

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES E. FLATT,

Defendant-Appellant.

---

UNPUBLISHED

June 18, 1999

No. 203694

Recorder's Court

LC No. 96-500603

Before: Markey, P.J., and McDonald and Fitzgerald, JJ.

MEMORANDUM.

Defendant appeals by right his bench trial convictions for armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant to two years' imprisonment for the felony-firearm conviction and 3½to 10 years' imprisonment for the armed robbery conviction, the armed robbery sentence to run consecutively to the felony-firearm sentence. We affirm.

Defendant contends that he was denied the effective assistance of counsel because the voluntariness of his statement to police was not challenged in the trial court. We disagree.

There is a strong presumption in favor of effective assistance, and defendant bears the heavy burden of proving otherwise. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994). To establish ineffective assistance of counsel, defendant must show that his counsel's performance fell below an objective standard of reasonableness under prevailing professional norms and that the representation so prejudiced defendant as to deprive him of a fair trial, i.e., "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland v Washington*, 466 US 668, 694; 104 S Ct 2052; 80 L Ed 2d 674 (1984); *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994). Defendant must overcome the presumption that the challenged action was sound trial strategy. *Pickens, supra* at 330; *Stanaway, supra* at 687; *People v Shively*, 230 Mich App 626, 628; 584 NW2d 740 (1998).

The record does not support defendant's contention that his statement to the police was involuntary, or that defendant informed his trial counsel that his statement was involuntary or obtained as

the result of coercion. Defendant has failed to show that his counsel's decision not to challenge the voluntariness of defendant's statement to the police was prejudicial, fell below an objective standard of reasonableness, and was not a matter of sound trial strategy. *Strickland, supra; Stanaway, supra; Pickens, supra; Shively, supra.* We conclude that defendant has failed to overcome the strong presumption that his trial counsel's representation was effective.

We affirm.

/s/ Jane E. Markey

/s/ Gary R. McDonald

/s/ E. Thomas Fitzgerald