

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

375

**KA 09-00476**

PRESENT: CENTRA, J.P., FAHEY, CARNI, GREEN, AND PINE, JJ.

---

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

OHNJA OLOMONSA, ALSO KNOWN AS JOHN SOLOMON,  
DEFENDANT-APPELLANT.

---

RONALD C. VALENTINE, PUBLIC DEFENDER, LYONS (MARY P. DAVISON OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

RICHARD M. HEALY, DISTRICT ATTORNEY, LYONS (MELVIN BRESSLER OF  
COUNSEL), FOR RESPONDENT.

---

Appeal from a judgment of the Wayne County Court (Dennis M. Kehoe, J.), rendered October 3, 2008. The judgment convicted defendant, upon a nonjury verdict, of assault in the second degree (four counts).

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

Memorandum: Defendant appeals from a judgment convicting him following a nonjury trial of four counts of assault in the second degree, two under subdivision (3) of Penal Law § 120.05 and two under subdivision (7). Contrary to defendant's contention, we conclude that the evidence, viewed in the light most favorable to the People (*see People v Contes*, 60 NY2d 620, 621), is legally sufficient to support the conviction under subdivision (3). Under that subdivision, a "peace officer is protected in the performance of an official function of whatever kind" (*People v Coffaro*, 52 NY2d 932, 934). We reject defendant's contention that the evidence is legally insufficient to support the conviction under section 120.05 (3) because the officers had completed "performing [their] lawful dut[ies]" at the time they were injured (*id.*; *see People v Townsend*, 248 AD2d 811, *lv denied* 92 NY2d 862). Based upon the evidence, County Court was entitled to find that defendant intended not only to cause physical injury to the officers, but that he also intended to prevent them from performing their lawful duties (*see People v Allah*, 126 AD2d 778, 780, *lv denied* 69 NY2d 876). Further, viewing the evidence in light of the elements of the crimes (*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). Finally, the sentence

is not unduly harsh or severe.

Entered: March 19, 2010

Patricia L. Morgan  
Clerk of the Court