

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D22537
O/kmg

_____AD3d_____

Argued - February 6, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2007-00168

DECISION & ORDER

The People, etc., respondent,
v Matthew Mislá, appellant.

(Ind. No. 521/06)

Lynn W. L. Fahey, New York, N.Y. (Arnold & Porter, LLP [Christopher Anderson], of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Jeanette Lifschitz, and Rebecca Kramer of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Lasak, J.), rendered December 18, 2006, convicting him of assault in the second degree, resisting arrest, and criminal contempt in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt of assault in the second degree beyond a reasonable doubt (*see* Penal Law § 120.05[3]). The evidence demonstrated that, as a result of the defendant's attempt to leave the courtroom, court officer Troy Lima suffered a "physical injury" within the meaning of Penal Law § 10.00(9) (*see People v Soto*, 184 AD2d 673; *People v Hayden*, 128 AD2d 726). Moreover, upon reviewing the record here, we are satisfied that the verdict of guilt was not against

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the weight of the evidence (*see People v Romero*, 7 NY3d 633).

The defendant's remaining contentions do not require reversal.

RIVERA, J.P., FLORIO, DICKERSON and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court