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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

[Bryant v. State](#), 2022 OK CR 5 (February 10, 2022): **Juveniles & YO:** Bryant pled guilty as a Youthful Offender w/Firearm in Oklahoma County and was sentenced to 8 years supervision under OJA. The State thereafter filed a motion to transfer custody to DOC, which was granted, and then an application to revoke the suspended sentence followed, which the Hon. Natalie Mai revoked in full. The Court affirmed over Bryant’s claim that the State filed the application too late (after his 8 years SS expired) on the basis that the order transferring to DOC was, in effect, a new J&S that re-started the clock. NOTE: Judge Lewis dissented, rejecting the majority analysis and reading the statutes as imposing one sentence.

TENTH CIRCUIT

[United States v. Curtis A. Anthony](#), No. 20-6134 (10th Cir., February 8, 2022) (Published) (Tymkovich, C.J., Matheson & Phillips) (W.D. Okla., Hon. Robin J. Cauthron): **Habeas Corpus (SOL)**: In this 2255 case, the question was when does a judgment of conviction become final in a deferred restitution case so as to trigger the one-year statute of limitations. Here, Anthony was sentenced, but the restitution proceeding was continued for a few months. The panel held that restitution is part of the sentence and thus Anthony gets the benefit of the extended time.

[United States v. Darrell E. Black](#), No. 20-3199 (10th Cir., February 1, 2022) (Published) (Bacharach, Seymour & Phillips): **Speedy Trial**: The panel analyzed speedy trial implications in a case where Black made a first appearance before a judge in Kansas, but the case was later transferred to Missouri. Does the 70-day clock start with the appearance in Kansas or the later appearance after the transfer to Missouri? The panel held that the appearance in Kansas triggered the clock, thus Black's speedy trial rights were violated, and the case remanded for consideration of dismissal with or without prejudice.

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. Samuel Tanel Crittenden](#), No. 18-50635 (5th Cir., February 8, 2022): **Motion for New Trial**: In this drug case, the district court granted a rule 33 motion for new trial on the basis that the evidence at trial preponderated heavily

against guilt, even though it was sufficient to convict. The majority found no error and affirmed. NOTE: Judge Costa dissented.

[United States v. Josue David Rodriguez-Flores](#), No. 21-40277 (5th Cir., February 11, 2022): **Illegal Re-Entry**: Sentence for Illegal Re-entry is corrected because the district court mis-classified his previous Texas state conviction for sexual assault as an “aggravated felony.”

VICTORIES

CLARK BREWSTER, Tulsa, represents defense attorney Winston Connor, II, against an assortment of criminal charges, most of which Judge Clifford Smith dismissed. I do not have the details, but as Clark said in the media interview, this is a great victory. Good work, Clark!

BLAKE LYNCH & BRECKEN WAGNER, McAlester, secured a great jury trial win in federal court in a Murder Two, Voluntary Manslaughter, and Involuntary Manslaughter—not guilty on all three theories of guilt! Great job, Blake and Brecken!

JAMES THOMLEY, OIDS in Durant, represented a man accused of Manslaughter Two in a case where a dog mauled another man to death. Client had a prior of operating an illegal still, took the stand, and gave rambling and unresponsive testimony—yet the jury deliberated five hours and returned a verdict of not guilty. Great job, James!

CHRISTINE MESCHER & ADAM HASSELGREN, Tulsa County PD, got a big victory in January in a case involving four counts ranging from Child Molestation, Burglary, A&B Body Fluids, and A&B on Police. Client was found not guilty on counts 1, 2, and 4...and on the third count of A&B Body Fluid the jury found guilty and recommended six months, despite the client having a second page. Client had been in jail for 18 months, so the Hon. Clifford Smith gave him credit for time served, ordered him released, and Adam drove him home. Terrific win, Christine and Adam!

GOOD RESULT: Defense attorney Anthony Casey got a good result in a difficult (and famous/infamous) case out of Cleveland County.

HEARSAY

MISSPENT: Monies that should have gone to aid domestic violence victims were instead misspent on lavish vacations.

DEPUTIES: The Hughes County Sheriff has un-cross-deputized his deputies from Muscogee Nation Lighthorse. The **Garvin County Jail** will now house Chickasaw Lighthorse arrestees.

CHIEF CHAT: The Bartlesville Police Department has launched a “Chief Chat” podcast with the Chief of Police.

ENCRYPTION: The City of Stillwater is encrypting the radio transmissions of first responders.

QUAPAW NATION: The Quapaw Nation, the smallest of the Oklahoma tribes recognized under *McGirt*, gears up its law enforcement network.

DROPPED: Charges of destruction of property against the mayor of Boswell have been dropped—because it was the mayor’s son who committed the crime.

HARRASSMENT: A now-former sergeant at the Enid Police Department is facing harassment charges.

WACKY CRIME

JOYRIDE: A 12-year-old boy took his mom’s car out for a joyride...with predictable results.

EDMOND: Edmond police have warned parents about “splat guns” which are some species of paintball gun.

HOW?: “Authorities are trying to figure out how this incident happened” describing a scene where a car wrecked onto a side of a house.

BETHANY: A man in Bethany used a skid steer to bulldoze his own home.

OOPS: A man trying to scam people by pretending to be an Oklahoma County Sheriff deputy...accidentally called the Oklahoma County Sheriff’s Office.

BADGE: A felon has been accused of stealing an FBI agent's badge...and using it.

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