

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRY WAYNE KELLY,

Defendant-Appellant.

UNPUBLISHED

July 8, 1997

No. 191865

Recorder's Court

LC No. 95-005373 FH

Before: Cavanagh, P.J., and Doctoroff and D.A. Teeple*, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction for felonious assault. He contends that his trial counsel was ineffective in failing to present a defense of insanity.

The lower court record contains no evidence on which a defense of insanity might have been predicated. Rather, defendant supports this defense with an affidavit of himself and his mother and with a clinical psychological evaluation performed at the Reception and Guidance Center of Jackson Prison after sentencing in this case. None of these documents is part of the record and the record on appeal may not be enlarged *ex parte* in this fashion. *People v Taylor*, 383 Mich 338, 362; 175 NW2d 715 (1970). Accordingly, there is no record support for any claim of dereliction by trial counsel in this respect, and appellate relief on the claim of ineffective assistance of counsel is therefore precluded. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994).

Affirmed.

/s/ Mark J. Cavanagh

/s/ Martin M. Doctoroff

/s/ Donald A. Teeple

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