**[Cite as *State v. Khalif*, 2026-Ohio-4551.]**

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

| | | |
|---|---|---|
| State of Ohio, | : | |
| Plaintiff-Appellee, | : | No. 23AP-274<br>(C.P.C. No. 21CR-2682) |
| v. | : | (REGULAR CALENDAR) |
| Mahad M. Khalif, | : | |
| Defendant-Appellant. | : | |

D E C I S I O N

Rendered on November 17, 2026

**On brief:** [*Shayla D. Favor*], Prosecuting Attorney, and *Michael A. Walsh*, for appellee.

**On brief:** *Dennis C. Belli*, for appellant.

APPEAL from the Franklin County Court of Common Pleas
ON REMAND from the Supreme Court of Ohio

DINGUS, J.

**{¶ 1}** This matter is before this court on remand from the Supreme Court of Ohio's decision in *State v. Khalif*, 2026-Ohio-2689 ("*Khalif II*"), which affirmed in part, and reversed in part, this court's judgment in *State v. Khalif*, 2024-Ohio-2239 (10th Dist.) ("*Khalif I*"). As instructed by the Supreme Court, this court must now consider "Khalif's assignment of error regarding whether his felony conviction was against the manifest weight of the evidence." *Khalif II* at ¶ 29.

**{¶ 2}** Before directly addressing this issue, we first provide some procedural background. Khalif was charged and convicted of discharge of a firearm on or near prohibited premises, a violation of R.C. 2923.162, a third-degree felony, with an attached three-year firearm specification pursuant to R.C. 2941.145(A). Pursuant to R.C. 2923.162(C)(2), a violation involving the discharge of a firearm upon or over a public

road or highway is a third-degree felony if it created a substantial risk of physical harm to any person or caused serious physical harm to property. This additional element elevates a violation of this statute from a first-degree misdemeanor to a third-degree felony. *Khalif II* at ¶ 2. And the three-year firearm specification contained in R.C. 2941.145(A) attaches only to a felony conviction. *Khalif I* at ¶ 37, citing R.C. 2929.14(B)(1)(a); *State v. Canady*, 2019-Ohio-106, ¶ 11 (8th Dist.). The indictment specifically stated that Khalif "created a substantial risk of physical harm to any person or caused serious physical harm to property." (Indictment at 1.) However, the verdict form provided to the jury did not include either the degree of the offense or the language related to an aggravating element. Instead, the jury verdict form stated in its entirety "[w]e, the Jury, being duly impaneled and sworn in this case, find the Defendant, Mahad M. Khalif, Guilty of Discharge Firearm On/Near Prohibited Premise, as charged in Count Two of the Indictment." (Emphasis omitted.) (Feb. 27, 2023, Verdict.)

**{¶ 3}** In Khalif's appeal, his assigned errors included challenges to the verdict form and the absence of a no-duty-to-retreat jury instruction, as well as a contention that his conviction was against the manifest weight of the evidence (his third assignment of error). *Khalif I* at ¶ 18. This court rejected Khalif's manifest-weight contention and his challenge to the jury instructions. *Id.* at ¶ 54, 62. In reaching this conclusion, this court noted that "although Khalif testified at trial he feared for his safety when he stood in the roadway and fired his weapon, the three law enforcement officers all testified Khalif never mentioned fearing for his safety during their investigation and instead indicated he fired his weapon because he believed he was allowed to since the vehicle had been stolen." *Id.* at ¶ 61. However, as to his verdict form challenge, this court found that "because the jury verdict form here did not contain either the degree of the offense or the presence of the aggravating element, the jury verdict form could only constitute a finding of guilty of the least degree of the offense charged." *Khalif I* at ¶ 37. Therefore, this court concluded that "the trial court erred in convicting and sentencing Khalif of discharge of a firearm on or near prohibited premises as a third-degree felony and in imposing the accompanying three-year firearm specification." *Id.* This court accordingly remanded the matter to the trial court with instructions to enter a conviction of discharge of a firearm on or near prohibited premises as a first-degree misdemeanor. *Id.* at ¶ 81.

**{¶ 4}** In *Khalif II*, the Supreme Court affirmed this court's judgment that the trial court did not err in not instructing the jury that Khalif had no duty to retreat. *Khalif II* at ¶ 4. However, the Supreme Court also held that although the verdict form did not satisfy the requirements of R.C. 2945.75(A)(2), Khalif did not timely object to the form, and he did not demonstrate plain error. *Id.* at ¶ 4. Thus, the Supreme Court reversed this court's judgment as to the verdict form issue and remanded the matter to consider, again, Khalif's manifest-weight challenge presented in his third assignment of error. *Id.* at ¶ 4, 29.

**{¶ 5}** Because this court in *Khalif I* considered Khalif's manifest-weight challenge only in relation to the first-degree misdemeanor offense, our analysis did not address either the aggravating element or the accompanying firearm specification. In support of his third assignment of error, Khalif argued that the jury clearly lost its way by rejecting his self-defense claim. Specifically, he asserted that "his testimony demonstrates he acted in self-defense and the state did not convincingly prove otherwise." *Khalif I* at ¶ 60. Khalif did not argue, however, that the jury lost its way in finding that the state proved all the elements of the charged offense, including the aggravating element, or the accompanying firearm specification. After reviewing the entire record, we rejected Khalif's contention that the jury clearly lost its way in concluding that the state proved that he did not act in self-defense when he fired his weapon. *Id.* at ¶ 62. The Supreme Court's decision in *Khalif II*, reversing this court's judgment as to the verdict form issue, requires us to consider Khalif's manifest-weight challenge in relation to his conviction of the third-degree felony level of the offense. But, given the limited scope of Khalif's argument, no additional analysis is necessary, nor does it alter our conclusion. Whether the manifest weight of the evidence supports the jury's rejection of Khalif's affirmative defense of self-defense presents a different question from whether the manifest weight of the evidence supports the elements of the charged offense and the accompanying firearm specification. And because Khalif's manifest-weight argument does not challenge the latter, we will not address it. Therefore, even when we review Khalif's manifest-weight challenge in the context of his conviction as a third-degree felony with the accompanying firearm specification, our analysis and conclusion remain the same as in *Khalif I*: the jury did not lose its way by rejecting Khalif's version of events and concluding that the state proved that he did not act in self-defense when he fired his weapon in the direction of the vehicle.

**{¶ 6}** For these reasons, we again overrule Khalif's third assignment of error. Based on this determination, and in view of the Supreme Court's decision in *Khalif II*, we affirm the judgment of the Franklin County Court of Common Pleas.

*Judgment affirmed.*

BOGGS, P.J., and DORRIAN, J., concur.

---