

[Cite as *State v. Montgomery*, 2003-Ohio-5332.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

STATE OF OHIO :  
Plaintiff-Appellee : C.A. CASE NO. 2002 CA 96  
v. : T.C. CASE NO. 02 CR 235  
BERT MONTGOMERY : (Criminal Appeal from  
Common Pleas Court)  
Defendant-Appellant :  
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**OPINION**

Rendered on the 3<sup>rd</sup> day of October, 2003.

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FREDERICK N. YOUNG, J.

{¶1} Bert Montgomery is appealing the judgment of the Greene County Court of Common Pleas convicting him of carrying a concealed weapon under R.C. 2923.12(A), and sentencing him to two years community control.

{¶2} Montgomery asserts one assignment of error:

{¶3} “The trial court erred in overruling defendant/appellant’s motion to dismiss[.]”

{¶4} In his sole assignment of error, Montgomery asserts that the trial court erred in overruling his motion to dismiss for reasons that the statute in question, R.C. 2923.12, was unconstitutional. In support of his contention, Montgomery relies on *Klein v. Leis*, 146 Ohio App.3d 526, 767 N.E.2d 286, 2002-Ohio-1634., in which the Hamilton County Court of Appeals rendered an opinion that R.C. 2923.12 was unconstitutional.

{¶5} The Ohio Supreme Court recently reviewed the question of the constitutionality of R.C. 2923.12 in *Klein v. Leis*, 99 Ohio St.3d 537, 795 N.E.2d 633, 2003-Ohio-4779. The Court found that since there is no constitutional right to bear concealed weapons, the statute barring the carrying of concealed weapons “did not unconstitutionally infringe the right to bear arms.” *Id.* at paragraph one of the syllabus.

{¶6} Accordingly, Montgomery’s assignment of error is overruled.

{¶7} Judgment of the trial court is affirmed.

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FAIN, P.J. and WOLFF, J., concur.

Copies mailed to:

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Hon. Stephen A. Wolaver