

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

STATE OF OHIO,	:
Plaintiff-Appellee,	: CASE NO. 24CA28
v.	:
DOMINIQUE J. LAWSON, JR.,	: DECISION AND JUDGMENT ENTRY
Defendant-Appellant.	:

APPEARANCES:

Mallorie Thomas, Office of the Ohio Public Defender, Assistant Public Defender, Columbus, Ohio, for appellant¹.

Anna Villarreal, Chillicothe Law Director, and Benjamin A. Sigall, Assistant Chillicothe Law Director, Chillicothe, Ohio, for appellee.

CRIMINAL APPEAL FROM MUNICIPAL COURT
DATE JOURNALIZED: 7-17-25
ABELE, J.

{¶1} This is an appeal from a Chillicothe Municipal Court judgment of conviction and sentence. Dominique Lawson, Jr., defendant below and appellant herein, assigns two errors for review:

FIRST ASSIGNMENT OF ERROR:

"OHIO'S CONCEALED CARRY RESTRICTION FOR 18-20-

¹ Different counsel represented appellant during the trial court proceedings.

YEAR OLDS VIOLATES THE SECOND AMENDMENT.
SECOND AND FOURTEENTH AMENDMENTS OF THE UNITED
STATES CONSTITUTION; *NEW YORK STATE RIFLE &
PISTOL ASSN., INC. V. BRUEN*, 597 U.S. 1 (2022);
UNITED STATES V. RAHIMI, ___ U.S. ___, 144 S.Ct.
1889 (2024); OHIO REVISED CODE 2923.111,
2923.12."

SECOND ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED IN DENYING MR. LAWSON'S
MOTION TO DISMISS. SECOND AND FOURTEENTH
AMENDMENTS OF THE UNITED STATES CONSTITUTION;
*NEW YORK STATE RIFLE & PISTOL ASSN., INC. V.
BRUEN*, 597 U.S. 1 (2022); *UNITED STATES V.
RAHIMI*, ___ U.S. ___, ___, 144 S.Ct. 1889 (2024);
OHIO REVISED CODE 2923.111, 2923.12; AUG. 1,
2024 MOTION TO DISMISS HEARING TR. 6-7."

{¶2} On September 10, 2023, Chillicothe Police Officer Chance Blankenship filed a criminal complaint that charged appellant, then 18 years old, with carrying a concealed weapon (CCW) in violation of R.C. 2923.12, a first-degree misdemeanor. Appellant entered a not guilty plea.

{¶3} Counsel filed a motion to dismiss and asserted that the Ohio CCW, specifically its treatment of those aged 18-20, violates the Second Amendment to the United States Constitution. After a hearing, the trial court overruled the motion and an amended motion on August 1, 2024. On August 19, 2024, appellant stipulated to the facts and pleaded no contest to the charge. The court ordered

appellant to serve (1) a 35-day jail term with credit for 31 days served and (2) a 12-month community control term. This appeal followed.

I.

{14} In his first assignment of error, appellant asserts that Ohio's R.C. 2923.111 concealed carry restriction for 18-to-20-year-olds violates the Second Amendment. Specifically, appellant contends that (1) the trial court failed to apply the required United States Supreme Court analysis as set forth in *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U.S. 1 (2022), clarified by *United States v. Rahimi*, 602 U.S. 680 (2024), (2) appellee failed to meet its burden to establish an analogous historical tradition to support the constitutionality of R.C. 2923.111, and (3) remand is necessary for the trial court to apply *Bruen*. In his second assignment of error, appellant contends that the trial court erred when it denied his motion to dismiss, and this court should remand the case to the trial court to apply *Bruen*. Because the two assignments of error are interrelated, we address them together.

{15} Generally, appellate courts conduct a de novo review of a trial court's decision concerning a defendant's motion to dismiss

all or part of an indictment based upon a constitutional challenge to the statute under which the defendant stands indicted. *State v. Wolf*, 2019-Ohio-4170, ¶ 6 (4th Dist.), citing *State v. Wheatley*, 2018-Ohio-464, ¶ 5 (4th Dist.), *State v. Mason*, 2016-Ohio-8400, ¶ 17 (3d Dist.). See also *State v. Fisher*, 2017-Ohio-7260, ¶ 8 (4th Dist.) ("we use a de novo standard of review to assess errors based upon violations of constitutional law"); *Crutchfield Corp. v. Testa*, 2016-Ohio-7760, ¶ 16 (constitutionality of a statute is a legal question, which appellate court reviews de novo); *State v. Kirk*, 2016-Ohio-8296, ¶ 4 (8th Dist.) (courts review de novo trial court decision regarding motion to dismiss indictment). Accordingly, an appellate court does not defer to a trial court's decision, but instead independently determines whether the trial court's decision is legally correct. *State v. Workman*, 2015-Ohio-4483, ¶ 9 (4th Dist.).

{¶6} In the case at bar, appellee charged appellant with carrying a concealed weapon (handgun) in violation of R.C. 2923.12, which provides:

(A) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

(1) A deadly weapon other than a handgun;

(2) A handgun other than a dangerous ordnance;

(3) A dangerous ordnance.

{¶7} Relevant to the case at bar, in June 2022, the Ohio General Assembly enacted R.C. 2923.111, which eliminated the requirement for “qualifying adult[s]” to obtain a license to carry a concealed handgun, other than “restricted firearm[s].” R.C. 2923.111(B)(1). As a result of R.C. 2923.111, “qualifying adults” are treated as though they possessed a concealed handgun license and may carry a concealed handgun “anywhere in this state in which a person who has been issued a concealed handgun license may carry a concealed handgun.” R.C. 2923.111(B)(2) and (3); *State v. Storms*, 2024-Ohio-1954, ¶ 21 (1st Dist.).

{¶8} R.C. 2923.111 defines a “qualifying adult” as a person 21 years old or older who is not prohibited from having a firearm under a federal statute or R.C. 2923.13, and who satisfies various criteria under R.C. 2923.125(D)(1) (“Application for License to Carry Concealed Handgun”). R.C. 2923.111(A)(2)(a)-(c); *State v. Barber*, 2025-1193, ¶ 27 (1st Dist.). At the time of the offense, as an 18-year-old, appellant did not constitute a “qualifying adult” under R.C. 2923.111(A)(2)(a); if he had, his conduct of

carrying a concealed weapon would not be a criminal offense.

{19} The Second Amendment to the U.S. Constitution provides, “[a] well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” In 2008, the United States Supreme Court held that the Second Amendment protected an individual’s right to bear arms for personal defense. *Dist. of Columbia v. Heller*, 554 U.S. 570, 595 (2008). Two years later, the Court held that the Fourteenth Amendment incorporated the right against the states. *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010). More recently, in 2022, the Court held that the constitutional right to bear arms included a right to carry those arms in public for personal defense. *Bruen*, 597 U.S. 1, 70; *State v. Hall*, 2025-Ohio-1644, ¶ 34 (1st Dist.). The United States Supreme Court struck down as unconstitutional New York’s concealed carry law that required an individual to prove “proper cause” existed before a license would be issued to allow the individual to carry a concealed pistol or revolver in public. The Court held that this “proper-cause requirement violates the Fourteenth Amendment in that it prevents law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms.” *Id.* at 71.

{¶10} The *Bruen* Court held that, consistent with *Heller*, 554 U.S. 570, and *McDonald*, 561 U.S. 742, the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home. *Id.* at 8. After a discussion of *Heller*, *Bruen* set out a two-part test: (1) "When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct;" and (2) "The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. Only then may a court conclude that the individual's conduct falls outside the Second Amendment's 'unqualified' command." *Bruen* at 24, citing *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50, n. 10. The United States Supreme Court further clarified that the second prong of the analysis does not require an identical historical tradition to the modern regulation at issue if the state can point to an analogous historical tradition. *Rahimi*, *supra*, 602 U.S. 680 at 701.

{¶11} In the case sub judice, appellant's motion to dismiss asserted that "the Ohio Concealed weapons law, specifically its treatment of those aged eighteen to twenty, violates the Second Amendment to the United States Constitution." Specifically,

appellant argued that R.C. 2923.111 violates *Bruen, supra*, because it exempts from concealed handgun licensing requirements all adults who meet certain basic qualifications and thus criminalizes such conduct for 18-20-year-olds.

{¶12} At the hearing on the motion to dismiss, counsel added that he believed this was an issue of first impression and that “pursuant to R.C. 1.50, the entire Ohio Revised Code has severability. . . there is no need to rule on the constitutionality of the whole scheme of concealed/carry in Ohio. It would just be the prerequisite that someone be 21 years of age to have something without a license.” Appellee, on the other hand, argued that it is a question of “whether [appellant] gets the benefit of a constructive concealed/carry permit that he doesn’t have. Those who are of an age that the legislature determined was appropriate are merely getting the benefit of being treated as though they have a concealed/carry permit when they don’t. . . it really takes us outside of the purview of the constitutional issues and concerns that the defendant is raising.”

{¶13} At the hearing, the trial court stated:

All right. Well, I would agree with you, Mr. Sigall. There is . . . an Ohio Supreme Court Case, *Klein v. Leis*, L-E-I-S, which was decided in 2003 which held that there is no

constitutional right to carry a concealed . . . weapon. And so I think that's the issue that we're talking about, is what's the right to carry a concealed weapon. And the Ohio Supreme Court says that there is no right to do that.

And as you suggest, Mr. Sigall, the statute is structured around prohibiting people, which would be people over the age of 21. And I think actually the legislature has a reasonable rationale for exempting those folks out just like they do for drinking alcohol and maybe other things as well.

So, anyway, the motion to dismiss is overruled at this point for those reasons.

{¶14} As set forth above, the trial court did not apply *Bruen* in its analysis. Instead, the court cited the Supreme Court of Ohio's holding in *Klein v. Leis*, 2003-Ohio-4779, and concluded that "there is no constitutional right to bear concealed weapons." *Id.* at syllabus paragraph two. Pursuant to *Klein*, the trial court examined the reasonableness of the exemption of 18-20-year-olds from carrying concealed weapons. It held that "the legislature has a reasonable rationale for exempting those folks out just like they do for drinking alcohol and maybe other things as well."

Therefore, the trial court orally overruled the motion to dismiss.

{¶15} Appellee concedes that the trial court's reasonableness discussion "makes it not entirely clear as to whether the trial court applied the current test as set forth by *New York State Rifle*

& Pistol Assn., Inc. v. Bruen, 597 U.S. 1 (2022) and clarified by *United States v. Rahimi*, __ U.S. __, 144 S.Ct. 1889, 1898 (2024) when ruling on the motion to dismiss.” On August 2, 2024, the trial court’s entry stated: “For the reasons stated on the record, the defendant’s motion to dismiss and amended motion to dismiss are overruled.” Our review of the record reveals that it is clear the trial court did not analyze the statute under *Bruen* as there is no mention of *Bruen* in the hearing transcript or in the entry.

{¶16} In a similar case, in *Storms, supra*, 2024-Ohio-1954, (1st Dist.), the State conceded on appeal that *Bruen* applied to the defendant’s motion to dismiss the indictment that charged him with carrying a concealed weapon. At the hearing on the motion, the State argued that *Bruen* did not apply, and the trial court denied the motion without applying *Bruen*. *Id.* at ¶ 1-2. Storms argued that while he was otherwise permitted to possess a firearm, the State alleged that Storms’s status as a fugitive from justice prohibited him from carrying a concealed weapon. *Id.* at ¶ 4. Storms argued that the plain text of the Second Amendment presumptively permitted him to carry a concealed weapon and that no historical tradition existed consistent with application of the concealed carry statute to him. *Id.*

{¶17} At the hearing on the motion to dismiss, the State argued that *Bruen* did not apply to Storms because *Bruen* was limited to “law-abiding citizens.” The trial court did not address Storms’s *Bruen* argument. Instead, it denied the motion to dismiss because it held that Storms was not a “qualifying adult” under R.C. 2923.111 due to his felony conviction and status as a fugitive from justice because Storms “was on probation,” “tested positive for drug screens,” and failed to appear for appointments leading to a warrant for his arrest. *Id.* at ¶ 8. Thus, the trial court determined that these factors prevented Storms from possessing a concealed weapon under Ohio law, and Storms entered a no-contest plea to the concealed carry charge.

{¶18} The First District held that the trial court did not apply the correct legal standard. The court agreed that *Bruen* applies, and Storms established that his conduct falls under the plain text of the Second Amendment. *Id.* at ¶ 24, citing *Bruen*, 597 U.S. at 32, quoting *Heller*, 554 U.S. at 584 (“*Heller* further confirmed that the right to ‘bear arms’ refers to the right to ‘wear, bear, or carry . . . upon the person or in the clothing or in a pocket, for the purpose . . . of being armed and ready for offensive or defensive action in a case of conflict with another

person'"). The court held that whatever relevance Storms's prior felony conviction, ongoing sentence for that conviction, or purported status as a fugitive from justice may have to the Second Amendment analysis falls under *Bruen's* second prong. *Id.* at ¶ 24.

{¶19} Therefore, the First District concluded that though Storms satisfied his burden under *Bruen*, the trial court did not apply *Bruen* and, therefore, did not address the constitutionality of Ohio's CCW statute as applied to Storms under *Bruen*. Accordingly, the court held that the trial court erred when it failed to analyze whether the State affirmatively proved that Ohio's firearm regulation under the CCW statute is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms. Thus, the court reversed Storms's conviction and remanded the matter to the trial court to apply *Bruen* and determine whether, as applied to Storms, Ohio's firearm regulation under the CCW statute is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms. *Id.* at ¶ 26. See also *State v. Robinson*, 2025-Ohio-1431, ¶ 4 (6th Dist.) (as-applied R.C. 2923.111 constitutional challenge regarding age properly before trial court pursuant to motion to dismiss; because trial court declined to rule on merits, matter remanded for

further proceedings).

{¶20} Although appellee concedes that it is “not entirely clear” as to whether the trial court applied the current test set forth by *Bruen*, appellee nevertheless contends that remand is unnecessary for two reasons. First, appellee argues that the trial court’s reliance on *Klein* is correct. Specifically, appellee argues that although it predates *Bruen*, *Klein* establishes the historical tradition that concealed carry prohibitions have been on the books in Ohio since 1859. However, appellant points out that if he only challenged R.C. 2923.12, *Klein* would be dispositive. However, he asserts that R.C. 2923.111 differs greatly from R.C. 2923.12 because it: (1) institutes an age-based restriction to the permitless concealed carry only for those aged 18-20, and (2) the General Assembly did not enact it until 2022.

{¶21} Further, appellee contends that at least one Ohio appellate court opinion applying *Bruen* has recognized that *Klein*’s upholding of R.C. 2923.12 “was heavily based on historical tradition,” – *State v. Skaggs*, 2024-Ohio-4781 (5th Dist.). *Skaggs* involved R.C. 2923.13(A)(3), having weapons under disability. The Fifth District, in analyzing the statute under *Bruen*, concluded that the State met its burden because “prohibitions on the

possession of firearms by felons are 'presumptively lawful.'" *Id.*
at ¶ 19. Further, the court held:

The history and tradition relevant to the Second Amendment support the legislature's power to restrict the Second Amendment right of drug users, alcoholics, or the mentally ill to carry firearms, and/or the history and tradition relevant to the Second Amendment support the legislature's power to disarm those the legislature deems dangerous.

Id. at ¶ 31. The court concluded that the State met its burden to point to historical precedent demonstrating R.C. 2923.13(A)(3) is consistent with the Nation's historical tradition of firearms regulation, as applied to Skaggs, who had previously been convicted of fifth-degree felony possession of heroin. *Id.*

{¶22} Appellee contends that *Skaggs* recognized that *Klein's* upholding of R.C. 2923.12 "was heavily based on historical tradition." However, again *Skaggs* involved having weapons under disability pursuant to R.C. 2923.13, and the reference to R.C. 2923.12 appellee cites is contained in the *Skaggs* dissent. *Id.* at ¶ 88 (King, J. Dissenting).

{¶23} Finally, appellee directs this court to *National Rifle Assoc. v. Bondi*, 61 F.4th 1317 (11th Cir. 2023), in which the Eleventh Circuit Court of Appeals upheld Florida's age-based concealed carry prohibition for 18-20-year-olds. However, the

Eleventh Circuit later vacated *Bondi* after an en banc hearing. See *National Rifle Assoc. v. Bondi*, 72 F.4th 1346 (11th Cir. 2023). Thus, *Bondi* is neither binding authority on this court nor precedent in the Eleventh Circuit.

{¶24} Accordingly, for all of the foregoing reasons, we sustain appellant's assignments of error and reverse the trial court's judgment and remand the cause for further proceedings consistent with this opinion².

JUDGMENT REVERSED AND CAUSE
REMANDED FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS OPINION.

² We recognize that *State v. Striblin*, 2024-1050, is currently pending at the Supreme Court of Ohio. While it represents a challenge to Ohio's CCW laws, it involves the application of *Bruen* to R.C. 2923.121, possession of a firearm in a beer liquor permit premises. See *State v. Striblin*, 2025-Ohio-4713. In addition, *State v. Thacker*, 2024-1766, involving weapons under disability based on a juvenile delinquency drug offense that if committed by an adult constituted a fifth-degree complicity to traffic in marijuana, has also been held for decision in *Striblin*. See *State v. Thacker*, 2025-Ohio-705.

JUDGMENT ENTRY

It is ordered that the judgment be reversed and cause remanded for further proceedings consistent with this opinion. Appellant shall recover of appellee the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Chillicothe Municipal Court to carry this judgment into execution.

If a stay of execution of sentence and release upon bail has been previously granted by the trial court or this court, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of the proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period pursuant to Rule II, Sec. 2 of the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

A certified copy of this entry shall constitute that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Hess, J. & Wilkin, J.: Concur in Judgment & Opinion

For the Court

BY: _____

Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.