

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
ERNIE TURCHI	:	
	:	
Appellant	:	No. 2816 EDA 2025

Appeal from the Judgment of Sentence Entered October 3, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at
No(s): CP-51-CR-0007886-2024

BEFORE: McLAUGHLIN, J., KING, J., and BECK, J.

MEMORANDUM BY BECK, J.:

FILED OCTOBER 28, 2026

Ernie Turchi ("Turchi") appeals from the judgment of sentence imposed by the Philadelphia County Court of Common Pleas ("trial court") following his convictions of possessing instruments of a crime ("PIC") and simple assault.¹ On appeal, Turchi challenges the sufficiency of the evidence supporting his PIC conviction. After review, we affirm.

On November 4, 2024, Turchi and Joseph Brown ("Brown") engaged in a verbal argument at a bus stop. The argument escalated into a physical altercation when Turchi kicked Brown and the two started punching each other. Turchi then jumped on Brown's back and bit him before knocking him down. During the physical altercation, Brown observed Turchi attempting to

¹ 18 Pa.C.S. §§ 907(a), 2701(a)(1).

open a folding knife. Turchi then stepped away from Brown. At this point in the fight, Brown suffered minor injuries, including a bite wound on his back. In addition, Brown had lost some of his possessions during the fight. As he searched for his possessions, Turchi taunted him.

Subsequently, Brown picked up a large metal pole and followed Turchi around a nearby gas station and sidewalk area. When Brown approached Turchi, Turchi stabbed him with the knife. Brown suffered shallow stab wounds to his side and elbow for which he was hospitalized for two days. Police arrested Turchi the day after the fight and recovered a backpack that contained a small folding knife.

The Commonwealth charged Turchi with simple assault, PIC, aggravated assault, robbery, receiving stolen property, theft, and recklessly endangering another person. The case proceeded to a bench trial, after which the trial court found Turchi guilty of simple assault and PIC, and not guilty of the remaining charges. The trial court sentenced him to six to twelve months in county prison for the simple assault conviction, and a concurrent term of three years of probation for PIC. Turchi filed a timely notice of appeal followed by a court-ordered concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). He raises the following issue for review: "Was the evidence insufficient for possessing an instrument of crime, as the Commonwealth failed to prove that [] Turchi possessed the knife at issue

under circumstances not manifestly appropriate for any lawful uses it may have?” Turchi’s Brief at 2.

Turchi contends that “[t]he criminal use of an object is not, by itself, sufficient to establish all the elements of PIC. PIC is targeted towards the possession, under circumstances inappropriate to lawful use, of the instrument[,] which is intended to be used criminally, not the unlawful use itself.” **Id.** at 7-8 (emphasis omitted). He argues that “an object does not become an ‘instrument of crime’ merely because it is used criminally.” **Id.** at 9. Instead, under section 907(d) of the Crimes Code, the definition of an instrument of crime includes a requirement that the object is used “under circumstances not manifestly appropriate for the lawful uses it may have.” **Id.** (quoting 18 Pa.C.S. § 907(d)). Based on this definitional language, he contends that the statute does not “criminalize[the] unlawful use of an object ... [it] punish[es] actions **before** the intended crime is consummated[.]” **Id.** at 12 (emphasis in original). In his view, “[s]ection 907 was intended to fill a gap in the law and criminalize the possession of items solely to be used for criminal purposes rather than requiring law enforcement to wait until an offense had been committed.” **Id.** at 20.

Turchi asserts that because this phrasing was placed in the definition of an instrument of crime, it must be read to define the object, not the actions of the possessor. **Id.** at 12-13, 21-22. Finally, he notes that the definition includes the word “used,” which he argues should be read as limiting the

definition of an instrument of crime to objects that have been used previously for criminal purposes. **Id.** at 12-15, 23; **see also id.** at 18 (noting that section 907 is titled “possessing an instrument of crime,” not using an instrument of crime). In support of his interpretation of section 907, Turchi points to our Supreme Court granting allowance of appeal in **Commonwealth v. Jackson**, 339 A.3d 402 (Pa. Super. 2025) (non-precedential decision), *appeal granted*, 348 A.3d 85 (Pa. 2025).² Turchi’s Brief at 10.

Turning to the facts of his case, Turchi argues that the evidence was insufficient to support his PIC conviction because he did not possess the knife with criminal intent. **Id.** at 17. He states that he had the knife in his pocket before the fight occurred, and only got the knife out in self defense. **Id.** at 8, 17, 25-26. While acknowledging this Court has found a knife to be an instrument of crime, Turchi argues that it is lawful to possess a knife for lawful purposes and that no evidence was presented that he had the knife for a criminal purpose. **Id.** at 25-26. He thus concludes that his use of a knife does not meet the requirements of an instrument of crime. **Id.** at 24.

We review a challenge to the sufficiency of the evidence according to the following standard:

² Our Supreme Court granted allowance of appeal in **Jackson** on the following issue: “Does possessing instruments of crime require the Commonwealth to prove not only [that] an item was used criminally but that it was possessed under circumstances not manifestly appropriate for lawful uses it may have?” **Jackson**, 348 A.3d 85.

Because a determination of evidentiary sufficiency presents a question of law, our standard of review is de novo and our scope of review is plenary. In reviewing the sufficiency of the evidence, we must determine whether the evidence admitted at trial and all reasonable inferences drawn therefrom, viewed in the light most favorable to the Commonwealth as verdict winner, were sufficient to prove every element of the offense beyond a reasonable doubt. The facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. It is within the province of the [factfinder] to determine the weight to be accorded to each witness's testimony and to believe all, part, or none of the evidence. The Commonwealth may sustain its burden of proving every element of the crime by means of wholly circumstantial evidence. Moreover, as an appellate court, we may not re-weigh the evidence and substitute our judgment for that of the [factfinder].

Commonwealth v. Rosario, 307 A.3d 759, 764-65 (Pa. Super. 2023) (citations and brackets omitted).

A person commits PIC if he “possesses any instrument of crime with intent to employ it criminally.” 18 Pa.C.S. § 907(a); ***see also Commonwealth v. Moore***, 263 A.3d 1193, 1205 (Pa. Super. 2021) (“To convict an individual of PIC, the Commonwealth has the burden of proving two elements: (1) possession of an object that is an instrument of crime and (2) intent to use the object for a criminal purpose.”) (cleaned up). An instrument of crime is defined as “(1) [a]nything specially made or specially adapted for criminal use [, or] (2) [a]nything used for criminal purposes and possessed by the actor under circumstances not manifestly appropriate for lawful uses it may have.” 18 Pa.C.S. § 907(d). “The actor’s criminal purpose provides the touchstone of his liability for the PIC offense, and such purpose may be inferred from the circumstances surrounding the possession.”

Commonwealth v. Vansyckel, 341 A.3d 174, 183 (Pa. Super. 2025) (en banc) (citation and ellipses omitted).

At trial, Brown testified that Turchi jumped on Brown's back and bit him before knocking him down. N.T., 6/23/2025, at 18. Turchi then attempted to open a knife before stepping away. ***Id.*** Brown, while holding a large metal pole, went after Turchi, who had collected some of Brown's possessions. ***Id.*** at 27. At this point, Turchi stabbed Brown. ***Id.***

The trial court found there was sufficient evidence to convict Turchi of PIC. Trial Court Opinion, 2/18/2026, at 6. According to the trial court, "while [Turchi's] knife may have had lawful uses at other times, there was nothing lawful about his possession of it during the minutes that he was trying to open it while jumping on, kicking, and biting Brown." ***Id.*** at 5. It explained that Turchi had the knife in his hand to injure someone that he had already physically dominated, so there was no manifestly appropriate use of the knife. ***Id.*** The court found that he intended to "employ [the knife] criminally," and, thus sufficient evidence to support the PIC conviction. ***Id.*** at 6 (citation omitted).

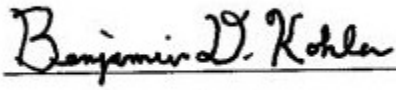
We agree with the trial court's reasoning. Although Turchi raises a broad statutory interpretation challenge of section 907 within his sufficiency claim, existing case law of this Court has found "[a] knife clearly fulfills the [] enumerated definition of an instrument of crime." ***Commonwealth v. Robertson***, 874 A.2d 1200, 1209 (Pa. Super. 2005). We are bound by this

decision. **See Commonwealth v. Brigidi**, 6 A.3d 995, 1001 (Pa. 2010) (“precedent (stare decisis) requires us to adhere to a ruling of this Court until it is reversed either by our Supreme Court or an en banc panel of Superior Court”) (citation omitted). Thus, viewing the evidence presented at trial in the light most favorable to the Commonwealth, we conclude that Turchi’s folding knife constituted an instrument of crime when used unlawfully to stab Brown. **See Commonwealth v. Thornton**, 430 A.2d 1168, 1170 (Pa. 1981) (explaining that the evidence was sufficient to support PIC where appellant used a knife to stab someone); **see generally Vansyckel**, 341 A.3d at 183 (finding the Commonwealth presented a prima facie case that defendant committed PIC where defendant possessed a knife that she intended to employ criminally, as she stabbed the victim multiple times). Therefore, we conclude the evidence is sufficient to support the PIC conviction. **See Robertson**, 874 A.2d at 1209.³

Judgment of sentence affirmed.

³ Turchi “recognizes that the panel may be constrained to follow Superior Court precedent in this area as well as prior persuasive authority. Given the Pennsylvania Supreme Court review in **Jackson**, [] Turchi is seeking to preserve this argument pending the High Court’s decision.” Turchi’s Brief at 10 n.3. We decline, however, Turchi’s request for a stay of his appeal pending decision in **Jackson**. **Id.** at 26 n.4. As stated above, we are bound by the existing precedent until the Supreme Court overrules that line of cases. **See Brigidi**, 6 A.3d at 1001.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/28/2026