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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

[Mica Alexander Martinez v. State](#), 2021 OK CR 40 (December 30, 2021):

Indians; State Post-Conviction: Post-conviction capital case out of Comanche County involving a *McGirt* issue. The Court held that the Kiowa-Comanche-Apache Reservation has been disestablished by Congress; and relief would not be warranted in any event in light of the non-retroactivity holding of *Matloff*.

[Miles Sterling Bench v. State](#), 2021 OK CR 39 (December 22, 2021): **Indians; State Post-Conviction:** Post-conviction capital case out of Stephens County raising a *McGirt* claim and other claims, including IAC appellate counsel. The Court denied relief on the basis of *Matloff* and denied relief on the other claims as well. NOTE: This is one of the capital cases where the Court had granted relief.

TENTH CIRCUIT

[United States v. Leroya Cozad](#), No. 20-3233 (10th Cir., January 3, 2022) (Published) (Bacharach, Seymour & Phillips): **Guilty Pleas**: The panel framed the issue: whether, under 18 U.S.C. §3553(a), it is unreasonable for a district court to impose a harsher sentence based on a defendant's decision to plead guilty without a plea agreement. The panel held that it is unreasonable.

[United States v. Ramar Travelle Palms](#), No. 20-5072 (10th Cir., December 21, 2021) (Published) (McHugh, Ebel & Eid) (N.D. Okla., Hon. Claire V. Eagan): **Search and Seizure (Cell Phone); Evidence (Rape Shield)**: Sex Trafficking convictions are affirmed over claims related to: 1) denial of suppression of evidence derived from cell phone search pursuant to warrant; and 2) exclusion of evidence under the rape shield law that the complaining witness had advertised as a sex worker.

[United States v. Wilkie Bill Burtrum](#), No. 20-5091 (10th Cir., December 20, 2021) (Published) (McHugh, Ebel & Eid) (N.D. Okla., Hon. Gregory K. Frizzell): **Sufficiency (Sex Abuse); Federal Sentencing Guidelines (Mandatory Life); Restitution**: Burtrum was convicted of sexual abuse, after having been convicted of sexual abuse, and was sentenced to mandatory life imprisonment. The panel affirmed over his claims related to: 1) sufficiency of the evidence; 2) whether mandatory life is constitutional; and 3) whether the restitution award was a reasonably certain estimate supported by the evidence.

UNITED STATES SUPREME COURT

“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

[United States v. Trey Cardale Campbell](#), No. 20-4256 (4th Cir., January 7, 2022): **Federal Sentencing Guidelines (Attempt Crimes)**: The legal issue in this case was whether an attempt crime constitutes a “controlled substance offense” supporting a career offender sentencing enhancement. The panel held that it does not.

[United States v. Stephen Scott Meals, Jr.](#), No. 20-40752 (5th Cir., December 30, 2021): **Search and Seizure (State Actor)**: Not a winner, but interesting discussion of when a private entity is a state actor for purposes of search and seizure law where Meals used Facebook messenger to discuss sexual matters with a minor, and Facebook reported the discussions to the National Center for Missing and Exploited Children, which in turn reported it to law enforcement, which resulted ultimately in search warrants and the discovery of child pornography.

VICTORIES

None noted.

HEARSAY

ARRESTED: Oklahoma State Rep. Terry O’Donnell (R-District 23) has announced his resignation after he and his wife were indicted on multiple counts in Oklahoma County stemming from alleged impropriety over a bill that he wrote in which he had an interest.

ARRESTED II: An employee at the Oklahoma County Jail has been arrested for possessing child porn; also, an [Oklahoma County Jail detention officer](#) has been arrested for contraband.

BILL: The same state senator from Broken Arrow who filed a bill to prohibit the feds from transporting “political prisoners” though Oklahoma is filing a bill to give county Sheriffs the authority to arrest federal officers and form posses against federal agents.

CHARGES: There has been an uptick in criminal charges filed against women who miscarry because of drug use.

CHARGED: A former Tulsa County Deputy has been charged with exploiting an elderly relative.

McGIRT: Attorneys Jaye Mendros and Bert Richard are litigating the State's effort to re-open post-conviction cases where relief was granted under McGirt, but the State failed to appeal. Also, **KOSU reported** that the number of persons who had sought to have their convictions overturned under *McGirt* is 235; and of those granted relief, only 67 have not been retried.

DISMISSED: The civil lawsuit filed against Oklahoma County ADA Gayland Gieger has been dismissed.

TRIBUTE: A group paid tribute to those who died at the Oklahoma County Jail by placing a cardboard coffin at the entrance.

INMATES: The Marshall Project takes a look at inmates with brain injuries.

CRASH: A woman's THC-infused vodkas, which she had made for "medical purposes," has apparently caused a triple-fatality crash in Purcell.

DRUG COURT: Cleveland County District Judge Michael Tupper is concerned that the effect of State Question 780 may result in fewer cases of addiction being treated in Drug Court.

AMAZON: Police arrested three persons involved in an extensive scheme to steal and re-sell Amazon packages.

CANDIDATE: Erik Johnson has announced his candidacy for District Attorney for Pontotoc, Seminole, and Hughes Counties.

WHIZBANG: NonDoc ran this story about the "short but fiery" existence of a town in Osage called "Whizbang."

DESIGN: A design for a new Oklahoma County Jail by OU students is innovative.

CONSULATE: A Mexican Consulate will open in Oklahoma City this year.

BAIL REFORM: Oklahoma County Public Defender Bob Ravitz told NonDoc that bail reform is needed and must be included in the discussion about a new jail.

BODY-CAMS: All of Oklahoma's 114 game wardens now have body-cams.

SPEED: Police stopped a Corvette going 128 mph on the Broken Arrow Expressway; also, a **Muskogee man** has been arrested after a motorcycle chase reached 135 mph.

RIP: The chaplain of the Owasso Police Department has died of COVID.

OFFICERS: The Claremore P.D. is so desperate for officers that it is offering significant financial incentives.

WACKY CRIME

LOST: A drunk man in Love County got lost and asked for directions...he did not like the directions he was given so he opened fire.

WASHINGTON COUNTY: An inmate at the Washington County Jail damaged the jail...then doubled-down by cursing at the judge.

STOLEN: A man went to a store...and stole its dinosaur.

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