

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN F. ALLEN,

Defendant-Appellant.

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UNPUBLISHED  
October 31, 2000

No. 216499  
Wayne Circuit Court  
LC No. 98-007793

Before: Griffin, P.J., and Cavanagh and Gage, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction for carrying a concealed weapon, MCL 750.227; MSA 28.424. We affirm.

Defendant was stopped by Detroit police for a traffic violation. Officers discovered a loaded weapon in defendant's car, and asked him if he had a concealed weapons permit. Defendant answered that he did not. On appeal, defendant argues he was denied the effective assistance of counsel where counsel failed to move to suppress his statement to police regarding the lack of a permit.

To establish an ineffective assistance of counsel claim, defendant first must show that counsel's performance was below an objective standard of reasonableness under prevailing professional norms. The defendant must overcome a strong presumption that counsel's assistance constituted sound trial strategy. Second, the defendant must show there is a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994).

There is no showing that counsel was ineffective in failing to move to suppress defendant's statement regarding a lack of a concealed weapons permit. Defendant bore the burden of proving that he was properly licensed to carry the weapon. *People v Combs*, 160 Mich App 666, 673; 408 NW2d 420 (1987). General on-the-scene questioning as to facts surrounding a crime is not affected by the holding of *Miranda v Arizona*, 384 US 436, 477-478; 86 S Ct 1602; 16 L Ed 2d 694 (1966). Here, the officer was determining whether there was cause for an arrest. Where the prosecutor was not

required to prove that defendant lacked a permit for the weapon, defendant was not prejudiced by counsel's failure to move to suppress his statement.

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Hilda R. Gage