

**[J-48-2008]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 33 EAP 2007
	:	
Appellee,	:	Appeal from the Judgment of the Superior
	:	Court, No. 2642 EDA 2005, entered on
	:	June 26, 2007, affirming the judgment of
v.	:	sentence of the Court of Common Pleas of
	:	Philadelphia County entered on April 27,
	:	2005, at No. CP-51-CR-0900691-2004.
JAMES MCCOY,	:	
	:	
Appellant	:	Argued: April 14, 2008

**DISSENTING OPINION**

**MR. JUSTICE EAKIN**

**DECIDED: January 23, 2009**

I respectfully dissent from the majority’s conclusion that in order to be convicted under 18 Pa.C.S. § 2707.1, an individual must fire the weapon from outside the occupied structure. The plain statutory language of § 2707.1 is expansive enough to include discharging a firearm from within the structure. Section 2707.1(a) states: “A person commits an offense if he knowingly, intentionally or recklessly discharges a firearm from any location into an occupied structure.” 18 Pa.C.S. § 2707.1(a).

There are two pertinent elements of this crime: the place of the shot’s origin and its destination. The origin is defined as “from any location” and its place of destination is “into an occupied structure.” The manifest harm the statute addresses is the termination point of the shot, not its departure point, and the word “into” speaks to that destination. “Into” does not preclude points of origin. It does not geld the unlimited element of origin, “any location,” turning it into “any location except inside the building.”

“Into” may denote moving from outside in, but one may move “into” a room even when one is within the room to start with. One moves into the night even when one was in the night to start with. One may proceed into the jungle despite being in the jungle already. One may introduce thoughts into the dialog that is ongoing. One need not be outside the room, night, jungle, or dialog to have the word “into” be descriptive, and one need not be outside the building to shoot “into” it.

I cannot concur in adding the element “outside the structure” to this statute. Accordingly, I would affirm the Superior Court.

Mr. Justice McCaffery joins this dissenting opinion.