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

D29837
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_____AD3d_____ Submitted - January 7, 2011

WILLIAM F. MASTRO, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
JEFFREY A. COHEN, JJ.

2009-04154 DECISION & ORDER

The People, etc., respondent,
v Jose Sierra, appellant.

(Ind. No. 1944/08)

Lynn W. L. Fahey, New York, N.Y. (Kathleen Whooley of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Johnnette Traill, and Gretchen Robinson of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Buchter, J.), rendered April 21, 2009, convicting him of criminal contempt in the first degree and assault in the third degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

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 criminal contempt in the first degree beyond a reasonable doubt. Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero,* 7 NY3d 633). The jury reasonably concluded from the evidence presented at trial that the defendant intentionally violated an order of protection requiring him to stay away from the complainant. The evidence demonstrated that, following the conclusion of a birthday party for their son at which the defendant had exercised his right of visitation,

the defendant accosted the complainant in a parking lot regarding extending the visit, and struck her after she declined his request.

MASTRO, J.P., CHAMBERS, ROMAN and COHEN, JJ., concur.

ENTER:

Matthew G. Kiernan
Clerk of the Court