STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED February 17, 2004
v	No. 243953 Calhoun Circuit Court
KENNETH JOSEPH KILPATRICK, Defendant-Appellant.	LC No. 01-003711-FH

Before: Schuette, P.J., and Meter and Owens, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of resisting arrest, MCL 750.479, entered after a jury trial. We affirm.

A state police trooper who arrested defendant for operating a vehicle without a license testified that defendant physically resisted his efforts to conduct a patdown search and place him in a patrol unit. The trooper took defendant to the ground and eventually applied a mandibular pressure point to get defendant to comply with his commands. Two passersby testified that defendant physically resisted the trooper. Defendant denied that he resisted the trooper and maintained that the trooper assaulted him. The jury found defendant guilty as charged. The trial court sentenced defendant to eighteen months' probation, with the first sixty days in jail.

In reviewing a sufficiency of the evidence question, we view the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 513-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *Id.* at 514-515. A trier of fact may make reasonable inferences from evidence in the record but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of resisting arrest are:

> (1) the defendant resisted arrest, (2) the arrest was lawful, (3) the person arresting the defendant was an officer of the law at the time, (4) the defendant knew the person was an officer, (5) the defendant knew the person was making an arrest,

> and (6) the defendant intended to resist arrest. [*People v MacLeod*, 254 Mich App 222, 226; 656 NW2d 844 (2002).]

Resisting arrest is a general intent crime. *People v VanWasshenova*, 121 Mich App 672, 680; 329 NW2d 452 (1982).

Defendant argues that the evidence was insufficient to support his conviction of resisting arrest in that it did not establish that he knew the trooper was making an arrest or that he resisted arrest and intended to do so.[1] We disagree. The jury was entitled to accept the trooper's testimony that he told defendant he was under arrest for operating a vehicle without a license. *Wolfe*, *supra* at 514-515. Similarly, the jury was entitled to accept the testimony given by the trooper and the passersby regarding defendant's actions and to reject that given by defendant. *Id*. The jury was entitled to conclude from this evidence that defendant resisted arrest and that he intended to do so. *Id*.; *VanWasshenova*, *supra* at 680. The evidence, viewed in the light most favorable to the prosecution, was sufficient to support defendant's conviction. *Wolfe*, *supra* at 513-515.

To establish ineffective assistance of counsel, a defendant must show that counsel's performance was deficient such that he was not performing as the "counsel" guaranteed by the federal and state constitutions. *People v Carbin*, 463 Mich 590, 600; 623 NW2d 884 (2001). Counsel's deficient performance must have resulted in prejudice. *Id.* To demonstrate the existence of prejudice, a defendant must show a reasonable probability that, but for counsel's error, the result of the proceedings would have been different. *Id*. Counsel is presumed to have afforded effective assistance, and the defendant bears the burden of proving otherwise. *People v Rockey*, 237 Mich App 74, 76; 601 NW2d 887 (1999).

Defendant contends that trial counsel rendered ineffective assistance by failing to introduce the medical records generated by a hospital visit he made after he was bonded out of jail. We disagree. First, defendant, in his brief, simply makes bald assertions with regard to his ineffective assistance argument and does not adequately or specifically discuss how his medical records would have helped his case or how his counsel failed to investigate the case properly. Therefore, the ineffective assistance issue has been waived. See *People v Kevorkian*, 248 Mich App 373, 389; 639 NW2d 291 (2002) (an appellant may not leave it up to this Court to unravel his arguments for him).

Moreover, a physical altercation occurred between defendant and the trooper. The presence of bruises and abrasions on defendant's person, as reported in the medical records, would not be an unexpected consequence of such an incident. We cannot conclude that the result of the proceedings would have differed had the medical records been introduced. *Carbin*, *supra* at 600. It is likely that defense counsel concluded as a matter of trial strategy that introduction of the medical records would serve no purpose. We do not substitute our judgment

[1] Defendant does not assert that the evidence was insufficient to show that the arrest was lawful, that the trooper was an officer of the law, or that he knew the trooper was an officer. *MacLeod*, *supra* at 226.

for that of trial counsel on matters of trial strategy. *People v Rice (On Remand)*, 235 Mich App 429, 445; 597 NW2d 843 (1999). Defendant has not demonstrated prejudice, *Carbin*, *supra* at 600, and has not overcome the presumption that counsel rendered effective assistance. *Rockey*, *supra* at 76.

Affirmed.

/s/ Bill Schuette
/s/ Patrick M. Meter
/s/ Donald S. Owens