

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

STATE OF OHIO,	:	APPEAL NO. C-180231
	:	TRIAL NO. B-1705180
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JIZELLE ALLEN,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Jizelle Allen appeals her conviction, following her plea of no contest, for having a weapon while under a disability, in violation of R.C. 2923.13(A)(3). In a single assignment of error, she argues that the trial court erred by overruling her motion to dismiss the indictment.

Allen contends that R.C. 2923.13 is unconstitutional because the use of a prior juvenile adjudication of delinquency as an element of the weapons-under-disability offense violates due process. However, the Supreme Court of Ohio has recently rejected this argument in *State v. Carnes*, 154 Ohio St.3d 527, 2018-Ohio-3256, 116 N.E.3d 138 (a prior juvenile adjudication may be used as an element of the weapons-under-disability statute).

OHIO FIRST DISTRICT COURT OF APPEALS

Next, Allen contends that R.C. 2923.13 violates her rights to bear arms under the United States Constitution and the Ohio Constitution. Because she did not raise this argument in the trial court, she waived it. *See State v. Awan*, 22 Ohio St.3d 120, 122, 489 N.E.2d 277 (1986). Although we may, in our discretion, review the issue of the statute’s constitutionality for plain error, we decline to do so. *See State v. Quarterman*, 140 Ohio St.3d 464, 2014-Ohio-4034, 19 N.E.3d 900, ¶ 15-16. We overrule the assignment of error and affirm the trial court’s judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., MYERS and CROUSE, JJ.

To the clerk:

Enter upon the journal of the court on June 12, 2019,
per order of the court _____.
Presiding Judge