

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

STATE OF OHIO,	:	APPEAL NO. C-070721
	:	TRIAL NO. B-0704133B
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DOMINICK BOSTIC,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Dominick Bostic was indicted for inducing panic, carrying a concealed weapon, and having a weapon under a disability. Bostic was caught carrying a concealed loaded firearm. The charge for having a weapon under a disability was based on Bostic’s 1995 conviction for possessing less than 100 grams of marijuana, a minor-misdemeanor drug offense. Bostic pleaded guilty to carrying a concealed weapon and no contest to having a weapon while under a disability. The inducing-panic charge was dismissed. The trial court found Bostic guilty of having a weapon under a disability, and he was sentenced as appears of record.

Bostic’s first assignment of error alleges that the trial court erred in convicting him of having a weapon under a disability, because his minor-misdemeanor drug conviction was not a “disability” pursuant to R.C. 2925.11(D), which provides that an

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

arrest or conviction for a minor-misdemeanor violation of the drug-abuse statute does not constitute a criminal record.

R.C. 2923.13(A)(3) states that “unless relieved from disability as provided in section 2923.14 of the Revised Code, no person shall knowingly acquire, have, carry, or use any firearm or dangerous ordnance if * * * the person is under indictment for or has been convicted of any offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse[.]” R.C. 2901.02(A) provides that “[a]s used in the Revised Code offenses include * * * minor misdemeanors.”

Bostic was convicted of a minor-misdemeanor violation of R.C. 2925.11(A), the drug-abuse statute. A minor misdemeanor is an offense under R.C. 2901.02(A). Therefore, Bostic was convicted of a drug offense, and he is prohibited under R.C. 2923.13(A)(3) from possessing a firearm. The trial court did not err in convicting Bostic of having a weapon under a disability. The assignment of error is overruled. We point out that Bostic could have applied for relief from his disability under R.C. 2923.14, but he did not.

Bostic’s second assignment of error alleges that his conviction for having a weapon under a disability, which was based upon a prior minor-misdemeanor drug-abuse conviction, violated his right to keep and bear arms under the Ohio and United States Constitutions.

The right to bear arms under the Second Amendment to the United States Constitution and Section 4, Article I, of the Ohio Constitution is not absolute or unlimited.² The right is subject to reasonable regulation under the police power to

² See *District of Columbia v. Heller* (2008), ___ U.S. ___, 128 S.Ct. 2783; *Arnold v. Cleveland* (1993), 67 Ohio St.3d 35, 616 N.E.2d 163.

promote the safety and welfare of the public.³ We hold that the legislature's decision to prohibit drug offenders from possessing weapons is a reasonable exercise of the police power. The second assignment of error is overruled.

Therefore, the judgment of the trial court is affirmed.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HILDEBRANDT and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 26, 2008

per order of the Court _____
Presiding Judge

³ See id.