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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. Luevana](#), 2026 OK CR 3 (January 29, 2026): **State Appeals; Interrogations (Fifth Amendment)**: In this State appeal out Tulsa County, Luevana was charged with A&B w/Dangerous Weapon. He contested the voluntary nature of his statement to police. The Hon. Michelle Keely suppressed the statement on the basis that the Spanish-language translation of the *Miranda* warnings was defective. However, the Court reversed, holding the translation was adequate.

[Zou v. State](#), 2026 OK CR 1 (January 15, 2026): **OMMA**: Zou was convicted at a bench trial in Craig County (the Hon. Joseph M. Gardner) of drug crimes stemming from a marijuana grow. The Court affirmed over claims related to

interpretation of the OMMA provisions and whether violations are civil or criminal in nature.

[Ashton Curtis Parker v. State](#), No. F-2024-653 (Okl.Cr., January 15, 2026) (unpublished): **Arrest**: Parker was convicted by jury in Jackson County (the Hon. Rafe Hall, presiding) of two counts of First-Degree Murder. The Court affirmed on plain error review and rejected his claim that his arrest was unlawful. NOTE: Judge Rowland Specially Concurred, noting that police cuffed and transported Parker to the station for questioning, which is likely an arrest requiring PC in most circumstances, but the question is open in Oklahoma.

[Cassandra Ann Bray v. State](#), No. F-2024-346 (Okl.Cr., January 15, 2026) (unpublished): **Double Jeopardy; Statutory Construction**: Bray was convicted by jury of DUI Resulting in Great Bodily Injury (the Hon. Paul Hesse, presiding) stemming from a collision that injured three persons. The Court affirmed over Bray's argument that three convictions for a single instance of driving violated section 11. NOTE: Lumpkin, P.J., Concurred in Part/Dissented in Part, noting that the Court had interpreted (incorrectly) that section 11 does not apply when the accused is convicted under a single statute, as here. He framed the issue as one of simple statutory construction and whether the Legislature intended to punish a single act of DUI when multiple persons are injured. His opinion is actually a helpful guide to the law and formulating an argument if you have such a case.

[Roosevelt Levell Chapman v. State](#), No. F-2024-459 (Okl.Cr., January 22, 2026) (unpublished): **Jury Instructions (Defense Requested); Defense Theory of the Case**: Chapman was convicted by jury in Oklahoma County (the Hon. Kathryn Savage, presiding) of A&B w/Dangerous Weapon AFCF x 2. The Court reversed one count because the trial court erred in refusing his requested jury instruction on the justifiable use of non-deadly force.

[Anthony Hegger v. State](#), No. F-2024-901 (Okl.Cr., January 29, 2026) (unpublished): **Waiver (Appellate Issues)**: Hegger was convicted by jury in Oklahoma County (the Hon. Cindy H. Truong, presiding) of Burglary in the First Degree. He attempted to appeal the sufficiency of the Information filed in the case, but the Court shut it down totally for failing to file a written demurrer or motion to quash, even though a demurrer was made orally; and also found a sufficiency argument waived as undeveloped. NOTE: This opinion contains the law on the requirements of attacking the Information prior to trial. Be familiar with them to avoid waiver.

TENTH CIRCUIT

[United States v. Todd Harold Cooper](#), No. 23-4052 (10th Cir., November 18, 2025) (Published) (Holmes, C.J., Ebel & Bacharach): **Habeas Corpus (2255 Practice):** Cooper had been sentenced to life for bank robbery after several priors. He was granted authorization to file a second 2255 petition on the issue of whether section 3559's residual clause was unconstitutionally vague. The district court denied relief, and in this opinion the panel affirmed, holding that he had failed to show sufficiently that his sentencing court actually relied on the residual clause in question in imposing sentence.

[United States v. Dennis Hebert](#), No. 24-7030 (10th Cir., November 18, 2025) (Published) (Hartz, Matheson & Bacharach) (E.D. Okla.): **Indians:** Hebert was convicted of Aggravated Sexual Abuse in Indian Country, which the Government was obligated to prove that he was not an Indian. On appeal, he challenged whether the Government had done so, and the panel concluded that it did not. Reversed and remanded with instructions to enter judgment of acquittal. **NOTE:** Judge Hartz concurred, urging the Court to reconsider its *en banc* opinion holding that the Government must prove the non-Indian status of the accused.

[United States v. Montessa Cunningham](#), No. 24-3059 (10th Cir., November 12, 2025) (Published) (Matheson, Ebel & Moritz): **Fraud; Sufficiency:** Multiple counts of wire/bank fraud concerning a scheme by a husband and wife to acquire clean title on cars to use to obtain cash are affirmed, but the panel reversed one count of bank fraud because there was no evidence that the husband was involved in his wife obtaining the bank loan; and one count of wire fraud because the Government failed to prove the requisite interstate-commerce element.

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).

[Klein v. Martin](#), No. 25-51 (U.S., January 26, 2026) (*per curiam*): **Habeas Corpus**: Grant of habeas relief is reversed because the circuit court did not apply AEDPA standards regarding deference to the state court decision.

[Ellingburg v. United States](#), No. 24-482 (U.S., January 20, 2026): **Restitution; Ex Post Facto**: Ellingburg committed his crime prior to the enactment of the Mandatory Victims Restitution Act of 1996, but was sentenced afterward and slapped with restitution. The Eighth Circuit held that the restitution order was not criminal punishment, and therefore not subject to the Ex Post Facto law. The Court reversed, holding that restitution plainly is punishment for purposes of Ex Post Facto law.

[Barrett v. United States](#), No. 24-5774 (U.S., January 14, 2026): **Statutory Constructions; Double Jeopardy**: Statutes criminalize possession of a firearm in connection with a drug trafficking crime or crime of violence; but also prescribes other penalties when the possession causes death. The question is whether a single act that violates both provisions may yield two convictions or only one. The Court held that only one conviction is authorized. NOTE: The Court analyzed the issue in terms of statutory constructions, not Double Jeopardy, noting that the *Blockburger* presumption that Congress ordinarily does not intend to punish the same offense under two different statutes was not overcome in this case.

[Case v. Montana](#), No. 24-624 (U.S., January 14, 2026): **Search and Seizure Warrantless Home**): Prior case law held that a warrantless search of a home is warranted to render emergency aid. Police did so in this case and the Court held that the objective reasonableness standard in this regard applied with no further gloss and was satisfied here.

OTHER CASES OF NOTE

[United States v. Abdoulaye Barry](#), No. 23-12101 (11th Cir., January 7, 2026): **Federal Sentencing Guidelines (Loss Calculations); Restitution**: In this case involving multiple defendants who conspired to commit credit card fraud, all pled except for Barry who went to trial and was convicted. He argued on appeal that the district court erred in a loss calculation and restitution because it held Barry responsible for loss caused by his co-conspirators. The panel agreed and remanded for re-sentencing.

United States v. Jy'Quale Samari Grable, No. 23-10544 (11th Cir., January 5, 2026): **Robbery**: In this Hobbs Act robbery case, the panel held that a taking of property does not constitute robbery under the Act unless force or threatened force is used before or during the taking. Thus, because Grable used force only after one of his co-conspirators had stolen drugs and carried it away, his conviction is reversed.

United States v. Hassan Jones, No. 24-10938 (11th Cir., December 19, 2025): **Prosecutorial Misconduct (Improper Argument)**: Jones was convicted of several crimes, including gun possession in furtherance of a drug-trafficking crime. The panel reversed this conviction because of prosecutorial misconduct during closing arguments where the prosecutor invoked an un-admitted exhibit.

VICTORIES

WINSTON CONNOR, Miami, secured a sentence modification for a client convicted of Manslaughter in Ottawa County. Nice work, Winston!

JARROD STEVENSON, Kay County, secured a dismissal in a Child Molestation case. Great work, Jarrod!

HEARSAY

OJA: The Office of Juvenile Affairs amended its FY 2027 budget request to reflect emphasis on early treatment.

AI: In courtrooms around the world, digital audio recordings are admitted as evidence. Forensic Magazine examined efforts to detect scientifically AI-generated or manipulated evidence.

JAILED: A Haskell County jailer has been jailed for improper contact with an inmate.

Elk City: The new Elk City Police Facility will open in the first half of February, and will feature a next-generation 911 system.

LINCOLN COUNTY: The Lincoln County Jail is getting a facelift.

OSAGE COUNTY: The Osage County Court Clerk's Office is changing hours by requiring employees to take lunch from noon to 1:00 p.m.

RIP: Tim "Tarzan" Wilson has passed. He was a fixture at the Oklahoma County Public Defender's Office for years, an aggressive advocate, and a respected lawyers and fixture of the criminal defense bar.

ALCOHOL: A state senator has filed a bill that would prohibit lawmakers from consuming alcohol within the state capitol because she believes that some legislators have appeared inebriated in the closing days of the legislative session.

OHP: OHP, facing a personnel shortage, plans to hire 150 new troopers.

DOCUMENTS: DOC has a new policy that no paper documents are allowed to be carried in (as a result of such documents being dipped in drugs), and now the Tulsa County Jail has followed suit, including legal documents.

DISMISSED: An embezzlement case filed against the former football coach from McAlester has been dismissed by the State. Blake Lynch is listed as defense counsel.

FIRED: The City of Frederick has fired the Chief of Police.

ASSET FORFEITURE: Gov. Stitt has signed an Executive Order strengthening transparency and accountability of civil asset forfeiture.

CULTURE: A "culture" of crafting hand-blown glass smoking pipes has developed in Tulsa.

PLED: State Rep. Ayshia Pittman has pled guilty to a felony charge related to a falsified check to the Oklahoma Ethics Commission.

CAMPAIGN: State legislator Jon Echols has raised \$1.5 million to spend in his bid to become the next state Attorney General.

CHIEF: The Citizen Pottawatomie Nation has a new Chief of Police.

DOC: The new "Video Connect" platform now allows video visits with inmates.

RESIGNED: The Oilton police chief has resigned after only four months in office.

VANDAL: The suspect in a vandalism case of the state capitol building a few weeks ago is a sex offender. The **vandalism** was spray-painting anti-ICE and anti-Stitt messages.

CHARGED: The former Chief of Police has been charged with embezzlement.

MENTAL HEALTH: Despite court orders to improve, the waitlists for mental health treatment in county jails continue to grow.

LIBEL: The Court of Civil Appeals has upheld, for the most part, a jury verdict finding libel committed by a former assistant D.A. against then-D.A. Janice Steidley and ADA David Iski. The Court affirmed the ruling of the trial court that ADA David Iski was not a public figure.

RETIRED: Enid Municipal Judge Linda Pickens is retiring.

BUST: OBN has seized 17,000 fentanyl pills and some meth and firearms in Enid.

ICE: ICE will resume operations at Diamondback Correctional Facility.

CAMERAS: A bill in the upcoming legislative session would create uniformity in camera policies in Oklahoma courtrooms, overruling local court rules.

ALCOHOL: The ABLE Commission reports fewer Oklahoma businesses selling alcohol to minors.

DRONES: A new anti-drone system at Red Rock Correctional Center monitors airspace around the facility and can pinpoint a drone pilot's location.

PAROLE: Oklahoma Watch reported that parole rates decreased by half when a Board member is absent.

DOC: DOC seized a lot of contraband in 2025.

WACKY CRIME

LAWTON: A man picketed the recent funeral of Lawton's Chief of Police and got arrested. He was apparently a well-known anti-authority figure in the area.

LICENSE: Two Oklahoma lawmakers have filed bills to license...strippers. "Strippers United" did not respond to a request for comment.

BARTLESVILLE: A Bartlesville man has been charged with Domestic Abuse after some mutual combat with...a bag of dog doodie.

FEES: A couple in Tulsa stole from Home Depot and from Ross...to raise money to pay court fees.

JEFFERSON COUNTY: Two persons have been arrested in Jefferson County after one of them started a grass fire while operating a riding lawnmower and the other one interfered with responding to firefighters.

JOE EXOTIC: Do you need a unique Valentine's Day gift? Joe Exotic will call you or your friend from prison...for a fee.

SHOES: Two young men broke into the Stratford school gym to steal shoes.

ATOKA: An Atoka woman who ran a sober living facility has been arrested for...trafficking meth.

PLATES: Service Oklahoma rejected 42 requests for personalized license plates in 2025 because of vulgarity or inappropriateness (the full list is in the story).

TULSA: Note to self: when committing a crime, do not use a company truck registered to the company you own.

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