

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

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**KA 16-00647**

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, DEJOSEPH, AND SCUDDER, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL D. STEVENS, DEFENDANT-APPELLANT.

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KURT HAMELINE, NEW HARTFORD, FOR DEFENDANT-APPELLANT.

SCOTT D. MCNAMARA, DISTRICT ATTORNEY, UTICA (STEVEN G. COX OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Oneida County Court (Michael L. Dwyer, J.), rendered April 12, 2016. The judgment convicted defendant, upon a jury verdict, of assault in the second degree and resisting arrest.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed and the matter is remitted to Oneida County Court for proceedings pursuant to CPL 460.50 (5).

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of assault in the second degree (Penal Law § 120.05 [3]) and resisting arrest (§ 205.30). Defendant's sole contention on appeal is that the People failed to present legally sufficient evidence establishing that the officers had probable cause to arrest him for disorderly conduct, which resulted in the crimes of which he was convicted. Defendant failed to renew his motion for a trial order of dismissal after presenting evidence, and he therefore failed to preserve his contention for our review (*see People v Hines*, 97 NY2d 56, 61, *rearg denied* 97 NY2d 678). In any event, we conclude that defendant's contention lacks merit (*see People v Sowell*, 25 AD3d 386, 387, *lv denied* 7 NY3d 763; *People v Sekoll*, 254 AD2d 797, 797, *lv denied* 92 NY2d 1053; *see also People v Tichenor*, 89 NY2d 769, 776-777, *cert denied* 522 US 918).

Entered: March 24, 2017

Frances E. Cafarell  
Clerk of the Court