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Category



OKLAHOMA CRIMINAL DEFENSE WEEKLY

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[James L. Hankins,](#)  
Publisher

*(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

[Jason Lamar Richey, Jr., v. State](#), No. F-2023-113 (Okla. Cr., January 9, 2025) (unpublished): **Self-Defense; Lesser-Included Offenses; Jury Nullification**: In this murder case out of Canadian County (the Hon. Jack McCurdy, II, presiding), the Court affirmed, but I included it because it contains nice summaries of the law governing instructions on self-defense as well as lesser offense instructions. It also contains a pernicious holding by the Court concerning self-defense. The prosecutor anticipated a defense of self-defense by jury nullification based on the opening statement of defense counsel. The state requested, and the trial court gave, a non-OUJI instruction that self-defense was not available and that the jury could not return a verdict of not guilty based on self-defense. NOTE: This instruction on jury nullification seems constitutionally dubious to me.

## TENTH CIRCUIT

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[United States v. Justin Miles Ness](#), No. 23-7051 (10<sup>th</sup> Cir., December 31, 2024) (Published) (Phillips, Carson & Federico) (E.D. Okla., Hon. John F. Heil, III):

**Jury Notes:** In this felon in possession of a firearm case, the jury sent a note to the judge asking about the temporal limit on “on or about September 8, 2021” but the judge sent the usual non-answer. On appeal, Ness argued plain error because the jury could have based its decision on other events, but here the panel found no plain error. NOTE: Judge Federico concurred, finding error, but concluding that the error did not affect the substantial rights of the accused.

**LOCAL RULES:** There have been some changes to the Tenth Circuit Rules, a summary of which can be found [HERE](#).

## 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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[United States v. Eddie Lamont Bell](#), No. 23-50755 (5<sup>th</sup> Cir., January 10, 2025):

**Federal Sentencing Guidelines (Acceptance of Responsibility):** Bell was arrested and charged with felon in possession of a firearm, cooperated, but got into a fight with a cellmate prior to sentencing, which the district court deemed a sign that he had failed to withdraw from criminal conduct and denied him an acceptance

of responsibility reduction. The panel reversed, finding that this incident did not outweigh the “significant evidence” of acceptance of responsibility.

[United States v. Brian Thomas Bright](#), No. 23-4624 (4<sup>th</sup> Cir., January 3, 2025): **Federal Sentencing Guidelines (Leader/Organizer)**: Sentence is vacated and remanded because the district court failed to make necessary findings for an enhancement for a “managerial role.”

[United States v. Patrick Darnell Daniels, Jr.](#), No. 22-60596 (5<sup>th</sup> Cir., January 6, 2025): **Second Amendment**: A jury had found Daniels guilty of being an “unlawful drug user” and he was convicted of possessing a gun. But, because the jury did not find that he was intoxicated at the time of his arrest, nor identify the last time he used unlawful substances, the panel reversed. The Supreme Court decided *Rahimi* and G/V/R’d the case back to the Fifth Circuit, which again reversed based on subsequent circuit precedent where the jury did not necessarily find that Daniels has presently or even recently engaged in unlawful drug use.

## **RESOURCE FAIR AND WARRANT CLEARING**

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OIDS is co-hosting a warrant-clearing/resource fair this week at The Well, 210 South James Garner Avenue, Norman, OK, on **Wednesday, January 15, 2025, from 2-5 p.m.** This event is for all persons with outstanding warrants or resource needs in Cleveland County, not just OIDS clients.

## **VICTORIES**

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[JARROD STEVENSON](#), Kay County, secured dismissal after preliminary hearing of the remaining counts of an Information on a demurrer in a Child Porn case out of Kay County. The State has announced intent to appeal. Terrific work, Jarrod!

## **HEARSAY**

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**HOURS**: The City of Ada is changing the hours of operation for the municipal court.

**MENTAL**: A new mental health facility has opened in Stillwater.

**NEW EVIDENCE**: Robert Johnson, one of the convicted defendants in the Geronimo Bank robbery of 1984, has sought a new trial based on new evidence.

**RESIGNED**: The CEO of the Oklahoma County Detention Center has resigned 24 months after taking the position. Also, the Oklahoma County Jail had its first **inmate death** of the year, as well as **multiple deficiencies**.

**REMODEL**: The remodel of the Okmulgee County Courthouse is almost complete.

**APPOINTMENTS**: NonDoc presents a good summary of recent judicial appointments.

**FOOD**: A culinary program in Tulsa gives formerly-incarcerated women a second chance.

**DONATION**: The Woods County Sheriff has received a donation for obtaining equipment for fingerprinting juveniles.

**OSA**: A woman convicted of killing her husband has become the first prisoner released under the Oklahoma Survivor Act.

**PLEA**: The former Pittsburg County Sheriff entered a plea to a charge of embezzlement and received a deferred sentence.

**BILLS**: A state senator has filed three bills to help former inmates get driver's licenses.

**SOLVED**: The Tulsa Police Department boasted a 100% solve rate for homicides in 2024, citing the use of FLOCK cameras as the top reason. The Department will not divulge the **location** of 200 of the cameras.

**STABBING**: There has been a stabbing at LCF. Also, a woman has been arrested for trying to **smuggle** "THC wax" into the facility.

**TROUBLES**: The Cleveland County Sheriff has troubles as the result of a default on a \$40,000.00 personal loan as well as other troubles.

**OUTRAGE**: Legislators in Missouri are outraged that the Missouri Public Defender's Office has hired someone who had pled guilty to a crime against the daughter of a legislator.

**UPGRADE**: Cleveland County courtrooms will get significant technical upgrades.

**DOC**: The DOC has touted its accomplishments for 2024. Also, the **cosmetology program** is now open to men.

**APPOINTED**: Gov. Stitt has appointed Jason Reese as the new district judge for Payne and Logan Counties, replacing Phillip Corley who has retired.

**RIP**: RIP Adam Haselgren, Tulsa County Public Defender, and a capable advocate who will be missed.

**RIP**: Norman Police Department has lost a Master Police Officer to cancer.

**ACCUSED**: A now-former officer of the DOC has been accused of raping two inmates at Mabel Bassett.

**COMMENT**: State Rep. Cyndi Munson and Bobby Don Gifford comment on Attorney General Drummond dismissing charges against the police officer who threw an Asian man to the ground during a traffic stop.

**LEGAL AID**: Nice article explaining how Legal Aid helps Oklahomans restart life after incarceration.

**GRANT**: The Tulsa County Sheriff's Office will fund a new Drug Interdiction Unit with federal grant money.

**THERAPY**: The Latimer County Jail has a new therapy dog for inmates.

**RESOLUTION**: Lawton's KSWO believes that its news stories have helped resolve problems at the Comanche County Jail.

**DEATH PENALTY**: Oklahoma Watch has noted that, as executions proceed, fewer death sentences are handed down (the last was in 2022).

## **WACKY CRIME**

**LAWTON**: Fake cop, real pursuit.

**SAPULPA**: The inevitable has occurred: A Sand Springs man crossed onto property and stole a "tiny home."

**TULSA**: Tulsa police have tracked down and captured...a spider monkey.

**BIXBY**: A Bixby teenager under the influence took a city truck for a joyride and damaged it (complete with video of truck destroying a mailbox).

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