

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DUANE ANTHONY RANDOLPH,

Defendant-Appellant.

UNPUBLISHED

September 25, 1998

No. 199510

Oakland Circuit Court

LC No. 96-144105 FC

Before: Whitbeck, P.J., and McDonald and T. G. Hicks*, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction for two counts of armed robbery, MCL 750.529; MSA 28.797. We affirm.

Defendant asserts that he was deprived of the effective assistance of counsel where counsel failed to call two potential witnesses and failed to present defendant's juvenile record to support his claim that the alleged robbery arose out of a drug transaction. To establish an ineffective assistance of counsel claim, defendant must show that counsel's performance was deficient and that under an objective standard of reasonableness, counsel made an error so serious that counsel was not functioning as an attorney as guaranteed under the Sixth Amendment. Defendant must overcome the presumption that the challenged action was sound trial strategy, and must establish that the deficiency was prejudicial. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994); *People v Tammolino*, 187 Mich App 14, 17; 466 NW2d 315 (1991). Defendant's claims relate only to matters of trial strategy, and he has failed to present evidence showing that counsel's performance was deficient. *People v Mitchell*, 454 Mich 145, 166; 560 NW2d 600 (1997).

Defendant also claims that there was insufficient evidence to support his convictions. In determining whether there was sufficient evidence to sustain a conviction, this Court must review the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, modified 441 Mich 1201 (1992). Here, the testimony

* Circuit judge, sitting on the Court of Appeals by assignment.

of the victims viewed in a light most favorable to the prosecution was sufficient to support a finding that defendant was armed. There was sufficient evidence to support defendants' convictions. *People v James Banks*, 454 Mich 469; 563 NW2d 200 (1997).

Affirmed.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks