

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SAMUEL D. HART,

Defendant-Appellant.

UNPUBLISHED

June 12, 1998

No. 201648

Recorder's Court

LC No. 96-001468

Before: Wahls, P. J., and Jansen and Gage, JJ.

MEMORANDUM.

A Recorder's Court jury convicted defendant of assault with intent to murder, MCL 750.83; MSA 28.278, and felony-firearm, MCL 750.227b; MSA 28.424(2). He was sentenced thereafter to ten to twenty years' imprisonment and to two years' imprisonment, respectively. Defendant appeals as of right. We affirm.

The prosecutor properly questioned defendant about his post-arrest, post-*Miranda*¹ failure to inform his police interrogator of circumstances supporting defendant's self-defense claim where defendant waived his right to silence, spoke with the interrogator and failed to affirmatively assert his right to silence during the questioning. *People v McReavy*, 436 Mich 197, 211-212; 462 NW2d 1 (1990); *People v Schollaert*, 194 Mich App 158, 163; 464 NW2d 276 (1992); *People v Davis*, 191 Mich App 29, 35-36; 477 NW2d 438 (1991); *People v Alexander*, 188 Mich App 96, 103; 469 NW2d 10 (1991).

Defendant has failed to establish that defense counsel performed in a constitutionally-deficient manner where counsel did object to the prosecutor's line of cross-examination and was overruled by the judge and where the cross-examination was proper. *People v Mitchell*, 454 Mich 145, 156; 560 NW2d 600 (1997); *McReavy*, 436 Mich 211-212; *People v Messenger*, 221 Mich App 171, 181; 561 NW2d 463 (1997); *Schollaert*, 194 Mich App 163; *Alexander*, 188 Mich App 103.

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage

¹ *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).