

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO, :
 :
 Plaintiff-Appellee, :
 : No. 111420
 v. :
 :
 LYNELL TERRY, :
 :
 Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED

RELEASED AND JOURNALIZED: December 8, 2022

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-21-659564-B

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Jonathan Block, Assistant Prosecuting Attorney, *for appellee*.

Cullen Sweeney, Cuyahoga County Public Defender, and John T. Martin, Assistant Public Defender, *for appellant*.

MICHELLE J. SHEEHAN, P.J.:

{¶ 1} Defendant-appellant Lynell Terry appeals the indefinite prison sentence imposed by the trial court after his convictions for aggravated robbery. Because this court in *State v. Delvallie*, 2022-Ohio-470, 185 N.E.3d 536 (8th Dist.)

(en banc), addressed and overruled Terry's arguments that the Reagan Tokes Law as defined under R.C. 2901.011 violates his right to due process, right to a jury trial, and violates the doctrine of separation of powers, we affirm Terry's convictions.

{¶ 2} On March 9, 2022, Terry entered into a plea agreement with the state of Ohio and entered pleas of guilt to five counts of aggravated robbery, felonies of the first degree with one-year firearm specifications; one count of theft of a motor vehicle with a one-year firearm specification, a felony of the fourth degree; one count of theft of a motor vehicle, a felony of the fourth degree; and to a count of theft, a misdemeanor of the first degree. After accepting Terry's pleas, the trial court sentenced Terry to an aggregate prison term of nine- to ten-and-one-half years' imprisonment. At issue in this appeal are the indefinite three- to four and one-half year sentences the trial court imposed on each aggravated robbery count.

{¶ 3} Terry raises one assignment of error, "S.B. 201 (Reagan Tokes) is unconstitutional." He argues that the Reagan Tokes Law, defined under R.C. 2901.011, violates his right to due process, right to a jury trial, and violates the doctrine of separation of powers. In *Delvallie, supra*, this court sitting en banc overruled the arguments Terry presents in this appeal. As such, the sole assignment of error is overruled.

{¶ 4} Judgment affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MICHELLE J. SHEEHAN, PRESIDING JUDGE

CORNELIUS J. O'SULLIVAN, JR., J., and
MARY J. BOYLE, J., CONCUR