

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-210161
	:	TRIAL NO. B-2006044
Plaintiff-Appellant,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
DYLAN BACON,	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellee Dylan Bacon pled guilty to two second-degree-felony counts of improperly discharging a firearm at or into a habitation with a firearm specification. The trial court sentenced Bacon to a definite sentence of three years' incarceration. The trial court refused to apply the indefinite sentencing framework required by the Reagan Tokes Law, holding that law to be unconstitutional. However, in its journal entry, the trial court entered an indefinite sentence of three years to four years.

The state timely appealed the trial court's judgment. In its sole assignment of error, the state argues that the trial court erred by refusing to apply the indefinite sentencing scheme required by the Reagan Tokes Law. Because we have held that the Reagan Tokes Law is facially constitutional, we agree. *See State v. Guyton*, 1st Dist. Hamilton No. C-190657, 2022-Ohio-2962. We sustain the state's assignment of error.

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The state also notes that the trial court's judgment entry is contrary to what the court announced on the record. Because Crim.R. 43(A)(1) requires the defendant's presence at every stage of the trial, including sentencing, "a trial court's sentence is contrary to law when it imposes a sentence in the sentencing entry different from the sentence announced at the sentencing hearing." *State v. Jackson*, 1st Dist. Hamilton No. C-140178, 2014-Ohio-5008, ¶ 22. Accordingly, we vacate the sentence and remand the cause to the trial court for a new sentencing hearing.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MYERS, P.J., BERGERON and CROUSE, JJ.**

To the clerk:

Enter upon the journal of the court on November 9, 2022,  
per order of the court\_\_\_\_\_.

Administrative Judge