

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO, :
 :
 Plaintiff-Appellee, :
 : No. 112222
 v. :
 :
 ORLANDO BURGOS, :
 :
 Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: August 24, 2023

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-20-654101-A

Appearances:

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

P. Andrew Baker, *for appellant*.

EMANUELLA D. GROVES, J.:

{¶ 1} Defendant-appellant, Orlando Burgos was resentenced on November 29, 2022, on a remand from this court for merger of Count 1, aggravated burglary, and Count 2, burglary. The trial court sentenced defendant on Count 1,

aggravated burglary, to six to nine years imprisonment, imposed two to five years of postrelease control, and advised appellant of the Reagan Tokes Law. Appellant objected to the imposition of the indeterminate sentence.

{¶ 2} Burgos appeals and presents the following error for our review:

Assignment of Error

The indeterminate sentence in Count 1 must be reversed as the Reagan Tokes law is unconstitutional.

Law and Analysis

{¶ 3} The appellant contends that it was error for the trial court to impose the sentence required under Reagan Tokes Law. In his brief, appellant argues the Reagan Tokes Law is unconstitutional. However, the same constitutional challenges have already been refuted by this court in *State v. Delvallie*, 2022-Ohio-470, 185 N.E.3d 536 (8th Dist.). The Supreme Court made the same finding regarding S.B. 201 in *State v. Hacker*, Slip Opinion No. 2023-Ohio-2535. Accordingly, pursuant to *Hacker*, the trial court properly imposed the indefinite sentence required under the Reagan Tokes Law.

{¶ 4} Accordingly, we overrule the appellant's sole assignment of error.

{¶ 5} Judgment affirmed.

It is ordered that appellee recover from appellant the 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 Cuyahoga County Court of Common Pleas 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.

EMANUELLA D. GROVES, JUDGE

EILEEN A. GALLAGHER, P.J., and
LISA B. FORBES, J., CONCUR