina County Court of Common Pleas following his guilty plea. This Court affirms.

I.

{¶2} Appellant was indicted on one count of felonious assault, in violation of R.C. 2903.11(A)(2). The charge against Appellant stemmed from an incident which occurred on June 1, 2004. Appellant swung a sword at the victim because Appellant's wife was planning to leave him for the victim. As a result of the attack, the victim's thumb was severed and had to be surgically reattached. On

August 4, 2004, the indictment was amended to charge Appellant with attempted felonious assault in exchange for Appellant's guilty plea. Following his guilty plea, the trial court sentenced Appellant to one year in prison. Appellant timely appealed, raising one assignment of error for our review.

II.

ASSIGNMENT OF ERROR

“THE TRIAL COURT ERRED IN SENTENCING [APPELLANT] TO A PRISON TERM FOR A FELONY OF THE THIRD DEGREE IN VIOLATION OF APPELLANT’S SIXTH AMENDMENT RIGHT TO A JURY TRIAL.”

{¶3} In his sole assignment of error, Appellant argues that the trial court engaged in unconstitutional fact finding in order to impose more than the minimum sentence on him. Specifically, Appellant asserts that *Blakely v. Washington* (2004), 124 S.Ct. 2531, compels reversal of his sentence. We disagree.

{¶4} This Court has previously held that *Blakely* is inapplicable to Ohio's sentencing scheme. *State v. Rowles*, 9th Dist. No. 22007, 2005-Ohio-14, at ¶19. Additionally, we have held that *U.S. v. Booker* (2005), 125 S.Ct. 738, provided no rationale for this Court to revisit our prior holding. *State v. Burns*, 9th Dist. No. 22198, 2005-Ohio-1459, at ¶5. Accordingly, Appellant's sole assignment of error is overruled.

III.

{¶5} Appellant's sole assignment of error is overruled. The judgment of the Medina County Court of Common Pleas is affirmed.

Judgment affirmed.

The Court finds that there were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

Exceptions.

CARLA MOORE
FOR THE COURT

SLABY, P. J.

CARR, J.
CONCUR

APPEARANCES:

ROBERT B. CAMPBELL, Attorney at Law, 52 Public Sqaure, Medina, Ohio 44256, for Appellant.

DEAN HOLMAN, Prosecuting Attorney and RUSSELL HOPKINS, Assistant Prosecuting Attorney, 75 Public Square, Medina, Ohio 44256, for Appellee.