

COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT, ALLEN COUNTY

State v. Brown

2022-Ohio-4065 (Ohio Ct. App. 2022) · No. 1-22-36 · Decided November 14, 2022

SUMMARY

The Ohio Third District Court of Appeals affirmed Jonathan J. Brown’s conviction and indefinite sentence for attempted aggravated arson. The court rejected Brown’s constitutional challenges to the Reagan Tokes Law, including claims based on separation of powers, due process, and the right to a jury trial.

CASE DETAILS

COURT	Court of Appeals of Ohio, Third Appellate District, Allen County
WRITING FOR THE COURT	Miller, J.; Zimmerman, P.J.; Shaw, J.
JURISDICTION	Ohio
DECIDED	November 14, 2022
DOCKET	1-22-36
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brown appealed the judgment of sentence entered after he pleaded guilty to attempted aggravated arson and received an indefinite prison term under the Reagan Tokes Law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion; precedential within the applicable court and jurisdiction, subject to later precedent.
PARTIES	Jonathan J. Brown v. State of Ohio

TOPICS

- sentencing
- separation of powers
- due process
- sixth amendment
- appellate procedure

PRACTICE AREAS

- Criminal law
- Criminal procedure
- Sentencing
- Constitutional law

QUESTIONS PRESENTED

1. Whether the indefinite sentencing provisions of the Reagan Tokes Law violate the separation-of-powers doctrine.
2. Whether the indefinite sentencing provisions of the Reagan Tokes Law violate due process.
3. Whether the indefinite sentencing provisions of the Reagan Tokes Law violate the constitutional right to a jury trial.

HOLDINGS

1. The indefinite sentencing provisions of the Reagan Tokes Law do not facially violate the separation-of-powers doctrine.
2. The indefinite sentencing provisions of the Reagan Tokes Law do not facially infringe defendants' due-process rights.
3. Brown's jury-trial challenge to the Reagan Tokes Law is without merit.

KEY QUOTATIONS

“Since the indefinite sentencing provisions of the Reagan Tokes Law went into effect in March 2019, we have repeatedly been asked to address the constitutionality of these provisions. We have invariably concluded that the indefinite sentencing provisions of the Reagan Tokes Law do not facially violate the separation-of-powers doctrine or infringe on defendants’ due process rights.” (¶ 7)

FACTUAL BACKGROUND

The Allen County Grand Jury indicted Brown for aggravated arson, a first-degree felony. Pursuant to a negotiated agreement, the charge was amended to attempted aggravated arson, a second-degree felony, and Brown pleaded guilty. The trial court imposed an indefinite two-to-three-year prison sentence under the Reagan Tokes Law after rejecting Brown's constitutional challenge to that law.

PROCEDURAL HISTORY

An Allen County grand jury indicted Brown for aggravated arson. Under a negotiated agreement, the trial court amended the charge to attempted aggravated arson, accepted Brown's guilty plea, and sentenced him to an indefinite term of two to three years. The trial court overruled Brown's constitutional objection to the Reagan Tokes Law, and Brown appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Ball, 3d Dist. Allen No. 1-21-16, 2022-Ohio-1549
- State v. Crawford, 3d Dist. Henry No. 7-20-05, 2021-Ohio-547, ¶ 10-11
- State v. Hacker, 3d Dist. Logan No. 8-20-01, 2020-Ohio-5048, ¶ 22
- State v. Wolfe, 3d Dist. Union No. 14-21-16, 2022-Ohio-96, ¶ 21

OPINION

PER CURIAM.

[Cite as State v. Brown, 2022-Ohio-4065.] IN THE COURT OF APPEALS OF OHIO THIRD APPELLATE DISTRICT ALLEN COUNTY STATE OF OHIO, PLAINTIFF-APPELLEE, CASE NO. 1-22-36 v. JONATHAN J. BROWN, OPINION DEFENDANT-APPELLANT. Appeal from Allen County Common Pleas Court Trial Court No. CR2021 0237 Judgment Affirmed Date of Decision: November 14, 2022 APPEARANCES: F. Stephen Chamberlain for Appellant Jana E. Emerick for Appellee Case No. 1-22-36 MILLER, J. {¶1} Defendant-appellant, Jonathan J. Brown, appeals the May 9, 2022 judgment of sentence of the Allen County Court of Common Pleas.

For the reasons that follow, we affirm. Facts and Procedural History {¶2} On August 12, 2021, the Allen County Grand Jury indicted Brown on a single count of aggravated arson in violation of R.C. 2909.02(A)(1), (B)(2), a first- degree felony.

On August 18, 2021, Brown entered a written plea of not guilty. {¶3} On April 1, 2022, pursuant to a negotiated agreement, the trial court amended the charge in the indictment to attempted aggravated arson in violation of R.C. 2923.02 and R.C. 2909.02(A)(1), a second-degree felony. Brown entered a guilty plea to the amended charge.

The trial court accepted Brown’s guilty plea and found him guilty of Count One, as amended. The trial court filed its judgment entry of conviction that same day. {¶4} At a sentencing hearing held on May 9, 2022, the trial court overruled a defense motion objecting to the imposition of an indefinite prison sentence under the Reagan Tokes Law on the grounds of unconstitutionality.

The trial court then sentenced Brown to an indefinite term of two to three years in prison. The trial court filed its judgment entry of sentence that same day. -2- Case No. 1-22-36 {¶5} On May 31, 2022, Brown filed his notice of appeal. He raises three assignments of error for our review. Assignment of Error No. I The Reagan Tokes Law, 132 GA Senate Bill 201 is unconstitutional because it violates the separation-of-powers doctrine.

Assignment of Error No. II The Reagan Tokes Law, 132 GA Senate Bill 201 is unconstitutional because it violates right to due process. Assignment of Error No. III The Reagan Tokes Law, 132 GA Senate Bill 201 is unconstitutional because it violates the constitutional right to a jury trial. {¶6} In the three assignments of error, which we will address together, Brown contends that the indefinite sentence of incarceration imposed pursuant to the Reagan Tokes Law is unconstitutional as it violates the separation-of-powers doctrine and violates his constitutional rights to due process and to a trial by jury. {¶7} As this Court has noted in State v. Ball, 3d Dist.

Allen No. 1-21-16, 2022-Ohio-1549, challenges to the Reagan Tokes Law do not present a matter of first impression to this Court. Ball at ¶ 59. “Since the indefinite sentencing provisions of the

Reagan Tokes Law went into effect in March 2019, we have repeatedly been asked to address the constitutionality of these provisions.

We have invariably concluded that the indefinite sentencing provisions of the Reagan Tokes -3- Case No. 1-22-36 Law do not facially violate the separation-of-powers doctrine or infringe on defendants' due process rights." Id. citing e.g. State v. Crawford, 3d Dist. Henry No. 7-20-05, 2021-Ohio-547, ¶ 10-11; State v. Hacker, 3d Dist. Logan No. 8-20-01, 2020-Ohio-5048, ¶ 22; State v. Wolfe, 3d Dist.

Union No. 14-21-16, 2022-Ohio-96, ¶ 21. Further, for the reasons stated in Ball, the remaining constitutional issue under Reagan Tokes related to a jury trial is also unavailing. Id. at ¶ 61-63. {¶8} Thus, on the basis of Ball and our prior precedent, this Court finds no merit to Brown's contentions.

The three assignments of error are overruled. {¶9} Having found no error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the judgment of the Allen County Court of Common Pleas. Judgment Affirmed ZIMMERMAN, P.J. and SHAW, J., concur.
/jlr -4-