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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

[Jesus Efren Pena v. State](#), 2026 OK CR 8 (February 19, 2026): **Jury Instructions (Drug Proceeds); Sufficiency (Drug Proceeds); Experts (Drug Courier); Prosecutorial Misconduct:** Penas was convicted by jury in Craig County (the Hon. Shawn S. Taylor, presiding) of Acquiring Proceeds from Drug Activity (in the form of \$50,000.00 in cash found in a back pack, \$2,000.00 of which were by marijuana pre-rolls and the rest vacuum-sealed in the trunk). The Court affirmed over claims related to: 1) sufficiency of the evidence; 2) jury instructions related to the elements of the crime (no plain error); 3) admission of expert testimony re drug courier profiles (error for one of the testifying Troopers, but harmless); 4) judge remark “this is a drug proceeds case” (no Due Process violation); and 5) prosecutorial misconduct; 6) IAC; and 7) cumulative error. NOTE: Judge

Musseman dissented, finding the expert testimony reversible error. Judge Lewis concurred in result, finding no error at all.

[In Re: Addition of New Rule to the Rules of the Court of Criminal Appeals](#), 2026 OK CR 7 (February 18, 2026): This is a new Rule dealing with AI generated pleadings in the Court and sanctions if it is not checked for accuracy. **NOTE:** Courts seem to have little tolerance for this. The Tenth Circuit recently sanctioned a lawyer proceeding *pro se* for using AI for the brief. See [Kusmin L. Amarsingh v. Frontier Airlines, Inc.](#), No. 24-1391 (10th Cir., February 9, 2026) (unpublished) (Hartz, Moritz & Rossman).

[State of Oklahoma ex rel., OBA v. Lile](#), 2026 OK 6 (February 10, 2026): **Attorneys:** Interesting attorney discipline case of a lawyer advocating in a criminal case who was sanctioned by the Muscogee (Creek) Nation Supreme Court with suspension of one year. The Court treated it as an isolated incident addressed sufficiently by the tribal Court and imposed no further or additional discipline.

TENTH CIRCUIT

[United States v. Jordan Wayne Holt](#), No. 24-7044 (10th Cir., December 16, 2025) (Published) (Holmes, C.J., Moritz & Rossman) (E.D. Okla.): **Evidence (Spoliation); Experts; Prosecutorial Misconduct:** In this Manslaughter case in Indian Country, the panel affirmed over claims related to: 1) spoliation of exculpatory evidence; 2) improper expert testimony on bullet trajectories; and 3) prosecutorial misconduct in misstating the law of self-defense.

[United States v. Danny Gene Kirby](#), No. 24-7070 (10th Cir., December 16, 2025) (Published) (Matheson, Phillips & Rossman) (E.D. Okla.): **Jury Notes:** In this DUI Manslaughter case out of Indian Country, the jury asked a question about the instructions and the trial court gave the usual non-answer that the instructions were sufficient. In this amazing opinion, the panel reversed, finding that clarification of the instructions concerning Oklahoma DUI law was required.

[United States v. Jose Antonio Duque-Ramirez](#), No. 24-6257 (10th Cir., December 16, 2025) (Published) (Moritz, Kelly & Rossman) (W.D. Okla.): **Second Amendment:** Conviction for Alien in possession of a firearm is affirmed. An “alien” belongs to “the people” under the Second Amendment, but his as-applied challenged is rejected.

[United States v. Miguel Munoz](#), No. 24-1418 (10th Cir., December 16, 2025) (Published) (Hartz, Tymkovich & McHugh): **Search and Seizure (Traffic Stops)**: In this drug case, denial of a motion to suppress evidence from a traffic stop is affirmed over claims that the stop was unjustified at its inception and unreasonably extended.

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. Tonya Robinson and Albert Smith](#), No. 24-1910 (7th Cir., December 15, 2025): **Bank Fraud**: Some counts affirmed, but convictions for Bank Fraud are reversed because the Government failed to identify a false statement that went to a bank.

[United States v. William W. Robertson](#), No. 24-1475 (1st Cir., December 19, 2025): **Forfeiture**: Two police officers were convicted of a host of crimes involving clocking in and not doing work and encouraging subordinates to do the same. The panel affirmed overall, but vacated and remanded a forfeiture order.

VICTORIES

[BLAKE LYNCH & BRECKEN WAGNER](#), McAlester, did some legwork for their client and secured a dismissal of Embezzlement charges. Great job, Blake & Brecken!

EDDIE VALDEZ, Lawton, secured a nice win for a client charged for his involvement in a fatal bar fight. Nice job, Eddie!

HEARSAY

RUNNING: Logan County Special Judge Diane Vaughan plans to run for Associate District Judge.

RUNNING II: Osage/Pawnee county Assistant District Attorney Brett Mize has announced that he will be running for District Attorney.

DV: Although incidents of domestic violence are down overall in Oklahoma, they have increased in Ottawa and Delaware counties.

OD: Overdose deaths in 2025 were down 41% from 2024.

ICE: Oklahoma Watch has asserted that laws are being manipulated to facilitate ICE detentions and deportations in/from Oklahoma.

AWARD: A federal jury has awarded \$9.5 million to the family of a woman who died in the Choctaw County Jail.

CARTER COUNTY: The Carter County Court Clerk will hold a warrant-clearing event on Friday, March 13, to clear over four thousand outstanding warrants. Also, **OKC** (county and city) will also hold a warrant-clearing event on Friday, February 27, and will also provide courtesy rides to get there. **NOTE**:

CARRY: A bill that would have allowed citizens to carry guns inside the capitol has been ...shot down.

PAROLE: Public Radio of Tulsa has reported that only one person sentenced to LWOP has been granted a commutation, and she was just paroled at the age of 72.

INDICTED: A Massachusetts man has been indicted for impersonating former State Superintendent Ryan Walters by sending out letters directing teachers to distribute documents.

DOWNSIZED: The City of Oilton has downsized its police department to 2 full-time officers and 5 reserve officers.

MADILL: The City of Madill has named Chris Smith as the new Chief of Police.

ROBBED: An inmate at the Kay County Jail has been charged with robbing another inmate of his commissary at the jail. Odd charge since this presumably happens every day in jails and prisons.

FLOCK: The Bartlesville Fraternal Order of Police has declared its support for Flock Cameras.

WACKY CRIME

HOLE-IN-ONE: A drunk driver created his own hole-in-one...by driving into the Topgolf building in OKC.

WARRANTS: The Choctaw Police Department posed a Valentine's Day greeting to get warrants resolved.

GUEST: An OKC woman woke up and found a stranger on her couch...who had taken leftovers from her fridge and relieved himself in her fruit bowl.

RANSACKED: The Lift Community Action Agency in Hugo was ransacked by masked bandits...other wise known as trash pandas, or raccoons.

OKC: A woman on the southside of OKC locked the doors of a 7/11 and proceeded to chase customers around the store with a stick.

ARRESTED: An Ottawa County Jail official has been arrested on Super Bowl Sunday for DUI.

SEIZED: A court filing in Oklahoma County has alleged that \$400,000.00 in cash was seized by OKC police without Due Process.

DL: Service Oklahoma has announced a new, modernized driver's license and motor vehicle platform.

PAYMENT: The City of Tulsa will pay \$800,000.00 to a woman who was raped when two police officers left her alone with her boyfriend.

CHASE: A teen in Ponca City led police on a chase...which lasted 16 seconds.

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