

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

STATE OF OHIO,	:	APPEAL NO.	C-250493
Plaintiff-Appellant,	:	TRIAL NO.	25/CRB/1953
vs.	:		
PAYTAN BUTLER,	:		
Defendant-Appellee.	:		<i>JUDGMENT ENTRY</i>

ZAYAS, Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

The State appeals the trial court's order dismissing the complaint against Paytan Butler for improper handling of firearms in a motor vehicle because the statute unconstitutionally deprived Butler of his right to bear arms under the United States and Ohio Constitutions. In two related assignments of error, the State argues that the trial court erred by finding R.C. 2923.16, the improper-handling statute, unconstitutional, both facially and as applied to Butler, because the statute does not infringe upon his right to bear arms. We agree and reverse the judgment of the trial court.

Butler was charged with violating R.C. 2923.16 for having a loaded firearm in a car that was accessible to him without leaving the vehicle. Ohio law exempts most

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“qualifying adults” from this restriction. *See State v. Stonewall*, 2025-Ohio-4974, ¶ 4 (1st Dist.). A “qualifying adult” must be 21 years of age or older. *See R.C. 2923.111(A)(2)(a)*. The parties agree that at the time of the charge, Butler was 20 years old and not considered a qualifying adult until he attained 21 years of age. Butler filed a motion to dismiss the charge alleging that R.C. 2923.16 was unconstitutional, both facially and as applied to him, because it violated his right to bear arms under the United States and Ohio Constitutions.

The Second Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment, provides an individual with the right to possess and carry firearms for lawful purposes, such as self-defense. *Dist. of Columbia v. Heller*, 554 U.S. 570, 576-626 (2008). In *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U.S. 1 (2022), the Supreme Court clarified the test that courts must apply to determine whether a statute violates the Second Amendment. *Id.* at 8-22. If the plain text covers an individual’s conduct, the burden shifts to the government to justify its regulation by demonstrating 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.’” *Bruen* at 17, quoting *Konigsberg v. State Bar of California*, 366 U.S. 36, 50, fn.10 (1961).

Following *Bruen*, this court has repeatedly held that regulating the manner in which a person under 21 may carry a firearm in a vehicle does not deprive an individual of his Second Amendment right. *See Stonewall* at ¶ 39; *State v. Ngaide*, 2026-Ohio-478, ¶ 6 (1st Dist.); *State v. Baxter*, 2025-Ohio-5722, ¶ 12-14 (1st Dist.); *State v.*

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Johnson, 2026-Ohio-727, ¶ 22-23 (1st Dist.). Accordingly, we sustain the first assignment of error.

Next, the State contends that the trial court erred by granting Butler’s motion to dismiss and finding that R.C. 2923.16 violates the Ohio Constitution.

The Ohio Supreme Court has held that, under the Ohio Constitution, the right to bear arms has historically been subject to well-defined restrictions regarding the manner in which a person may carry a firearm. See *Klein v. Leis*, 2003-Ohio-4779, ¶ 7 (“[T]he right to bear arms is fundamental. . . . Yet, however fundamental and entrenched in the constitutional heritage of our state, the right to bear arms is not absolute.”). In *Klein*, the Court held that R.C. 2923.16 does “not unconstitutionally infringe the right to bear arms.” *Id.* at ¶ 3. The version of R.C. 2923.16 in effect at that time, exempted individuals who had a concealed-handgun license. See former R.C. 2923.16(F)(5)(a). To be eligible for a concealed-handgun license, an applicant was required to be “at least twenty-one years of age.” Former R.C. 2923.125(D)(1)(b). The Ohio Supreme Court has not overruled *Klein*, and we are bound to follow it.

Ohio appellate courts have reiterated that R.C. 2923.16(B) is a constitutional restriction as it “merely regulate[d] the manner in which a person may transport or have a firearm in a motor vehicle without prohibiting all transportation of such weapons.” *State v. Quintile*, 2024-Ohio-2026, ¶ 24 (9th Dist.), quoting *State v. Henderson*, 2012-Ohio-1268, ¶ 49 (11th Dist.); *State v. King*, 2011-Ohio-3417, ¶ 25 (2d Dist.) (R.C. 2923.16 does not unconstitutionally infringe on the right to bear arms because it merely restricts the manner in which firearms may be handled in a motor vehicle); *State v. Smith*, 2018-Ohio-4297, ¶ 21 (10th Dist.) (R.C. 2923.16 does not violate the right to bear arms, and it effectively serves to “to prevent and limit a dangerous situation caused by using one hand to access a loaded pistol while the other

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hand is engaged in driving”); *State v. Robinson*, 2015-Ohio-4649, ¶ 18 (12th Dist.) (R.C. 2923.16 does not infringe on the right to bear arms because it merely “restricts the manner in which firearms may be handled in a motor vehicle”); *State v. Watson*, 2004-Ohio-2628, ¶ 20 (4th Dist.) (R.C. 2923.16 “does not unconstitutionally infringe the right to bear arms”). Accordingly, we sustain the second assignment of error.

Having sustained the State’s first and second assignments of error, we reverse the trial court’s judgment and remand the cause for further proceedings.

The court further orders that (1) a copy of this Judgment constitutes the mandate, (2) the mandate be sent to the trial court for execution under App.R. 27, and (3) costs shall be taxed under App.R. 24.

MOORE, J., concurs.

Kinsley, P.J., dissents

Kinsley, P.J., dissenting.

I respectfully dissent from the majority’s well-reasoned judgment entry for the reasons explained in my dissenting opinion in *State v. Stonewall*, 2025-Ohio-4974 (1st Dist.).

But I also write separately to express a different concern. For reasons similar to those I identified in *Stonewall*, the Second District recently declared R.C. 2923.16(B) unconstitutional in *State v. Matosky*, 2025-Ohio-5658 (2d Dist.), *appeal accepted*, 2026-Ohio-1248. But this court continues to uphold it in the face of Second Amendment challenges. As a result, given the differing decisions between the two courts, 18-to-20-year-old citizens in Dayton are permitted to exercise their right to self-defense in cars, while similarly-aged citizens in Cincinnati are not. Thus, under the current state of the law, a young person’s ability to exercise the right to armed self-defense depends on nothing but geographic location.


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The Ohio Supreme Court accepted review of *Matosky* and certified a conflict between it and our decisions in *Stonewall* and *State v. Reed*, 2025-Ohio-4708 (1st Dist.). But it stayed *Matosky* pending its decision in *State v. Striblin*, 2024-Ohio-2142, (5th Dist), *appeal accepted*, 2024-Ohio-4713, a case that questions the constitutionality of Ohio’s statute prohibiting the possession of guns in bars. *Striblin* has been pending before the Ohio Supreme Court since October 1, 2024 and has not yet been decided.

This landscape creates substantial unfairness for the participants in our legal system. While reasonable people can disagree on the fine points of the history-and-tradition test for firearms restriction, the need for clarity in the law is not debatable. To avoid a situation where a constitutional right rises and falls based on a person’s location, I adhere to my dissent in *Stonewall* and to the reasoning set forth in *Matosky*.

To the clerk:

Enter upon the journal of the court on 6/12/2026 per order of the court.

By:  _____
Administrative Judge