

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

D30690
H/kmb

_____AD3d_____

Submitted - March 14, 2011

PETER B. SKELOS, J.P.
RANDALL T. ENG
LEONARD B. AUSTIN
JEFFREY A. COHEN, JJ.

2009-04664

DECISION & ORDER

The People, etc., respondent,
v James Campbell, appellant.

(Ind. No. 4108/08)

Lynn W. L. Fahey, New York, N.Y. (Erin R. Collins of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Diane R. Eisner, and David Korngold of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Guzman, J.), rendered May 6, 2009, convicting him of assault in the second degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's contention that the evidence was legally insufficient to establish his intent to cause the complainant physical injury so as to support his conviction of assault in the second degree is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 492; *People v Gray*, 86 NY2d 10, 19; *People v Serrano*, 74 AD3d 1104, 1105). In any event, 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 beyond a reasonable doubt that the defendant intended to cause physical injury to the complainant and his guilt of assault in the second degree (*see People v Persaud*, 25 AD3d 626, 627; *People v Hansen*, 267 AD2d 474; *People v Cruz*, 257 AD2d 664). Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the

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verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

SKELOS, J.P., ENG, AUSTIN and COHEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court