

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff- Appellee,

v

RICHARD LAKE,

Defendant-Appellant.

UNPUBLISHED

November 30, 1999

No. 211627

Kent Circuit Court

LC No. 96-004383 FH

Before: Jansen, P.J., and Hoekstra and J. R. Cooper*, JJ.

MEMORANDUM.

In 1996, defendant pleaded guilty to carrying a concealed weapon, MCL 750.227; MSA 28.424, and was sentenced to probation. In 1998, defendant was found guilty of violating the terms of his probation by committing an aggravated assault. He was resentenced to two to five years' imprisonment. Defendant appeals as of right. We affirm.

On appeal, defendant argues that he was denied the effective assistance of counsel because his attorney failed to call any witnesses to support his claim that he acted in self defense. Because defendant did not move for an evidentiary hearing on counsel's effectiveness below, and because this Court has already denied defendant's motion to remand for such an evidentiary hearing, our review is limited to what is contained in the record. *People v Darden*, 230 Mich App 597, 604; 585 NW2d 27 (1998). Nothing in the record indicates whether any witnesses would have in fact supported defendant's self defense claim. Accordingly, defendant has not rebutted the presumption that trial counsel exercised reasonable trial strategy, nor has defendant shown a reasonable probability that the outcome of the proceedings would have been different had additional witnesses been called. *People v Avant*, 235 Mich App 499, 508; 597 NW2d 864 (1999).

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ Kathleen Jansen
/s/ Joel P. Hoekstra
/s/ Jessica R. Cooper