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

STATE OF OHIO,	:	APPEAL NO. C-250310 TRIAL NO. B-2404317
Plaintiff-Appellee,	:	
vs.	:	
PATRICK WALKER,	:	
Defendant-Appellant.	:	*JUDGMENT ENTRY*

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 reversed and the cause is remanded.

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 10/23/2026.

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.	:	
PATRICK WALKER,	:	
		OPINION
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Court of Common Pleas

Judgment Appealed From Is: Reversed and Cause Remanded

Date of Judgment Entry on Appeal: October 23, 2026

Connie Pillich, Hamilton County Prosecuting Attorney, and *John D. Hill, Jr.,* Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Stephenie N. Lape, PLLC, and *Stephenie N. Lape*, for Defendant-Appellant.

CROUSE, Presiding Judge.

{¶1} Patrick Walker was riding his dirt bike through the Banks in downtown Cincinnati when officers ordered him to stop. In response, Walker's bike lurched forward, then abruptly stopped. An officer quickly yanked Walker off his bike, ostensibly to arrest him for obstructing official business. Officers searched Walker and found a concealed firearm, which Walker was not legally allowed to possess due to an Illinois drug-trafficking conviction.

{¶2} Walker was charged with having a weapon under disability and carrying a concealed weapon. He moved (1) to suppress the gun as the fruit of an illegal search and (2) to dismiss the charges as violating his Second Amendment rights. Both motions were denied. Walker pled no contest and was convicted. On appeal, he challenges the arrest that led to the search of his person and the constitutionality of his firearms convictions.

I. Factual and Procedural History

{¶3} On September 6, 2024, Cincinnati Police Officers Gibson and Epure patrolled "the Banks," a busy, open-container bar district in downtown Cincinnati, during the late-night shift. The officers testified that during their shift, they observed defendant-appellant Patrick Walker and "four or five" compatriots riding dirt bikes through the area in a conspicuous manner—popping "wheelies, traveling at a high rate of speed, driving left of center," "not paying attention to any traffic signals," and generally "ignoring all traffic laws." The officers also testified that the bikes—at least Walker's—lacked proper license plates.

{¶4} So, when Officers Gibson and Epure observed the group again near the end of their shift—a little before 2:00 a.m. on September 7—they tried to stop them. The officers began to approach the group, including Walker, who had stopped at a red

light. As the officers approached, several of the riders ran the red light or began to drive away. Walker, who was wearing a bright yellow construction vest, initially remained. The officers testified that they both ordered Walker (and presumably the others) to "stop" and "come here," although their commands cannot be clearly heard in any recordings.

{¶5} In the video, Walker can be seen glancing toward the officers. As the other riders at the light pulled away and the officers moved closer to the group, Walker turned his eyes back to the road ahead. His bike lurched forward a few feet, as his front wheel lifted off and returned to the ground. Walker's left foot sought the pavement in an effort to regain control in spite of the bike's momentary momentum.

{¶6} Before Walker's bike could return to a full standstill (or perhaps before he could attempt to accelerate once more), Officer Gibson rushed toward Walker and pulled him from his seat. A scuffle ensued, as Officer Gibson, now joined by Officer Epure, attempted to subdue and restrain Walker. At the hearing and in the video, the officers asserted that Walker tried to reach for his waistband as they wrestled him to the ground. At oral argument on appeal, the State conceded that pulling Walker from his bike was the moment of arrest.

{¶7} Once Walker was in custody, officers searched his person and discovered a loaded handgun.

{¶8} Five days later, on September 12, the Hamilton County Grand Jury returned an indictment charging Walker with carrying a concealed weapon in violation of R.C. 2923.12(A)(2) and having a weapon under a disability in violation of R.C. 2923.13(A)(3). The indictment alleged that Walker was disabled from having a firearm under Ohio law because he "had been convicted of a felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking of any drug of abuse,

to wit: TRAFFICKING IN HEROIN in the COOK CO. IL CIRCUIT COURT under case number 13CR0490502 on JUNE 5, 2013." Walker pled not guilty.

{¶9} On December 11, 2024, Walker filed a motion to suppress the gun and other evidence as the fruit of an unlawful seizure and search. In the motion, Walker asserted that "the police lacked a reasonable articulable suspicion to make an investigatory stop of Mr. Walker or search his person and further lacked probable cause to arrest Mr. Walker and then search him incident to arrest." The State did not file any opposition.

{¶10} On February 25, 2025, the trial court held a suppression hearing. The parties jointly submitted a video pulled from social media that depicted the events leading up to the arrest. The State also offered footage from Officer Epure's body-worn camera ("BWC"), which was admitted by stipulation. The BWC video provides little information about the lead-up to the seizure, however, as Officer Epure's hand covers the BWC lens for the first 30 seconds.

{¶11} The hearing also featured the testimony of Officers Gibson and Epure. Their descriptions of events contextualized the video. Both officers insisted that Walker's jolt forward resulted from Walker's failed attempt to put the bike into gear and drive away, not an attempt to release the clutch and comply.

{¶12} Officer Gibson said that he had intended to stop Walker for the license-plate violation, and that, if Walker had complied, "he would have been cited and sent on his way." The officers asserted, however, that Walker had obstructed them by lurching forward in an attempt to flee, and that this gave them probable cause to arrest him. All parties to the hearing appeared to agree that Walker was under arrest at the moment Officer Gibson pulled him from his bike. Although the officers also testified about potential resisting-arrest and reckless-operation offenses, the State limited its

closing argument to the obstruction charge, concluding, "It's clear that the intent is to get away from these officers who are—as they testified—are making lawful command. . . . It's very clear from the two videos and from the testimony that he was going to continue past them. That is obstruction, Judge. Thank you."

{¶13} The trial court denied Walker's motion from the bench. Most of the court's ruling concerned the officers' grounds for stopping Walker in the first place. But the court also said, "It appears uncontroverted that the defendant attempted to flee when ordered to stop." Ultimately, the court concluded that

> The officer believed that the defendant was attempting to get away from them, credible, supported by both officers as well as the video at that point they were stopping the defendant. Any objectively reasonable officer would believe that the defendant *was obstructing official business*.
>
> It's clear from the testimony and the evidence their intent was to effectuate an arrest of defendant given the defendant's actions, the driving in that area which was unlawful. The officers had reasonable cause to stop the defendant when he pulled away after the demand to stop. They had every reason to further their investigation.
>
> Therefore, the motion to suppress is denied.

{¶14} Shortly thereafter, Walker filed a motion to dismiss the concealed-carry and weapons-under-disability charges on the ground that they violated the Second Amendment to the United States Constitution. This time, the State filed a memorandum in opposition. The trial court issued an entry denying Walker's motion, stating simply, "The Court finds R.C. 2923.13 is constitutional as applied to the Defendant. Further, based on the historical precedent laid out in [*Bruen*], Defendant's

motion to dismiss is DENIED."

{¶15} With both his motions denied, Walker withdrew his not-guilty pleas and entered pleas of "no contest." After a hearing, the trial court accepted Walker's no-contest pleas, found him guilty on both counts, and sentenced him to a two-year community-control term on each.

II. Analysis

{¶16} Walker now appeals his convictions and, in two assignments of error, challenges the denials of (1) his motion to suppress the fruits of the seizure and search of his person, and (2) his motion to dismiss on Second Amendment grounds.

A. First Assignment of Error

{¶17} In his first assignment of error, Walker contends that the trial court erred by denying his motion to suppress the evidence obtained by searching his person. We review a ruling on a motion to suppress as presenting mixed questions of law and fact. *State v. Burnside*, 2003-Ohio-5372, ¶ 8. We therefore accept the trial court's factual findings, if they are supported by competent, credible evidence, while considering de novo any questions about the law or its application to the facts. *State v. Rogers*, 2022-Ohio-4535, ¶ 26 (1st Dist.).

1. Fourth Amendment Standards

{¶18} Warrantless searches, like the one at issue here, are unreasonable under the Fourth Amendment unless they fall within an exception to the warrant requirement. *Xenia v. Wallace*, 37 Ohio St.3d 216, 218 (1988). Relevant here is the "search incident to arrest" exception, which holds that an officer may conduct a warrantless search of an arrestee's person and immediate surroundings, even if the officer lacks the probable cause to search. *Chimel v. California*, 395 U.S. 752 (1969); *United States v. Robinson*, 414 U.S. 218 (1973). However, if the underlying "arrest was

unlawful," then a search incident to the arrest "is also unlawful." *State v. Stallings*, 2003-Ohio-6918, ¶ 12 (1st Dist.).

{¶19} So, then, this case turns on the validity of Walker's warrantless arrest. An officer may, consistent with the Fourth Amendment and Ohio law, conduct a warrantless arrest of an individual whom they have probable cause to believe committed a criminal offense in their presence. *See* R.C. 2935.03; *Atwater v. Lago Vista*, 532 U.S. 318, 354 (2001); *State v. Robinson*, 103 Ohio App.3d 490, 495-496 (1st Dist. 1995); *but see State v. Brown*, 2003-Ohio-3931 (holding that the Ohio Constitution prohibits arrests for *minor misdemeanors* not arrestable by statute). Such probable cause exists where the officer possesses information that, when viewed against the totality of the circumstances, would justify a reasonable and prudent person in believing the arrestee had committed a criminal offense. *State v. Elmore*, 2006-Ohio-6207, ¶ 39; *State v. Reed*, 2022-Ohio-3986, ¶ 23 (1st Dist.). The probable-cause inquiry is a practical benchmark and does not necessarily require officers "to rule out an innocent explanation for suspicious facts." *Reed* at ¶ 23, citing *State v. Thorton*, 2018-Ohio-2960, ¶ 22 (1st Dist.).

2. Application

{¶20} The parties all appear to agree that Walker was under arrest when Officer Gibson pulled him from his bike. Thus, at the time of that seizure, Officer Gibson needed probable cause to believe that Walker had committed an arrestable offense in his presence. The officers below contended that they had probable cause to arrest Walker for obstructing official business in violation of R.C. 2921.31(A). The State presses this rationale on appeal.

{¶21} To have probable cause that Walker obstructed official business in violation of R.C. 2921.31(A), Officer Gibson needed a reasonable basis to believe (1)

that Walker performed an affirmative act, (2) that he was not privileged to so act, (3) that he acted with the purpose to prevent, obstruct, or delay the officers in performing authorized acts within their duties, and (4) that Walker's action actually hampered or impeded the officers in performing their duties. *See State v. Chambers*, 2025-Ohio-4737, ¶ 20 (1st Dist.); *In re Payne*, 2005-Ohio-4849, ¶ 11 (1st Dist.).

{¶22} Walker's briefs address only the "hampers or impedes" element. We must therefore determine whether the officers had reason to believe that Walker's affirmative act—his brief forward motion on his dirt bike after receiving the command to stop—"hamper[ed] or impede[d]" Officers Gibson and Epure "in the performance of [their] lawful duties." R.C. 2921.31(A); *see State v. Coffman*, 2024-Ohio-1182, ¶ 27 (1st Dist.) (requiring "a nexus" between the affirmative act and the impediment or hindrance). We have held, time and time again, that a defendant only obstructs official business if his actions *actually cause* a "substantial stoppage" of an officer's work. *In re R.B.*, 2021-Ohio-3749, ¶ 18 (1st Dist.); *see State v. Stephens*, 57 Ohio App.2d 229, 230 (1st Dist. 1978). In other words, the defendant's conduct must have created "more-than-de-minimis hindrance or impediment between that officer and the officer's object." *Chambers* at ¶ 50; *see also In re S.J.*, 2023-Ohio-3441, ¶ 35 (1st Dist.); *Coffman* at ¶ 29.

{¶23} The officers were clearly within their authority to stop Walker. He does not dispute that they had sufficient reason to believe he had committed various minor misdemeanors, including driving a motor vehicle without a license plate. *See* R.C. 4503.21. Had Walker (like his compatriots) successfully zoomed away from the officers, thereby requiring them to give chase, his actions likely would have hampered or impeded the officers in effecting the stop.

{¶24} But even assuming that Walker *intended* to speed away—a fact Walker

does not seriously dispute on appeal—he failed to do so. The video shows that, after the officers told Walker to stop, Walker's bike jolted forward a few feet with only one wheel on the ground, then came to a stop with Walker's foot touching the pavement. Officer Gibson immediately removed Walker from the vehicle and took him to the ground.

{¶25} Walker's brief and unsuccessful movement could not be said to have "hamper[ed] or impede[d]" the officers. In some circumstances, a defendant can "obstruct" an officer's attempts to complete a task, even though the defendant ultimately fails to prevent the task's completion. *State v. Slayton*, 126 Ohio App.3d 158, 163-164 (1st Dist.). So, even if officers ultimately catch a fleeing individual, the flight may still cause a "substantial stoppage" in their performance of duties. *See, e.g.*, *State v. Walker*, 2025-Ohio-2982, ¶ 26 (1st Dist.) (40-second chase around and outside apartment building created substantial stoppage); *State v Lohaus*, 2003-Ohio-777, ¶ 12 (1st Dist.) (defendant's flight across several lawns leading to physical struggle produced substantial stoppage). But here, Walker did not lead the officers on any wild chase. He jolted several feet forward on his bike then stopped. The time from the officers' command to their removal of Walker from his bike was less than five seconds. Walker's actual movement lasted even less time. Walker began an attempt to flee that lasted less than five seconds and petered out before the officers had even reached him. This is the quintessential example of "de minimis interference." *Compare Coffman*, 2024-Ohio-1182, at ¶ 29 (1st Dist.) (holding that a 20-second pursuit terminated by officers tasing defendant was de minimis interference that did not hamper or impede). Even if the officers believed Walker intended to hamper or impede them, they could not reasonably believe he actually did so.

{¶26} Nor can the State rely on the officers' post-arrest efforts to justify the

arrest's initiation. In its brief, the State argues that "the evidence adduced at the hearing on Defendant's motion to suppress demonstrated that his conduct forced Officer Gibson to wrestle him off of an operable motorbike and to the ground," and that this constituted "a substantial enough impediment to give the officers probable cause to believe" Walker had obstructed official business. But the State does not dispute that Officer Gibson arrested Walker the moment he pulled Walker from the bike. At that moment, no wrestling had yet occurred. Officer Gibson *could not know*, as he yanked Walker from his seat, whether Walker would struggle with him or meekly comply with his application of force.

{¶27} The State alternatively argues that the officers had probable cause to arrest Walker for violating R.C. 2921.331 because Walker failed to comply with the officers' commands. The State's task under this statute would likely prove easier, as the statute contains no "hampers or impedes" element. Although neither officer testified that they arrested Walker for a R.C. 2921.331 violation, probable cause is an objective inquiry, not an examination of the arresting officer's subjective intent. *See Whren v. United States*, 517 U.S. 806, 812-813 (1996). Thus, an officer's "subjective reason for making the arrest need not be the criminal offense as to which the known facts provide probable cause." *Devenpeck v. Alford*, 543 U.S. 146, 153 (2004).

{¶28} But the omission that dooms the State's R.C. 2921.331 argument is not the *officers'*, but the *State's*. As Walker's reply brief notes, the State chose not to argue below that the officers had probable cause under R.C. 2921.331. The State did not file any opposition to Walker's motion to suppress, and it did not reference the offense of failure to comply or cite R.C. 2921.331 during the officers' testimony or in its arguments at the hearing. Indeed, nothing at the trial court level indicated the State was pursuing anything *other than* an obstruction theory. At a minimum, the State

failed to raise a failure-to-comply theory in a manner that would put Walker on notice that he needed to argue that point. "A first principle of appellate jurisdiction is that a party ordinarily may not present an argument on appeal that it failed to raise below." *State v. Wintermeyer*, 2019-Ohio-5156, ¶ 10. Because the State never presented its R.C. 2921.331 rationale to the trial court, it has forfeited its right to rely on it here. *See State v. Gray*, 2025-Ohio-4607, ¶ 35 (1st Dist.).

{¶29} Therefore, we hold that the trial court erred in finding the officers had probable cause to arrest Walker for obstructing official business and denying Walker's motion to suppress.

{¶30} Walker's first assignment of error is sustained.

B. Second Assignment of Error

{¶31} Although we sustain Walker's first assignment of error, that disposition does not itself terminate the prosecution. The proper remedy for a Fourth Amendment violation is suppression of the unlawfully obtained evidence, not dismissal of the charge, and it does not bar subsequent prosecution. *State v. Hobbs*, 2012-Ohio-3886, ¶ 22. Because Walker's as-applied constitutional challenge to his weapons-under-disability charge could still affect the proceedings on remand, his second assignment is not moot. We therefore address its merits.

{¶32} In his second assignment of error, Walker contends that the trial court should have dismissed his weapons-under-disability and concealed-carry charges on Second Amendment grounds. We review this de novo. *State v. Garrett*, 2026-Ohio-49, ¶ 18 (1st Dist.).

1. The Bruen *Test*

{¶33} The Second Amendment protects "the right of the people to keep and bear Arms." U.S. Const., amend. II. Conduct covered by the Second Amendment's

"plain text" is presumptively protected. *New York State Rifle & Pistol Assn. v. Bruen*, 597 U.S. 1, 17, 24 (2022). However, a state may regulate presumptively protected conduct if its regulations are "consistent with the Nation's historical tradition of firearm regulation." *Id.* Here, no one disputes that the weapons-under-disability and concealed-carry statutes target conduct within the amendment's plain text, so we proceed straight to history. *Compare State v. Garrett*, 2026-Ohio-49, ¶ 21 (1st Dist.).

{¶34} *Bruen*'s historical inquiry requires the State to explain how its law is "'relevantly similar' to laws that our tradition is understood to permit." *United States v. Rahimi*, 602 U.S. 680, 692 (2024), quoting *Bruen* at 29 and fn. 7. The State can discharge this burden by identifying analogous regulations in our Nation's history and demonstrating that they "impos[ed] similar restrictions" on arms-bearing "for similar reasons." *Id.*

2. Concealed-Carry Charge

{¶35} We begin by considering Walker's motion to dismiss his concealed-carry charge. We have previously explained that "[o]ur history and tradition reveal that legislatures were free to prohibit" some or all of their citizens from carrying weapons concealed, in order to "reduce the number of surprise shootings and to put individuals around the arms-bearer on notice of the dangerous weapon they carry." *State v. Hall*, 2025-Ohio-1644, ¶ 89 (1st Dist.). We noted that Ohio's modern law differed from some of its historic counterparts by restricting concealed carry for a subset of its population, rather than for most everyone. But we said, "Where a legislature could constitutionally apply a given prohibition to the whole of its population to assuage the same basic concerns, the fact that its modern counterpart is more porous (or, perhaps, more tailored) does not render that modern law suspect under the Second Amendment." *Id.* at ¶ 90.

{¶36} Consistent with *Hall* and subsequent cases, this court holds that the trial court did not err in denying Walker's motion to dismiss his concealed-carry charge. The statute burdens Walker's right in a manner directly analogous to how antebellum legislatures burdened the rights of all citizens. *Id.* at ¶ 79-80. And it did so to reduce the risks associated with concealing firearms. *Id.* at ¶ 88-90.

3. Weapons-Under-Disability Charge

{¶37} Walker's challenge to his weapons-under-disability charge poses a more difficult question.

{¶38} We have described Ohio's weapons-under-disability statute, R.C. 2923.13, as imposing a series of "categorical bans" on the keeping and bearing of arms, because the statute's provisions prohibit discrete classes of persons from possessing or carrying firearms altogether. *See State v. Thacker*, 2024-Ohio-5835, ¶ 17 (1st Dist.), *appeal accepted*, 2025-Ohio-705; *State v. Brown*, 2025-Ohio-8, ¶ 8-9 (1st Dist.), *appeal accepted*, 2025-Ohio-1090. Under *Bruen*, a state clearly could not ban *all* its citizens from possessing firearms. Thus, the Second Amendment requires the State to justify any categorical ban on firearms ownership by showing the law "falls within some tradition of disarming an analogous group." *See Hall*, 2025-Ohio-1644, at ¶ 39 (1st Dist.), citing *Thacker* at ¶ 17, 54-55, and *Brown* at ¶ 8-11; *see also Hall* at ¶ 101-102.

{¶39} We have said the State can make this showing "either (1) by pointing to a historical pattern of relevantly and specifically similar disarming statutes, or (2) by showing that it falls within our Nation's longstanding practice of allowing legislatures to disarm those they determine to be dangerous." (Cleaned up.) *Brown* at ¶ 10; *accord Thacker* at ¶ 54-56.

a. Specific Analogies: the "Felony" Rationale

{¶40} Here, the State has failed to point to a pattern of historical laws specifically similar to R.C. 2923.13(A)(3). It has introduced no statute or decision from the relevant periods that, for example, permitted states to *disarm* individuals because they were convicted of a felony or had trafficked in contraband. This is consistent with our observation in *Brown* that "[t]he right to keep and bear arms, protected by the Second Amendment, was not a privilege one forfeited as a punishment, but a right that yielded when an individual was found by a court to be particularly dangerous." *Brown* at ¶ 48.

{¶41} In its memorandum in opposition below, however, the State repeated an old refrain: "Historical federal laws imposing severe punishments on felons, such as capital punishment and estate forfeiture, necessarily subsumes [sic] disarmament." But felonies today are not the same as the felonies of yore. The State effectively asks us to analogize the historic rules permitting it to execute those who murdered and robbed, to its modern law disarming Walker for trafficking in contraband. While *Bruen* does not require an identical twin, it surely requires more than what the State has offered.

{¶42} Indeed, while drug prohibition is a modern invention, the founding generation was quite familiar with individuals who trafficked in contraband. Yet a quick survey of founding-era contraband laws suggests that, while traffickers were often made to forfeit the contraband or the vessel it was carried in, they were not generally made to forfeit their lives or their entire estates. The State's felony analogy, therefore, falls flat.

b. Danger-Based Rationale

{¶43} The lack of direct analogy does not doom the State's case, however.

Although the founding generation clearly had no precedent for disarming those caught trafficking in contraband, history suggests a broader national tradition of laws disarming those deemed dangerous. *Brown*, 2025-Ohio-8, at ¶ 10 (1st Dist.). Whether a class of persons is dangerous in the Second Amendment sense is a question of constitutional law, subject to judicial review. *See Thacker*, 2024-Ohio-5835, at ¶ 49, 86 (1st Dist.); *see also United States v. Williams*, 113 F.4th 637 (6th Cir. 2024).

{¶44} A disarmament based on dangerousness, we have said, is justified if (1) that class of persons can "reasonably be presumed dangerous with a firearm" and (2) "the duration of the disarmament is realistically tailored to the danger persons in that class pose." *Thacker* at ¶ 54, 80.

i. Determination of Dangerousness

{¶45} We begin by asking whether Walker is the sort of person who may be constitutionally presumed dangerous with a firearm.

{¶46} The United States Supreme Court has acknowledged that some individuals may be deemed too dangerous to bear a firearm and so disarmed. The core of this dangerousness analysis, according to *Rahimi*, is whether the "individual poses a clear threat of physical violence to another," or otherwise "present[s] a credible threat to the physical safety of others." *Rahimi*, 602 U.S. at 698, 693. In *Rahimi*, this meant the federal government could temporarily disarm an individual who was subject to a domestic-violence restraining order that contained an express finding about the danger he posed. *Id*. at 698.

{¶47} But what about a statute that disarmed based on some *proxy* for a dangerousness determination? In *United States v. Hemani*, 146 S.Ct. 1677 (2026), the Supreme Court considered the constitutionality of 18 U.S.C. 922(g)(3)'s ban on firearms possession by "an unlawful user of . . . any controlled substances." The

defendant consumed marijuana "about every other day." *Hemani* at 1684-1685. The government claimed it could disarm him based on this fact alone, analogizing its law to historical laws governing "habitual drunkards." *Id.* at 1686.

{¶48} The Court disagreed. It "appreciate[d] that drugs and guns can sometimes make for a dangerous mix" and that "many drugs well known today were unknown in early America." *Id.* at 1687. Nevertheless, the habitual drunkard laws could not support 18 U.S.C. 922(g)(3)'s application to Hemani, because the older statutes "targeted different kinds of people, did so for different purposes, and operated in different ways." *Id.* Although the habitual drunkard laws did impose significant restrictions on the liberty of substance abusers, they specifically targeted only those whose "drinking rendered them practically incapacitated and incapable of managing their affairs." *Id.* at 1689. In fact, the government could not point to any analogous infringements on liberty that applied to anyone who had not engaged in dangerous and violent conduct. *Id.* at 1689-1691. The best the government could do was point to statutes under which drunks could be made to give sureties for their good behavior. *Id.* at 1691. But such "laws usually sought to protect the community from scandals 'against good morals,'" which was nothing like the public-safety rationale ascribed to 18 U.S.C. 922(g)(3). *Id.*, quoting 5 Dane, *A General Abridgment and Digest of American Law*, 301 (1824).

{¶49} This court has, however, upheld a categorical disbarment on at least one occasion. In *Garrett*, we upheld a conviction under R.C. 2923.13(A)(2), where the defendant's disability was based on his prior conviction for aggravated assault involving a firearm. *Garrett*, 2026-Ohio-49, at ¶ 34-36, 39, 42 (1st Dist.). *Garrett* made short work of the dangerousness question and held that such a conviction for an offense against the person of another provided ample ground to believe that an

individual was dangerous with a gun. "Whatever the outer limits of the legislature's ability to presume dangerousness based on prior felony convictions," we said, an adult conviction for assault with a weapon certainly sufficed. *Id.* at ¶ 31.

{¶50} We have dealt with other categorical disarmament cases, but their specifics do not help us much here. In *Thacker*, the defendant had been disarmed based on a *juvenile adjudication* for drug trafficking. However, we avoided resolving whether such an adjudication could serve as a proxy for a dangerousness finding, ruling instead that a disarmament based on a juvenile adjudication could not continue in perpetuity. *Thacker*, 2024-Ohio-5835, at ¶ 88, 94-96 (1st Dist.). And in *Brown*, we held that the State could not disarm an individual based on the mere fact of his indictment, absent an individualized determination that he should be disarmed as a condition of bail. *Brown*, 2025-Ohio-8, at ¶ 64 (1st Dist.). But our rationale in *Brown* was relatively specific to the context of *indictments*, *recognizances*, and *sureties*, *see id.* at ¶ 24, 51-55, and so offers little aid. Finally, our opinion in *Thurmond* relied largely on *Brown* and was likewise indictee-specific. *See State v. Thurmond*, 2025-Ohio-5328, ¶ 28-29 (1st Dist.).

{¶51} Here, we are concerned with R.C. 2923.13(A)(3)'s prohibition on firearms possession by anyone who "has been convicted of any felony offense involving the illegal . . . trafficking in any drug of abuse." According to the indictment, Walker's disability stemmed from a 2013 Illinois conviction for trafficking in heroin.

{¶52} We are thus confronted by a question this court has yet to answer: Could Walker be presumed dangerous, for Second Amendment purposes, based solely on his prior conviction for drug trafficking?

{¶53} This question is a hard one. On the one hand, Walker's case is a far cry from *Rahimi*, in which the defendant had been judicially determined to pose a

prospective danger to another. Further, unlike in *Garrett*, the prior finding used to justify Walker's disarmament was not a conviction "for engaging in acts of physical violence with a firearm." *Garrett*, 2026-Ohio-49, at ¶ 30 (1st Dist.). Indeed, it was not a conviction for acts of physical violence *at all*. It thus does not fall into the heartland of danger-based disarmaments, described by the Chief Justice in *Rahimi*. *See Rahimi*, 602 U.S. at 700 ("Our tradition of firearm regulation allows the Government to disarm individuals who present a credible threat to the physical safety of others.").

{¶54} On the other hand, heroin trafficking does not fall on the other extreme of the dangerousness spectrum, either. The purchase and sale of contraband require some criminal forethought, and such conduct is therefore a far cry from the every-other-day marijuana consumption considered in *Hemani*. Nor is a conviction for drug trafficking as innocuous and minor as the food stamp fraud at issue in *Range v. Atty. Gen.*, 124 F.4th 218 (3d Cir. 2024) (en banc).

{¶55} In *United States v. Williams*, 113 F.4th at 658-659, the Sixth Circuit considered when the government could disarm individuals based on prior convictions. It recognized two extremes. On one side were "offenses against the person," like murder, rape, assault, and robbery, which "speak directly to whether an individual is dangerous." *Id.* at 658. At the other extreme were crimes that might "cause no physical harm to another person or the community," like "making false statements" or placing an opened bottle of ketchup back on the supermarket shelf, which "don't make a person dangerous." *Id.* at 659.

{¶56} But the Sixth Circuit also described an intermediate category for crimes like drug trafficking or burglary that are not inherently *violent*, but often "put someone's safety at risk." *Id.* The Sixth Circuit explained that despite its transactional nature, drug trafficking "'poses a danger to the community'" and "often leads to

violence." *Id.*, quoting *United States v. Stone*, 608 F.3d 939, 947, fn. 6 (6th Cir. 2010). And indeed, courts have a long history of presuming that guns follow drugs like smoke follows fire and night follows day. Thus, in the Sixth Circuit's view, a prior drug-trafficking conviction "justif[ied] a finding of danger." *Id.*

{¶57} *Williams*'s ruminations on drug trafficking were arguably dicta—Williams himself had "two counts of aggravated robbery" with a deadly weapon and a conviction for "attempted murder," so he fell squarely into the crimes-against-the-person bucket. *Id.* at 662. However, a later Sixth Circuit decision promoted these drug-trafficking dicta to a holding. *See United States v. Taylor*, 165 F.4th 1029, 1035 (6th Cir. 2026) ("Taylor's felony drug trafficking convictions fall within the second *Williams* category. Therefore, the district court properly concluded that Taylor was dangerous based on his prior drug trafficking convictions.").

{¶58} With this in mind, we find the *Williams* and *Taylor* cases persuasive. We think drug trafficking justifies a presumption of dangerousness, but the defendant must be given an opportunity to introduce evidence to rebut the presumption on his motion to dismiss. This would permit a defendant to show, for example, that the circumstances of his trafficking did not suggest the risks and danger presumed by *Williams*, or that the defendant had reformed. This is consistent with *Williams*, which held that "[h]istory shows that governments may use class-based legislation to disarm people it believes are dangerous, so long as members of that class have an opportunity to show they aren't." *Williams*, 113 F.4th at 661-662.

{¶59} Thus, to ensure defendants have that opportunity, district courts within the Sixth Circuit have held hearings so defendants can introduce evidence showing they are not dangerous. *See id.* at 663 ("Rather, district courts should make fact-specific dangerousness determinations after taking account of the unique

characteristics of the individual, including details of his specific conviction."). In these hearings, the court may evaluate "a defendant's entire criminal record," not just the specific crime underlying the prosecution, and may also consider how an offense was committed and how long ago it occurred. *See id.* at 659-660; *United States v. Morton*, 123 F.4th 492, 499 (6th Cir. 2024). And while violence may make a dangerousness determination simpler, "*Williams* does not require violence to show dangerousness." *Taylor* at 1036.

{¶60} In following the three categories laid out in *Williams* and repeated in *Taylor*, we note that drug trafficking is in a category below crimes like "murder, rape, assault, and robbery." *See Williams* at 658; *Taylor* at 1035; *see also United States v. House*, 2026 U.S. Dist. LEXIS 214584, *2 (N.D.Ohio Sept. 22, 2026) ("a prior conviction for murder is serious evidence that [defendant] is dangerous, and his possession of weapons would be likely to endanger the community."). But still, drug trafficking is in a category that justifies a presumption of dangerousness that can be rebutted. *Williams* at 663; *see also United States v. Baker*, 2026 U.S. Dist. LEXIS 83415, *10 (N.D.Ohio Apr. 16, 2026) ("Defendant's prior conviction for drug trafficking does not automatically classify him as dangerous . . .. It instead creates a rebuttable presumption that Defendant has the burden to overcome."); *United States v. Banks*, 793 F.Supp.3d 896, 908-909 (N.D.Ohio 2025) (holding that mere possession of drugs does not indicate future dangerousness in the way that drug trafficking does). For this reason, crimes in the second *Williams* category—here, drug trafficking—justify a rebuttable presumption in a way that crimes in the first *Williams* category often do not.

{¶61} Since the *Williams* case was released, we have, on at least one occasion, reviewed and affirmed a *Williams*-style hearing. *See State v. Johnson*, 2026-Ohio-727,

¶ 5, 19-20 (1st Dist.). But in this case, *Walker* never requested the trial court to hold a *Williams*-style hearing, nor did he present evidence to the trial court regarding his current level of dangerousness or rehabilitation. In fact, there was no hearing held at all on Walker's motion to dismiss. Thus, Walker failed to establish that Ohio's weapons-under-disability statute is unconstitutional as applied to him. *See State v. McKenzie*, 2026-Ohio-2869, ¶ 27 (3d Dist.) (recognizing the necessity of *Williams*-style hearings, but holding that defendant had forfeited his right to request one).

ii. Duration of Disarmament

{¶62} In *Thacker*, we struck down a disarming statute because it imposed an indefinite presumption of danger, based on a juvenile adjudication. *Thacker*, 2024-Ohio-5835, at ¶ 96 (1st Dist.). In *Garrett*, however, we reached the opposite conclusion with respect to a prior adult conviction for aggravated assault. *Garrett*, 2026-Ohio-49, at ¶ 32-34 (1st Dist.). We explained that, "just as early legislatures allowed loyalists to be disarmed indefinitely until they had proven they no longer posed a risk, so, too, can present-day Ohio place the burden upon Garrett to show that he would no longer be a danger to others if allowed to keep and bear arms." *Id.* at ¶ 36.

{¶63} Trafficking heroin creates a presumption that Walker posed a danger with a gun. And there is no reason why that presumption should lapse with any greater speed than that created by the prior conviction for assault in *Garrett*. As such, the State is entitled to impose a presumptively permanent disarmament on Walker for his prior conviction for trafficking heroin.

{¶64} Walker's second assignment of error is overruled.

III. Conclusion

{¶65} Although we hold that the trial court did not err in denying Walker's motion to dismiss on Second Amendment grounds, we hold that the trial court did err

in denying his motion to suppress. Thus, we reverse Walker's convictions and the decision of the trial court denying his motion to suppress. We remand this case for further proceedings in accordance with the law and this opinion.

Judgment reversed and cause remanded.

NESTOR and **MOORE, JJ.,** concur.