

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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**March 24, 2022**

<b>109908</b>	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v EDWIN MCGLOTHIN			

Affirmed.

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

**KEY WORDS:** *Felonious assault; guilty plea; contrary to law; Reagan Tokes.*

**Appellant's sentence is not contrary to law where appellant disagrees with the court's consideration of the sentencing factors in R.C. 2929.11 and 2929.12. Appellant's sentence pursuant to Reagan Tokes was not a violation of his constitutional rights.**

<b>110109</b>	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v ROBERT B. HOLSEY			

<b>110244</b>	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v ROBERT B. HOLSEY			

Affirmed.

Anita Laster Mays, J., Mary J. Boyle, P.J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS:** *Reagan Tokes Act; separation of powers; due process.*

**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.**

<b>110202</b>	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v JAMES MCCRORY			

Affirmed.

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

**KEY WORDS:** *R.C. 2953.08(G)(2); mandatory prison sentence; clearly and convincingly contrary to law.*

## CASE DECISION LIST

(Case 110202 continued)

**Appellant's sentence was not contrary to law simply because appellant speculated that the trial court did not believe the prison sentence was mandatory.**

**110309** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v TERRY HUGHLEY

Affirmed.

Emanuella D. Groves, J., Sean C. Gallagher, A.J., and Lisa B. Forbes, J., concur.

**KEY WORDS: Motion to withdraw plea; competency; R.C. 2967.271; Reagan Tokes Law; constitutionality.**

***A trial court does not abuse its discretion when it denies a motion to withdraw guilty plea where the defendant was 1) represented by competent counsel, 2) advised of his rights pursuant to Crim.R. 11, 3) given notice and an opportunity to be heard, and 4) the trial court gave full and fair consideration to the motion.***

***Where the motion was filed almost four months after the plea and alleged that the defendant's competency had deteriorated in recent weeks, the motion to withdraw will be found to be a mere change of heart unless there is evidence that the defendant was incompetent at the plea hearing. The record did not support a finding that the defendant was incompetent to enter a plea where he had reviewed the discovery, understood the charges against him and elected to plead guilty anyway. The trial court therefore did not abuse its discretion when it denied the motion to withdraw his plea.***

***Defendant's sentence under the Reagan Tokes Law is not unconstitutional.***

**110414** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DEONTRA PERRY

Affirmed.

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

**KEY WORDS: Reagan Tokes Law.**

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

## CASE DECISION LIST

**110479** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DION R. PRIMM

**110480** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DION R. PRIMM

Reversed, vacated, and remanded.

Mary Eileen Kilbane, J., Frank Daniel Celebrezze, III, P.J., and Kathleen Ann Keough, J., concur.

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

***The trial court erred by failing to impose a sentence pursuant to the Reagan Tokes Law.***

**110516** JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE  
IN RE: J.B.

Affirmed.

Lisa B. Forbes, J.; Emanuella D. Groves, J., concurs; Michelle J. Sheehan, P.J., dissents (with separate opinion).

**KEY WORDS: CCDCFS; PPLA; ODYS; legal custody; notice of termination.**

***Appellant did not demonstrate that filing a notice of termination was the proper vehicle to terminate a court order.***

**110517** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v AMBER NICOLE MOORE

Affirmed.

Lisa B. Forbes, J., Anita Laster Mays, P.J., and Eileen T. Gallagher, J., concurs.

**KEY WORDS: Sentencing; maximum sentence; R.C. 2929.11; R.C. 2929.12; R.C. 2929.14; ineffective assistance of counsel; mitigation.**

***When a criminal defendant was not convicted of a repeat violent offender specification or ordered to serve consecutive sentences, trial courts are not required to make findings under R.C. 2929.14. Further, trial courts are not required to make any findings under R.C. 2929.11 and 2929.12. Finally, appellant cannot demonstrate prejudice based upon her assertion that she received ineffective assistance of counsel because she addressed the court at sentencing and provided it with all of the mitigating circumstances she claims her trial counsel should have raised.***

## CASE DECISION LIST

**110564** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
LYNN JONES v UNICAN OHIO, LLC

Affirmed.

Frank Daniel Celebrezze, III, P.J., Eileen A. Gallagher, J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Directed verdict; Civ.R. 50; de novo review; age discrimination; prima facie case; direct evidence; statements by employer; indirect evidence; reasonable inference; reduction in force; business considerations; breach of contract; renewal of contract; assignment; meeting of the minds; essential terms; promissory estoppel; damages.*

*The trial court did not err in granting a directed verdict on all of appellant's claims. Appellant failed to present direct or indirect evidence of his age-discrimination claim. Further, appellant did not demonstrate a prima facie case of breach of contract because there was no meeting of the minds, and the alleged contract lacked essential terms. Finally, appellant did not present evidence of damages in support of his promissory-estoppel claim.*

**110573** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v MICHAEL DUDAS

Affirmed.

Eileen A. Gallagher, J., Frank Daniel Celebrezze, III, P.J., and Lisa B. Forbes, J., concur.

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

*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.*

**110628** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v ERIC WOLJEVACH

Reversed and remanded.

Eileen A. Gallagher, J., and Michelle J. Sheehan, J., concur; Kathleen Ann Keough, P.J., concurs in judgment only (with separate opinion).

**KEY WORDS:** *Motion to withdraw plea; Crim.R. 32.1; manifest injustice; R.C. 2953.36(A)(7).*

## CASE DECISION LIST

(Case 110628 continued)

**Trial court abused its discretion in determining that a manifest injustice existed that permitted appellee to withdraw his guilty plea 15 years after sentencing because the motion relied substantially on subsequent postsentence developments.**

**110635** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v SHAYLA HARRIS

Affirmed.

Cornelius J. O'Sullivan, Jr., J., Frank Daniel Celebrezze, III, P.J., and Mary Eileen Kilbane, J., concur.

**KEY WORDS:** *Felonious assault; R.C. 2903.11(A)(2); attempted murder; 2903.02(A), 2923.02; mistreating animals; R.C. 2959.02; competency to stand trial; R.C. 2945.38; stipulation; Reagan Tokes Law; S.B. 201.*

*Appellant is presumed competent, the parties stipulated to appellant's competency report, and the parties agreed that appellant was competent to stand trial. The trial court journalized the stipulation; the trial court did not need to also state in its journal entry that appellant was competent. Appellant's sentence pursuant to the Reagan Tokes Law is constitutional.*

**110644** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DALVIN DANIEL

Affirmed.

Eileen A. Gallagher, J., Frank Daniel Celebrezze, III, P.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Reagan Tokes; unconstitutional; S.B. 201.*

*Appellant contended that the trial court erred in imposing an indefinite sentence under Reagan Tokes. However, the court affirmed the judgment of the trial court based on this court's en banc decision in State v. Delvallie, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470.*

**110702** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v CHASE MITCHELL

## CASE DECISION LIST

Affirmed.

Mary Eileen Kilbane, J., Frank Daniel Celebrezze, III, P.J., and Cornelius J. O'Sullivan, Jr., J., concur.

**KEY WORDS:** *The Reagan Tokes Law; S.B. 201; indefinite sentence.*

***An indefinite sentence imposed pursuant to the Reagan Tokes Law is not unconstitutional.***

**110788** JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE  
IN RE: D.B.

Affirmed.

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

**KEY WORDS:** *Manifest weight of the evidence; inconsistent testimony.*

***The appellant's adjudication was not against the manifest weight of the evidence as the trial court was in the best position to determine the veracity and reliability of the witnesses' inconsistent testimony.***

**110805** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
JAMES FREEMAN v TUROCZY BONDING CO., INC., ET AL.

Affirmed.

Frank Daniel Celebrezze, III, P.J., Eileen A. Gallagher, J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Summary judgment; Civ.R. 56; R.C. 3905.91; bail bond; commission; build-up fund; contract.*

***The trial court properly granted summary judgment in favor of defendants on appellant's commission and build-up fund claims. Appellant failed to demonstrate the existence of a genuine issue of material fact that precluded judgment as a matter of law in defendants' favor on either claim. Accordingly, defendants were entitled to judgment as a matter of law.***

**110927** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v JEVON SUBER

Vacated and remanded.

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

**KEY WORDS:** *Conceded error; R.C. 2967.28; postrelease control; R.C. 2953.08(B)(2); contrary to law; appeal by state.*

**The defendant-appellee concedes that the trial court's imposition of postrelease control was contrary to law per R.C. 2967.28, as amended effective September 30, 2021.**

**110963** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v EMMANUEL GRAY

Affirmed in part, vacated in part, and remanded.

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

**KEY WORDS:** *Conceded error; R.C. 2953.08(B)(2); appeal as a matter of right; R.C. 2953.08(G)(2); sentence contrary to law; R.C. 2967.28(C); postrelease control.*

**The trial court erred by imposing a specified term of three years of postrelease control. Under R.C. 2967.28(C), as amended, the trial court was required to impose a discretionary period of postrelease control of up to two years.**