

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
FAIRFIELD COUNTY, OHIO

STATE OF OHIO,

Plaintiff - Appellee

-vs-

ENRIQUE V. MENDEZ,

Defendant - Appellant

Case No. 2026 CA 00008

Opinion And Judgment Entry

Appeal from the Fairfield County
Municipal Court, Case No. 25 CRB 00551

Judgment: Affirmed

Date of Judgment Entry: September 8, 2026

BEFORE: Andrew J. King; Craig R. Baldwin; David M. Gormley, Judges

APPEARANCES: ANDREW D. SEMELSBERGER, Assistant Prosecuting Attorney, for Plaintiff-Appellee; JAMES L. DYE, for Defendant-Appellant.

Baldwin, J.

{¶1} Appellant Enrique V. Mendez appeals from the jury’s verdict finding him guilty of discharging a firearm within city limits in violation of Lancaster Codified Ordinance (“L.C.O.”) 549.08. Appellee is the State of Ohio. For the reasons that follow, we affirm the decision of the trial court.

STATEMENT OF FACTS AND THE CASE

{¶2} On or about May 8, 2025, the appellant, who lived within the city limits of Lancaster, Ohio, was cleaning his handgun in his home when he accidentally discharged the weapon and shot himself in the left leg. The appellant called 911, and law enforcement officers and paramedics responded. The appellant was treated by paramedics, and reports of the incident were filed.

{¶3} On May 23, 2025, the appellant was charged with one count of discharging a firearm within city limits in violation of L.C.O. 549.08, a misdemeanor of the fourth degree. The appellant pleaded not guilty, and the matter was scheduled for a jury trial. On September 11, 2025, the appellee filed a Request of State for Jury Instruction asking the trial court to include an instruction to the jury “that the charge of Discharge of a Firearm within City Limits, in violation of Lancaster Codified Ordinances 549.08, is strict liability,” and therefore not subject to an instruction on the mental state of “recklessness.” On November 20, 2025, the appellant filed a Request for Jury Instruction seeking an instruction “on the mens rea of ‘Reckless’ ” in connection with the charge. On January 7, 2026, the trial court issued a Journal Entry-Jury Review in which it denied the appellant’s request for an instruction on recklessness.

{¶4} The matter proceeded to jury trial on January 13, 2026, at which evidence the appellant accidentally discharged his firearm in his home while cleaning it was presented. Firefighter/Paramedic Cody Day testified that the appellant told Day “he was cleaning his 9 millimeter handgun and accidentally discharged it into his left leg;” Detective Terry Williams testified that the appellant told Williams “he got his gun out to clean it and forgot there was a live round in there, pulled the trigger and it went through his lower left leg;” and, the appellant testified that he did not pull the trigger, but rather, the weapon “went off” when he pulled the slide back “to check for rounds.” The parties rested, exhibits were submitted, and the parties presented their closing arguments.

{¶5} The trial court instructed the jury, including the following charge:

. . . The Defendant is charged with discharging a firearm within the corporate limits of a municipality, in violation of Lancaster Codified Ordinance

549.08. Before you can find the Defendant guilty, you must find beyond a reasonable doubt that on or about the 8th of May, 2025 in the State of Ohio, the City of Lancaster, Fairfield County, Ohio, the Defendant discharged a firearm within the corporate limits and municipality of Lancaster, Ohio. Firearm means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant.

Firearm includes an unloaded firearm or any firearm that is inoperable, but can be readily rendered operable. And as previously stated, the parties have stipulated that the firearm was operable.

Discharge is the expulsion of a bullet from a firearm. Within the corporate limits of the municipality of Lancaster, Ohio means within the corporate boundaries of the City of Lancaster, Ohio....

The trial court did not instruct the jury on culpable mental states. The appellant renewed his objection regarding jury instructions and the element of recklessness, which the trial court, again, overruled.

{¶6} The jury returned a verdict finding the appellant guilty of the offense of discharging a firearm in violation of L.C.O. 549.08. The trial court sentenced the appellant the same day, fining him \$100.00 and granting him time to pay said fine. In addition, the court ordered that no probation be imposed in the case and ordered that the appellant's weapon not be forfeited.

{¶7} The appellant appealed the jury's verdict, and sets forth the following sole assignment of error:

{¶8} “I. THE TRIAL COURT ERRED IN NOT INSTRUCTING THE JURY ON THE MENS REA OF “RECKLESSNESS” WHEN THE STATUTE FOR WHICH HE WAS CONVICTED, NEITHER SPECIFIES CULPABILITY NOR PLAINLY INDICATES A PURPOSE TO IMPOSE STRICT LIABILITY IN CLEAR VIOLATION OF R.C. 2901.21 AND L.C.O 501.07.”

STANDARD OF REVIEW

{¶9} We review the trial court’s instructions to the jury based upon an abuse of discretion standard. To find an abuse of discretion, we must find that the trial court's decision was unreasonable, arbitrary, or unconscionable, and not merely an error of law or judgment. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). As set forth by this Court in *State v. Lazzerini*, 2021-Ohio-1998 (5th Dist.):

A trial court has broad discretion to decide how to fashion jury instructions, but it must ‘fully and completely give the jury all instructions which are relevant and necessary for the jury to weigh the evidence and discharge its duty as the fact finder.’ *State v. Price*, 162 Ohio St.3d 609, 2020-Ohio-4926, 166 N.E.3d 1155, ¶22. A reviewing court may not reverse a conviction in a criminal case due to jury instructions unless it is clear the jury instructions constituted prejudicial error. *State v. McKibbin*, 1st Dist. Hamilton No. C-010145, 2002-Ohio-2041, 2002 WL 727009, ¶ 4, *citing State v. Adams*, 62 Ohio St.2d 151, 154, 404 N.E.2d 144 (1980). In order to determine whether an erroneous jury instruction was prejudicial, a reviewing court must examine the jury instructions as a whole. *State v. Van Gundy*, 64 Ohio St.3d 230, 233-234, 594 N.E.2d 604 (1992). Pursuant to Crim. R. 52(A), “[a]ny error, defect,

irregularity, or variance which does not affect substantial rights shall be disregarded.”

Id. at ¶ 92. The appellant argues that the trial court erred when it denied his request for an instruction that the offense with which he was charged required a showing of recklessness. We disagree.

ANALYSIS

{¶10} Criminal liability and mental culpability are discussed in R.C. 2901.21, which states in pertinent part:

(A) Except as provided in division (B) of this section, a person is not guilty of an offense unless both of the following apply:

(1) The person’s liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;

(2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(B) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one division of a section plainly indicates a purpose to impose strict liability for an offense defined in that division does not by itself plainly indicate a purpose to impose strict

criminal liability for an offense defined in other divisions of the section that do not specify a degree of culpability.

(C)

(1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.

(2) Division (C)(1) of this section does not apply to offenses defined in Title XLV of the Revised Code.

(3) Division (C)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

L.C.O. 549.08 prohibits the discharge of firearms within city limits, and states:

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality;

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

The Ordinance does not specify a culpable mental state, and is therefore subject to R.C. 2901.21(B).

{¶11} The Ohio Supreme Court discussed R.C. 2901.21(B) in *State v. Johnson*, 2010-Ohio-6301:

As the emphasized portion of R.C. 2901.21(A)(2) shows, a separate mental state need not be specified for every element of an offense. And although the general rule for criminal liability requires a culpable mental state, a guilty intent is not necessary for every offense. *State v. Morello* (1959), 169 Ohio St. 213, 8 O.O.2d 192, 158 N.E.2d 525. Offenses without any culpable mental state are strict- liability offenses, and they impose liability for simply doing a prohibited act. In this type of case, ignorance of a fact or an element of the offense is not a defense. See *State v. Kelly* (1896), 54 Ohio St. 166, 43 N.E. 163.

Because strict liability for an offense is the exception to the rule, the General Assembly set forth in R.C. 2901.21(B) a test that indicates whether an offense is a strict liability offense: "*When the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.*" (Emphasis added.)

The first sentence of R.C. 2901.21(B) explains that an offense is a strict liability offense when the section defining the offense does not specify a mens rea and the section also plainly indicates a purpose to impose strict liability. The second sentence instructs us to impose the default mens rea of recklessness when the section defining the offense does not specify a mens rea and the section does not plainly indicate an intent to impose strict liability.

(Italics original.) *Id.* at ¶¶ 17-19. The *Johnson* Court determined that R.C. 2901.21(B) applied to offenses “for which there is a complete absence of a culpable mental state.” *Id.* at ¶ 39. The *Johnson* Court then cited the two-part test established in *State v. Maxwell*, 2002-Ohio-2121, to determine if the element of recklessness should be attributed to a statute that fails to set forth a culpable mental state: “. . . a court must be able to answer in the negative the following two questions before applying the element of recklessness pursuant to R.C. 2901.21(B): (1) does the section defining an offense specify any degree of culpability, and (2) does the section plainly indicate a purpose to impose strict criminal liability?” *Johnson* at ¶ 39, citing *Maxwell* at ¶21.

{¶12} As explained by the court in *Middletown v. Campbell*, 69 Ohio App.3d 411 (12th Dist. 1990), when the purpose of a statute or ordinance is to protect the safety, health, and well-being of the public at large, strict liability may be implied:

"The more serious the consequences [of violating a statute] are to the public, the more likely the legislature meant to impose liability without fault." *State v. Buehler Food Markets* (1989), 50 Ohio App.3d 29, 30, 552 N.E.2d 680, 682. Offenses created primarily to punish individual wrongdoers commonly require *mens rea*. On the other hand, regulations passed for the safety, health or well-being of the community are frequently enforced irrespective of any guilty intent. *Id.* The reasoning behind the imposition of strict liability for these public welfare offenses was described by the United States Supreme Court in *Morissette v. United States* (1952), 342 U.S. 246, 255-256, 72 S.Ct. 240, 246, 96 L.Ed. 288, 296:

"Many of these offenses are not in the nature of positive aggressions or invasions, with which the common law so often dealt, but are in the nature of neglect where the law requires care, or inaction where it imposes a duty. Many violations of such regulations result in no direct or immediate injury to person or property but merely create the danger or probability of it which the law seeks to minimize. While such offenses do not threaten the security of the state in the manner of treason, they may be regarded as offenses against its authority, for their occurrence impairs the efficiency of controls deemed essential to the social order as presently constituted. In this respect, [*416] whatever the intent of the violator, the injury is the same, and the consequences are injurious or not according to fortuity. Hence, legislation applicable to such offenses, as a matter of policy, does not specify intent as a necessary element. The accused, if he does not will the violation, usually is in a position to prevent it with no more care than society might reasonably expect and no more exertion than it might reasonably exact from one who assumed his responsibilities. Also, penalties commonly are relatively small, and conviction does no grave damage to an offender's reputation. * * *"

Id. at 415-416.

{¶13} These principles were discussed by this Court in *State v. Gabriel*, 2025-Ohio-2971 (5th Dist.). The defendant in *Gabriel* argued that R.C. 4511.21(D)(1), which prohibits speeding, does not contain an element of culpability, and therefore the prosecution was

required to establish the element of willfulness in order to convict him of said offense. We disagreed, stating:

"Generally, strict liability attaches to offenses which are regulatory in nature and which are designed to protect the health, safety, and well-being of the community." *State v. Buehler Food Markets, Inc.*, 50 Ohio App. 3d 29, 30, 552 N.E.2d 680 (1989). And, when a statute reads "no person shall engage" in certain conduct, and does not reference a culpable mental state, the statute indicates a legislative intent to impose strict liability. *State v. Shaffer*, 114 Ohio App.3d 97, 102-103, 682 N.E.2d 1040 (3d 1996); *State v. Finn*, 2009-Ohio-4949, ¶¶ 23-29 (2d Dist.). Here, R.C. 4511.21(D) states "no person shall" operate a motor vehicle on a street or highway (1) "[a]t a speed exceeding fifty-five miles per hour * * *." This section is clearly designed to protect the safety and well-being of all motorists on Ohio's roads. It "does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability" for the conduct described. See R.C. 2901.21(B). Thus, R.C. 4511.21(D)(1), for which Appellant was found guilty, is a strict liability offense and does not require the State to prove "willfulness" or any other culpable mental state. Appellant's third assignment of error is without merit and overruled.

Id. at ¶ 17.

{¶14} The same logic applies to a local ordinance that prohibits the discharge of a firearm within city limits. L.C.O. 549.08 provides that "[n]o person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality." The Ordinance does not specify a culpable mental state. Further, it is clearly

a public-welfare ordinance designed to protect the health, safety and well-being of the citizens of Lancaster from potential harm due to gunfire within city limits, and indicates a purpose to impose strict liability in order to do so. Accordingly, we find that the trial court did not act unreasonably, arbitrarily, or unconscionably when it denied the appellant's request for a jury instruction on recklessness, and the appellant's sole assignment of error is without merit.

CONCLUSION

{¶15} Based upon the foregoing, the appellant's sole assignment of error is overruled, and the decision of the Fairfield County Municipal Court is hereby affirmed.

{¶16} Costs to appellant.

By: Baldwin, J.

King, P.J. and

Gormley, J. concur.