

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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March 17, 2022

**109118** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v WAYMAN D. KENT

Affirmed.

Eileen T. Gallagher, J., Michelle J. Sheehan, P.J., and Mary Eileen Kilbane, J., concur.

**KEY WORDS:** *Suppress; search; seizure; traffic stop; custodial interrogation; Terry stop; Miranda warning; drugs; trafficking; plain-feel doctrine; criminal tools; sufficient; manifest weight; ineffective assistance of counsel; constitutional; Reagan Tokes Law; plain error; prejudice.*

*Appellant's drug trafficking and possession of criminal tools convictions are supported by sufficient evidence and are not against the manifest weight of the evidence. The trial court did not err by denying appellant's motion to suppress. Counsel did not render ineffective assistance of counsel during the suppression proceedings. The defendant waived his right to challenge the constitutionality of the Reagan Tokes Law by failing to raise the issue below. Counsel did not render ineffective assistance of counsel by failing to challenge the constitutionality of the Reagan Tokes Law.*

**109306** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DAMIEN L. PETERSON

Affirmed and remanded.

Eileen A. Gallagher, J., Anita Laster Mays, P.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Reagan Tokes Law; constitutional challenges; indefinite sentence; R.C. 2967.271; multiple firearm specifications; R.C. 2929.14(B)(1)(b); R.C. 2929.14(B)(1)(g); municipal court complaint; grand jury indictment; Crim.R. 36; clerical mistakes; nunc pro tunc entry.*

*Pursuant to the en banc decision in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470, appellant's constitutional challenges to the Reagan Tokes Law are overruled. Trial court properly imposed consecutive sentences on 54-month firearm specifications on counts for aggravated robbery and having weapons while under disability pursuant R.C. 2929.14(B)(1)(g). Where defendant was subsequently indicted by a grand jury, he was not denied due process based on purported defects in municipal court complaint. Trial court incorrectly computed defendant's aggregate sentence, imposing an aggregate prison term of 39 to 41.5 years, instead of an aggregate term of 39 to 40.5 years. Case remanded for trial court to issue a nunc pro tunc entry to correct clerical errors in sentencing journal entry to reflect sentences actually imposed at sentencing hearing.*

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**109529** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v CLOVER PATTERSON, JR.

Affirmed.

Michelle J. Sheehan, J., Anita Laster Mays, P.J., and Eileen T. Gallagher, J., concur.

**KEY WORDS:** *Reagan Tokes Law; R.C. 2929.11 and 2929.12.*

***Appellant's sentence imposed under the Reagan Tokes Law is not unconstitutional. Furthermore, his sentence is not contrary to law because the trial court considered the purposes and principles of felony sentencing in R.C. 2929.11 and the sentencing factors in R.C. 2929.12 and the sentence falls within the statutory range for his offenses.***

**109531** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v AARON H. DEBOSE

Affirmed.

Eileen A. Gallagher, J., Mary J. Boyle, P.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Reagan Tokes Law; constitutional challenges; indefinite sentence; plain error; ineffective assistance of counsel; R.C. 2925.03(D)(1); R.C. 2929.18(B)(1); R.C. 2929.19(B)(5); mandatory fine; affidavit of indigency; mitigating facts and circumstances.*

***Where defendant failed to challenge the constitutionality of Reagan Tokes Law below and failed to present a plain error argument on appeal, appellate court could decline to consider defendant's constitutional challenges to the Reagan Tokes Law. Defendant was not denied effective assistance of counsel based on trial counsel's failure to challenge the constitutionality of the Reagan Tokes Law. Defendant did not show that there was a reasonable probability that, but for, his trial counsel's failure to challenge the constitutionality of the Reagan Tokes Law, the result would have been different. Defendant was not denied effective assistance of counsel based on trial counsel's failure to file an affidavit of indigency, failure to request waiver of mandatory fine, or failure to present mitigating facts and circumstances at sentencing hearing. There was nothing in the record to suggest a reasonable probability existed that trial court would have found defendant indigent if an affidavit of indigency had been filed and trial counsel had requested waiver of the mandatory fine or that trial court would have imposed a lesser sentence if it had had more information about any of the alleged mitigating facts or circumstances.***

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**109587** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v JACUISE DREWERY

Affirmed.

Eileen T. Gallagher, J., Mary J. Boyle, P.J., and Anita Laster Mays, J., concur.

**KEY WORDS:** *Felony sentence; indefinite; separation of powers; due process; trial by jury; Reagan Tokes Law.*

**Indefinite sentence imposed under Reagan Tokes Law is constitutional.**

**109639** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v ISAIAH YOUNG

Affirmed.

Michelle J. Sheehan, J., Mary J. Boyle, P.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Reagan Tokes Law, constitutionality.*

**Appellant argued that his indefinite prison sentence imposed pursuant to the Reagan Tokes law was unconstitutional. In State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470 (en banc), this court overruled the arguments presented by appellant. Judgment of the trial court affirmed.**

**109671** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v TRAVON WHETSTONE

Reversed and remanded.

Michelle J. Sheehan, J., Mary J. Boyle, P.J., and Eileen T. Gallagher, J., concur.

**KEY WORDS:** *Reagan Tokes Law; constitutionality.*

**The state has a right to appeal a sentence that did not impose an indefinite sentence under the Reagan Tokes Law. In State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470 (en banc), this court overruled the reasons that the trial court found the Reagan Tokes Law unconstitutional. The sentence is reversed and cause remanded for resentencing.**

## CASE DECISION LIST

**109679** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v BRIAN HARDIN-ROGERS

Reversed and remanded.

Lisa B. Forbes, J., Sean C. Gallagher, A.J., and Mary Eileen Kilbane, J., concur.

**KEY WORDS:** *Reagan Tokes Law.*

***Defendant's sentence under the Reagan Tokes law is reversed pursuant to this court's en banc decision in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470.***

**109700** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v JACOB WHITTENBURG

Reversed and remanded.

Michelle J. Sheehan, P.J., Mary Eileen Kilbane, J., and Emanuella D. Groves, J., concur.

**KEY WORDS:** *Reagan Tokes Law.*

***The trial court erred in finding the Regan Tokes Law unconstitutional. The matter is remanded to the trial court for resentencing consistent with the provisions of the Reagan Tokes Law.***

**109970** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v CLIFFORD GILLESPIE

Affirmed.

Michelle J. Sheehan, J., Mary J. Boyle, P.J., and Anita Laster Mays, J., concur.

**KEY WORDS:** *Reagan Tokes Law; constitutionality.*

***The trial court imposed an indefinite prison sentence pursuant to the Reagan Tokes Law. Appellant's arguments that the Reagan Tokes Law is unconstitutional were overruled in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470 (en banc). Appellant's sentence is affirmed.***

## CASE DECISION LIST

**110004** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v ROBERT HOUCHENS

Affirmed.

Sean C. Gallagher, A.J., Mary Eileen Kilbane, J., and Eileen T. Gallagher, J., concur.

**KEY WORDS:** *R.C. 2929.144; R.C. 2929.14; Reagan Tokes Act; indefinite non-life felony sentence; ripeness; due process; separation of powers.*

***The defendant's sentence imposed under the Reagan Tokes Law is not unconstitutional.***

**110005** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v STEPHAN JACKSON

Affirmed.

Michelle J. Sheehan, J., Frank Daniel Celebrezze, III, P.J., and Eileen A. Gallagher, J., concur.

**KEY WORDS:** *Reagan Tokes Law; R.C. 2901.011, constitutionality; restitution, plain error.*

***The trial court imposed an indefinite prison sentence pursuant to the Reagan Tokes Law defined in R.C. 2901.011 and ordered appellant to pay restitution to multiple victims. Appellant's arguments that the Reagan Tokes Law is unconstitutional are not well taken because these arguments were overruled by this court en banc in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470. The trial court's order of restitution did not amount to plain error where appellant did not object to the restitution and the restitution was based on the request of the victims and was not extraordinary. Appellant's sentences are affirmed.***

**110052** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v PAUL SENDER

Affirmed.

Kathleen Ann Keough, J., Anita Laster Mays, P.J., and Eileen A. Gallagher, J., concur.

**KEY WORDS:** *Reagan Tokes Law; right to jury trial; due process; separation of powers; sentence.*

***Defendant's sentence under the Reagan Tokes Law affirmed because the law does not violate defendant's right to a jury trial or***

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(Case 110052 continued)

**constitutional guarantees of due process and separation of powers.**

**110096** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v LERON COLEMAN

Affirmed and remanded.

Eileen T. Gallagher, J., Mary J. Boyle, P.J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS: *Felony sentence; indefinite; separation of powers; due process; trial by jury; Reagan Tokes Law.***

***Indefinite sentence imposed under Reagan Tokes Law is constitutional.***

**110138** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DAVID WURTZ

Affirmed.

Michelle J. Sheehan, J., Kathleen Ann Keough, P.J., and Mary Eileen Kilbane, J., concur.

**KEY WORDS: *Reagan Tokes Law; constitutionality.***

***Appellant's sentence imposed under the Reagan Tokes Law is not unconstitutional pursuant to this court's en banc decision in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470.***

**110286** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v AARON L. TAYLOR

Affirmed.

Sean C. Gallagher, A.J., Frank Daniel Celebrezze, III, J., and Emanuella D. Groves, J., concur.

**KEY WORDS: *R.C. 2929.144; R.C. 2929.14; Reagan Tokes Act; indefinite non-life felony sentence; ripeness; due process; separation of powers.***

***The defendant's sentence imposed under the Reagan Tokes Law is not unconstitutional.***

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**110317** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
JOHN E. KOBAL v JONATHAN D. KOBAL, ET AL.

Reversed and remanded.

Michelle J. Sheehan, J., Frank Daniel Celebrezze, III, P.J., and Eileen A. Gallagher, J., concur.

**KEY WORDS:** *Motion to dismiss; res judicata; procedural error.*

*Appellant brought a complaint against ex-spouse and family members alleging fraud and theft in the disposition of property held during the marriage. The ex-spouse and family members filed a motion to dismiss the complaint alleging the claims are barred by res judicata. They attached court orders and opinions from the divorce proceedings. The trial court granted the motion to dismiss on the basis of res judicata. Because the determination of whether res judicata applied to bar the complaint required consideration of material outside the pleadings, the trial court should have converted the motion to dismiss to one of summary judgment and the trial court's judgment is reversed.*

**110327** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v ISIAH MCCARVER

Reversed and remanded.

Michelle J. Sheehan, J., Sean C. Gallagher, A.J., and Anita Laster Mays, J., concur.

**KEY WORDS:** *Reagan Tokes Law.*

*The trial court erred in finding the Reagan Tokes Law unconstitutional. The matter is remanded to the trial court for resentencing consistent with the provisions of the Reagan Tokes Law.*

**110340** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v JYVARIS WOODEN

Vacated and remanded.

Mary Eileen Kilbane, J., Michelle J. Sheehan, P.J., and Emanuella D. Groves, J., concur.

**KEY WORDS:** *Guilty plea; plea colloquy; competency; R.C. 2903.41; R.C. 2903.42(A)(1)(a); R.C. 2903.42(C); Sierah's Law; violent offender database; registration; retroactive application; constitutional; required notice; reversible error.*

## CASE DECISION LIST

(Case 110340 continued)

**It was not plain error for the trial court to accept appellant's guilty plea to attempted felonious assault because the plea was knowingly, intelligently, and voluntarily made. The trial court did not abuse its discretion by denying appellant's motion to withdraw his guilty plea. The application of Sierah's Law does not constitute an unconstitutional retroactive penalty, but the trial court failed to provide the required notice pursuant to R.C. 2903.42(C).**

**110377** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DIRK DOWDLEY

Vacated and remanded.

Mary Eileen Kilbane, J., Sean C. Gallagher, A.J., and Mary J. Boyle, J., concur.

**KEY WORDS: Reagan Tokes; plea agreement; split sentence; community control; prison.**

**Appellant's sentence pursuant to Reagan Tokes was not a violation of his constitutional rights. The trial court erred in imposing both a prison term and a community-control sanction.**

**110484** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v SEAN CORRIGAN

Reversed and remanded.

Anita Laster Mays, P.J., Eileen A. Gallagher, J., and Mary Eileen Kilbane, J., concur.

**KEY WORDS: S.B. 201; Reagan Tokes Law; constitutionality.**

**The trial court's refusal to impose sentence pursuant to S.B. 201 known as the Reagan Tokes Law on the ground that the law is unconstitutional is in error pursuant to this court's en banc decision in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470.**

**110528** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
MICHAEL H. SHAUT v KEVIN ROBERTS, ET AL.

Reversed and remanded.

Sean C. Gallagher, A.J., and Mary J. Boyle, P.J., concur; Michelle J. Sheehan, J., dissents (with separate opinion).



## CASE DECISION LIST

(Case 110528 continued)

**KEY WORDS:** Statute of limitations; motion to dismiss; Civ.R. 12(B)(6); affirmative defense.

**The trial court erred in dismissing the action based on the plaintiff's failure to plead facts demonstrating the accrual date for the statute of limitations.**

**110532** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v ROBERT REED

Affirmed.

Eileen A. Gallagher, P.J., Eileen T. Gallagher, J., and Cornelius J. O'Sullivan, Jr., J., concur.

**KEY WORDS:** *Reagan Tokes Law; separation of powers; due process; State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470.*

***Appellant contends that the indefinite sentence imposed under the Reagan Tokes Law violated the Ohio and United States Constitutions' due process clauses and the principle of separation of powers. However, based on this court's en banc decision in Delvallie, the court overrules those assignments and affirms the judgment of the trial court.***

**110566** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DARIUS SITGRAVES

Affirmed.

Mary Eileen Kilbane, P.J., and Emanuella D. Groves, J., concur; Mary J. Boyle, J., concurs in judgment only.

**KEY WORDS:** *Reagan Tokes law; right to trial by jury; separation-of-powers doctrine; due process.*

***The Reagan Tokes Law is constitutional and, therefore, appellant's sentence imposed under the law does not violate appellant's constitutional rights.***

**110640** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v MARTEZ WALKER

## CASE DECISION LIST

Affirmed.

Kathleen Ann Keough, J., Anita Laster Mays, P.J., and Emanuella D. Groves, J., concur.

**KEY WORDS:** *Guilty plea; waived; defective indictment; effective assistance of counsel; self-sabotage; diligent sales talk; sentence.*

*By pleading guilty, appellant waived any argument that his indictment was defective or that the state failed to prove an element of the offense. Counsel was not ineffective by preventing appellant from self-sabotaging a plea agreement or by failing to engage in diligent sales talk with the trial court to mitigate the sentence. Appellate court's limited review of felony sentences prevents modification of a sentence where the records supports that the trial court adequately considered the purposes of sentencing set forth in R.C. 2929.11 and the seriousness and recidivism factors in R.C. 2929.12.*

<b>110649</b>	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v MICHAEL S. GILMER			

Affirmed.

Anita Laster Mays, P.J., Kathleen Ann Keough, J., and Emanuella D. Groves, J., concur.

**KEY WORDS:** *Reagan Tokes Act; separation-of-powers; due process; ineffective assistance of counsel.*

*The Reagan Tokes Act is constitutional because it does not violate the separation-of-powers doctrine or appellant's due process rights. Based on the authority established by this district's en banc holding in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470, the challenges appellant advanced against the constitutional validity of the Reagan Tokes Law have been overruled. The appellant's trial counsel's performance was not deficient by not raising a constitutional challenge to Reagan Tokes..*

<b>110665</b>	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v BEATRICE MCCALPINE			

Reversed and remanded.

Michelle J. Sheehan, J., Kathleen Ann Keough, P.J., and Eileen A. Gallagher, J., concur.

**KEY WORDS:** *Reagan Tokes Law; constitutionality.*

*State has right to appeal sentence that did not impose indefinite sentence under Reagan Tokes Law. The trial court relied on our prior case finding the Reagan Tokes Law to be unconstitutional, which case has been vacated. State v. Delvallie, 8th Dist. Cuyahoga*

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(Case 110665 continued)

**No. 109315, 2022-Ohio-470 (en banc). As such, the sentence imposed by the trial court is reversed and cause remanded for resentencing.**

**110686** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
IPLANGROUP AGENT FOR CUSTODIAN FBO TARSEM GARG, IR v YASER ETAYEM, ET AL.

Affirmed.

Kathleen Ann Keough, P.J., Michelle J. Sheehan, J., and James A. Brogan, J.,\* concur.

\*(Sitting by assignment: James A. Brogan, J., retired, of the Second District Court of Appeals.)

**KEY WORDS: Summary judgment; breach of contract; affidavit; personal knowledge; Civ.R. 56(E).**

***Trial court did not abuse its discretion in striking affidavit submitted by defendant in support of its brief in opposition to plaintiff's motion for summary judgment where the averments in the affidavit were not based on the affiant's personal knowledge, as required by Civ.R. 56(E); trial court properly granted summary judgment to plaintiff on its breach-of-contract claim where there were no genuine issues of material fact regarding the existence of a contract, plaintiff's performance, defendant's breach, and plaintiff's damages.***

**110693** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v RUEBEN T. BELL

Affirmed.

Cornelius J. O'Sullivan, Jr., J., Frank Daniel Celebrezze, III, P.J., and Eileen T. Gallagher, J., concur.

**KEY WORDS: Felonious assault; R.C. 2903.11(A)(2); manifest weight of the evidence; hearsay; Evid.R. 801(C); present sense impression Evid.R. 803(1); excited utterance Evid.R. 803(2); Reagan Tokes Law.**

***Appellant's conviction for felonious assault was not against the manifest weight of the evidence when the victim and appellant's estranged wife could identify appellant as the driver of the car that hit the victim, a bystander witnessed the aftermath and gave a statement to police about what happened, and the appellant called the police after the incident to report that someone had thrown a rock at his car when the victim testified that he threw a rock at appellant's car after appellant hit him.***

(Case 110693 continued)

**The trial court did not err in allowing testimony from the victim or a police officer because the statements were not hearsay and/or fell under the present sense impression and excited utterance exceptions to hearsay. Appellant's sentence, imposed pursuant to the Reagan Tokes Law, is constitutional.**

**110704** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
ASSOCIATION OF CLEVELAND FIRE FIGHTERS, LOCAL 93 v CITY OF CLEVELAND

Vacated.

Mary J. Boyle, J., Eileen A. Gallagher, P.J., and Emanuella D. Groves, J., concur.

**KEY WORDS: Arbitration; arbitration award; arbitrator; R.C. 2711.10; vacate award; exceed authority; essence of the agreement; de novo review.**

***The common pleas court erred in granting the appellee's motion to vacate the arbitration award. An arbitration award must be vacated if the arbitrator exceeds his authority or the award does not draw its essence from the parties' agreement. An award draws its essence from the agreement when it is rationally derived from the terms of the agreement.***

***The appellant charged a member of the appellee union with gross insubordination and conduct unbecoming. Under the parties' collective bargaining agreement, gross insubordination is punishable by termination, demotion, or suspension exceeding 72 hours without pay; insubordination is punishable by official reprimand and suspension of up to 72 hours without pay; and conduct unbecoming is punishable by official reprimand and suspension of up to 24 hours without pay.***

***The questions submitted to the arbitrator were whether the appellant had just cause to suspend the union member for 24 hours and issue him a written reprimand, and if not, to determine the appropriate remedy. The arbitrator found that the union member's conduct was not insubordinate but was unbecoming. The arbitrator awarded compensation for any lost wages and benefits resulting from the union member's 24-hour suspension but retained the written reprimand in his personnel file. The award resolved the questions submitted to arbitration and was rationally derived from the collective bargaining agreement. The arbitrator did not exceed his authority in issuing the award, and the award drew its essence from the agreement. Therefore, the common pleas court erred in vacating the award.***

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**110733** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v MICHAEL A. WALKER

Affirmed.

Michelle J. Sheehan, J., Sean C. Gallagher, A.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Postconviction; motion to vacate void sentence.*

*Pursuant to State v. Dowdy, 162 Ohio St.3d 153, 2020-Ohio-4789, 164 N.E.3d 418, the trial court's failure to use the statutorily mandated language does not render appellant's sentence void. Appellant's claim of sentencing error was subject to correction only in the direct appeal.*

**110739** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v SABRA TOLLIVER

Affirmed.

Eileen T. Gallagher, J., Frank Daniel Celebrezze, III, P.J., and Cornelius J. O'Sullivan, J., concur.

**KEY WORDS:** *Reagan Tokes Law.*

*Appellant's sentence under the Reagan Tokes Law is constitutional.*

**110745** JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE  
IN THE MATTER OF: J.G., ET AL.

Affirmed.

Emanuella D. Groves, J., and Lisa B. Forbes, J., concur; Frank Daniel Celebrezze, III, P.J., concurs (with separate opinion).

**KEY WORDS:** *Permanent custody; legal custody; clear and convincing; preponderance of the evidence; weight of the evidence; best interest of the child.*

*Juvenile court did not abuse its discretion when it awarded permanent custody to CCDCFS of Mother's two youngest children, where competent credible evidence established that the children had been in CCDCFS custody for more than two years, and there was competent, credible evidence in the record to support the trial court's finding that permanent custody was in the best interest of those children.*

*Juvenile court did not abuse its discretion when it awarded legal*

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(Case 110745 continued)

**custody of Mother's two oldest children to one of the children's paternal grandmothers, where competent credible evidences established that the children had been in the custody of CCDCFS for more than two years, and the paternal grandmother was aware of and accepted the responsibility and requirements of taking on legal custody.**

**110801** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v GAVIN ALDRIDGE

Reversed and remanded.

Eileen T. Gallagher, P.J., Emanuella D. Groves, J., and Mary J. Boyle, J., concur.

**KEY WORDS: Reagan Tokes Law.**

**Appellant's sentence under the Reagan Tokes Law is constitutional.**

**110802** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
KEVIN CRONIN v GOVERNOR OF OHIO, ET AL.

Affirmed.

Cornelius J. O'Sullivan, Jr., J., Frank Daniel Celebrezze, III, P.J., and Eileen T. Gallagher, J., concur.

**KEY WORDS: Motion to dismiss; Civ.R. 12(B)(1); Civ.R. 12(B)(6); standing; S.B. 22.**

**A motion to dismiss on the basis of standing is properly considered under Civ.R. 12(B)(6); it is not properly considered under Civ.R. 12(B)(1).**

**A matter is justiciable only if the plaintiff has standing. The trial court properly granted the appellees' motion to dismiss pursuant to Civ.R. 12(B)(6). Appellant failed to establish that he had standing to challenge the constitutionality of S.B. 22 because he failed to demonstrate injury, causation, and redressability.**

**110823** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v JARED CAMBRIA

Affirmed.

Michelle J. Sheehan, J., Kathleen Ann Keough, P.J., and James A. Brogran, J.,\* concur.

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\*(Sitting by assignment: James A. Brogan, J., retired, of the Second District Court of Appeals.)

**KEY WORDS:** *Reagan Tokes Law, constitutionality.*

***Appellant argued that his indefinite sentences imposed pursuant to the Reagan Tokes Law were unconstitutional on the grounds the sentences violated his right to due process, his right to a jury trial, and the doctrine of separation of powers. Because the court overruled these arguments in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470 (en banc), the judgments of the trial court are affirmed.***

**110831** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DAVID CAMBRIA, JR.

Affirmed.

James A. Brogan, J.,\* Kathleen Ann Keough, P.J., and Michelle J. Sheehan, J., concur.  
\*(Sitting by assignment: James A. Brogan, J., retired, of the Second District Court of Appeals.)

**KEY WORDS:** *Reagan Tokes law; right to trial by jury; separation-of-powers doctrine; due process.*

***The Reagan Tokes Law is constitutional and, therefore, appellant's sentence imposed under the law does not violate appellant's constitutional rights.***

**110926** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v JOSEPH ALVIN SMITH III

Vacated and remanded.

Lisa B. Forbes, J.; Eileen A. Gallagher, J., concurs; Sean C. Gallagher, A.J., concurs (with separate opinion).

**KEY WORDS:** *Conceded error; postrelease control; R.C. 2967.28.*

***The trial court was required to impose up to three years, but not less than one year, of postrelease control for an offender who was convicted of a felony of the third degree that is an offense of violence and not a felony sex offense.***

**110945** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
BHARAT K. KHEMSARA, DVM v OHIO VETERINARY MEDICAL LICENSING BOARD

Affirmed.

Eileen A. Gallagher, J., Kathleen Ann Keough, P.J., and Michelle J. Sheehan, J., concur.

***KEY WORDS: Motion for stay; R.C. 119.12(E); revocation of veterinary license; abuse of discretion; unusual hardship; irreparable harm; likelihood of success on the merits.***

***Common pleas court did not abuse its discretion in denying appellant's motion to stay order of the Ohio Veterinary Medical Licensing Board revoking his license pending appeal under R.C. 119.12(E). Appellant did not demonstrate that he would suffer an unusual hardship or irreparable harm from the operation of the order during the pendency of the appeal and did not show a substantial likelihood of success on the merits of his appeal. In his motion for stay and conclusory, supporting affidavit, appellant did not provide any specific information in support of his claims of unusual hardship and irreparable harm and did not explain, with any detail or supporting evidence, why he believed he would prevail on appeal.***