

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

STATE OF OHIO,	:	APPEAL NO. C-210417
	:	TRIAL NO. B-1903084
Plaintiff-Appellant,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
DURRELL NICHOLS,	:	
	:	
Defendant-Appellee.	:	

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 the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

On July 1, 2021, defendant-appellee Durrell Nichols was found guilty of one count of obstructing official business, a felony of the fifth degree, and one count of felonious assault, a felony of the first degree, after a bench trial. The trial court imposed a definite six-year sentence for the felonious assault count to be served concurrently with an 18-month sentence imposed for the count of obstructing official business. The state now appeals on two interrelated assignments of error. The state asserts that the trial court erred by incorporating by reference the decision in *State v. O’Neal*, Hamilton C.P. No. B-1903562 (Dec. 13, 2019), and also by imposing a definite sentence for a first-degree felony which is contrary to law.

Mr. Nichols did not file a brief in this appeal. Therefore, this court accepts the appellant’s statement of facts and issues as correct in its discretion under App.R. 18(C).

**OHIO FIRST DISTRICT COURT OF APPEALS**

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In *State v. Guyton*, 1st Dist. Hamilton No. C-190657, 2022-Ohio-2962, *appeal accepted*, 168 Ohio St.3d 1418, 2022-Ohio-3752, 196 N.E.3d 850, this court held that the indefinite sentencing scheme established by the Reagan Tokes Law (2018 Am.Sub. S.B. 201) is constitutional. This court found the Reagan Tokes Law does not violate the doctrine of separation of powers, or substantive or procedural due process rights. *Id.* at ¶ 28, 57, 69.

Guided by that precedent, we sustain the state’s assignments of error and hold that the trial court erred by incorporating the ruling in *O’Neal*, which conflicts with the proper application of the Reagan Tokes Law. The trial court further erred by not imposing an indefinite sentence on Mr. Nichols’s first-degree felony conviction pursuant to the Reagan Tokes sentencing scheme. We accordingly reverse only that part of the sentence that implicates the Reagan Tokes Law and remand for imposition of an indefinite sentence as required by the Reagan Tokes Law.

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 February 8, 2023,  
per order of the court\_\_\_\_\_.

Administrative Judge