

**IN THE
SUPREME COURT OF OHIO**

STATE OF OHIO

Plaintiff-Appellee

v.

ANTHONY CARNES

Defendant-Appellant

CASE NO. 2017-0087

ON APPEAL FROM HAMILTON
COUNTY COURT OF APPEALS, FIRST
APPELLATE DISTRICT

COURT OF APPEALS CASE NO.
C-150752

**BRIEF OF AMICUS CURIAE CUYAHOGA COUNTY PROSECUTOR'S OFFICE IN
SUPPORT OF APPELLEE STATE OF OHIO**

JOSEPH T. DETERS (#0064126)
Hamilton County Prosecutor
SCOTT M. HEENAN (#0075734)
Assistant Prosecuting Attorney
Hamilton County Prosecutor's Office
230 E. 9th Street, Suite 4000
Cincinnati, Ohio 45202
513-946-3227

Counsel for Appellee – State of Ohio

MICHAEL DEWINE (#0009181)
Attorney General of Ohio

ERIC E. MURPHY (#0083284)
State Solicitor
SAMUEL PETERSON
Deputy Solicitor
30 East Broad Street, 17th Floor
Columbus, Ohio 43215

Counsel for Amicus Curiae-Ohio Attorney General

MICHAEL C. O'MALLEY
Cuyahoga County Prosecutor
DANIEL T. VAN (#0084614)
Assistant Prosecuting Attorney
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113
216-443-7865
dvan@prosecutor.cuyahogacounty.us

Counsel for Amicus Curiae-Cuyahoga
County Prosecutor's Office

PETER GALYARDT (#0085439)
Assistant Ohio Public Defender
250 E. Broad Street, Suite 1400
Columbus, Ohio 43215
614-466-5394
peter.galyardt@opd.ohio.gov

Counsel for Appellee

ADDITIONAL COUNSEL LISTED ON SERVICE

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INTRODUCTION

Persons who commit violent felony offenses are considered bad risks who should not be allowed to legally possess a firearm. The fact that a person who commits the violent felony offense as a juvenile does not make that person any less of a bad risk. But Ohio's weapons disability law recognizes that people can turn their lives around and become law-abiding citizens after committing a single indiscretion or even after committing a series of crimes decades ago. That person can legally possess a firearm after following the appropriate statutory remedy; but until that time, the person should not be able to possess a firearm under Ohio law.

Anthony Carnes did not want to take advantage of the statutory remedy available to him. Instead, he decided to possess a firearm in violation of Ohio law. Carnes seeks to use his case, to invalidate a constitutional restriction on firearm possession. To do so, Carnes relies upon this Court's decision in *State v. Hand*, 149 Ohio St. 3d 94 , 2016-Ohio-5504, 77 N.E.3d 448, in which this Court reversed a mandatory sentence that was imposed based upon a juvenile adjudication and in doing so held:

1. R.C. 2901.08(A) violates the Due Process Clauses of Article I, Section 16 of the Ohio Constitution and the Fourteenth Amendment to the United States Constitution because it is fundamentally unfair to treat a juvenile adjudication as a previous conviction that enhances either the degree of or the sentence for a subsequent offense committed as an adult.

2. Because a juvenile adjudication is not established through a procedure that provides the right to a jury trial, it cannot be used to increase a sentence beyond a statutory maximum or mandatory minimum. (*Apprendi v. New*

Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000), and *Alleyne v. United States*, __ U.S. __, 133 S.Ct. 2151, 186 L.Ed.2d 314 (2013), followed.)

Appellate courts across the State of Ohio have rejected any extension of *Hand* and have uniformly agreed that the State of Ohio can prosecute adults for HWWUD where the offense is predicated upon a juvenile adjudication. See *State v. Barfield*, 1st Dist. Hamilton No. C-160768, 2017-Ohio-8243, *State v. Brown*, 10th Dist. Franklin No. 16AP-753, 2017-Ohio-7134, ¶12, *State v. Boyer*, 2nd Dist. Clark No. 2016-CA-63, 2017-Ohio-4199, ¶13, *State v. McCray*, 1st Dist. Hamilton No. C-160272, 2017-Ohio-2996, *State v. Jackson*, 2nd Dist. Montgomery No. 27351, 2017-Ohio-4197, *State v. Kristopher*, 2nd Dist. Montgomery No. 27405, 2017-Ohio-7941, ¶9, *State v. Williams*, 10th Dist. Franklin No. 16AP-540, 2017-Ohio-5598, *State v. Carney*, 1st Dist. Hamilton No. C-160660, 2017-Ohio-8585, and *State v. Herron*, 2nd Dist. Montgomery No. 27378, 2017-Ohio-8908, ¶7. This case reflects the greater public interest in prohibiting certain bad risks from legally possessing a firearm, which includes those who have been adjudicated delinquent of certain crimes such as violent felony offenses.

It is not fundamentally unfair to keep firearms out of the hands an individual who is deemed to be a bad risk, even if the condition that disqualifies the individual is a prior juvenile adjudication for an offense, if committed by an adult, would be a felony. Such a holding in no way violates the due process rights of the individual and does not violate any right guaranteed under the United States Constitution or the Ohio Constitution. As amicus curiae, the Cuyahoga County Prosecutor's Office urges this Court to affirm the

decision of the First District in *State v. Carnes*, 1st Hamilton No. C-150752, 2016-Ohio-8019 and to hold that a juvenile adjudication may serve as a disqualifying condition that precludes an individual from legally possessing a firearm.

STATEMENT OF THE CASE AND FACTS

Amicus curiae adopts the statement of the case and the statement of the facts as set forth by Appellee, State of Ohio.

STATEMENT OF INTEREST OF AMICUS CURIAE

Prosecutor Michael C. O'Malley is the elected prosecutor of Cuyahoga County. Under the leadership of Prosecutor O'Malley, the Cuyahoga County Prosecutor's Office ("CCPO"), is committed to curbing youth violence in Cuyahoga County. The CCPO, as an amicus curiae, is urging this Court to affirm the judgment of the First District Court of Appeals because it believes that public policy is strongly in favor of upholding the constitutionality of HWWUD laws that restrict persons who have been adjudicated delinquent for committing felony offenses of violence from possessing firearms.

As the elected prosecutor, Prosecutor O'Malley has observed the devastating effects of youth gun violence on families across Cuyahoga County through the cases that come through his office. As a result of a recent disturbing trend in youth gun violence, Prosecutor O'Malley has increased his attention towards holding youths accountable for the pain and suffering caused by youths who commit violent felony offenses with

firearms. The current level of criminal activity committed by youths in Cuyahoga County has reached a level that was unseen decades ago. The CCPO has observed this new wave of youth violence as being committed by individuals between 14 and 21 years old. Figures released by the Cuyahoga County Prosecutor's Office to the media in 2017 showed that, from 2011 to 2016, juveniles charged with murder went up 300 percent, felonious assault charges went up 156 percent and robbery went up 344 percent. A media review of court data showed that the number of juveniles charged in homicide-related cases has for the most part steadily increased since 2012 and the number of juveniles charged in robberies also spiked in 2016, to 1,047¹. On March 27, 2017, it was reported that there were 195 pending juvenile cases that involved a firearm in Cuyahoga County². A review by the CCPO, in preparation for this brief, showed that there were 72 cases charged in juvenile court during 2016 that included a count of R.C. 2923.13(A)(2). Among the adults charged with HWWUD during the year 2016, the undersigned counted 68 cases, in which there was at least one count of R.C. 2923.13(A)(2) charged and that was based upon a juvenile

¹ News 5 Cleveland, *Cuyahoga County prosecutor: 'Our community is under siege by juvenile violence'* <https://www.news5cleveland.com/news/local-news/oh-cuyahoga/-right-now-our-community-is-under-seige-by-juvenile-violence-said-cuyahoga-county-prosecutor> (accessed January 4, 2018)

²Cleveland.com, *Cleveland shooting that killed four; injured five highlight troubling youth gun violence*, http://www.cleveland.com/metro/index.ssf/2017/03/cleveland_shootings_that_kille.html (accessed January 4, 2018)

adjudication. This reflects a concern of continued illegal firearm possession into adulthood.

Other sources support the CCPO's concerns regarding youth violence. Some of the youth violence is attributable to gang activity. According to the National Youth Gang Survey in 2012, there was an estimated 30,700 gangs operating in the United States, with an estimated 850,000 members, of which 35% were under the age of 18³. A recent media outlet reported that a September 2017 USA Today ranked Cleveland, Ohio 9th in the United States for juveniles killed or injured by gunfire.⁴ The trend of youths involved in gang violence is disturbing, as one recent study published in the American Journal of Public Health found adolescent gang membership had significant consequences in adulthood beyond criminal behavior.⁵ In comparison with their nongang peers, those gang involved subjects in the study had higher rates of self-reported crimes, receipt of

³ U.S. Department of Justice, Office of Justice Programs, *Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Fact Sheet*, <https://www.ojjdp.gov/pubs/248025.pdf> (accessed January 4, 2018)

⁴ WKYC, *INVESTIGATOR | Cleveland ranks 9th in teen gun violence*, <https://www.wkyc.com/article/news/investigations/investigator-cleveland-ranks-9th-in-teen-gun-violence/95-495270690> (accessed January 4, 2018)

⁵ Gilman AB, Hill KG, Hawkins JD. Long-Term Consequences of Adolescent Gang Membership for Adult Functioning. *American Journal of Public Health*. 2014;104(5):938-945, available via internet at US National Library of Medicine, National Institutes of Health, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3987584/pdf/AJPH.2013.301821.pdf> (accessed January 4, 2018).

illegal income, incarceration, drug abuse or dependence, poor general health and lower rates of high school graduation. *Id.* This study highlights the unmistakable need to recognize, that a juveniles delinquent behavior can morph in to criminal behavior as an adult.

Prosecutor O'Malley recognizes one of the goals of juvenile court is to rehabilitate the child and will continue to work with the juvenile court to divert cases where appropriate, but there is also the need to address the unprecedented increase in crimes committed by juveniles. Some cases will be appropriately bound over for adult prosecution and may result in a criminal conviction. Other cases, for one reason or another, will be retained in the juvenile court system and may result in a juvenile adjudication.

The consequence of a juvenile adjudication do not end at age 18 and the public safety interest cannot completely ignore a person's prior involvement with the juvenile justice system. This presents a challenge regarding when is it appropriate to take into consideration a person's prior juvenile adjudication. One of the challenges came when this Court decided *State v. Hand*, 149 Ohio St.3d 94, 2016-Ohio-5504. Immediately upon release of this Court's decision in *Hand*, questions arose which affected the CCPO's charging decisions in felony such as in domestic violence cases that involved prior juvenile adjudications and Having Weapons While Under Disability ("HWWUD"). This resulted in a temporary hiatus in indicting new HWWUD cases predicated on prior

juvenile adjudications and resulted in challenges to pending HWWUD cases. One such challenge resulted in an indictment being dismissed and was only recently reversed by the Eighth District in *State v. Ortiz*, 8th Dist. Cuyahoga No. 105301, 2017-Ohio-9157. Any uncertainty in charging new HWWUD cases in Cuyahoga County was resolved when the Eighth District Court of Appeals decided *State v. Stewart*, 8th Dist. Cuyahoga No. 105154, 2017-Ohio-2993. In addition to the challenges to indicted cases, there was at least one instance in the Juvenile Division of the Cuyahoga County Court of Common Pleas involving an alleged delinquent child attempting to dismiss his HWWUD complaint on the basis of *Hand*. That challenge also failed. While one of the undeniable goals of the juvenile court is to rehabilitate the delinquent child and recognize that some acts are attributable in part to adolescence, there is an unmistakable reality that violent juveniles will continue to pose a risk going into adulthood.

Now that, this Court must determine the constitutionality of Ohio's HWWUD as applied to juvenile adjudications, Amicus Curiae urges this Court not to overlook the broad impact of any decision reached by this Court. This case is not just about the juvenile who committed a single indiscretion decades ago, as the broader impact of this case effects every juvenile who has committed a violent felony offense who should not have the right to legally possess a firearm as soon as they turn 18.

LAW & ARGUMENT

Proposition of Law (As Accepted for Review): Juvenile adjudications cannot satisfy elements of an offense committed as an adult. Fifth, Sixth, and Fourteenth Amendments, United States Constitutions; Section 5 and 15, Article I, Ohio Constitution. *State v. Hand*, [149 Ohio St. 3d 94 , 2016-Ohio-5504, 77 N.E.3d 448]; *State v. Bode*, 114 Ohio St.3d 155, 2015-Ohio-1519, 41 N.E.3d 1156, *Alleyne v. United States*, 570 U.S. ____ , 133 S.Ct. 2151, 186 L.Ed.2d 314 (2013), *Apprendi v. New Jersey*, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed. 435 (2000).

A. Introduction

Carnes challenges his conviction for violating R.C. 2923.13(A)(2). That statute states:

(A) Unless relieved from disability under operation of law or legal process, no person shall knowingly acquire, have, carry, or use any firearm or dangerous ordnance, if any of the following apply:

(2) The person is under indictment for or has been convicted of any felony offense of violence or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been a felony offense of violence.

The CCPO agrees with the State of Ohio and urges this Court to reject the proposition of law advanced by Appellant. This Court should affirm the judgment of the First District Court of Appeals, and hold that: the use of a juvenile adjudication to satisfy the elements of having weapons while under disability in violation of R.C. 2923.13(A)(2) is not prohibited under *State v. Hand*, 149 Ohio St. 3d 94 , 2016-Ohio-5504, 77 N.E.3d 448.

The firearm restrictions that are predicated upon juvenile adjudications for felony drug offenses and felony offenses of violence not offend an individual's right to possess

a firearm under the Second Amendment of the United States Constitution or Article 1, Section 4 of the Ohio Constitution and serves an important public policy goal of keeping firearms out of the hands of individuals who have been legislatively determined to be bad risks. Although Carnes may be a snapshot of one individual whose ability to legally possess a firearm is affected by his prior “indiscretion”, there are others whose violent crimes as juveniles continued into adulthood.

The First, Second, Eighth and Tenth Appellate Districts have all refused to extend *Hand* in order to invalidate charges of HWWUD that are based upon a juvenile adjudication. These Courts have distinguished HWWUD on the basis that *Hand* prohibited sentencing enhancement. For instance, the court in *State v. Boyer*, 2nd Dist. Clark No. 2016-CA-63, 2017-Ohio-4199, reversed the trial court’s dismissal of an indictment against the defendant of HWWUD, in violation of R.C. 2923.13(A)(2), because the defendant’s adjudication for rape when he was a minor was not being used to enhance a crime but used as an element of the crime and noted that there are other legal disabilities that do not require an adult criminal conviction. *Boyer*, ¶10, 15. Similarly, the Court in *State v. Williams*, 10th Dist. Franklin No. 16AP-540, 2017-Ohio-5598 also drew a distinction between using an adjudication for sentencing enhancement and using an adjudication for the basis of an offense. See also *State v. Barfield*, 1st Dist. Hamilton No. C-160768, 2017-Ohio-8243, *State v. Brown*, 10th Dist. Franklin No. 16AP-753, 2017-Ohio-7134, ¶12, *State v. Boyer*, 2nd Dist. Clark No. 2016-CA-63, 2017-Ohio-4199, ¶13, *State v. McCray*, 1st Dist.

Hamilton No. C-160272, 2017-Ohio-2996, *State v. Jackson*, 2nd Dist. Montgomery No. 27351, 2017-Ohio-4197, *State v. Kristopher*, 2nd Dist. Montgomery No. 27405, 2017-Ohio-7941, ¶9, *State v. Williams*, 10th Dist. Franklin No. 16AP-540, 2017-Ohio-5598, *State v. Carney*, 1st Dist. Hamilton No. C-160660, 2017-Ohio-8585, and *State v. Herron*, 2nd Dist. Montgomery No. 27378, 2017-Ohio-8908, ¶7.

B. R.C. 2923.13(A)(2) which restricts firearm possession by individuals who have been adjudicated delinquent for felony offenses of violence serve a valid governmental interest

Amicus curiae, Buckeye Firearm Institute, advances that restrictions on firearm possession predicated upon juvenile adjudications violate the Second Amendment of the United States Constitution and Article I, Section 4 of the Ohio Constitution as well as the Due Process Clause of the Fourteenth Amendment to the United States Constitution. In doing so, the Buckeye Firearm Institute advances its own proposition of law and relies upon the United States Supreme Court's decisions in *District of Columbia v. Heller*, 554 U.S. 570, 128 S.Ct. 2783 (2008), *McDonald v. City of Chicago*, 561 U.S. 742, 130 S.Ct. 3020 (2010) and this Court's decision in *Arnold v. City of Cleveland*, 67 Ohio St.3d 35, 616 N.E.2d 163 (1993) and *Klein v. Leis*, 99 Ohio St.3d 537, 2003-Ohio-4779, 795 N.E.2d 633.

Carnes did not advance a Second Amendment argument below; therefore, Carnes has waived his argument. This is not the exceptional case, where this Court should address the Second Amendment issues here at the first instance. It is far from settled which level of scrutiny applies and it is far from settled that there is an absolute fundamental right to possess firearms.

The district court for the District of Columbia noted that many courts have recognized that the United States Supreme Court did not explicitly hold that the Second Amendment granted a fundamental right. The district court held, “If the Supreme Court had wanted to declare the Second Amendment right a fundamental right, it would have done so explicitly. The court will not infer such a significant holding based only on the *Heller* majority’s oblique references to the gun ownership rights of eighteenth-century English subjects.” See *Heller v. District of Columbia*, 698 F.Supp.2d 179 (D.D.C. 2010). Even if we were to assume that firearm possession was a fundamental right, that does not confer strict scrutiny in all circumstances. For example: Justice Brandeis stated that “all fundamental rights comprised within the term liberty are protected by the Federal Constitution from invasion by the States. The right of free speech, the right to teach and the right of assembly are, of course, fundamental rights.” *Whitney v. California*, 274 U.S. at 373, 47 S.Ct., at 647 (1927) (concurring opinion). The First Amendment’s guarantee of freedom of speech is a well-recognized fundamental right; however, restrictions on speech are not automatically entitled to review under strict scrutiny. In *Holder v.*

Humanitarian Law Project, 130 S.Ct. 2705, 177 L.Ed.2d 355 (2010), the United States Supreme Court referred to applying intermediate scrutiny to content-neutral restrictions on speech.

Nevertheless, Amicus Curiae submits that the HWWUD statute as applied to juveniles satisfies any level of scrutiny. To address this issue, Amicus Curiae raises two points: (1) the statute serves a valid governmental purpose that may be deemed compelling; and (2) there is a mechanism that allows relief from disability for qualified individuals that is tailored to restore firearm possession to those who prove to a court they are no longer considered a bad risk.

First, the General Assembly has recognized the importance of applying HWWUD to those who have been adjudicated delinquent of certain offenses. The committee comments to the 1974 amendment to the HWWUD statute stated:

This section is similar to a former prohibition against weapons in the hands of bad risks, including fugitives, certain felons, drug dependent persons, alcoholics, and mental incompetents. The section expands upon the former law by including within the prohibition persons under indictment for or who have been convicted of, or who have been adjudged juvenile delinquent for, any felony of violence or any drug abuse offense. The section also expands upon former law by including not only firearms but all dangerous ordnance within its purview.

1974 Committee Comment to H 511

The General Assembly in 1974 recognize the importance of keeping firearms out of the hands of bad risks and this included extending the provisions of Ohio's HWWUD

statute to those who have been adjudged delinquent for any felony offense of violence and drug offenses. The General Assembly's recognition in 1974 of certain individuals who have been adjudicated delinquent for certain offenses as being "bad risks" is readily apparent today. Based upon Amicus Curiae's statement of interest, there is a compelling interest to allow adults who have been previously adjudicated delinquent of violent offenses, to be charged and convicted of HWWUD. There is no reason to believe that in all cases, those who have been adjudicated delinquent of violent offenses to refrain from criminal activity once they turn 18. The nature and goals of the juvenile justice system can be recognized, but there need also be a recognition that the juvenile justice system need to address the public safety. This is consistent with an enumerated goal under R.C. 2152.01 to "protect the public interest and safety". It would be consistent with the goals of the juvenile justice system to acknowledge the continued risk a person may pose, after they have been adjudicated delinquent of a violent felony offense, after they have turned 18.

Furthermore, Ohio law is tailored in that, a person can prove to a court that they are a law-abiding person and regain their right to possess a firearm. See R.C. 2923.14. A firearm disability is not necessarily permanent without recourse. Thus, an individual who practices responsible gun ownership can regain the right to possess a firearm so long as they prove they are law-abiding and establish it is likely they will continue a law-abiding life. Ignorance of the law is never a defense. So too, one's ignorance over whether

they are disabled from possessing a firearm is not a defense. *State v. Johnson*, 128 Ohio St. 3d 107, 2010-Ohio-6301, 942 N.E.2d 347, ¶17. Therefore, it is infeasible for a person who is fundamentally concerned about their right to possess a firearm to claim ignorance of tools available to them to regain their right to possess a firearm.

Carnes, as other adults who have committed isolated indiscretions as juveniles can take affirmative steps to regain their right to possess a firearm. The United States Seventh Circuit Court of Appeals when determining a defendant's right to possess a firearm under federal law once opined:

[A]n unlawful drug user like [...] could regain his right to possess a firearm simply by ending his drug abuse. [...] Thus the gun ban extends so long as [the drug user] abuses drugs. In that way, [the drug user] himself controls his right to possess a gun; the Second Amendment, does not require Congress to allow him to simultaneously choose both gun possession and drug abuse.

United States v. Yancey (C.A. 7 2010), 621 F.3d 681 (emphasis added).

Like the defendant in *Yancey*, a person like Carnes could regain his right to possess a firearm by successfully petitioning the appropriate court to remove the disability. The court could remove the disability if Carnes proves that he is no longer a bad risk and that his prior juvenile adjudication was indeed a run of the mill indiscretion. On the same hand R.C. 2923.14 will justify charging a person who continues to violate the law with HWWUD if that person chooses to defy the law.

C. The lack of a jury trial in juvenile court does not make a juvenile adjudication so inherently unreliable such that it cannot be made a condition that prohibits a person from possessing a firearm. As such subsequent prosecution for HWWUD satisfies any due process requirement of the United States and Ohio constitutions.

Stare decisis does not require that this Court apply *State v. Hand*, 149 Ohio St. 3d 94, 2016-Ohio-5504, 77 N.E.3d 448 in this case to find that Ohio's HWWUD statutes, when predicated upon juvenile adjudications, as being unconstitutional. As this Court in *State v. Bodyke*, 126 Ohio St. 3d 266, 2010-Ohio-2424, 933 N.E.2d 753, the doctrine of stare decisis does not apply with the same force and effect when constitutional interpretation is at issue. See also *Rocky v. River v. State Emp. Relations Bd.*, 43 Ohio St.3d 1, 5, 539 N.E.2d 103 (1989). As a result, this Court's decision in *Hand*, 149 Ohio St. 3d 94, 2016-Ohio-5504 need not control the outcome.

The basic premise of Carnes' argument is that under *Apprendi v. New Jersey*, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed. 435 (2000), *Alleyne v. United States*, 570 U.S. ____, 133 S.Ct. 2151, 186 L.Ed.2d 314 (2013), and *State v. Bode*, 114 Ohio St.3d 155, 2015-Ohio-1519, 41 N.E.3d 1156, that the use of a juvenile adjudication as a predicate offense violates his due process rights. Were this Court to accept Carnes' argument, this Court must find that the lack of a jury trial in juvenile court renders any prior adjudication so unreliable that it can no longer be used as a basis to determine that any juvenile is a bad risk who should not possess a firearm.

The lack of a jury trial in juvenile court, does not mean that a juvenile adjudication is unreliable for risk assessment purposes. In *People v. Nguyen*, 46 Cal. 4th 1007, 209 P.3d 946, 95 Cal. Rptr. 3d 615, the California Supreme Court rejected an adult defendant's argument that his prior juvenile adjudication could not be used as a "strike" against him under California's "three strikes" law. In rejecting that defendant's arguments the California Supreme Court held that the absence of a constitutional or statutory right to jury trial under the juvenile law does not, under *Apprendi*, preclude the use of a prior juvenile adjudication of criminal misconduct to enhance the maximum sentence for a subsequent adult felony offense by the same person.

As other divisions of the HWWUD statute do not require proof of conviction, it would not be fundamentally unfair to use a juvenile adjudication, that is not a conviction but still afforded certain Due Process protections under Ohio law, as the basis to disable someone from possessing a firearm and subsequently convicting them for possessing a firearm in violation of the law. Given the overriding goals of the HWWUD, this Court should hold that any Due Process concern do not carry the concern in this case, that it did in *Hand* and reject the proposition of law raised by Appellant.

CONCLUSION

Ohio's HWWUD law which treats persons who have been adjudicated delinquent for a violent felony offense serves an important purpose of helping to keep Ohioans safe. Those who possess firearms in violation of Ohio's HWWUD should be criminally prosecuted and held accountable for their actions. Individuals, such as Carnes who have not bothered to demonstrate to a court that they are deserving of having their right to possess a firearm restored and have decided to illegally possess a firearm should be held accountable for possessing a firearm while under disability. As the Court in *Boyer*, 2nd Dist. Clark No. 2016-CA-63, 2017-Ohio-4199 noted, the use of juvenile adjudications would not implicate the concerns raised in *Hand*, instead an indictment for having weapons while under disability "relate strictly to choices [...] made since reaching the age of majority." *Id.* at ¶15. Any prosecution does not violate any constitutional right. As such, the CCPO urges this Court to render judgment in favor of the State of Ohio and to affirm the judgment of the First District Court of Appeals.

Respectfully Submitted,

MICHAEL C. O'MALLEY (#0059592)
Cuyahoga County Prosecutor

/s/ Daniel T. Van
Daniel T. Van (#0084614)
Assistant Prosecuting Attorney
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443-7865

CERTIFICATE OF SERVICE

A copy of the foregoing Amicus Brief has been sent via U.S. Mail on this 17th day of January 2018 to the following:

Scott M. Heenan, Hamilton County Prosecutor's Office, 230 E. 9th Street, Suite 4000, Cincinnati, Ohio 45202;

Peter Galyardt, Ohio Public Defender's Office, 2560 E. Broad Street, Suite 1400, Columbus, Ohio 45215;

Ronald Lemieux, Buckeye Firearms Association Attorney, 38109 Euclid Avenue, Willoughby, Ohio 44094;

Marsha Levick, Juvenile Law Center, 1315 Walnut Street, 4th Floor, Philadelphia, PA 19107;

Samuel S. Park & John E. Drosick, Winston & Strawn, LLP, 35 W. Wacker Drive, Chicago, IL 60601;

Nadia Seeratan, National Juvenile Defender Center, 1350 Connecticut Avenue NW, Suite 304, Washington DC, 20036

Eric Murphy & Samuel Peterson, State Solicitor, 30 East Broad Street, 17th Floor, Columbus, Ohio 43215.

/s/ Daniel T. Van