

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD STUDSTILL,

Defendant-Appellant.

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UNPUBLISHED

December 17, 2002

No. 236336

Wayne Circuit Court

LC No. 01-000312

Before: Owens, P.J., and Murphy and Cavanagh, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of first-degree criminal sexual conduct, MCL 750.520b(1)(b)(ii), for which he was sentenced to serve a prison term of three to fifteen years. He appeals as of right, and we affirm.

On appeal, defendant argues that trial counsel was ineffective in failing to adequately impeach complainant regarding the inconsistencies between her police statement and testimony, failing to object to the introduction of similar acts evidence, and failing to properly object to the introduction of defendant's own police statements. To establish a claim of ineffective assistance of counsel, a defendant must demonstrate that counsel's performance was deficient and that, under an objective standard of reasonableness, the error was so serious that counsel was not functioning as an attorney as guaranteed by the federal and state constitutions. *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994). Because defendant failed to raise or preserve this issue at the trial court level, our review is limited to the record itself. *People v Nantelle*, 215 Mich App 77, 87; 544 NW2d 667 (1996).

Here, in light of defendant's inculpatory oral and written statements to police, as well as his own testimony at trial in which he admitted penetrating complainant's vagina with his penis, trial counsel's choice of trial strategy was severely limited. Even had counsel chosen to more vigorously impeach complainant or object to the admission of similar acts evidence, the outcome of this proceeding would not have been different. Defendant established his guilt by his own statements. We further note that because this was a bench trial, the lack of prejudice to defendant by counsel's representation is even clearer. See *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988).

Finally, although defendant asserts that counsel should have moved to suppress his inculpatory statements, he asserts no factual or legal basis for such a motion, and we find no such basis to exist in the record. Thus, counsel's performance was not deficient.

Affirmed.

/s/ Donald S. Owens  
/s/ William B. Murphy  
/s/ Mark J. Cavanagh