[Cite as *State v. Reed*, 2026-Ohio-3423.]

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-250632 TRIAL NO. B-2503262
Plaintiff-Appellee,	:	
vs.	:	*JUDGMENT ENTRY*
MICHAEL REED,	:	
Defendant-Appellant.	:	

This cause was heard upon the appeal, the record, and the briefs.

For the reasons set forth in the Opinion filed this date, the appeal is dismissed in part, and the judgment of the trial court is affirmed in part and reversed in part, and the cause is remanded.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs be taxed 50% to appellant and 50% to appellee.

The court further orders that (1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and (2) the mandate be sent to the trial court for execution under App.R. 27.

To the clerk:

Enter upon the journal of the court on 9/2/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By:___________________________
Administrative Judge

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
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STATE OF OHIO,	:	APPEAL NO. C-250632 TRIAL NO. B-2503262
Plaintiff-Appellee,	:	
vs.	:	
MICHAEL REED,	:	*O P I N I O N*
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Court of Common Pleas

Judgment Appealed From Is: Affirmed in Part, Reversed in Part, and Cause Remanded; Appeal Dismissed in Part

Date of Judgment Entry on Appeal: September 2, 2026

Connie Pillich, Hamilton County Prosecuting Attorney, and *Norbert Wessels,* Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Stephanie Kessler, for Defendant-Appellant.

CROUSE, Judge.

{¶1} In 2014, when defendant-appellant Michael Reed was a juvenile, he was adjudicated delinquent for complicity to aggravated robbery. Eleven years later, he was charged with carrying a concealed weapon and having a weapon while under the disability created by his juvenile adjudication. Reed now challenges those convictions under the Second Amendment to the United States Constitution. We hold that, while the Second Amendment permitted Reed's concealed-carry prosecution, it prohibited his total and presumptively permanent disarmament based on his juvenile adjudication. We therefore reverse his weapons-under-disability conviction and remand the cause for the court to dismiss that charge.

I. BACKGROUND

{¶2} According to the State's allegations, this case began when, in June 2025, officers encountered Reed with "blood shot eyes and an odor of alcohol about his breath." Reed "had a loaded firearm on his person." The State alleged that Ohio law prohibited Reed from possessing a firearm because, in 2014, he had been adjudicated delinquent as a juvenile for conduct that amounted to complicity to aggravated robbery.[1]

{¶3} Reed was indicted on one count of possessing a weapon while intoxicated in violation of R.C. 2923.15(A) ("Count 1"), one count of carrying a concealed weapon in violation of R.C. 2923.12(A)(2) ("Count 2"), and one count of having a weapon while under a disability in violation of R.C. 2923.13(A)(2) ("Count 3").

[1] The indictment lists the offense merely as "COMPLICITY-AGGRAVATED." The parties, both here and below, have accepted without question that this meant complicity to aggravated robbery. We therefore do likewise.

{¶4} Reed moved to dismiss the concealed-carry and weapons-under-disability charges, asserting that they violated the Second Amendment to the United States Constitution. The trial court denied his motion in a written entry, which described how "early American law disarmed individuals deemed dangerous following violent acts, and such restrictions remain consistent with the historical tradition of firearms regulation." Based on this, the court concluded "that juvenile adjudications for violent offenses may constitutionally support disarmament under the *Bruen* framework." The trial court distinguished Reed's case from this court's decision in *State v. Thacker*, 2024-Ohio-5835 (1st Dist.), *appeal accepted*, 2025-Ohio-705, noting that our holding in *Thacker* was "expressly limited . . . to nonviolent predicates." Reed, by contrast, had been "adjudicated delinquent as a juvenile for complicity to aggravated robbery with a firearm—a violent offense."

{¶5} His motion denied, Reed switched his pleas to "no contest." The trial court found him guilty on all three counts, and Reed appealed.

II. Analysis

{¶6} Reed brings two challenges under *New York State Rifle & Pistol Assn. v. Bruen*, 597 U.S. 1 (2022), which we review de novo. *State v. Garrett*, 2026-Ohio-49, ¶ 18 (1st Dist.). In two assignments of error, he argues that the trial court erred by failing to dismiss his charges for having a weapon while under a disability and carrying a concealed weapon, respectively. Reed does not challenge his conviction for having a weapon while intoxicated in violation of R.C. 2923.15(A).

A. Weapons Under Disability

{¶7} We begin with Reed's argument that his conviction on Count 3, having a weapon while under a disability, transgressed the Second Amendment.

{¶8} The Second Amendment protects "the right of the people to keep and bear Arms." U.S. Const., amend. II. Conduct covered by the Second Amendment's "plain text" is presumptively protected. *Bruen* at 17, 24. However, a state may regulate presumptively protected conduct if its regulations are "consistent with the Nation's historical tradition of firearm regulation." *Id.* Here, no one disputes that the weapons-under-disability and concealed-carry statutes target conduct within the amendment's plain text, so we proceed straight to history. *Compare Garrett* at ¶ 21.

{¶9} *Bruen*'s historical inquiry requires the State to explain how its law is "'relevantly similar' to laws that our tradition is understood to permit." *United States v. Rahimi*, 602 U.S. 680, 692 (2024), quoting *Bruen* at 29 and fn. 7. The State can discharge this burden by identifying analogous regulations in our Nation's history and demonstrating that they "impos[ed] similar restrictions" on arms-bearing "for similar reasons." *Id.*

{¶10} Reed challenges his conviction under R.C. 2923.13(A)(2), a provision of Ohio's weapons-under-disability statute. We have previously described R.C. 2923.13 as imposing a series of "categorical bans" on the keeping and bearing of arms, because the statute's provisions completely prohibit discrete categories of persons from having firearms. *See Thacker*, 2024-Ohio-5835, at ¶ 17 (1st Dist.); *State v. Brown*, 2025-Ohio-8, ¶ 8-9 (1st Dist.), *appeal accepted*, 2025-Ohio-1090; *Garrett*, 2026-Ohio-49, at ¶ 22 (1st Dist.). For a categorical ban on firearm possession to survive Second Amendment scrutiny, the State must locate its statute within a historical tradition of disarming an analogous group. *See Thacker* at ¶ 17, 54-55; *Brown* at ¶ 8-11; *State v. Hall*, 2025-Ohio-1644, ¶ 39, 101-102 (1st Dist.), *appeal accepted*, 2025-Ohio-3300.

{¶11} The posture of this case limits us to considering the facts alleged in the indictment and bill of particulars. Thus, we know (1) that Reed was adjudicated delinquent as a juvenile for complicity to aggravated robbery in 2014, (2) that, on June

27, 2025, Reed was in possession of a firearm, and (3) that, as of that date, Reed had not been relieved of his legal disability by operation of law or legal process. Based on these facts, Reed's case falls squarely between two of our prior R.C. 2923.12 decisions: *Thacker*, 2024-Ohio-5835 (1st Dist.), and *Garrett*, 2026-Ohio-49 (1st Dist.).

{¶12} *Thacker* concerned an adult defendant who, like Reed, had a prior juvenile-delinquency adjudication on his record. Thacker's adjudication, however, had involved conduct amounting to complicity to trafficking in marijuana. *Thacker* at ¶ 3, 58. Over 13 years later, he was charged with possessing a firearm while under a disability in violation of R.C. 2923.13(A)(3). *Id.* at ¶ 4. The trial court dismissed that charge, and we affirmed. *Id.* at ¶ 5, 108. In the process, we rejected the State's argument that it could "disarm any person who has been convicted of a felony, and . . . that, for Second Amendment purposes, juvenile delinquency adjudications are no different from criminal convictions." *Id.* at ¶ 63. "Even assuming that the State . . . may constitutionally prohibit each and every person convicted of a felony from possessing a firearm," we said, such a per se rule would not translate to juvenile adjudications. *Id.* at ¶ 68. Juvenile proceedings, we concluded, were fundamentally different from felony criminal trials known to the founding generation. *Id.* at ¶ 77-78.

{¶13} But we further explained that, under *Rahimi*, a legislature may disarm a class of persons if (1) that class of persons can "reasonably be presumed dangerous with a firearm" and (2) "the duration of the disarmament is realistically tailored to the danger persons in that class pose." *Thacker* at ¶ 54 and 80. We declined to decide whether Thacker's adjudication for marijuana trafficking provided an adequate proxy for a dangerousness determination. *Id.* at ¶ 88. Instead, we held that R.C. 2923.13(A)(3) was unconstitutional as applied to Thacker because it was not durationally limited, and because the State had offered no historical examples of a presumptively permanent disarmament applied to an individual presumed to have been rehabilitated:

> [T]he Second Amendment prohibits Ohio's General Assembly from imposing a lifelong presumption of dangerousness upon an individual based solely upon a juvenile delinquency adjudication for conduct that is not inherently violent, in order to restrict his ability to engage in otherwise-protected Second Amendment conduct. As written and as applied to Thacker, R.C. 2923.13(A)(3) imposes just such a lifetime presumption. And it imposes that lifetime presumption *in spite* of a system of juvenile justice predicated upon the assumption that those it adjudicates delinquent will be rehabilitated.

(Emphasis in original.) *Thacker* at ¶ 95.

{¶14} *Garrett*, 2026-Ohio-49 (1st Dist.), applied *Thacker*'s dangerousness framework to a defendant whose disability arose from a prior adult conviction for aggravated assault involving a firearm. We held that the Second Amendment permitted Garrett's prosecution. *Id.* at ¶ 34-36, 39, 42. With respect to the presumption of danger, we held that, "[w]hatever the outer limits of the legislature's ability to presume dangerousness based on prior felony convictions," an adult conviction for aggravated assault with a weapon certainly sufficed. *Id.* at ¶ 31. And with respect to duration, we held that the adult character of the conviction and the nature of the offense allowed the State to reasonably presume that Garrett's dangerousness would persist in perpetuity. *Id.* at ¶ 34. We declined to express an opinion as to whether and how Garrett could individually rebut that presumption of dangerousness, because Garrett had not sought to make such a showing. *Id.* at ¶ 38.

{¶15} With these cases in mind, we return to Reed's case and ask (1) whether individuals with prior juvenile adjudications for offenses like Reed's "can reasonably be presumed dangerous with a firearm," and (2) whether the duration of R.C. 2923.13(A)(2)'s disarmament "is realistically tailored to the danger persons in that class pose." *See Thacker*, 2024-Ohio-5835, at ¶ 80 (1st Dist.); *Brown*, 2025-Ohio-8, at ¶ 11 (1st Dist.); *Garrett* at ¶ 28.

1. Determination of Dangerousness

{¶16} We first consider whether Reed's juvenile adjudication could serve as an adequate proxy for dangerousness. We hold it could.

{¶17} Neither *Garrett* nor *Thacker* expressly resolved this question. In *Thacker*, we remarked that it was not "clear how much an adjudication of juvenile status can tell us about the danger [an individual] poses as an adult." *Thacker* at ¶ 85. But we also declined to resolve whether Thacker himself could be presumed dangerous, and we distinguished "R.C. 2923.13(A)(3), the drug-felony provision at issue in [Thacker's] case," from R.C. 2923.13(A)(2), "which covers juveniles adjudicated delinquent for violent felony conduct." *Id.* at ¶ 86, 88. *Garrett*, by contrast, addressed only adult convictions for aggravated assault with a weapon. *See Garrett*, 2026-Ohio-49, at ¶ 30 (1st Dist.) (noting that, "unlike the defendant in *Thacker*, Garrett engaged in this unlawful conduct as an adult, not a child").

{¶18} Nevertheless, the underlying logic of *Garrett* informs our decision. In *Garrett*, we explained that Garrett's conviction "for engaging in acts of physical violence with a firearm" suggested that he could reasonably be presumed to "pose a danger of future firearm-related violence towards others." *Garrett* at ¶ 30. Reed was previously found to have engaged in conduct amounting to complicity to aggravated robbery. The State contends, and Reed does not dispute, that this prior finding included a firearm specification. The offensive use of a firearm to enact or threaten violence upon others falls within the heartland of "dangerous" conduct that may justify disarmament. *Compare id.* at ¶ 30; *Rahimi*, 602 U.S. at 698.

{¶19} Nor do we believe the fact that Reed engaged in this conduct as a juvenile changes that assessment. The juvenile character of his prior adjudication is certainly relevant to the Second Amendment dangerousness inquiry. But we hold that it goes to the *duration* during which the presumption of danger may persist—not whether the adjudication permitted a presumption of danger in the first place. Common sense dictates that an individual who engages in aggravated robbery with a gun may be presumed dangerous with a gun for *some* span of time afterward. The question is simply *how long?*

2. Duration of Disarmament

{¶20} In *Rahimi*, the United States Supreme Court emphasized that the "limited duration" of the disarmament imposed by 18 U.S.C. 922(g)(8) was relevant to its constitutional analysis. *Rahimi* at 699; *see also id.* at 713 (Gorsuch, J., concurring) ("We do not resolve whether the government may disarm an individual permanently."). Similarly, this court has held that "the duration of [a class-based] disarmament" must be "realistically tailored to the danger persons in that class pose." *Thacker*, 2024-Ohio-5835, at ¶ 54 (1st Dist.); *accord Garrett*, 2026-Ohio-49, at ¶ 32 (1st Dist.). But we have also held that history permits at least *some* permanent disarmaments. *Thacker* at ¶ 54; *Garrett* at ¶ 32. "The rule, so far as one can be devised, was that a disarmament based upon a presumptively temporary danger had to lapse of its own force, while a disarmament based on characteristics or risks presumed to be permanent could continue in perpetuity, subject to an individualized showing that the danger no longer existed." *Thacker* at ¶ 90.

{¶21} Like the disabilities in *Thacker* and *Garrett*, Reed's disability under R.C.

2923.13(A)(2) is presumptively permanent, because it does not lapse of its own force or provide for a mechanism for relief as of right. *Compare Thacker* at ¶ 96; *Garrett* at ¶ 33. In *Thacker*, we held that presumptively permanent disarmament was impermissible for a nonviolent juvenile adjudication. In *Garrett*, we permitted a presumptively permanent disarmament following an adult aggravated-robbery conviction.

{¶22} On this point, Reed's case tracks *Thacker* much more closely than *Garrett*. In *Thacker*, we held,

> Ohio law presently and historically has attached a presumption of rehabilitation to juvenile delinquency determinations. Thus, Ohio may not attach an indefinite presumption that those adjudicated to be nonviolent delinquent juveniles will forever be dangerous. Any presumption of danger for such persons must end, either of its own force or as of right upon application.

Thacker at ¶ 102. Our holding was limited—as it had to be—to nonviolent drug felonies. Still, the juvenile character of the adjudication provided the center of gravity for our analysis. And this makes sense. Juveniles are treated differently under Ohio law—they are not branded with the stamp of unreformability the common law imposed upon convicted felons. The State, however, argues that our assessment of the historical materials in *Thacker* was either imperfect or incomplete. It now points to historical restrictions on the rights of those found to be "insane" as evidence that *some* danger-based disabilities could be presumptively permanent. Specifically, it suggests that such individuals could be restrained of their liberty while their insanity persisted, but could regain their civil rights and property only by subsequently proving their restored competence in court.

{¶23} The State's citations for this proposition are a mixed bag. Several stand for the unremarkable proposition that, in the 18th and 19th centuries, an individual found to be a "lunatic" could be given to the care of a "committee," who functioned as a guardian of their estate and person. *See* Highmore, *A Treatise on the Law of Idiocy and Lunacy*, 60 (1807) ("The Lord Chancellor . . . usually commits the care of the lunatic, with a suitable allowance out of his estates for his maintenance, to some friend or relation, who is then called the Committee."); *Hiett v. Shull*, 36 W.Va. 563, 565 (1892) ("The committee of an insane person shall be entitled to the custody and control of his person when he resides in this State and is not confined in hospital or jail, shall take possession of his estate, and may sue or be sued in respect thereto").

{¶24} Most of the State's American cases, however, have little to do with an incompetent person's guardianship or loss of property. Instead, they concern proving the validity or invalidity of an allegedly incompetent individual's legal acts, e.g., the making of a will. In such cases, the rule was generally that a party asserting another's incompetence bore the burden of proving it. However, if an individual had previously been found incompetent by reason of "insanity," then "'the proof of shewing sanity [was] thrown upon him.'" *Burton v. Scott*, 24 Va. 399, 401 (1825), quoting *White v. Wilson*, 33 Eng.Rep. 227, 228, 13 Ves.Jun. 87, 88 (1806); *see also Jackson v. Van Dusen*, 5 Johns. 144, 158-159 (N.Y.Sup.Ct. 1809) (holding that party asserting a testator's "mental imbecility" bore the burden of proof initially, but, "after a general derangement has been shown, it is then incumbent on the other side to show that the party who did the act was sane at the very time when it was performed"). But the founders' understanding of burdens of proof for probating a will tells us little about how they dealt with *dangerous* persons.

{¶25} The State does cite three historical sources that it claims support its theory that those deemed incompetent by reason of mental illness could regain their rights only after showing they had been restored to competency.

{¶26} The first is *Webster v. Woodford*, 3 Day 90 (Conn. 1808). The State describes *Webster* as saying that an insane individual had a "cause of action" to prove their regained sanity and regain their rights. This is somewhere between misleading and simply incorrect. The relevant passage in *Webster* states that "there is a writ in the *register* given to a man who has been insane, and who, during his insanity, has aliened his land, to recover it, after his reason is restored." (Emphasis in original.) *Id.* at 101. This passage does not help the State. It describes how, at one time, an individual could bring an action to get back (i.e., "recover") property he had previously sold or given away (i.e., "aliened") while "insane." In other words, it was a suit brought by a transferor to void a transfer they made while incompetent. But to prevail in such a case, the plaintiff would need to prove that he *had been* insane, not merely that he had recovered his sanity.

{¶27} The State's other two sources, however, do support its general point. In a seriatim opinion in *M'Donald v. Morton*, 1 Mass. 543 (1805), one justice held that an individual who had previously been found non compos mentis could bring an action to remove his court-appointed guardian, because the "law contemplates that there may be a time when" such an individual "may be restored to his property; that is, when he is restored to his reason." *Id.* at 546 (opinion of Sedgwick, J.). The State cites an 18th-century treatise by Charles Viner that paraphrases a seventeenth-century English chancery opinion to similar effect. 15 Viner, *A General Abridgment of Law and Equity*, 138 (1743),[2] citing *Ex parte Wright*, 23 Eng.Rep. 382 (Ch. 1682). In *Wright*,

[2] In its brief, the State cited, "Charles Viner, *A General Abridgment of Law and Equity* 138 (1741)."

the petitioner had been "found a lunatic on record," but now claimed that he had "by his confinement become of sound mind." *Wright* at 382. The Lord Chancellor denied his request to be examined so that he could "make a settlement of his estate," and left the petitioner to his action at law. *Id.* The chancellor did *not* suggest the petitioner had a legal cause of action to be declared "sane." Rather, the petitioner could bring an ordinary action in the Common Pleas (a court of law) to transfer his property,[3] during which he might collaterally challenge the prior "lunacy" determination. *See id.*; 15 Viner at 138.

{¶28} In other words, *M'Donald*, *Wright*, and Viner's *Abridgments* all suggest that, in some instances, a "lunatic" could have their property rights restored if they applied and were determined to have regained their sanity.

{¶29} But this is entirely consistent with our holding in *Thacker*. In *Thacker*, we held that "[a]ny presumption of danger for [those adjudicated delinquent] must end, either of its own force *or as of right upon application*." (Emphasis added.) *Thacker*, 2024-Ohio-5835, at ¶ 102 (1st Dist.). We thus acknowledged that "a legislative procedure for removing disabilities, including one that would require

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Unfortunately, this citation did not tell us to which of the 23 individually-paginated volumes of Viner's treatise the State was referring. We eventually found the passages quoted in the State's brief in volume 15, which was published in 1743. Along the way, we found a separate opinion by a Ninth Circuit judge containing a nearly identical quotation and an identical citation—down to the missing volume number and incorrect publication year. *See Mai v. United States*, 974 F.3d 1082, 1089-1090 (9th Cir. 2020) (Collins, J., dissenting from denial of rehearing). Lawyers are, of course, encouraged to cite sources they find in judicial opinions, once they have reviewed copies of those sources themselves. And here, Viner's treatise says what the State claims it does. So we assume that the State consulted the 15th volume of Viner's *Abridgements* before submitting its brief, and that its error was merely one of citation.

[3] In the report of the *Wright* decision, the reporter says that the Lord Chancellor "directed [Wright], that if he made any settlement of his estate, the same should be done before the Justices of the Common Pleas by fine." (Emphasis deleted.) *Wright*, 32 Eng.Rep. at 382; *accord* 15 Viner at 138. A "fine" (sometimes called a "final concord") was a sort of amicable suit, by which two parties acknowledged in court that one of them owned certain property. *See* 2 Blackstone, *Commentaries*, *349 (1765); *Black's Law Dictionary* (11th Ed. 2019) (sense 1). This procedure could, in certain circumstances, give real-estate transfers the force and finality of a common-law judgment.

Thacker to petition a court of common pleas, could render his disability under R.C. 2923.13(A) temporary." *Id.* at ¶ 98. But Ohio offers no such procedure. Instead, Ohioans must apply under R.C. 2923.14, which gives the trial court broad discretion to deny relief for countless reasons—including reasons unrelated to the criteria in the statute.[4] *Id.* at ¶ 99. Such a regime was insufficient, we said, because it made relief from disability "amount[] to an act of grace by the trial court, not a restoration as of right." *Id.* at ¶ 100.

{¶30} The sources on which the State now relies fit the as-of-right model for relief we described approvingly in *Thacker*. Nothing in *M'Donald*, *Wright*, or Viner's treatise suggests that 17th- or 18th-century courts had discretion to deny relief to an individual they believed to have regained their sanity. By all appearances, if a court found that the petitioner was sane, it would restore his rights. If Ohio had a comparably nondiscretionary framework for rights restoration, perhaps the State would have a point.

{¶31} We therefore hold that Reed's juvenile adjudication, like Thacker's, cannot support a presumptively-permanent disarmament. Because juvenile adjudication presumes that any danger is temporary, the "presumption of danger" attached to such adjudication "must end, either of its own force or as of right upon application." *Thacker* at ¶ 102. The nature of Reed's offense could likely play some role in determining how long such a presumption of danger should last. Reed's violent-offense adjudication likely could, for example, justify a longer period of disarmament than Thacker's *nonviolent*-felony adjudication. All we hold is (1) that such a

[4] A single paragraph of the State's brief suggested that, in addition to R.C. 2923.14, Ohio's sealing and expungement statutes also rendered Reed's disarmament temporary. But the State's brief failed to develop this argument in any meaningful way or even to cite the relevant sealing and expungement statutes, so it is not properly before us. *See* App.R. 16(A)(7) and (B). Nor was it preserved by the one-sentence, citation-free discussion of the issue in the State's opposition below.

presumption cannot last forever, and (2) that purely discretionary regimes for restoration do not suffice to make it temporary.

3. As-Applied Challenges & R.C. 2923.14

{¶32} The State makes one more effort to salvage its prosecution of Reed. Building on Judge Winkler's dissent in *Thacker*, it argues that Reed is barred from bringing an as-applied challenge to R.C. 2923.13(A)(2), because he did not first seek relief from his disability under R.C. 2923.14. "Had Reed applied for relief, met all of the statutory elements of R.C. 2923.14(D), been deemed non-dangerous, and ***still*** been denied relief," the State says, "Reed could have appealed that decision to this Court under constitutional grounds." (Emphasis in original.)

{¶33} The State is suggesting that Ohio law requires Reed to exhaust alternative remedies before bringing his as-applied challenge. Exhaustion requirements prohibit litigants from seeking a particular remedy until they have first sought and been denied other forms of relief. *Compare Dworning v. Euclid*, 2008-Ohio-3318, ¶ 9. But, generally speaking, "the initial question whether exhaustion is required should be answered by reference to [legislative] intent," not judicial policymaking. *Patsy v. Bd. of Regents*, 457 U.S. 496, 501 (1982). We determine legislative intent primarily from statutory text. *State v. Gonzales*, 2017-Ohio-777, ¶ 4; *Provident Bank v. Wood*, 36 Ohio St.2d 101, 105 (1973). And the text of R.C. 2923.13 and 2923.14 nowhere suggests that a litigant must apply under R.C. 2923.14 before raising an as-applied constitutional challenge. We decline to create such an exhaustion requirement.

{¶34} Furthermore, the General Assembly never suggested R.C. 2923.14 was the *exclusive* means by which an individual could challenge their disability. R.C. 2923.14 does not include an exclusive-remedy provision. *Compare* R.C. 2953.21(K) (exclusive-remedy provision in postconviction-relief statute). Nor does R.C. 2923.14 purport to bar litigants from vindicating their rights by employing ordinary procedural mechanisms, e.g., by requesting a declaration that their continued disability was unconstitutional, by seeking an injunction preventing the State from enforcing R.C. 2923.13 against them, or by raising a constitutional defense in a prosecution. Indeed, R.C. 2923.13's text contradicts the notion that R.C. 2923.14 provides the exclusive means for seeking relief from disability. The statute provides an exception for individuals who have been "relieved from disability under operation of law" or by any "legal process," not just R.C. 2923.14. *See* R.C. 2923.13(A). The disability-relief statute thus offers but one avenue for relief from disability. That avenue does not and need not channel *all* individuals constitutionally entitled to relief through a single relief process.

{¶35} We therefore hold that the State has failed to provide sufficient historical support for its presumptively-permanent disarmament of Reed based on his prior juvenile adjudication. And we further hold that Reed was not required to have first raised his as-applied constitutional challenge by bringing an application under R.C. 2923.14. The trial court therefore erred in denying Reed's motion to dismiss Count 3 of the indictment. Reed's first assignment of error is sustained.

B. Concealed Carry

{¶36} Reed's second assignment of error challenges his conviction for carrying a concealed weapon in violation of R.C. 2923.12(A). The parties agree that Reed was not a "qualifying adult" who could be "deemed to have been issued a valid concealed handgun license" because he fell within one of the categories listed in the weapons-under-disability statute. *See* R.C. 2923.111(A)(2)(b), (C)(1)(a). Thus, he was not exempted from Ohio's concealed-carry ban. *See* R.C. 2923.12(A)(2); *see also Hall*, 2025-Ohio-1644, at ¶ 30-31 (1st Dist.).

{¶37} We have already held that Ohio may, consistent with the Second Amendment, prohibit the carrying of concealed weapons for its entire population or some subset thereof. *See Hall* at ¶ 108; *see also State v. Stonewall*, 2025-Ohio-4974, ¶ 24 (1st Dist.), *appeal accepted*, 2026-Ohio-475. But we have made clear that this rule applies only so long as the individual "remain[s] legally allowed to carry firearms openly." *Hall* at ¶ 91; *accord Stonewall* at ¶ 24-25.

{¶38} As we have already held, the State could not constitutionally enforce its weapons-under-disability statute against Reed. But it could still prohibit him from *concealing* that weapon. And it could do so for reasons that would not justify a total disarmament. The State's decision to permit only *some* groups to carry concealed is consistent with its historical power to prohibit *all* its citizens from carrying concealed, and to make policy-based exceptions to an otherwise-general ban. *See Hall* at ¶ 105 ("The variability among the states regarding whether and which exceptions their [historical concealed-carry] statutes included, along with the absence of judicial concern on the topic, suggests that these were policy determinations left to the legislatures."). To the extent such distinctions raise constitutional concerns, they would implicate the Equal Protection Clause, not the Second Amendment. *Id.* at ¶ 106.

{¶39} We therefore hold that the State could constitutionally prohibit Reed from carrying a concealed weapon. The trial court did not err by denying Reed's motion to dismiss Count 2 of his indictment. Reed's second assignment of error is overruled.

III. CONCLUSION

{¶40} For the foregoing reasons, we hold that the trial court erred by denying Reed's motion to dismiss with respect to his weapons-under-disability charge, but did not err by denying it with respect to his concealed-carry charge. We thus affirm his conviction on Count 2 of the indictment for carrying a concealed weapon in violation of R.C. 2923.12(A)(1), and we reverse his conviction on Count 3 of the indictment for having a weapon under a disability in violation of R.C. 2923.13(A)(2). The cause is remanded to the trial court with instructions to dismiss Count 3 of the indictment. However, because Reed has not challenged his conviction on Count 1, we dismiss Reed's appeal as it relates to his conviction on that count.

Judgment accordingly.

MOORE, J., concurs.
ZAYAS, P.J., concurs in part and dissents in part.

ZAYAS, P.J., concurring in part and dissenting in part.

{¶41} I concur that the Second Amendment permitted Reed's concealed-carry prosecution. However, I respectfully dissent from the majority opinion with regard to his prosecution for having weapons while under a disability because his disability is not "presumptively permanent." Reed has two statutory avenues to remove the disability. As explained in Judge Winkler's dissent in *Thacker*, 2024-Ohio-5835 (1st Dist.) (Winkler, J., dissenting), the ban is not permanent because "R.C. 2923.14 provides a mechanism for an individual to obtain relief from a disability," and sealing the record would relieve the disability. *Id.* at ¶ 113-114. I would affirm the judgment of the trial court in its entirety.