

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 : No. 110739  
 v. :  
 :  
 SABRA TOLLIVER, :  
 :  
 Defendant-Appellant. :

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JOURNAL ENTRY AND OPINION

**JUDGMENT: AFFIRMED**  
**RELEASED AND JOURNALIZED: March 17, 2022**

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Criminal Appeal from the Cuyahoga County Court of Common Pleas  
Case No. CR-19-644899-A

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***Appearances:***

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Anna Faraglia and Daniel T. Van, Assistant Prosecuting Attorneys, *for appellee*.

Cullen Sweeney, Cuyahoga County Public Defender, and Jonathan Sidney, Assistant Public Defender, *for appellant*.

EILEEN T. GALLAGHER, J.:

{¶ 1} Defendant-appellant, Sabra Tolliver (“Tolliver”), appeals her sentence and claims the following error:

As amended by the Reagan Tokes Act, the revised code's sentences for first and second-degree qualifying felonies violates the constitutions of the United States and the state of Ohio; the trial court erred in imposing a Reagan Tokes indefinite sentence.

{¶ 2} After reviewing the record and applicable law, we affirm the trial court's judgment.

### **I. Facts and Procedural History**

{¶ 3} Tolliver pleaded guilty to one count of aggravated vehicular homicide (Count 1); one count of aggravated vehicular assault (Count 3); one count of failure to stop after an accident (Count 5); and one count of operating a vehicle under the influence ("OVI") (Count 7). Over objection, the trial court sentenced Tolliver to a presumptive minimum sentence of eight years on the aggravated vehicular homicide charge, pursuant to the Reagan Tokes Law. The trial court sentenced Tolliver to one year on the aggravated vehicular assault charge, one year on the failure to stop after an accident charge, and time served on the OVI charge. The court's journal entry states, in relevant part, that "Counts 1, 3, and 5 are to run consecutive to each other. Total aggregate sentence is 10 years to 12 years."<sup>1</sup> Tolliver now brings this appeal challenging the constitutionality of her indefinite sentence under the Reagan Tokes Law.

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<sup>1</sup> Neither party has raised any issues as to the imposed sentence and, therefore, any determination as to the validity of the sentence is beyond the scope of this direct appeal. *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913, 159 N.E.3d 248, ¶ 26; *State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776, ¶ 27.

## II. Law and Analysis

{¶ 4} In her sole assignment of error, Tolliver argues her indefinite sentence under the Reagan Tokes Law is unconstitutional. She contends the Reagan Tokes Law violates her Sixth Amendment right to a jury trial, the separation-of-powers doctrine, and due process of law.

{¶ 5} In accordance with this court's en banc decision in *State v. Delvallie*, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470, the constitutional challenges presented in this appeal are overruled.

{¶ 6} Therefore, the sole assignment of error is overruled.

{¶ 7} Judgment affirmed.

It is ordered that appellee recover from 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. The defendant's conviction having been affirmed, any bail pending is terminated. Case remanded to the trial court for execution of sentence.

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

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EILEEN T. GALLAGHER, JUDGE

FRANK DANIEL CELEBREZZE, III, P.J., and  
CORNELIUS J. O'SULLIVAN, JR., J., CONCUR

N.B. Judge Eileen T. Gallagher joined the dissent by Judge Lisa B. Forbes in *Delvallie* and would have found that R.C. 2967.271(C) and (D) of the Reagan Tokes Law are unconstitutional.