

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEONORA WINSTON,

Defendant-Appellant.

UNPUBLISHED

November 19, 2002

No. 237021

Wayne Circuit Court

LC No. 00-011413-01

Before: Griffin, P.J., and Gage and Meter, JJ.

MEMORANDUM.

Defendant appeals as of right her jury conviction for felonious assault, MCL 750.82. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that she was denied the effective assistance of trial counsel who failed to challenge two jurors who had been crime victims in the past. To establish an ineffective assistance of counsel claim, defendant first must show that counsel's performance was below an objective standard of reasonableness under prevailing professional norms. The defendant must overcome a strong presumption that counsel's actions constituted sound trial strategy. Second, the defendant must show that there is a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994).

A lawyer's hunches, based on his observations, may be as valid as any method of choosing a jury, and decisions regarding which jurors to accept are the province of the attorney after consultation with his client. *People v Robinson*, 154 Mich App 92, 95; 397 NW2d 229 (1986). The strategic decision not to challenge a juror cannot be held to be ineffective assistance of counsel. *Id.*

Here, there was no showing that the two jurors were biased due to their prior involvement in crimes. The crimes were not similar to the assault at issue. Both jurors reported that they would not be affected by their prior experience. There is no showing that counsel was ineffective in failing to challenge these jurors.

Affirmed.

/s/ Richard Allen Griffin

/s/ Hilda R. Gage

/s/ Patrick M. Meter