

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DERICK P. GENDRON,

Defendant-Appellant.

UNPUBLISHED
December 30, 1997

No. 189426
Oakland Circuit Court
LC Nos. 95-138677 FH
95-138678 FH
95-138679 FH
95-138680 FH
95-138681 FH

Before: Griffin, P.J., and Markman and Whitbeck, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction of five counts of larceny by conversion over \$100, MCL 750.362; MSA 28.594. Defendant contends that his trial counsel was ineffective and presents a litany of claimed deficiencies in counsel's performance.

Defendant presented this same list of claimed deficiencies to the trial court, without a supporting affidavit or other offer of proof as to particular facts. At trial, defendant testified and told his story to the jury. His claim that trial counsel was ineffective in failing to present other evidence to establish his innocence or raise a reasonable doubt on that question requires that he identify witnesses and their anticipated testimony, documents or other demonstrative evidence and their contents and annotations as to when this information was brought to counsel's attention or in what fashion. At any hearing, counsel must be present to be given the opportunity to explain any action or inaction. MCR 7.211(C)(1)(a); *People v Pickens*, 446 Mich 298, 327; 521 NW2d 797 (1994). Defendant's motion for new trial was not supported by any such affidavit or offer of proof. Therefore, the trial court did not abuse its discretion in declining to conduct an evidentiary hearing merely on speculation that pertinent evidence would be presented. *People v Ginther*, 390 Mich 436, 443; 212 NW2d 922 (1973).

Affirmed.

/s/ Richard Allen Griffin
/s/ Stephen J. Markman
/s/ William C. Whitbeck