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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

[Christopher Robert Oler v. State](#), No. F-2022-1106 (Okl.Cr., February 1, 2024) (unpublished): **Election:** Oler was convicted by jury in Blaine County (the Hon. Paul K. Woodward, presiding) of multiple counts of sexual assault against a child. The Court affirmed, but there was a claim raised regarding the State electing the criminal acts for each count. The Court distinguished a 1941 case on this issue because Oler’s case involved sexual abuse by a father of a “child of tender years” in which case the abuse is considered an ongoing unit and the State is not required to tie each count with an act.

[Omar Vincente Marano, Jr., v. State](#), No. F-2021-393 (Okl.Cr., February 1, 2024) (unpublished): **Confrontation and Cross-Examination:** Marano was convicted

by jury in Washington County (the Hon. Linda Thomas, presiding) of Murder in the First Degree. The Court affirmed, but there was an issue of introduction of the medical examiner's report which contained some attachments, some of which were fine but some of which were a violation of the right to Confrontation.

[David Samuel Crenwelge v. State](#), No. C-2022-1117 (Okla. Cr., February 1, 2024) (unpublished): **Guilty Pleas**: In this case out of Stephens County, the Hon. Ken Graham denied a motion to withdraw plea, but the Court reversed based on IAC of counsel at the plea withdrawal hearing, and remanded for a new withdrawal hearing and motion to withdraw.

[Artis S. Dixon v. State](#), No. F-2022-255 (Okla. Cr., February 1, 2024) (unpublished): **Prosecutorial Misconduct (Improper Questions; Witness Comment on Other Witness); Vouching**: Dixon was convicted by jury in Oklahoma County (the Hon. Cindy H. Truong, presiding) of Possession of Contraband by an Inmate. The Court affirmed but during the trial witness Det. Patrick Morgan commented that a statement by a defense witness was "not absolutely genuine." Basically, calling a defense witness a liar. The Court found that this was legal error in the form of impermissible opinion on the credibility of the witness. However, it was deemed harmless. NOTE: Rowland, P.J., specially concurred and delved into the facts of this error in more detail.

[Derrick Wayne Self v. State](#), No. F-2022-1089 (Okla. Cr., January 29, 2024) (unpublished): **False Claims (Insurance)**: Self was convicted by jury in Osage County (the Hon. Stuart Tate, presiding) of multiple counts including Arson and False Insurance Claim. The Court affirmed, but there is a good discussion of the nuances of the crime of false insurance claim which appears to be more complicated than one might think.

## **TENTH CIRCUIT**

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[United States v. Justin Stepp](#), No. 23-2029 (10<sup>th</sup> Cir., December 26, 2023) (Published) (Holmes, C.J., Phillips & McHugh): **Possession (Constructive); Federal Sentencing Guidelines (Lookback Period)**: Police responded to a call about a person being shot, showed up and found that it was Stepp, and arrested him for felon in possession of firearm and ammo. The Court affirmed over claims relating to: 1) sufficiency of the evidence whether Stepp had constructive possession of the ammo at his home; and 2) application of a 2002 conviction used

to calculate the base offense level because it fell within the applicable fifteen-year lookback period.

[United States v. Christopher Michael Guinn](#), No. 22-5072 (10<sup>th</sup> Cir., December 28, 2023) (Published) (Holmes, C.J., Phillips & McHugh) (N.D. Okla.): **Evidence (Burks Notice and Bad Acts)**: This case deals with an allegation of sexual assault where the Government used 413 propensity evidence of prior instances of sexual assault and also prior instances of nonsexual conduct (emotional and physical abuse). The panel found no plain error.

[Samuel D. Drinkert v. Colonel Kevin Payne](#), No. 22-3208 (10<sup>th</sup> Cir., January 16, 2024) (Published) (Hartz, Tymkovich & Rossman): **Military; Evidence (Prior Consistent Statements)**: In this 2241 petition, Col. Payne challenged his court martial for violations of the Uniform Code of Military Justice including sexual assault. His claim was that the military courts admitted prior consistent statements by the complaining witnesses, but the panel affirmed his convictions.

## **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. Rolando Villarreal](#), No. 19-40811 (5<sup>th</sup> Cir., December 5, 2023): **Federal Sentencing Guidelines (ACCA)**: Application of ACCA enhancement based on priors for burglary and aggravated assault is vacated in light of *Borden*.

[Brian McNeal v. James LeBlanc](#), No. 22-30180 (5<sup>th</sup> Cir., January 5, 2024) (*per curiam*): **Civil Rights**: Interesting opinion where a prisoner sued the Louisiana Department of Public Safety and Corrections Secretary James LeBlanc in his

personal capacity for “over-detention” which basically means that the State held the prisoner in custody beyond the terms of their sentence. The Secretary’s motion to dismiss on qualified immunity grounds was denied and here the panel affirmed.

## **VICTORIES**

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**CHRISTINE MESCHER**, Tulsa County PD, secured a dismissal at PH of murder case out of Tulsa. I am not clear on the details, but any time that happens there is a good lawyer involved. Nice job, Christine!

**BRIAN R. GLASS**, Chickasha, scored a nice win out of Pauls Valley/Garvin County for a client accused of child abuse with a not guilty verdict (step-dad accused of three counts of Child Abuse). This was Brian’s first jury trial. Great work, Brian!

**LAURA NEAL & SAMMY DUNCAN**, Norman, heard not guilty verdicts in Cleveland County in a very tough case prosecuted by Pattye High and presided over by the Hon. Lynne McGuire. If you are familiar with these two then you know what a battle it was, with outrageous rulings and an uphill battle for the defense. Great job, Laura & Sammy!

**ROYCE HOBBS**, Stillwater, showed why he is perennially in the winner’s circle by walking a client accused of rape in Payne County. The trial court gave lesser included instructions on Sexual Battery and the State never offered a pleas, but neither Royce nor the jury was having any of it. Not guilty. Great win, Royce!

## **HEARSAY**

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**DISCHARGE**: The Director of DOC accidentally discharged a gun inside DOC headquarters.

**EXECUTIONS**: The A.G. has requested state executions occur at 90-day intervals. Also, Gov. Stitt has indicated that he is not interested in utilizing **nitrogen** as a form of execution.

**CONTRABAND**: A woman brought contraband onto the James Crabtree CC grounds by simply walking onto the prison grounds.

**INCIDENT**: There was an unfortunate incident between Cleveland County law enforcement and the Lexington Police Department.

**TASK FORCE**: The Johnston County Sheriff has established a “Cross-County Task Force.”

**HELP**: The Carter County D.A. says she needs more prosecutors because of an increase in caseload.

**ARRESTED**: A Shawnee police officer and his wife have been arrested for setting their house on fire to collect insurance money.

**HOUSING**: Comanche County will house some of its inmates in Greer County.

**COPS v. COPS**: The tensions between the Cleveland County Sheriff’s Office and the Lexington Police Department are still brewing.

**SCAMMED**: A Bartlesville man has been killed when he broke into the wrong house after being scammed in a botched meet-up in a snapchat sex scam.

**REFORM**: Gov. Stitt has received a report from MODERN and its recommended 15 changes to the criminal justice system.

**REVOKED**: A Tulsa County judge (Hon. Sharon Holmes) has revoked the phone privileges of a jail inmate.

**NAMED**: The City of Madill has named Donny Raley as the interim Chief of Police.

**TRUST**: The Grady County Sheriff says that he has earned the trust of the public in his first year in office.

**A DIFFERENCE**: Garfield County Special Judge Jason Seigars believes that he is making a difference with diversion courts.

**BUST**: A large cockfighting ring was busted in Cleveland County.

**McGIRT**: NonDoc has noted the contrast between the actions of Gov. Stitt and his brother in relation to *McGirt*.

## **WACKY CRIME**

**VANDALS**: A person or a group has vandalized more than 100 stop signs in Grady County.

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## **OKLAHOMA CRIMINAL DEFENSE WEEKLY**

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