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

STATE OF OHIO,	:	APPEAL NO. C-240621 TRIAL NO. B-2401593
Plaintiff-Appellee,	:	
vs.	:	*JUDGMENT ENTRY*
NORMAN JOHNSON,	:	
Defendant-Appellant.	:	

This cause was heard upon the appeal, the record, the briefs, and arguments.

For the reasons set forth in the Opinion filed this date, the judgment of the trial court is affirmed.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs be taxed under App.R. 24.

The court further orders that (1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and (2) the mandate be sent to the trial court for execution under App.R. 27.

To the clerk:

Enter upon the journal of the court on 9/25/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Hensley
Administrative Judge

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Plaintiff-Appellee,	:	
vs.	:	*O P I N I O N*
NORMAN JOHNSON,	:	
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Court of Common Pleas

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: September 25, 2026

Connie Pillich, Hamilton County Prosecuting Attorney, and *Norbert Wessels,* Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Law Office of Michele L. Berry, LLC, and *Michele L. Berry*, for Defendant-Appellant.

NESTOR, Judge.

{¶1} Defendant Norman Johnson found himself facing two gun charges and six drug charges after police found a gun and drugs in his abandoned backpack. A jury found him guilty of all counts, and the court sentenced him to a term of consecutive sentences. On appeal, he argues the Second Amendment to the United States Constitution prevents his gun convictions. He also challenges the consecutive nature of his sentences and the effectiveness of trial counsel.

{¶2} Because Johnson did not raise a *Bruen* challenge below or a plain error argument on appeal, we affirm his gun convictions. *See New York State Rifle & Pistol Assn v. Bruen*, 597 U.S. 1 (2022). We also hold that the consecutive sentences complied with Ohio law and that trial counsel was not ineffective.

I. Factual and Procedural History

{¶3} The State charged Johnson with eight counts: carrying a concealed weapon, having a weapon under a disability, possession of cocaine, two counts of aggravated drug possession, two counts of possession of a fentanyl-related compound, and possession of heroin. Johnson raises three assignments of error. None of his assignments concern his jury trial. The State's witnesses testified to the following facts.

{¶4} On January 9, 2024, the receptionist at the Holiday Inn in Harrison, Ohio, noticed a man with a backpack enter the lobby. This man walked up to another guest and asked for a cigarette. While the receptionist was checking other people in, she observed the man walk down the hallway towards the bathroom. An hour and a half after first noticing him, she knocked on the door of the men's restroom. She received no response and tried again a few minutes later. She called the nonemergency line for the Harrison Police and an officer responded.

{¶5} Upon arrival, the officer knocked on the door and identified himself as the police. The man in the bathroom opened the door and the two men spoke. The officer asked whether the man had permission to be in the hotel. As they walked to the door, the officer asked the man for identification. The man dropped the backpack he was carrying and ran away.

{¶6} The officer searched the abandoned bag and found a 9 mm handgun, drugs, and two IDs that belonged to Norman Johnson. One bag of drugs weighed 9.342 grams and was a mixture of bromazolam, fluorofentanyl, heroin, metonitazene, cocaine, fentanyl, and xylazine. The other contained 0.262 grams of cocaine.

{¶7} Johnson testified in his own defense that he was not at the Holiday Inn that night. Rather, he asserted he was at his mother's house. He testified that his backpack was stolen days prior and that the drugs and gun were not his.

{¶8} The jury found Johnson guilty of all charges. The court ordered a presentence investigation report ("PSI") and scheduled the sentencing for a later date.

{¶9} At the sentencing, the trial court stated, "The presentence report does point out that the risk of recidivism from you is high." The trial court noted that Johnson was convicted in 2018 for having a weapon under disability. Johnson also had a juvenile record for "two times obstructing official business, criminal damaging, burglary, disorderly conduct a couple of time, felonious assault, felonious assault, which was the basis of the weapon under disability, theft, [and] criminal trespass." The trial court also said, "There was also some type of domestic battery in Indiana, which you were confined for two years."

{¶10} The court then imposed consecutive sentences. The court found consecutive sentences were necessary "to protect the public [from] future crime and to punish the offender properly," and "that consecutive sentences [were] not

disproportionate to the seriousness of the Defendant's conduct and the danger that [he] pose[s] to the public." The trial court also found that Johnson's "history of criminal conduct demonstrates that consecutive sentences [were] necessary to protect the public from future crime."

{¶11} The trial court then merged the concealed carry conviction with the weapon under disability conviction and imposed 36 months in the Ohio Department of Rehabilitation and Correction for the gun charges. The court then merged all other counts and imposed 36 months in the Ohio Department of Rehabilitation and Correction for the drug charges. The court ran the gun and drug sentences consecutively to each other, so Johnson received 72 months, or six years, in total. Johnson was credited 161 days.

{¶12} Johnson filed this appeal. Appellate counsel for Johnson originally filed a no-error brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). But having determined that Johnson had possibly meritorious issues to raise on appeal, we assigned new counsel and ordered counsel to file an appellate brief on the merits. Appellate counsel has filed an appellate brief and raised three assignments of error.

II. Analysis

{¶13} In his first assignment of error, Johnson argues the weapons under disability and concealed carry statutes are unconstitutional as applied to him. In his second assignment of error, Johnson argues the trial court did not make the necessary findings to support consecutive sentences. In the third assignment of error, Johnson argues he received ineffective assistance of counsel.

A. First Assignment of Error

{¶14} In his first assignment of error, Johnson raises two as-applied *Bruen* challenges. He did not raise either challenge below. "Failing to challenge the

constitutionality of a statute or the statute's application at the trial level forfeits that issue on appeal." *State v. Barber*, 2025-Ohio-1193, ¶ 81 (1st Dist.), citing *State v. Awan*, 22 Ohio St.3d 120, 120 (1986). "Even when a constitutional issue is forfeited, an appellate court has discretion to consider the issue for plain error." *Id.*, citing *State v. Griffin*, 2020-Ohio-3707, ¶ 56 (1st Dist.). "To show plain error, [Johnson] must establish an 'obvious error that affected the outcome of his case.'" *Id.*, quoting *State v. Martin*, 2024-Ohio-10, ¶ 29 (1st Dist.). "But when appellants fail to develop plain-error arguments, this court will not construct plain-error arguments for them." *Id.*, citing *State v. Jones*, 2018-Ohio-4754, ¶ 46 (1st Dist.).

{¶15} In his reply brief, Johnson argued plain error. However, we "will not consider arguments raised for the first time in a reply brief." *State v. Snyder*, 2025-Ohio-4444, ¶ 329 (1st Dist.), citing *State v. Pitts*, 2022-Ohio-4172, ¶ 14 (1st Dist.). Johnson did not raise a plain error argument in his initial brief, and we decline to do so for him. *See Barber* at ¶ 82.

{¶16} Accordingly, we overrule appellant's first assignment of error.

B. Second Assignment of Error

{¶17} In his second assignment of error, Johnson argues the trial court erred imposing consecutive sentences. We review the record to determine if there was clear and convincing evidence that the record does not support the trial court's findings under R.C. 2929.14 or that the sentences are otherwise contrary to law. R.C. 2953.08(G)(2).

{¶18} R.C. 2929.14(C)(4) states the court may impose consecutive sentences if the offender has multiple convictions. The trial court is required to make three findings to impose consecutive sentences: (1) "the consecutive service is necessary to protect the public from future crime or to punish the offender[,]" (2) the "consecutive

sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public," and (3) then either (a), (b), or (c). In our case, neither (C)(4)(a) or (b) apply, so that leaves (c), "The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender."

{¶19} Here, the trial court made the required findings on the record. The trial court determined the consecutive sentences were necessary to protect the public from future crime because Johnson had previous charges and did not take responsibility for his actions. Under the Supreme Court's ruling in *State v. Glover*, 2024-Ohio-5195, the record supports the court's findings, so we cannot vacate or modify the sentence. *See Glover* at ¶ 52.

{¶20} We overrule Johnson's second assignment of error.

C. Third Assignment of Error

{¶21} In his last assignment of error, Johnson argues that he was denied the effective assistance of counsel because his trial attorney did not raise a *Bruen* challenge. Ineffective assistance of counsel involves a two-prong analysis. *State v. Sharkey*, 2025-Ohio-5117, ¶ 11 (1st Dist.). "To prevail, [Johnson] must show that counsel's performance was deficient, and that he was prejudiced as a result of counsel's deficient performance." *Id.*, citing *Strickland v. Washington*, 466 U.S. 668, 687-688 (1984).

{¶22} For deficient performance, Johnson "must show that counsel's representation fell below an 'objective standard of reasonableness.'" *Id.* at ¶ 12, quoting *State v. Ross*, 2024-Ohio-3117, ¶ 36 (1st Dist.). For prejudice, Johnson must demonstrate "'there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different.'" *Id.*, quoting *Ross* at ¶

37. Johnson must demonstrate both. *Id.* at ¶ 13, citing *Strickland* at 697. Our analysis ends if Johnson fails to show either prong. *Id.*, citing *State v. Madrigal*, 87 Ohio St.3d 378, 389 (2000), citing *Strickland* at 697.

{¶23} There is not a reasonable probability that Johnson would have been successful. At sentencing, the trial court stated that Johnson had the following adjudications: two convictions for obstructing official business, criminal damaging, burglary, disorderly conduct "a couple of times," and felonious assault with a gun. The trial court also stated Johnson had the following charges as an adult: having a weapon under disability, theft, criminal trespass, and domestic violence.[1] We cannot say with reasonable probability that Johnson would be able to overcome a dangerousness analysis on these facts. *See State v. Thacker*, 2024-Ohio-5835, ¶ 79 (1st Dist.) ("[O]ur nation has a long history of disarming classes of individuals deemed by the legislature to be dangerous.").

{¶24} We overrule Johnson's third assignment of error.

III. Conclusion

{¶25} Having overruled all assignments of error, we affirm the trial court's judgment.

Judgment affirmed.

BOCK, P.J., and **MOORE, J.,** concur.

[1] Johnson's appellate brief suggests he only has a juvenile adjudication for felonious assault. The State's appellate brief states he has the juvenile felonious assault and a domestic battery charge. In his reply brief, Johnson stated he had not been convicted of domestic battery. Because of these discrepancies, this court ordered the trial court to transmit the PSI. Upon review, the PSI stated Johnson was convicted of domestic battery in Indiana and served a prison term of 730 days.