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Category



**OKLAHOMA CRIMINAL DEFENSE WEEKLY**

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[James L. Hankins,](#)  
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*(with special thanks to Mark Hoover, OIDS, for contributing regularly)*

“I have lived my life, and I have fought my battles, not against the weak and the poor—anybody can do that—but against power, against injustice, against oppression, and I have asked no odds from them, and I never shall.”---Clarence S. Darrow, *Attorney for the Damned* 491, 497 (Arthur Weinberg ed. 1957).

## OKLAHOMA

[State v. Melvin Dean Tannehill](#), 2024 OK CR 32 (December 5, 2024): **State Appeals; Search and Seizure (Traffic Stops)**: In this State appeal out of Noble County involving a charge of Trafficking and Conspiracy, the Hon. Jennifer Brock bound Tannehill over for trial. District Judge Nikki Leach granted a motion to suppress, concluding that the arresting officer had detained unlawfully the motorist after completing a traffic stop. In this opinion, the Court reversed, holding that the interaction after the stop was consensual. NOTE: Rowland, P.J., concurred specially, underscoring that admissions in the brief answered the question, and also that the officer asking to search during the consensual encounter was not unlawful.

[City of Tulsa v. O'Brien](#), 2024 OK CR 31 (December 5, 2024): **Indians; Waiver (Appellate Issues)**: The City of Tulsa has jurisdiction to prosecute crimes against Indians in Indian Country. Also, counsel for the City gave notice of appeal orally during a phone call after the municipal judge issued the ruling. The Court found this was sufficient notice. NOTE: Musseman, V.P.J., concurred specially in an expansive opinion. Lumpkin, J., also concurred specially. Lewis, J., concurred in part/dissented in part, agreeing that the notice of appeal was sufficient, but disagreeing that Oklahoma has jurisdiction over crimes committed by Indians in Indian Country because Congress has not expressly said so.

[Jimenez v. State](#), 2024 OK CR 33 (December 5, 2024): **Guilty Pleas**: In this “semi-blind plea of no contest” to a Rape charge out of Texas County, the Hon. Jon K. Parsley sentenced Jimenez to 35 years/20 suspended. Conflict counsel was appointed and in this opinion the Court denied the motion to withdraw the plea based on IAC, concluding that even though the plea form had some deficiencies the entire record show a knowing and voluntary plea; and also that a PSR was not mandated because the record showed there was a plea bargain.

[State ex rel. Charles Sullivan District Attorney v. Hon. Mike Hogan](#), No. PR-2024-654 (Okla. Cr., October 9, 2024) (unpublished): **Discovery**: The State sought a writ out of Pittsburg County when the Hon. Mike Hogan dismissed a felony case based on the State’s shirking its discovery obligations and failing to file a witness and exhibit list. In this Order, the Court denied the writ.

## **TENTH CIRCUIT**

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[United States v. Justin Dale Little](#), No. 23-5077 (10<sup>th</sup> Cir., October 11, 2024) (Published) (Tymkovich, Ebel & Eid) (N.D. Okla.): **Indians; Interrogations (Fifth Amendment)**: Although there was no dispute here that Oklahoma lacked jurisdiction to prosecute Little, the question arose whether evidence acquired by state law enforcement is admissible in a federal prosecution where the State lacked jurisdiction under *McGirt*. The panel held that the evidence is admissible under the good faith exception to the warrant rule even though police lacked jurisdiction to gather it. The panel also rejected several other arguments related to: 1) consent to search home by Little’s mother; 2) interrogation did not violate the Fifth Amendment (waiver was effective for questioning the next day; no coercion; invocation of counsel was not unequivocal; and the statements were voluntary).

[United States v. Elga Eugene Harper](#), No. 23-5091 (10<sup>th</sup> Cir., October 3, 2024) (Published) (Bacharach, Moritz & Federico) (N.D. Okla.): **Evidence (Business Records); Indians**: Harper, an Indian, was convicted of Kidnapping and Assault. In this opinion, the panel found reversible error in the admission of a verification letter from the Choctaw Nation of Oklahoma proving Indian status, holding that it was not a business record subject to the hearsay exception.

## **UNITED STATES SUPREME COURT**

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“Only Supreme Court justices and schoolchildren are expected to and do take the entire summer off.” –*Chief Justice John Roberts (statement made while he served as a lawyer in the Reagan Administration).*

*No new cases.*

## **OTHER CASES OF NOTE**

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**Order on Ineptitude**: In the Southern District of Texas, lawyers from “Main Justice” descended upon the court and had problems ordering a transcript. According to the district judge, rather than asking for help from the local U.S. Attorney’s Office or from the Court, the “pretentious lawyers” from Main Justice wasted the court’s time instead of just looking on the web site. So, the Hon. Lynn N. Hughes literally prepared and filed a document titled, “Order on Ineptitude.”

## **CONSPIRACY (2001)**

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[Conspiracy](#) is a 2001 film dramatizing the events at the 1942 Wannsee Conference where a group of German officials discussed the policy and details of the “final solution” to the Jewish question at a villa outside of Berlin. A stenographer was present at the Conference and a copy of the transcript survived the war. It is so

well done that I watch it every few years, usually picking up on things I have missed.

The Conference was chaired by Reinhard Heydrich, Chief of the Reich Security Main Office and Deputy Reichsprotektor of Bohemia and Moravia (and who was described infamously by Hitler himself as “the man with the iron heart”), played by Kenneth Branagh. The organizer of the Conference was the stolid and humorless Adolph Eichmann, underlying to Heydrich, and portrayed by Stanley Tucci. Branagh and Tucci are excellent, as are most of the other cast which includes actors you will recognize from other works.

I watched it again this weekend and picked up on the interesting conversation during one of the breaks between Rudolf Lange, Commander of the Sicherheitsdienst (SD) in Latvia, and Friedrich Wilhelm Kritzinger, State Secretary in the Reich Chancellery. The Conference brought together officials from various military, SS, and civil authority to coordinate and work out the details of the Final Solution. During the discussion, Heydrich made it clear that the extermination policy had already been decided, and the purpose of the meeting was to find the most efficient way to implement it. Kritzinger was one of the few in attendance who was troubled by this. He was basically a lawyer high in the bureaucratic strata of the Reich, whereas Lange was a killer in charge of killers, fresh off a nearly 30,000 person massacre in Latvia.

During the break, Lange confides in Kritzinger some of the details of the massacre, and that he had heard rumors of gas chambers to come next. Kritzinger is aghast, and learns that Lange has legal training as well. While Kritzinger ponders this dark turn, the following conversation was had:

KRITZINGER: This is more than war. Must be a different word for this.

LANGE: Try “chaos.”

KRITZINGER: Yes. The rest is argument, the curse of my profession.

LANGE: I studied law as well.

KRITZINGER: And how do you apply that education to what you do?

LANGE: It has made me distrustful of language. A gun means what it says.

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## VICTORIES

**BILLY VANDEVER**, Pauls Valley, secured a not guilty verdict in Comanche County for a man accused of rape following two days of evidence and testimony. Nice work, Billy!

## **HEARSAY**

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**STOLEN**: A man stole a police cruiser in Henryetta...and then crashed it.

**INDICTED**: Six employees at the Garvin County Jail have been indicted for civil rights violations stemming from the death of an inmate last year.

**CRIME**: The Lawton Police Department claims that crime is down in the city.

**PARDON AND PAROLE BOARD**: Gov. Stitt has appointed Susan Stava to replace Calvin Prince on the Board. The Board will **review** hundreds of cases in January to catch up after the recent resignations of Board members.

**TESTS**: The Forensic Science Institute at UCO says that some crimes may be solved with same-day genetic testing.

**GENEALOGY**: OKC police have used genealogy to solve a 50-year-old homicide.

**FEAR**: Tulsa police try to convince students that they should not be afraid of law enforcement officers.

**MASCOT**: The Claremore Police Department introduced its new mascot "Bumper Bear."

**ORWELL**: Residents in Bartlesville are concerned about an "Orwellian future" based on police surveillance.

**CHARGED**: An Oklahoma City police officer has been charged with using excessive force on a 71-year-old Vietnamese man back in October.

**OVERRUN**: The State's new mental health center for central Oklahoma is facing a massive cost overrun.

**JAIL**: A task force of the Cherokee Nation has recommended against building a tribal jail.

**ARRESTED**: An OKC police officer has been arrested for rape and other offenses in Canadian County.

**HONORED**: A.G. Gentner Drummond has named Bryan County Deputy Austin Murray as the 2024 Officer of the Year.

**GIVING THANKS**: For the nineteenth year in a row, Woodward County Jail inmates had a nice Thanksgiving.

**ARRESTED II**: The Latimer County Undersheriff has been arrested for Domestic A&B.

**ARRESTED III**: A man in the hiring process for the OKC Police Department has been arrested for possession of child porn.

**PROSECUTIONS**: Very few persons have been prosecuted under Oklahoma's Porch Pirate Act.

**COURT REPORTERS**: Oklahoma has 195 court reporter positions authorized, but only 130 have been filled.

**NO REGRETS**: Ousted Supreme Court Justice Yvonne Kauger leaves office with no regrets.

**RE-ENTRY**: The State of Texas has a re-entry program for prisoners that seems to actually be working.

## **WACKY CRIME**

**SHOPPING**: A man participated in a charity "Shop With a Cop" event...and proceeded to shoplift.

**COUNTERFEIT**: Eskimo Joe's merchandise is being counterfeited.

**SCREAM**: Two suspects, one of them wearing a "Scream" mask, broke into a convenience store in Duncan to steal a case of scratch-off lottery tickets.

**GRAFFITI**: An attorney in Tulsa is seeking the person who painted graffiti near his office...so that he can collaborate.

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