

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

STATE OF OHIO,	:	APPEAL NO. C-220137
Plaintiff-Appellee,	:	TRIAL NO. B-2101895
vs.	:	<i>JUDGMENT ENTRY.</i>
ALEX BRUCE,	:	
Defendant-Appellant.	:	

The court sua sponte removes this case from the regular calendar and places it on the court’s accelerated calendar, 1st Dist. Loc.R. 11.1.1(A), and this judgment entry is not an opinion of this court. See Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Alex Bruce appeals his prison sentence of 15 to 19½ years, which the trial court imposed after Bruce pleaded guilty to two counts of rape and one count of kidnapping.

In a single assignment of error, Bruce argues that his indefinite prison sentence imposed under R.C. 2901.011, the Regan Tokes Law, is unconstitutional.

First, Bruce argues that the Regan Tokes Law violates the separation-of-powers doctrine because it allows an executive-branch agency, the Ohio Department of Rehabilitation and Correction (“ODRC”), to extend the sentence imposed by the trial court, and because it allows the ODRC to essentially “charge, judge, convict, and sentence for the commission of a new act.” Bruce’s arguments were considered by this

court in *State v. Guyton*, 1st Dist. Hamilton No. C-190657, 2022-Ohio-2962. In *Guyton*, we rejected the appellant's constitutional separation-of-powers challenge to the Regan Tokes Law, because we determined that the judiciary imposes the sentence, and the ODRC is merely an enforcer of that sentence. *Guyton* at ¶ 28.

Next, Bruce argues that the Regan Tokes Law violates the Due Process Clause. Bruce argues that the Regan Tokes Law violates the substantive-due-process rights of offenders to be free from bodily restraint, because it allows offenders to be held in prison beyond the minimum term without affording offenders certain rights afforded to criminal defendants, like the right to counsel, compulsory process, and the right to trial by jury. Bruce also argues that the Regan Tokes Law violates the Due Process Clause because it does not provide a clear structure for the ODRC hearing, and the ODRC hearing officer is not a neutral officer. Again, these same arguments were made by the appellant in *Guyton*. In *Guyton*, this court determined that the ODRC proceedings occurring after judgment were administrative and did not infringe on offenders' liberty interests, because offenders have no right to early release after a validly-imposed criminal conviction, and because the appellant had not shown that the ODRC notice and hearing procedures were so defective as to overcome the strong constitutional presumption afforded to statutes. *Id.* at ¶ 32-57.

Lastly, Bruce argues that the Regan Tokes Law violates the Equal Protection Clause, because it treats defendants subject to the indefinite-sentencing scheme differently from defendants who are not subject to such a scheme. Again, this same argument was made by the appellant in *Guyton*. In *Guyton*, the court determined that the indefinite-sentencing scheme in the Regan Tokes Law that applies to certain serious felony offenders and not to less serious felony offenders does not implicate any

OHIO FIRST DISTRICT COURT OF APPEALS

fundamental right, and thus was subject to rational-basis review. Applying rational-basis review, the *Guyton* court determined that the incentive-based approach in the indefinite-sentencing scheme satisfied the rational-basis test. *See Guyton*, 1st Dist. Hamilton No. C-190657, 2022-Ohio-2962, at ¶ 58-68.

We overrule Bruce’s assignment of error on the authority of *Guyton*. We affirm the judgment of the trial court.

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.

ZAYAS, P.J., BERGERON and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on January 27, 2023
per order of the court _____.

Administrative Judge

Presiding Judge