

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ATHENS COUNTY

STATE OF OHIO/CITY OF ATHENS, :
:
Plaintiff-Appellee, : Case No. 02CA30
:
vs. :
:
JAMES COLLINS, JR., : DECISION AND JUDGMENT ENTRY
:
Defendant-Appellant. :
: **Released 11/17/03**

APPEARANCES:

David H. Bodiker and Barbara A. Farnbacher, Columbus, Ohio,
for Appellant.

Garry E. Hunter, Law Director, and Lisa A. Eliason, Athens
City Prosecutor, Athens, Ohio, for Appellee.

Harsha, J.

{¶1} James Collins, Jr., appeals the trial court's
judgment denying his motion to dismiss a carrying concealed
weapons charge. He asserts that the carrying concealed
weapons statute, R.C. 2923.12, is unconstitutional.

{¶2} Appellant timely appealed the trial court's
judgment and raises the following assignment of error:
"The trial court erred when it determined that Ohio's
Carrying Concealed Weapons statute, R.C. 2923.12, is not
unconstitutional on its face. R.C. 2923.12 violates both

an individual's right to bear arms, as guaranteed by Section 4, Article I of the Ohio Constitution, and the Due Process Clauses of both the state and federal constitutions."

{¶3} In his sole assignment of error, appellant argues that the trial court erred by denying his motion to dismiss. He contends that R.C. 2923.12 is unconstitutional and, thus, that the court should have dismissed the carrying concealed weapons charge. Appellant premises his argument upon the First District Court of Appeals' decision in Klein v. Leis, 146 Ohio App.3d 526, 2002-Ohio-1634, 767 N.E.2d 286.

{¶4} However, the Ohio Supreme Court recently determined that R.C. 2923.12 constitutional and reversed the First District Court of Appeals' decision in Klein. See Klein v. Leis, 99 Ohio St.3d 537, 795 N.E.2d 633, 2003-Ohio-4779. The court found that because a constitutional right to bear concealed weapons does not exist, the statute prohibiting the carrying of concealed weapons does "not unconstitutionally infringe the right to bear arms." *Id.* at paragraph one of the syllabus. In light of the Supreme Court's ruling on this issue, our perspective is irrelevant.

{¶5} Therefore, we must conclude that the trial court did not err by denying appellant's motion to dismiss.

JUDGMENT AFFIRMED.

Abele, J. & Kline, J.: Concur in Judgment and Opinion.

For the Court

BY: _____
William H. Harsha, Judge