

**[J-92-2010] [M.O. - Baer, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 18 MAP 2010
	:	
Appellee	:	Appeal from the Order of the Superior
	:	Court at No. 1722 MDA 2008 dated July
	:	14, 2009, reconsideration denied
v.	:	September 18, 2009, Reversing and
	:	Remanding the Order of the Perry County
	:	Court of Common Pleas, Criminal
MARK BROOKS CLEGG,	:	Division, at No. CP-50-CR-133-2008
	:	dated August 28, 2008
Appellant	:	
	:	ARGUED: November 30, 2010

CONCURRING OPINION

MR. JUSTICE EAKIN

DECIDED: August 16, 2011

I agree with the majority that the inchoate crime of attempt is not an enumerated offense under the Uniform Firearms Act, 18 Pa.C.S. § 6105(b). I write separately only to note this applies equally to the inchoate crimes of criminal conspiracy and criminal solicitation, though such applicability is not before us, and thus is not part of the majority opinion.

Prior to 1995, § 6105 stated, “[n]o person who has been convicted in this Commonwealth or elsewhere of a crime of violence shall own a firearm, or have one in his possession or under his control.” Id. A “crime of violence” was defined as “[a]ny of the following crimes, or an attempt, a solicitation or a conspiracy to commit any of the same, namely: murder, voluntary manslaughter, rape, aggravated assault, robbery,

burglary, involuntary deviate sexual intercourse, arson, extortion accompanied by threats of violence, assault by prisoner, assault by life prisoner and kidnapping.” Id. (emphasis added). Because the amended statute expressly itemizes the 38 qualifying offenses without reference to attempt, solicitation, or conspiracy, the legislature has explicitly limited the statute to the actual commission of one of the enumerated offenses. The language is clear and unambiguous, and the plain meaning of the statute controls.

In all other respects, I join the majority’s opinion.