

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

D23434  
Y/hu

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Argued - April 28, 2009

MARK C. DILLON, J.P.  
ANITA R. FLORIO  
RUTH C. BALKIN  
LEONARD B. AUSTIN, JJ.

2007-06908

DECISION & ORDER

The People, etc., respondent,  
v Henry Oliver, appellant.

(Ind. No. 1538/06)

Virginia Boccio, Farmingdale, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Andrea M. DiGregorio, Lauren Del Giorno, and Jacqueline Rosenblum of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Peck, J.), rendered July 16, 2007, convicting him of assault in the second degree, false personation, and petit larceny, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

Contrary to the defendant's contention, the evidence was legally sufficient to support his conviction of assault in the second degree. Viewing the evidence in the light most favorable to the prosecution, as we must (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish, beyond a reasonable doubt, that the complainant police officer sustained a physical injury within the meaning of Penal Law § 10.00(9) (*see e.g. People v Tejada*, 78 NY2d 936, 937-938, *cert denied sub nom. Tejada v Senkowski* 513 US 887; *People v Williams*, 23 AD3d 589, 590; *People v McKinney*, 195 AD2d 1003; *People v Rivera*, 183 AD2d 792, 793).

June 9, 2009

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Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt of assault in the second degree was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

DILLON, J.P., FLORIO, BALKIN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court