

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO, :
 :
 Plaintiff-Appellee, :
 : No. 110414
 v. :
 :
 DEONTRA PERRY, :
 :
 Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: March 24, 2022

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-20-651752-A

Appearances:

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

Cullen Sweeney, Cuyahoga County Public Defender, and Paul A. Kuzmins, Assistant Public Defender, *for appellee*.

LISA B. FORBES, J.:

I. Facts and Procedural History

{¶ 1} On March 2, 2021, Deontra Perry (“Perry”) pled guilty to felonious assault, a felony of the second degree in violation of R.C. 2903.11(A)(2) with a one-year firearm specification; discharge of a firearm on or near prohibited premises, a

felony of the third degree in violation of R.C. 2923.162(A)(3); and having weapons while under disability, a felony of the third degree in violation of R.C. 2923.13(A)(2).

{¶ 2} On the same day, the trial court sentenced Perry to one year in prison for the firearm specification, four to six years in prison, under the Reagan Tokes Law, for the felonious assault, 36 months in prison for the discharge of a firearm on or near a prohibited premises, and 36 months in prison for the having weapons while under disability. The one-year prison term for the firearm specification was ordered to be served prior to and consecutively to all other charges, which were ordered to be served concurrently.

{¶ 3} It is from this sentence that Perry appeals, arguing that the Reagan Tokes Law is unconstitutional because it violates the right to trial by jury, the separation-of-powers doctrine, and the right to due process.

II. Conclusion

{¶ 4} Perry's assignment of error is overruled pursuant to this court's en banc decision in *State v. Delvallie*, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470.

{¶ 5} 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.

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

LISA B. FORBES, JUDGE

ANITA LASTER MAYS, P.J., and
EILEEN T. GALLAGHER, J., CONCUR

N.B. The author of this opinion is constrained to apply *Delvallie*. For a full explanation, see *State v. Delvallie*, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470 (Forbes, J., dissenting).

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.

Judge Anita Laster Mays is constrained to apply *Delvallie's* en banc decision. For a full explanation of her analysis, see *State v. Delvallie*, 8th Dist. Cuyahoga No. 109315, 2022-Ohio-470 (Laster Mays, P.J., concurring in part and dissenting in part).