NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
	:	
v.	:	
	:	
RICARDO MANUEL BERRIOS-HERNANDEZ	:	
	:	No. 20 MDA 2026
Appellant	:	

Appeal from the Judgment of Sentence Entered August 14, 2025
In the Court of Common Pleas of Lebanon County Criminal Division at
No(s): CP-38-CR-0001319-2024

BEFORE: PANELLA, P.J.E., DUBOW, J., and SULLIVAN, J.

MEMORANDUM BY SULLIVAN, J.: **FILED: NOVEMBER 16, 2026**

Ricardo Manuel Berrios-Hernandez ("Berrios-Hernandez") appeals from the judgment of sentence following his conviction of aggravated assault – causing serious bodily injury.[1] Because we perceive no merit to Berrios-Hernandez's challenge to the sufficiency of the evidence, we affirm.

We glean the following facts from the trial court's summary in its order denying Berrios-Hernandez's post-sentence motions. In June 2024, Berrios-Hernandez and his friend, Reimundo Galarza, entered the Downtown Lounge in Lebanon where M.N. ("the victim"), a woman, was working as a bartender, with the assistance of two other bartenders/servers, Pita Cook ("Ms. Cook") and Gabrielle Bass ("Ms. Bass"). The victim instantly recognized Berrios-

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[1] ***See*** 18 Pa.C.S.A. § 2702(a)(1).

Hernandez, who wore a white t-shirt, as a man who had previously caused issues at the bar by saying offensive sexual things to Ms. Cook. ***See*** Opinion Denying Post-Sentence Motions, 12/17/25, at 3-4.

That night, after Berrios-Hernandez verbally harassed Ms. Cook, he was ordered to leave the bar. Berrios-Hernandez and Galarza refused to leave and declared they were going to play pool in the bar's back room. M.N. told them they had to leave and could not take their drinks with them because it would violate the law. Berrios-Hernandez and Galarza began walking down the hallway. Ms. Bass attempted, unsuccessfully, to take the drink from Berrios-Hernandez's hand. M.N. then grabbed the bottle, and, in response, Berrios-Hernandez turned around and punched her in the face. ***See id***. at 4-7.

M.N. blacked out and fell to the floor. When she regained consciousness, blood was coming from her mouth. At the hospital, doctors determined the left side of her jaw was shattered, the right side of her jaw was dislocated, and her jaw had a second fracture. M.N. required surgery to repair her broken and dislocated jaw. Her jaw was wired shut; the surgery also required the placement of a permanent metal plate and screws. M.N. lived on a liquid diet for two weeks and could not chew for an additional six to eight weeks. Nearly one year later, she continued to suffer constant pain, numbness, and panic and anxiety attacks. ***See id***. at 5-7.

Surveillance footage revealed that Berrios-Hernandez and Galarza left the bar and exchanged t-shirts. The next day, as a police officer spoke to

Galarza at his home, a man matching Berrios-Hernandez's description climbed out of the back window of the residence. ***See id***. at 8-9. The United States Marshal's Service later determined Berrios-Hernandez was in Chicago and a task force arrested him there in July 2024. ***See id***. at 9-10.

At trial, Galarza testified for the defense that M.N. grabbed Berrios-Hernandez's hand when taking the bottle from him. Berrios-Hernandez also testified, and stated the three bartenders attacked him by striking him in the neck and grabbing his wrist. Berrios-Hernandez testified he threw his arm out in fear and self-defense, and he changed shirts with Galarza afterward because he feared the women would make a renewed attack against him. ***See id***. at 10.

At trial, a jury convicted Berrios-Hernandez of aggravated assault – inflicting serious bodily injury, and acquitted him of simple assault. The trial court imposed a ten-to-twenty-year term of imprisonment. Both Berrios-Hernandez and the trial court complied with Pa.R.A.P. 1925.[2]

On appeal, Berrios-Hernandez raises one issue for our review:

> Was the evidence insufficient to support a finding of guilt beyond a reasonable doubt on the charge of aggravated assault (18 [Pa.C.S.A.] § 2702 (a)(1), specifically as it pertains to the *mens rea* for the offense?

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[2] On February 25, 2026, the trial court entered an order adopting the Court's December 17, 2025, order denying Berrios-Hernandez's post-sentence motions as its opinion regarding Berrios-Hernandez's challenge to his aggravated assault conviction.

See Berrios-Hernandez's Brief at 6.

A sufficiency claim presents a question of law. As such, this Court's standard of review is *de novo*. ***See Commonwealth v. Berrios***, 297 A.3d 798, 803 (Pa. Super. 2023). Our scope of review is limited to considering the evidence of record, viewed in the light most favorable to the Commonwealth as the verdict winner. ***See id***. When viewing the evidence in that light, this Court must determine whether the evidence and all reasonable inferences therefrom is sufficient to establish every element of the offense beyond a reasonable doubt. ***See Commonwealth v. Ellis***, 313 A.3d 458, 461 (Pa. Super. 2024). The evidence at trial need not preclude every possibility of innocence and the fact-finder is free to believe all, part, or none of the evidence presented. It is not within the province of the Court to re-weigh the evidence and substitute our judgment for that of the fact-finder. ***See Commonwealth v. Bernarsky***, 348 A.3d 304, 320 (Pa. Super. 2025).

A person is guilty of aggravated assault if he attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life. ***See*** 18 Pa.C.S.A. § 2702(a)(1). Serious bodily injury is defined as bodily injury "which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." ***See*** 18 Pa.C.S.A. § 2301.

A person acts intentionally with respect to a material element of an offense when:

> (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and
>
> (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.

18 Pa.C.S.A. § 302 (b)(1). A person acts knowingly with respect to a material element of an offense when:

> (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and
>
> (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

18 Pa.C.S.A. § 302 (b)(2). A person acts recklessly with respect to a material element of an offense when:

> he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

18 Pa.C.S.A. § 302(b)(3). For the purposes of Section 2701(a)(1), when a person actually inflicts serious bodily injury, the Commonwealth need only prove he does so recklessly, *i.e.*, under circumstances which almost ensure that injury or death will occur. ***See Commonwealth v. Patrick***, 933 A.3d 1043, 1046 (Pa. Super. 2007) (*en banc*). A defendant acts recklessly for

purposes of Section 2701(a)(1) when he waits until the victim is facing away and hits him with another force to break his jaw and knock him unconscious. ***See Interest of N.A.D.***, 205 A.3d 1237, 1240 (Pa. 2019).

Both the attempt to change one's appearance and flight are admissible as evidence of consciousness of guilt. ***See Commonwealth v. Brown***, 676 A.2d 1178, 1183 (Pa. 1996) (change of appearance); ***Commonwealth v. Carter***, 320 A.3d 140, 150 (Pa. Super. 2024) (flight).

Berrios-Hernandez concedes the victim suffered serious bodily injury but asserts no reasonable person could find he acted intentionally, knowingly, or recklessly, in part because he testified he did not specifically attempt to break M.N.'s jaw, and the Commonwealth presented no evidence to show he acted intentionally or knowingly. ***See*** Berrios-Hernandez's Brief at 12-14. He further asserts that none of the factors identified in ***Commonwealth v. Alexander***, 383 A.3d 887, 889 (Pa. 1978), other than gender difference, was present in the case that could make one punch an aggravated assault, and notes he left the area "without doing additional damage, he had no weapon, and he made no statements indicating an intent to inflict further injury[.]" ***See*** Berrios-Hernandez's Brief at 15. Berrios-Hernandez states the case differs from ***Commonwealth v. Burton***, 2 A.3d 598 (Pa. Super. 2010) (*en banc*), a one-punch aggravated assault case, because there was no provocation in ***Burton***, while he, by contrast, was engaged in a physical struggle the bartenders initiated, and further, unlike Burton, he did not

celebrate his assault. ***See*** Berrios-Hernandez's Brief at 16. Finally, he asserts his conduct did not meet the required standard of recklessness, which requires that life threatening injury is essentially certain to occur. ***See id***. at 16.

The trial court found the evidence showed Berrios-Hernandez provoked an altercation with three younger, smaller, female bartenders, disregarded an instruction not to take his beer bottle with him, and after M.N. took it from his hand, turned, and without hesitation punched the unsuspecting woman in the face, then fled from the scene and attempted to alter his appearance. Finally, the court noted that where a defendant inflicts serious bodily injury, the Commonwealth need only prove recklessness.

Having reviewed the record, the case law, the parties' arguments, and the trial court's opinion, we conclude the evidence sufficiently established Berrios-Hernandez committed aggravated assault. Because there is no dispute M.N.'s injuries constituted serious bodily injury, we are only called to determine whether the evidence supported a finding Berrios-Hernandez acted intentionally, knowingly, or recklessly. Upon review, we do so based on an examination of the record in the light most favorable to the Commonwealth as the verdict winner, not to Berrios-Hernandez as he requests. ***See Commonwealth v. Brunson***, 347 A.3d 808, 820 (Pa. Super. 2025) (rejecting appellant's attempt to recast the evidence in the light most favorable to himself on sufficiency review). The evidence shows that Berrios-Hernandez responded to M.N. grabbing the bottle from his hand by turning

and punching her in the face with such force that he broke her jaw in two places and knocked her unconscious. We also note the facts that he fled the scene, immediately changed shirts with his cohort, and fled to Chicago, are all indicative of consciousness of guilt. ***See*** N.T., 4/23/25, at 239-40.

In light of the facts and circumstances surrounding Berrios-Hernandez's punch, the jury's verdict and the facts they considered at trial there was sufficient evidence to show Berrios-Hernandez consciously disregarded a substantial and unjustifiable risk of serious bodily injury to the victim, constituting a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. ***See*** 18 Pa.C.S.A. § 302(b)(3); ***Interest of N.A.D***. 205 A.3d at 1240-41.[3] There is, accordingly, no merit to Berrios-Hernandez's sufficiency claim.

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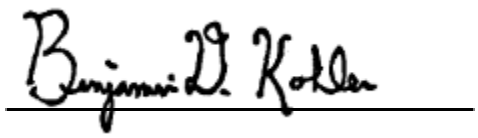
[3] We find Berrios-Hernandez's cite citations distinguishable. ***Alexander*** involved a single punch that did not cause the victim to lose consciousness, and the Commonwealth conceded the punch to the victim's nose did not constitute serious bodily injury. ***See Alexander***, 383 A.2d at 889. Because such injury was absent, the Supreme Court held that an aggravated assault conviction could only be sustained if the appellant acted with the intent to inflict serious bodily injury. ***See id***. Here, Berrios-Hernandez does not dispute he inflicted serious bodily injury and that the *mens rea* of recklessness suffices to prove aggravated assault.

Burton also fails to support Berrios-Hernandez's claim. In that case, the appellant inflicted serious bodily injury. Although the Court recognized that Burton's guilt could be established with evidence of recklessness, it concluded Burton ***intended to cause serious bodily injury*** because, *inter alia*, he was younger than the victim, initiated a confrontation with him, and laughed after inflicting the injury on the unprepared victim. ***See Burton***, 2 A.3d at 603-04. That the evidence in ***Burton*** was strong enough to prove the intent to inflict

(Footnote Continued Next Page)

Judgment of sentence affirmed.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/16/2026

serious bodily injury is irrelevant to whether Berrios-Hernandez acted ***recklessly*** against M.N., nor is his guilt negated by the fact he fled the scene, conscious of his guilt, rather than celebrating over the unconscious victim's body.