

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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**KA 10-00184**

PRESENT: SCUDDER, P.J., CENTRA, CARNI, SCONIERS, AND GREEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHRISTIAN KENDRA, ALSO KNOWN AS KENDRA CHRISTIAN,  
DEFENDANT-APPELLANT.

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DAVID J. PAJAK, ALDEN, FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DOUGLAS A. GOERSS OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Penny M. Wolfgang, J.), rendered December 8, 2009. The judgment convicted defendant, after a nonjury trial, of assault in the second degree (two counts) and endangering the welfare of a child.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting her following a nonjury trial of two counts of assault in the second degree (Penal Law § 120.05 [2], [9]) and one count of endangering the welfare of a child (§ 260.10 [1]). Defendant failed to preserve for our review her contention that the conviction is not supported by legally sufficient evidence (*see People v Gray*, 86 NY2d 10, 19). Furthermore, viewing the evidence in light of the elements of the crimes in this nonjury trial (*see People v Danielson*, 9 NY3d 342, 349), we conclude that the verdict is not against the weight of the evidence (*see generally People v Bleakley*, 69 NY2d 490, 495).

Defendant correctly concedes that she failed to preserve for our review her contention that the conviction of endangering the welfare of a child is barred by the merger doctrine (*see CPL 470.05 [2]*), and we decline to exercise our power to review that contention as a matter of discretion in the interest of justice (*see CPL 470.15 [6] [a]; People v Smith*, 262 AD2d 1063, *lv denied* 93 NY2d 1027).

Entered: April 29, 2011

Patricia L. Morgan  
Clerk of the Court