[Cite as *State v. Moses*, 2026-Ohio-4513.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio — Court of Appeals No. {48}L-25-00261

Appellee — Trial Court No. CR0202402759

v.

Lamont Moses — **DECISION AND JUDGMENT**

Appellant — Decided: November 13, 2026

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Evy M. Jarrett, Assistant Prosecuting Attorney, for appellee.

Laurel A. Kendall, for appellant.

* * * * *

MAYLE, J.

{¶ 1} Defendant-appellant, Lamont Moses, appeals the October 28, 2025 judgment of the Lucas County Court of Common Pleas, convicting him of carrying a concealed weapon. For the following reasons, we affirm the trial court judgment.

I. Background

{¶ 2} According to information offered by the State, on September 10, 2024, officers observed a vehicle being driven with its brights on and initiated a stop of that vehicle. The vehicle was being operated by a driver who had only a temporary permit.

Twenty-three-year-old Lamont Moses was the only passenger, and his driver's license had been suspended. Because of this, neither the driver nor Moses could legally operate the vehicle.

{¶ 3} During this stop, the driver consented to a search of the vehicle. Moses's backpack was in the backseat. Officers searched the backpack and discovered a handgun, which Moses had purchased from Towers Armory. When officers checked Moses's background, they discovered that as a 16-year-old juvenile, Moses had been adjudicated delinquent for committing the offense of domestic violence. This adjudication prevented Moses from lawfully carrying a concealed handgun. Moses was indicted on one count of carrying a concealed weapon, a violation of R.C. 2923.12(A)(2). Because the handgun was loaded or ammunition was ready at hand, the offense was elevated to a fourth-degree felony under R.C. 2923.12(F)(1).

{¶ 4} After filing an unsuccessful motion to dismiss the indictment as violative of the Second Amendment to the U.S. Constitution, Moses entered a plea of no contest to the charge, and the trial court found him guilty. Moses appealed, assigning the following errors for our review:

> I. The trial court committed plain error, or in the alternative, abused its discretion, when it denied Appellant's Motion to Dismiss the Indictment.
>
> II. Appellant received ineffective assistance of counsel when defense counsel failed to file a motion to suppress challenging the search of Appellant's backpack when he was a passenger in the vehicle, and the driver's consent to search the vehicle arguably did not include Appellant's backpack.

II. Law and Analysis

{¶ 5} In his first assignment of error, Moses argues that the trial court erred when it denied his motion to dismiss the indictment. In his second assignment of error, he claims that trial counsel was ineffective for failing to file a motion to suppress evidence. We will address each of these assignments in turn.

A. Motion to Dismiss

{¶ 6} In his first assignment of error, Moses argues that the trial court either plainly erred or abused its discretion when it denied his motion to dismiss the indictment "pursuant to the Second Amendment." Before addressing the parties' arguments on appeal, we will describe their arguments in the trial court, summarize the trial court judgment, and clarify the appropriate standard of review. We will then identify the applicable test to be applied where a regulation is alleged to infringe on the Second Amendment, identify analogous Ohio authority, and resolve the issue on appeal.

1. The Parties' Arguments in the Trial Court

{¶ 7} As a general rule, R.C. 2923.12(A)(2) prohibits a person from "knowingly carry[ing] or hav[ing], concealed on the person's person or concealed ready at hand, . . . [a] handgun." Notwithstanding this provision, a "qualifying adult"—defined in R.C. 2923.111(A)(2)—may carry a concealed handgun and may do so even without a concealed-carry license. R.C. 2923.111(B)(1). Under R.C. 2923.111(A)(2)(c), a person will not be deemed a "qualifying adult" if he or she has been adjudicated delinquent for committing domestic violence in violation of R.C. 2919.25. *See* R.C. 2923.125(D)(1)(s).

Because Moses has a juvenile domestic-violence adjudication, he is not a "qualifying adult," therefore, he was prohibited from carrying a concealed handgun. Moses argued that R.C. 2923.111(A)(2) is unconstitutional under the Second Amendment because it prevents him from being deemed a "qualifying adult," and, by extension, prohibits him from carrying a concealed handgun.

{¶ 8} Relying on our decision in *State v. Latham*, 2025-Ohio-495 (6th Dist.), Moses argued that the State could restrict his right to bear arms only by demonstrating that he poses a danger to the public. He claimed that there was no evidence that his juvenile, misdemeanor adjudication for domestic violence rendered him dangerous.

{¶ 9} The State responded that the constitutionality of the restriction preventing Moses from carrying a concealed handgun requires application of the two-part inquiry devised by the U.S. Supreme Court in *N.Y. State Rifle & Pistol Assn. v. Bruen,* 597 U.S. 1 (2022). Under that inquiry, the court must consider (1) whether the Second Amendment's plain text presumptively protects the conduct in question, and (2) whether the gun restriction is consistent with the Nation's historical tradition of firearm regulation. The State did not dispute that the answer to the first part of the inquiry was "yes." It focused on the second part of the inquiry.

{¶ 10} The State argued that convicted domestic abusers pose a danger to society, and an abuser's access to a firearm makes it exponentially more likely that his or her victim will be killed. It maintained that the U.S. has a long-standing history of disarming violent individuals, and, specifically, domestic abusers. It cited the U.S. Supreme Court's

decision in *U.S. v. Rahimi*, 602 U.S. 680 (2024), where the Court upheld the constitutionality of a statute "disarming those who 'represent[] a credible threat to the physical safety of [an] intimate partner or child.'" The State maintained that "[i]n upholding the constitutionality of that statute, the Court in *Rahimi* stated 'our Nation's tradition of firearm regulation distinguishes citizens who have been found to pose a credible threat to the physical safety of others from those who have not.'" The State emphasized that the Sixth Circuit had upheld similar statutes "disarming those convicted of domestic violence."

{¶ 11} The State distinguished our decision in *Latham.* In *Latham,* the defendant was charged with violating R.C. 2923.16—improper handling of a firearm in a motor vehicle. The only factor preventing him from being a "qualifying adult"—which would have rendered it legal for him to transport a firearm in a motor vehicle—was his criminal history, which included two misdemeanor attempted drug offenses. We held that as applied to Latham, R.C. 2923.111 and 2923.16 unconstitutionally burdened his Second Amendment right to bear arms. We reasoned that (1) Latham could have lawfully possessed the weapon if he had carried it openly outside the vehicle, thereby negating the State's argument that Latham belonged to a special class of people who present a danger of misusing a handgun; and (2) other jurisdictions have found that there exist no historical restrictions based only on drug use or a criminal record.

{¶ 12} In reply to the State's arguments, Moses acknowledged that *Rahimi* upheld the constitutionality of a statute prohibiting an individual subject to a domestic violence

restraining order from possessing a firearm where that order included a finding that he represents a credible threat to the physical safety of an intimate partner or the intimate partner's child. However, Moses insisted that *he* is not a dangerous individual. He emphasized that he is 23 years old, his adjudication occurred when he was 16 years old, and that adjudication arose from one incident in which he pushed his mother during an argument over cleaning his room. He maintained that a juvenile record should not be used to punish an adult for his entire life and should not be used to disqualify him from carrying a concealed handgun.

2. The Trial Court Judgment

{¶ 13} The trial court denied Moses's motion to dismiss. It began by acknowledging that (1) Moses would be a "qualifying adult" were it not for his delinquency adjudication for domestic violence when he was 16 years old; and (2) he is not precluded from owning or possessing a firearm, but his delinquency adjudication prevents him from obtaining a concealed handgun license under R.C. 2923.125 and from carrying a concealed handgun under R.C. 2923.111. The court framed the issue as follows: "[A]re the Defendant's rights under the Second Amendment infringed where he may legally possess a firearm but may not legally publicly carry it concealed?" Relying on the First District's decision in *State v. Hall*, 2025-Ohio-1644 (1st District), the court held that Moses's Second-Amendment rights were not infringed.

{¶ 14} As we will discuss in greater detail later in this decision, the defendant in *Hall* was not a "qualifying adult" because of a pending negligent-assault charge,

therefore, he could not legally carry a concealed handgun. Applying the *Bruen* test—and relying on the history summarized by the Court in *Bruen*—the court recognized that during the pre-Civil War era, numerous states enacted statutes specifically prohibiting the carrying of concealed firearms, and they did so to reduce the risk of surprise attacks from hidden weapons. It concluded that Ohio's purpose in its present legislation was the same. And because history reveals that legislatures could prohibit "each and every person" from concealed carry for the same basic purpose of reducing surprise shootings, "[a]s applied to individuals who remain legally allowed to carry firearms openly, Ohio's CCW statutes impose a comparable burden on the right of armed self-defense as that imposed by laws of the past." (Internal quotations omitted.) *Hall* at ¶ 91, citing *Bruen* at 29.

{¶ 15} The trial court emphasized that Moses has not been disarmed, but merely prohibited from carrying a *concealed* handgun. As such, his right to bear arms had only been impeded to a "certain degree." It agreed with *Hall* that because this country has a historical tradition that would permit the government to prohibit *all* persons from carrying concealed firearms, there is no Second-Amendment violation where certain groups are prohibited from carrying concealed firearms. The court remarked that Moses may have an Equal Protection claim based upon his classification under Ohio's CCW laws, but it observed that no such challenge had been raised by Moses.

3. Standard of Review

{¶ 16} Moses argues that the trial court either plainly erred or abused its discretion when it denied his motion to dismiss the indictment. The State responds that, as an initial matter, our review here is de novo—not abuse of discretion or plain error.

{¶ 17} A party may challenge legislation as unconstitutional on its face or as applied. Here, Moses has challenged Ohio's CCW law as applied. A party raising an as-applied constitutional challenge must show that the contested legislation "is unconstitutional as applied to a specific set of facts." *State v. Hacker,* 2023-Ohio-2535, ¶ 11, citing *Belden v. Union Cent. Life Ins. Co.*, 143 Ohio St. 329 (1944), paragraph six of the syllabus. A holding that a statute is unconstitutional as applied "does not render the statute wholly inoperative"; rather, it "prevents future application of the statute in a similar context." (Citations omitted.) *McNalley v. Keiser,* 2025-Ohio-5561, ¶ 10 (6th Dist.), *motion to certify and appeal allowed*, 2026-Ohio-1248, quoting *Simpkins v. Grace Brethren Church of Delaware, Ohio,* 2016-Ohio-8118, ¶ 20.

{¶ 18} "Whether a statute is constitutional is a question of law that we review de novo." *Portage Cty. Educators Assn. for Dev. Disabilities-Unit B, OEA/NEA v. State Emp. Relations Bd.,* 2022-Ohio-3167, ¶ 7. Likewise, we review de novo a trial court's denial of a motion to dismiss based on a constitutional challenge to a statute. *State v. Storms*, 2024-Ohio-1954, ¶ 10 (1st Dist.). Accordingly, we agree with the State that the standard of review here is de novo—*not* plain error or abuse of discretion, as posited by Moses.

4. The Arguments on Appeal

{¶ 19} As explained above, R.C. 2923.12(A)(2) generally prohibits a person from "knowingly carry[ing] or hav[ing], concealed on the person's person or concealed ready at hand, . . . [a] handgun." R.C. 2923.12(F)(1) specifies the degree of the offense for violating division (A). Generally, carrying a concealed weapon in violation of division (A) is a first-degree misdemeanor. However, it is a fourth-degree felony "if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance[.]" R.C. 2923.12(F)(1). It may be a third-degree felony under circumstances not applicable to this case.

{¶ 20} Moses argues that R.C. 2923.12(F)(1) unconstitutionally "disqualify[ies] anyone from carrying a handgun on the basis of a prior 'offense of violence.'" He contends that this court "should find that trial courts arguably have the right to make a fact-based determination as to whether a particular individual is a 'credible threat' based on the facts of the underlying incident, and the criminal history of the defendant, which may or may not follow a legislative definition of 'dangerousness.'" Here, he claims, the facts do not support classifying Moses as a credible threat to public safety because (1) he completed any services ordered by the juvenile court, (2) he has committed no further crimes since the delinquency adjudication, and (3) he was engaged in a carpentry training

program when he was arrested for the "possession of a firearm" that he purchased lawfully.

{¶ 21} Moses further argues that the trial court erred by citing to the firearm licensing statute "when the issue raised was the constitutionality of the offense of violence provision within the CCW statute (R.C. 2923.12)." He maintains that "the challenged provision arguably creates a bright-line rule lumping misdemeanor domestic violence offenders, including juvenile offenders, in with violent felony offenders (rapists, murderers) as offenders with a history of 'offenses of violence,' and as such categorically prevent[s] them from ever lawfully carrying a firearm." Moses claims that his argument challenges "the constitutionality of the legislative classification of domestic violence offenders, including misdemeanor offenders, and the attendant disqualification from carrying a concealed firearm"—not "the arguable inability to apply for a firearm license."

{¶ 22} The State responds that the two-part *Bruen* test must be applied, and here, only the second part of that test is at issue—i.e., whether the government has demonstrated that the regulation is consistent with this Nation's historical tradition of firearm regulation. The State maintains that (1) at the founding of the country, jurisdictions regularly forbade carrying concealed weapons; (2) concealed carry laws are lawful under the Second Amendment because they regulate the manner of carry and not the right to carry; (3) the U.S. Supreme Court in *Bruen* recognized that "States could lawfully eliminate one kind of public carry—concealed carry—so long as they left open the option to carry openly; (4) the Ohio Supreme Court has characterized concealed-carry

restrictions as no more than regulation of the manner of carry; (5) the First District's decision in *Hall,* 2025-Ohio-1644 (1st Dist.) supports the State's position; (6) the U.S. Supreme Court recognized in *Rahimi,* 602 U.S. at 698, that "[w]hen an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed;" (7) federal courts have recognized that restrictions based on misdemeanor domestic-violence convictions fit the historic tradition of firearms regulation; (8) an individual risk assessment is not warranted because domestic violence presents a danger that is self-evident; and (9) it is of no matter that Moses's domestic violence offense was committed when he was a juvenile and resulted in a delinquency adjudication and not a conviction.

5. *Bruen*

{¶ 23} The Second Amendment to the U.S. Constitution provides that "[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 *D.C. v. Heller,* 554 U.S. 570 (2008), the U.S. Supreme Court considered the constitutionality of the District of Columbia's attempt to ban handguns, and it concluded that "the right of the people to keep and bear Arms" guarantees "the individual right to possess and carry weapons in case of confrontation" regardless of service in the militia. *Id.* at 592. Later, in *Bruen,* it considered the constitutionality of regulations restricting the right to publicly *carry* handguns.

{¶ 24} In *Bruen*, the Court evaluated the constitutionality of a New York statute, which required a person to show "proper cause"—an undefined term—to justify a request for a license to carry a handgun in public. In doing so, it devised an analysis that courts must undertake in considering Second-Amendment challenges to gun regulations.

{¶ 25} Under the analysis adopted by the Court, courts must first consider whether "the Second Amendment's plain text covers an individual's conduct[.]" *Bruen* at 17. If it does, "the Constitution presumptively protects that conduct," and the government may not justify its regulation by "simply posit[ing] that the regulation promotes an important interest." *Id.* Instead, to overcome the presumption of constitutional protection, "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id.* "Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's 'unqualified command.'" *Id.,* quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50, fn. 10 (1961). Put another way, the Court concluded that "the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Id.* at 19.

{¶ 26} Before exploring the Nation's historical tradition to determine if the New York statute was consistent with the Second Amendment's text and historical understanding, the Court acknowledged that modern challenges in regulating firearms "are not always the same as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868"—roughly the timeframe it focused its historical analysis. *Id.* It expressed that while the meaning of the Second Amendment "is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated." *Id.* at 27-28.

So, it explained, while modern regulations may not have been imaginable at the founding, courts must employ "reasoning by analogy." *Id.* at 28. The Court instructed that reasoning by analogy requires courts to determine "whether a historical regulation is a proper analogue for a distinctly modern firearm regulation," which, in turn "requires a determination of whether the two regulations are 'relevantly similar.'" *Id.* at 29, quoting C. Sunstein, On Analogical Reasoning, 106 Harv. L. Rev. 741, 773 (1993).

{¶ 27} To assist courts, the Court pointed to two metrics for determining whether regulations are "relevantly similar" under the Second Amendment: "how and why the regulations burden a law-abiding citizen's right to armed self-defense." *Id.* The Court identified individual self-defense as "'the *central component*' of the Second Amendment right," and emphasized that "whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are *central* considerations when engaging in an analogical inquiry." (Internal quotations omitted. Emphasis in original.) *Id.* at 29, citing *McDonald v. City of Chicago, Ill.,* 561 U.S. 742, 767 (2010), quoting *D.C. v. Heller,* 554 U.S. 570, 599 (2008). It cautioned, however, that "analogical reasoning under the Second Amendment is neither a regulatory straightjacket nor a regulatory blank check." *Id.* at 30. It advised that "courts should not 'uphold every modern law that remotely resembles a historical analogue,'" but neither should it insist upon a "historical twin" when identifying representative historical precursors. *Id.*, quoting *Drummond v. Robinson*, 9 F.4th 217, 226 (3d Cir. 2021).

{¶ 28} In applying the two-part inquiry it announced, the Court found that under the first part of that inquiry—whether the Second Amendment's plain text covers the individual's conduct—the plain text of the Second Amendment protects the petitioners' proposed conduct, which was to carry handguns publicly for self-defense. Turning to the second part of the inquiry—whether the government has demonstrated that the regulation is consistent with this Nation's historical tradition of firearm regulation—the Court undertook a 50-page analysis of the history of public-carry rights, but it cautioned that "when it comes to interpreting the Constitution, not all history is created equal." *Id.* at 34.

{¶ 29} The Court recognized that the Second Amendment had been adopted in 1791. *Id.* The State in *Bruen* had offered historical sources spanning from the 1200s to the early 1900s, however, the Court suggested that the focus in interpreting the Constitution should be on the English common law and British institutions as they existed at the time the instrument was framed and adopted—not as they existed during the Middle Ages. *Id.* at 39. On the other end of the spectrum, it warned that reliance on late-nineteenth century evidence should also be avoided due to its "temporal distance from the founding" among other "serious flaws." *Id.* at 66. Ultimately, the Court concluded that "apart from a handful of late-19th-century jurisdictions, the historical record compiled by respondents does not demonstrate a tradition of broadly prohibiting the public carry of commonly used firearms for self-defense." *Id.* at 38. Likewise, it found no historical tradition "limiting public carry only to those law-abiding citizens who

demonstrate a special need for self-defense." *Id.* As such, the Court held that the government had "failed to meet [its] burden to identify an American tradition justifying New York's proper-cause requirement," and it invalidated the proper-cause requirement as unconstitutional. *Id.* at 38-39.

{¶ 30} Important to the present case, in analyzing antebellum-era law, the Court recognized that "*the manner* of public carry" had been subject to "reasonable regulation" during that period. (Emphasis in original.) *Id.* at 59. It observed that states had been permitted to "lawfully eliminate one kind of public carry—concealed carry—so long as they left open the option to carry openly." *Id.* The Court remarked that "[n]one of these historical limitations . . . operated to prevent law-abiding citizens with ordinary self-defense needs from carrying arms in public for that purpose." *Id.* at 60.

6. *Hall*

{¶ 31} Since *Bruen*, the First District has examined R.C. 2923.111 and 2923.12 using the two-part inquiry devised by the Court. In *Hall,* 2025-Ohio-1644 (1st Dist.), Hall—like Moses—was convicted of carrying a concealed weapon. Because at the time of his arrest he was "under indictment for or otherwise charged with . . . a violation of [R.C.] 2903.14"—negligent assault—he did not satisfy the R.C. 2923.125(D)(1)(d) criterion for obtaining a concealed carry license and, by extension, did not satisfy the criteria necessary under R.C. 2923.111(A)(2) to be deemed a "qualifying adult." This meant that while Hall could openly carry a handgun, he could not carry a concealed handgun.

{¶ 32} The court began by acknowledging that under the U.S. Supreme Court's decisions in *Heller*, 554 U.S. 570, *McDonald*, 561 U.S. 742, and *Bruen*, "a law that prohibits all persons from owning or carrying all firearms would be clearly unconstitutional." *Hall* at ¶ 39. "Thus," the court explained, "when a State law *disarms* a particular class of persons"—a "categorical ban"—the State must show "that its law falls within some tradition of disarming an analogous group." (Emphasis added.) *Id.,* citing *State v. Thacker*, 2024-Ohio-5835, ¶ 17, 54-55 (1st Dist.); *State v. Brown*, 2025-Ohio-8, 8-11 (1st Dist.). "Only if the State can identify some tradition of disarming people relevantly similar to those disarmed by the State's modern law will it survive Second Amendment scrutiny." *Id.*

{¶ 33} The court emphasized, however, that the case before it concerned a restriction on the manner of carrying a weapon—"not a law disarming [Hall] entirely or forbidding him to carry his gun in public." *Hall* at ¶ 40. It pointed out that "[w]hile the United States Supreme Court has held that a state may not disarm its public at large, it has *not* said the same about the imposition of universal CCW restrictions." (Emphasis in original.) *Id.* To the contrary, it observed, *Heller* and *Bruen* suggested that a state "*could* enact such a general concealed-carry ban." (Emphasis in original.) *Id.*

{¶ 34} The First District explained that in dicta in *Heller*, the Court noted that most nineteenth-century courts that considered the issue concluded that prohibitions on carrying concealed weapons were constitutional. Then in *Bruen,* the Court endorsed this dictum after surveying nineteenth-century statutes and court decisions that restricted

individuals' ability to carry concealed weapons. The Court summarized that antebellum-era courts considering concealed-carry prohibitions upheld those regulations so long as open carry was not similarly prohibited. The First District acknowledged that the statute examined in *Bruen* was not a concealed-carry regulation, however, it found that "*Bruen*'s framing of the historical scope of the right provides initial support" for distinguishing between concealed-carry bans and total disarmament, and "*Bruen*'s reliance on antebellum concealed-carry statutes provides a useful guidepost in sifting the historical sources in search of 'relevantly similar' laws from the relevant historical period." *Id.* at ¶ 43.

{¶ 35} The First District debated whether history and tradition should capture the public understanding at the time the Bill of Rights was adopted in 1791 or at the time the states ratified the Fourteenth Amendment in 1868. But it concluded that "[r]egardless of which date should serve as the fulcrum of *Bruen*'s analysis," the antebellum sources alluded to in *Bruen* "sufficiently illuminate the Amendment's public meaning" despite the fact that "preratification legislation is slight." *Id.* at ¶ 44, 46. The court observed that "*Bruen* and *Heller* found antebellum firearms laws important for understanding the original meaning of the scope of the right to keep and bear arms." *Id.* at ¶ 48, citing *Heller* at 610-614 and *Bruen* at 52-55. It went on to summarize the statutes that the Court had itself summarized in *Bruen.*

{¶ 36} Briefly stated, the First District examined the numerous antebellum-era CCW prohibitions identified by the U.S. Supreme Court in *Bruen.* It discussed the state

high-court decisions upholding most of the CCW prohibitions. The court concluded that these laws and cases demonstrate that antebellum legislatures and courts did not believe that the preexisting right to bear arms prohibited them from regulating the carrying of concealable weapons.

{¶ 37} Turning to Ohio's current CCW restrictions, the court addressed whether those restrictions are "relevantly similar" to the historical laws it discussed. The statutes and cases that the court reviewed convinced it that "throughout our nation's history, legislatures maintained the power to limit or prohibit the carrying of concealed weapons and to enforce such prohibitions with criminal penalties." *Hall* at ¶ 79. It acknowledged that this power was limited by the right to bear arms in self-defense, which historically included the right to carry arms in public places. Nevertheless, the court emphasized, "legislatures were free to regulate the *manner* in which such protected weapons had to be carried, so long as, in doing so, they did not render the weapon unusable for this essential purpose." *Id.* It concluded that as applied to Hall, who cannot carry a concealed weapon because he is not a "qualifying adult," but who can possess and carry a weapon openly despite his negligent-assault charge, there was no reason to believe that openly carrying his weapon prevented him from defending himself. The court held that "Ohio's modern CCW regime burdened Hall's ability to keep and bear arms in a manner directly analogous to the way in which the historical CCW laws did." *Id.* at ¶ 80.

{¶ 38} The court also found that "Ohio's CCW law regulates arms-bearing for the same basic reason that the antebellum states did: to reduce individuals' ability to ambush

or surprise those around by attacks with hidden weapons." *Id.* at ¶ 82. It examined the justifications for enacting or upholding the historical prohibitions—the "secret advantages and unmanly assassinations" enabled by concealed carry; the "dangerous and wicked practice of carrying about in public places concealed and deadly weapons;" the need to counteract the "vicious state of society, growing out of the habit of carrying concealed weapons, and to prevent bloodshed and assassinations committed upon unsuspecting persons;" the use of concealed weapons "by evil-disposed men who seek an advantage over their antagonists, in the disturbances and breaches of the peace which they are prone to provoke." (Internal citations and quotations omitted.) *Hall* at ¶ 60, 83, 97. The First District observed that antebellum-era courts upholding such laws expressed that "wearing arms concealed, rather than openly" was not necessary for self-defense. (Internal citations and quotations omitted.) *Id.* at ¶ 83. Additionally, requiring open carry allowed people around the armed person to "guard against injury by accident or otherwise." (Internal citations and quotations omitted.) *Id.* at ¶ 84.

{¶ 39} "Put simply," the First District found, "those who carried concealed weapons posed a bigger risk." *Id.* at ¶ 85. And while it recognized that not all individuals harbored ill intent for carrying concealed weapons, "many individuals with ill intent preferred to carry concealed." *Id.* The court commented that "[c]oncealed carry is not 'dangerous' in its own right; it is dangerous because bad actors are likely to be more brazen or dangerous if they can hide that they are armed." *Id.* It explained that restricting concealed carry thwarts "bad actors' ability to surprise their unsuspecting

targets and to strike without fear of quick reprisal." *Id.* "Thus," it reasoned, "CCW laws served to disincentivize such mischievous practices, while preserving the right of armed self-defense." *Id.* And rather than deciding which actors were "good" and which were "bad," antebellum-era legislatures "generally chose to prohibit the *act* of carrying concealed, rather than disabling particular individuals from doing so." *Id.* at ¶ 86.

{¶ 40} This history convinced the First District that "the purpose behind our nation's history of CCW laws was to reduce the risk of surprise attacks from hidden weapons, while leaving untouched the right to carry openly for self-defense." *Id.* at ¶ 87. It found that the purpose of Ohio's current CCW legislation is the same. Consistent with that purpose, most Ohio citizens may openly carry, while a smaller number may concealed carry. Groups of people that the legislature has identified as posing "a greater-than-average danger with a concealed weapon"—"but not so great a danger that they must be prohibited from 'the ownership, possession and reasonable use of weapons'"—may only openly carry. *Id.* at ¶ 89, quoting *State v. Beasley*, 1982 WL 8436, *3 (1st Dist. Jan. 27, 1982). Given that our history reveals that legislatures could prohibit *every* person from carrying concealed for the same reason the State prohibits Hall from carrying concealed, the court concluded that "the reason for the State's law matches that of its historical antecedents." *Id.* at ¶ 90. It held that Ohio's CCW law did not violate the Second Amendment as applied to Hall.

{¶ 41} The court acknowledged that in a split decision, a different panel of the First District reached the opposite conclusion in *State v. Barber*, 2025-Ohio-1193 (1st

Dist.), but it disagreed with that panel's conclusion. The panel that decided *Barber* found that the historical evidence demonstrated that states regulated concealed carry because the act was viewed as cowardly and dangerous, and by allowing most Ohio adults to carry concealed weapons without a license, "Ohio has departed from the view that the simple act of carrying a concealed weapon is itself dangerous." *Hall* at ¶ 95, citing *Barber* at ¶ 55. The *Hall* panel recognized that "the historical materials describe the carrying of concealed weapons as 'cowardly' and suggest that the practice multiplied the number of surprise shootings," but it disagreed that "antebellum legislatures considered the act of concealing a weapon *itself* to be dangerous." (Emphasis in original.) *Id.* at ¶ 96. "The problem," it explained, was "why someone would carry their arms concealed, and how doing so could increase the damage inflicted by bad actors." *Id.*

{¶ 42} In sum, the court concluded that "Ohio's CCW prohibition regulates the bearing of firearms 'for a permissible reason' . . . and employs a regulatory scheme that does not go 'beyond what was done' historically[.]" *Id.* at ¶ 103, quoting *Rahimi*, 602 U.S. at 692. "Because Ohio could prohibit all Ohioans from carrying concealed weapons to accomplish this basic goal," the court reasoned, "it may prohibit some of them from doing so." *Id.*

{¶ 43} As a caveat, the court recognized the State's rationale for giving some persons concealed-carry rights and not others may still be constitutionally relevant. But it opined that "such concerns . . . raise Equal Protection questions, not Second Amendment ones." *Id.* at ¶ 106. And Hall did not raise an equal-protection challenge.

7. Problems with Moses's Arguments

{¶ 44} Problematically, Moses fails to acknowledge or apply the test devised by the Court in *Bruen* or cite any Ohio case applying *Bruen* to R.C. 2923.12(A)(2). Instead, Moses contends that R.C. 2923.12—more specifically, (F)(1) of that section—"creates a bright-line rule lumping misdemeanor domestic violence offenders, including juvenile offenders, in with violent felony offenders (rapists, murderers) . . . and as such categorically prevent[s] them from ever lawfully carrying a firearm." He complains that in denying the motion to dismiss, the trial court "cit[ed] to the firearm licensing statute when the issue raised was the constitutionality of the offense of violence provision within the CCW statute (R.C. 2923.12)." And he overstates the restrictions stemming from his juvenile delinquency adjudication by repeatedly asserting that his juvenile adjudication "disqualifies" him from "carrying" or "possessing" a handgun.

{¶ 45} First, Moses appears to misunderstand the import of R.C. 2923.12(F)(1). This provision of the concealed-carry statute—the particular provision of the statute that Moses claims unconstitutionally prohibits him from "carrying" a firearm—merely specifies the degree of the offense. Generally, a violation of R.C. 2923.12(A)(2) is a first-degree misdemeanor. R.C. 2923.12(F)(1). It is a fourth-degree felony "if the offender previously has been convicted of a violation of this section or of any offense of violence;" "if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand;" or "if the weapon involved is [a] dangerous ordnance." R.C. 2923.12(F)(1). The indictment alleges that the firearm was loaded or

ammunition was ready at hand—it says nothing about Moses having committed a prior "offense of violence." Moreover, contrary to Moses's argument, R.C. 2923.12(F)(1) does *not* itself operate to "disqualify[] anyone from carrying a handgun on the basis of a prior 'offense of violence.'"

{¶ 46} Second, Moses seems not to realize that while prohibited from carrying a *concealed* handgun, he retains the ability to openly carry one, and the State concedes as much. Thus, he is not "categorically prevent[ed] . . . from ever lawfully carrying a firearm." Rather, he is prevented from lawfully carrying a *concealed* firearm. Similarly, Moses asserts that he was arrested "for *possession* of a firearm which he purchased lawfully." (Emphasis added.) This is not accurate. He was arrested for carrying a *concealed* handgun.

{¶ 47} Third, Moses seems not to understand how the provisions of R.C. 2923.11 et seq. operate together. To that end, he criticizes the trial court for its examination of the firearm licensing statute. We hope the following will clarify for Moses the interplay between the statutes and why the trial court's consideration of the firearm-licensing statute was appropriate.

{¶ 48} In Ohio, a person may *openly* carry a handgun in public unless otherwise prohibited by federal or state law. *Ohioans for Concealed Carry, Inc. v. Clyde,* 2008-Ohio-4605, ¶ 20, citing R.C. 9.68(A); *State v. Massingill,* 2021-Ohio-2674, ¶ 15 (8th Dist.). While open carry is generally permitted in Ohio, it is illegal under R.C. 2923.12(A)(2) to knowingly carry or have a concealed handgun unless a person is a

"qualifying adult." R.C. 2923.111(B). As we recently discussed in *State v. Byrd*, 2026-Ohio-3664, ¶ 4 (6th Dist.), under R.C. 2923.111(A)(2), a "qualifying adult" is a person who is (1) 21 years old or older; (2) not legally prohibited from possessing or receiving a firearm under 18 U.S.C. 922(g)(1) to (9),[1] R.C. 2923.13, or any other Revised Code provision; and (3) *satisfies all of the criteria listed in R.C. 2923.125(D)(1)*(a) to (j), (m), (p), (q), and (s).

{¶ 49} R.C. 2923.125(D)(1)—the concealed handgun licensing statute—enumerates the criteria that an applicant must meet before he may be issued a concealed-carry license. One of those criteria—R.C. 2923.125(D)(1)(s)—requires that "[t]he applicant has not been . . . adjudicated a delinquent child for committing a violation of [R.C.] 2919.25. . . ." Because Moses was adjudicated a delinquent for committing domestic violence (a violation of R.C. 2919.25), he does not meet the criterion listed in R.C. 2923.125(D)(1)(s), *thus* he does not satisfy R.C. 2923.111(A)(2)(c), *thus* he cannot be deemed a "qualifying adult" under R.C. 2923.111(A)(2), *thus* he cannot legally carry a *concealed* handgun under R.C. 2923.111(B) *or* obtain a concealed-handgun license under R.C. 2923.125. This is why the trial court examined the licensing statute.

{¶ 50} Finally, while Moses cites and distinguishes the U.S. Supreme Court's decision in *Rahimi*, 602 U.S. 680, he fails to acknowledge or apply the test devised by the Court in *Bruen,* 597 U.S. 1. And while Moses does cite *Rahimi,* it is important to note

[1] The trial court considered whether 18 U.S.C. 922(g)(9) prevented Moses from legally possessing a firearm, but it determined that 18 U.S.C. 922(g)(9) was inapplicable. Neither party challenges this conclusion.

that *Rahimi* applied the *Bruen* test to a federal statute, 18 U.S.C. 922(g)(8), that temporarily *disarms* a person subject to a restraining order in favor of an intimate partner or a child of an intimate partner where there has been a finding that he or she presents a credible threat to their physical safety. Moses has not been disarmed by Ohio's CCW statute.

8. Our View

{¶ 51} Despite the problems with Moses's arguments, the trial court in its judgment and the State in its brief *do* identify the appropriate test to employ here, and they cite Ohio case law pertinent to the issue on appeal. Significantly, *the State* bears the burden here. *Hall* at ¶ 37.

{¶ 52} It is unnecessary for us to rehash the historical evidence—the U.S. Supreme Court did so thoroughly in *Bruen,* and the First District did so in *Hall.* Simply put, we agree with the *Hall* panel of the First District that the nation has a history of limiting people to openly carrying firearms and prohibiting them from carrying concealed handguns. In analyzing antebellum-era law, the U.S. Supreme Court recognized in *Bruen* that "*the manner* of public carry" had been subject to "reasonable regulation" during that period, and it observed that states had been permitted to "lawfully eliminate one kind of public carry—concealed carry—so long as they left open the option to carry openly."

(Emphasis in original.) *Id.* at 59. This is exactly what the Ohio legislature has done here. It has prohibited some groups from carrying concealed handguns.[2]

{¶ 53} We agree with the First District that the purpose for concealed-carry restrictions was—and is—to reduce the risk of surprise attacks from hidden weapons and to put individuals around the arms-bearer on notice that he or she is carrying a dangerous weapon. We also agree that these restrictions were—and are—enacted not because legislatures have deemed that the act of carrying a concealed handgun is in itself dangerous, but because certain groups of people have been deemed to be more dangerous than others, such that it is safer for the community that their carrying of a handgun be open and not concealed.

{¶ 54} Whether the legislature has appropriately determined that individuals like Moses—who have been adjudicated delinquent for committing domestic violence—are too dangerous to carry a concealed handgun is not something that we must specifically decide here because of one important fact: the individuals who comprise this group have not been disarmed. Rather, their manner of carry has merely been restricted. As such, Moses may carry a handgun to defend himself, but he must do so openly. Because he

---

[2] It is worth noting that during the pendency of this appeal, the U.S. Supreme Court has decided two additional cases employing the *Bruen* analysis. In *U.S. v. Hemani,* 146 S.Ct. 1677 (2026), the Court found that 18 U.S.C. 922(g)(3) was unconstitutional as applied to the defendant because it banned him from possessing a gun—without pre-deprivation process—based only on the fact that he admitted to using marijuana regularly. In *Wolford v. Lopez,* 146 S.Ct. 2032 (2026), the Court struck down a Hawaii law that prohibited the carrying of a firearm on private property open to the public without express authorization from the property owner. Neither of these cases is factually analogous to the present case, particularly given that both involved instances of complete disarmament.

remains free to openly carry a handgun and has not been entirely disarmed by operation of the Ohio statutes, his Second Amendment right to bear arms has not been violated.

{¶ 55} As observed by the First District in *Hall*—and by the trial court in this case—some other constitutional provision may be implicated by operation of the Ohio statutes, but the only issue raised in this case is whether Moses's Second Amendment right to bear arms has been violated. We conclude that it has not.

{¶ 56} Finally, although not specifically relied upon on appeal, Moses did, in the trial court, rely on our decision in *Latham,* 2025-Ohio-495 (6th Dist.), thus we will briefly explain why *Latham* is inapplicable here.

{¶ 57} In *Latham*, this court addressed the State's appeal of a judgment granting the defendant's motion to dismiss an improper-handling charge as violative of the Second Amendment as applied. Under R.C. 2923.16(B), a person may not knowingly transport a loaded firearm in a motor vehicle if it is accessible without leaving the vehicle. However, this statute is inapplicable to a person who has been issued a valid concealed handgun license. Under R.C. 2923.111, "qualifying adults" have the right to carry a concealed handgun subject to the same restrictions applicable to a person who has been issued a concealed handgun license. Latham was not a "qualifying adult," however, because he had a criminal record consisting of two misdemeanor, attempted drug offenses. Thus, he was not legally permitted to carry a handgun in an automobile—what we described as "an absolute disqualification"—while traveling in a motor vehicle. *Id.* at ¶ 31. We found R.C. 2923.16 and 2923.111 unconstitutional as applied.

{¶ 58} First, we observed that the State had cited no precedent demonstrating a historical tradition of prohibiting someone like Latham from having a handgun in a motor vehicle. The State did argue that under *Rahimi,* 602 U.S. at 697, states may enact laws banning the possession of guns by groups of people deemed by the legislature to present "a special danger of misuse," however, it conceded that Latham could legally possess a handgun outside a vehicle. *Id.* at ¶ 28. We found that Latham's lawful possession of a handgun when not in a vehicle undermined the State's suggestion that Latham belonged to a category of people who present "a special danger of misuse." *Id.* at ¶ 32.

{¶ 59} *Latham* is not applicable here, however. As referenced above, R.C. 2923.16(B) serves to completely disarm an individual while in a motor vehicle—i.e., "an absolute disqualification." *Id.* at ¶ 31. R.C. 2923.12 and 2923.111, on the other hand, merely regulate the manner of carry, permitting non-"qualifying adults" to openly carry, but not conceal, a handgun. Because Moses was free to openly carry a handgun and was not entirely disarmed by operation of the Ohio statutes, his Second Amendment right to bear arms was not violated.

{¶ 60} Accordingly, we find Moses's first assignment of error not well-taken.

B. Ineffective Assistance of Counsel

{¶ 61} In his second assignment of error, Moses argues that trial counsel was ineffective for failing to file a motion to suppress the contents of Moses's backpack—this was where Moses's gun was found. He acknowledges that the driver of the vehicle may have consented to a search of the vehicle, but claims that the driver's consent to search

the vehicle did not necessarily permit officers to search all of the items present in the vehicle. Moses maintains that his backpack was closed, and there was no evidence that he consented to the police opening and searching it. He further insists that there were no facts suggesting that he and the driver shared joint access or control over the backpack, such that the driver may have been authorized to consent to its search. Relying on *State v. Pennington*, 2020-Ohio-757 (5th Dist.), Moses contends that a motion to suppress would have been successful, thus he was prejudiced by counsel's failure to file a motion.

{¶ 62} At the plea hearing, the trial court raised concerns about "the basis for the search of the backpack." The court told the State's attorney that it "seems like a stretch" that the driver's consent to search the vehicle permitted officers to search the backpack.

{¶ 63} The State acknowledges the trial court's concerns, but it claims that (1) whether to file a motion to suppress is a strategic decision, and (2) the record does not contain sufficient facts to support the conclusion that a motion to suppress would have been meritorious. It insists that the record "identif[ies] an issue" but contains "no evidence to support the conclusion that a motion to suppress would have been meritorious." Problematically, the State maintains, the record lacks evidence concerning the scope of the driver's consent, whether officers obtained Moses's consent to search the backpack, whether officers could reasonably believe that the driver had authority to consent to the search of the backpack, and whether the vehicle was going to be towed and subject to an inventory search.

{¶ 64} In order to prevail on a claim of ineffective assistance of counsel, an appellant must show that counsel's conduct so undermined the proper functioning of the adversarial process that the trial court cannot be relied on as having produced a just result. *State v. Shuttlesworth*, 104 Ohio App.3d 281, 287 (7th Dist. 1995). To establish ineffective assistance of counsel, an appellant must show "(1) deficient performance of counsel, i.e., performance falling below an objective standard of reasonable representation, and (2) prejudice, i.e., a reasonable probability that, but for counsel's errors, the proceeding's result would have been different." *State v. Hale*, 2008-Ohio-3426, ¶ 204, citing *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *State v. Sanders*, 94 Ohio St.3d 150, 151 (2002).

{¶ 65} Properly licensed Ohio lawyers are presumed competent. *State v. Banks,* 2002-Ohio-4858, ¶ 16 (9th Dist.). To establish ineffective assistance of counsel, the defendant must show that counsel's performance fell below an objective standard of reasonableness and that the deficient performance prejudiced the defendant so as to deprive him of a fair trial. *Strickland* at 688-692. As recognized in *Strickland,* there are "countless ways to provide effective assistance in any given case." *Id.* at 689. "Judicial scrutiny of counsel's performance must be highly deferential." *State v. Bradley*, 42 Ohio St.3d 136, 142 (1989), quoting *Strickland* at 689.

{¶ 66} Moreover, in matters involving trial strategy, "courts will generally defer to the judgment of trial counsel, even where 'another and better strategy' might have been

available." *State v. Newsome*, 2005-Ohio-3775, ¶ 8 (11th Dist.), quoting *State v. Clayton*, 62 Ohio St.2d 45, 49 (1980). "A court will only consider reversing on these grounds where the choice of trial strategy so deviates from the standard of reasonableness 'that ordinary trial counsel would scoff at hearing of it.'" *Id.,* quoting *State v. Burgins*, 44 Ohio App.3d 158, 160 (4th Dist. 1988).

{¶ 67} It is true that the limited information contained in the record suggests that a motion to suppress may have been warranted. As pointed out by Moses, in *Pennington*, 2020-Ohio-757 (5th Dist.)—a case factually analogous to the present case—the Fifth District held that evidence found in the passenger's backpack should have been suppressed where the State failed to present evidence that the driver had authority to consent to a search of the backpack, that the driver gave such consent, or that the driver had common authority over the backpack. Nevertheless, we conclude that the record lacks sufficient evidence both that trial counsel was deficient and that Moses was prejudiced.

{¶ 68} As argued by the State, the record is not developed enough for us to find that counsel was deficient for failing to file a motion to suppress. In *State v. Cooperrider,* 4 Ohio St.3d 226, 228 (1983), the Ohio Supreme Court explained that "it is impossible to determine whether the attorney was ineffective in his representation of appellant where the allegations of ineffectiveness are based on facts not appearing in the record." It instructed that "[f]or such cases, the General Assembly has provided a

procedure whereby appellant can present evidence of his counsel's ineffectiveness"—the post-conviction remedies of R.C. 2953.21.

{¶ 69} "[A]rguments of counsel are not evidence." *State v. Palmer,* 80 Ohio St.3d 543, 562 (1997). And here, the only "facts" contained in the record are the attorneys' arguments made at the hearing on the motion to dismiss and at the plea hearing. There was no testimony from the officers, the driver, or Moses, no dash camera or body-worn camera footage, no policies or procedures, or any other exhibits or evidence upon which we can conclude that counsel was deficient for failing to seek to suppress the evidence discovered in Moses's backpack.

{¶ 70} Accordingly, we find Moses's second assignment of error not well-taken.

III. Conclusion

{¶ 71} R.C. 2923.111 and R.C. 2923.12 are not unconstitutional as applied to defendant. Although these statutes permit only "qualifying adults" to carry a concealed handgun, and a person who was adjudicated delinquent for committing domestic violence as a juvenile cannot be deemed a "qualifying adult," the statutes do not restrict Moses's ability to openly carry a handgun, thus his Second-Amendment right to bear arms has not been violated. We find Moses's first assignment of error not well-taken.

{¶ 72} On the record on appeal, we cannot conclude that trial counsel was ineffective for failing to file a motion to suppress the contents of Moses's backpack. We find Moses's second assignment of error not well-taken.

{¶ 73} We affirm the October 28, 2025 judgment of the Lucas County Court of Common Pleas. Moses is ordered to pay the costs of this appeal under App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.

Christine E. Mayle, J. _____
JUDGE

Myron C. Duhart, J.
CONCUR. _____
JUDGE

Gene A. Zmuda, J.
CONCURS AND WRITES SEPARATELY. _____
JUDGE

ZMUDA, J., concurring,

{¶ 74} While agreeing with the ultimate determination of the first assignment of error, I write separately to clarify my position on this developing area of the law.

{¶ 75} First, I note that this Court has already opined on the constitutionality of concealed carry restrictions in *State v. Byrd,* 2026-Ohio-3664 (6th Dist.), making reliance on First District precedent less necessary. Indeed, for reasons explained below, I believe *Byrd* is dispositive of this appeal. Because Moses may lawfully possess a firearm and was

charged for a violation of Ohio's concealed carry law, I would place greater emphasis on the pertinent issue: a restriction on the manner of carry, rather than the "dangerousness" analysis relative to possession restrictions.

{¶ 76} Second, the argument before the trial court focused on the dangerousness determination for purposes of *disarming* Moses. While the State referenced First District precedent regarding the dangerousness analysis, the State did not argue the difference between disarming an individual and restricting an individual's ability to carry concealed. In considering and rejecting Moses's as-applied challenge to R.C. 2923.12(A)(2) (carrying a concealed weapon), the trial court referenced other First District precedent regarding concealed carry prohibitions. *State v. Hall,* 2025-Ohio-1644 (1st Dist.). On appeal, Moses does not challenge, as error, the trial court's consideration of argument and precedent never raised by the parties.

{¶ 77} The trial court found the dangerousness determination was not dispositive, focusing instead on the actual restriction under R.C. 2923.12; Moses could possess a firearm, he just could not carry that firearm concealed. Thus, the trial court addressed the issue presented, regardless of the parties' argument, and considered the historical tradition of limiting an individual's ability to carry a concealed weapon. The trial court determined that Ohio's concealed carry law aligned with this historical tradition. Because Moses was not disarmed under Ohio law, but only restricted from carrying a concealed weapon, his constitutional challenge failed. The trial court found the restriction at issue in Moses's case is a historically permissible restriction that does not infringe any Second

Amendment rights. Like the majority, I agree that the trial court reached the correct conclusion in this case, based on these facts.

{¶ 78} As noted by the majority, the United States Supreme Court distinguished between disarming an individual and merely restricting the manner of public carry. *See New York State Rifle & Pistol Assn. v. Bruen,* 597 U.S.1, 59 (2022). In summarizing the historical precedent, the Court noted, "States could lawfully eliminate one kind of public carry – concealed carry – so long as they left open the option to carry openly." *Bruen* at 59; *see also District of Columbia v. Heller,* 554 U.S. 570 (2008), paragraph two of the syllabus (Second Amendment does not confer "a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues.").

{¶ 79} While the constitutionality of the type of concealed carry restrictions applied to Moses has not been addressed by the United States Supreme Court, that Court has referred to concealed carry restrictions in general as constitutionally valid, with a suggestion that the act of concealed carry itself may not fall within the scope of Second Amendment protections. In a concurring opinion in *United States v. Rahimi,* 602 U.S. 680 (2024), Justice Kavanaugh acknowledged the Second Amendment "guarantees an individual right" but determined that *Heller* "recognized a few categories of traditional *exceptions* to the right." (Emphasis added) *Rahimi* at 735 (J., Kavanaugh, concurring), citing *Heller* at 626.

{¶ 80} Therefore, focusing on the judgment on appeal and our prior precedent in *Byrd,* I would find Moses's first assignment of error not well-taken. It bears repeating that, while Moses challenged the constitutionality of Ohio's concealed carry law, R.C. 2923.12(A)(2), and the parties argued the "dangerousness determination" relative to Moses' juvenile adjudication for misdemeanor domestic violence, the trial court considered a different issue, applicable to the actual issue presented in Moses's case, with that judgment before us on appeal.

{¶ 81} The United States Supreme Court has placed manner of carry restrictions in a separate category from possession restrictions, and the trial court addressed Ohio's law as a manner of carry restriction. Moses failed to challenge this manner of carry restriction. Thus, while there might be an appropriate constitutional challenge to Ohio's concealed carry scheme based on the facts of Moses's case, such challenge was not before the trial court and is not before this Court on appeal. Based on the foregoing, I respectfully concur.

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.supremecourt.ohio.gov/ROD/docs/.