

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
MARION COUNTY**

STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 9-22-14

v.

NATHANIEL RICE,

OPINION

DEFENDANT-APPELLANT.

**Appeal from Marion County Common Pleas Court
Trial Court No. 21-CR-567**

Judgment Affirmed

Date of Decision: March 27, 2023

APPEARANCES:

***Thomas A. Gjostein* for Appellant**

***Raymond A. Grogan, Jr.* for Appellee**

MILLER, P.J.

{¶1} Defendant-appellant, Nathaniel Rice, appeals the March 18, 2022 judgment of sentence of the Marion County Court of Common Pleas. For the reasons that follow, we affirm.

Facts & Procedural History

{¶2} On December 22, 2021, the Marion County Grand Jury indicted Rice on five counts: Count One of possession of cocaine in violation of R.C. 2925.11(A), a first-degree felony; Count Two of trafficking in cocaine in violation of R.C. 2925.03(A)(2), a first-degree felony; Count Three of possession of a fentanyl-related compound in violation of R.C. 2925.11(A), a second-degree felony; Count Four of trafficking in a fentanyl-related compound in violation of R.C. 2925.03(A)(2), a second-degree felony; and Count Five of having weapons while under disability in violation of R.C. 2923.13(A)(3), a third-degree felony. On December 27, 2021, Rice appeared for arraignment and pleaded not guilty to the counts of the indictment.

{¶3} A change-of-plea hearing was held on February 14, 2022, at which Rice withdrew his previous not-guilty pleas to Counts Three and Five and pleaded guilty to those offenses. The State entered a nolle prosequi with respect to the remaining counts of the indictment. At sentencing on March 18, 2022, the trial court sentenced Rice to 7-10.5 years in prison on Count Three and 24 months in prison on Count

Five. The trial court ordered that these sentences be served concurrently. The trial court filed its judgment entry of sentence on March 18, 2022.

{¶4} On March 28, 2022, Rice filed a notice of appeal. He raises the following assignment of error for our review:

Assignment of Error

Appellant’s sentence under the Ohio Revised Code enactment of S.B. 201, commonly named the Reagan Tokes Law, is illegal and invalid for being a statute that is facially unconstitutional with its indefinite sentencing mechanisms which violate the Separation of Powers doctrine and Due Process provisions of both the Constitutions of the United States and the State of Ohio.

{¶5} In his assignment of error, Rice contends that his indefinite sentence for possession of a fentanyl-related compound is contrary to law because the indefinite-sentencing provisions of the Reagan Tokes Law are unconstitutional. Specifically, Rice claims that these provisions violate the separation-of-powers doctrine and infringe on his right to due process.

{¶6} As this Court has noted in *State v. Ball*, 3d Dist. Allen No. 1-21-16, 2022-Ohio-1549, challenges to the Reagan Tokes Law do not present a matter of first impression to this Court. *Ball* at ¶ 59. “Since the indefinite sentencing provisions of the Reagan Tokes Law went into effect in March 2019, we have repeatedly been asked to address the constitutionality of these provisions. We have invariably concluded that the indefinite sentencing provisions of the Reagan Tokes Law do not facially violate the separation-of-powers doctrine or infringe on

defendants' due process rights." *Id.*, citing *e.g.*, *State v. Crawford*, 3d Dist. Henry No. 7-20-05, 2021-Ohio-547, ¶ 10-11; *State v. Hacker*, 3d Dist. Logan No. 8-20-01, 2020-Ohio-5048, ¶ 22; *State v. Wolfe*, 3d Dist. Union No. 14-21-16, 2022-Ohio-96, ¶ 21. Thus, on the basis of *Ball* and our prior precedent, we find no merit to Rice's arguments. Rice's assignment of error is overruled.

{¶7} Having found no error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the judgment of the Marion County Court of Common Pleas.

Judgment Affirmed

WILLAMOWSKI and ZIMMERMAN, J.J., concur.

/jlr