

This post was published to at 12:49:50 AM 2/26/2018

**OCDW 03.02.26**

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**OKLAHOMA CRIMINAL DEFENSE WEEKLY**

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03.02.26

[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**

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[Acosta v. State](#), 2026 OK CR 9 (February 24, 2026): **Post-Conviction**: Under the new post-Conviction statute, Applications must be filed within one year of the OCCA opinion on direct appeal, with no extra 90 days to file certiorari.

## **TENTH CIRCUIT**

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[United States v. James Micheal Poterbin](#), No. 23-3128 (10<sup>th</sup> Cir., December 31, 2025) (Published) (Hartz, Ebel & Rossman): **Evidence (Burks/Bad Acts)**: In this

drug case, the panel affirmed over a 404(b) claim in which the Government introduced other drug deals subsequent to the conspiracy charged.

[United States v. Antoan Raban](#), No. 24-1359 (10<sup>th</sup> Cir., December 30, 2025) (Published) (Phillips, Ebel & Eid): **Search and Seizure (Traffic Stop; Protective Sweep)**: After a traffic stop of a gang member, police conducted a protective sweep of the car, finding a weapon. The panel held that the protective sweep was lawful.

[United States v. Brett Dewayne Cole](#), No. 24-7077 (10<sup>th</sup> Cir., December 24, 2025) (Published) (Holmes, C.J., Ebel & Carson) (E.D. Okla.): **Evidence (Burks/Bad Acts)**: In this sex crimes case out of Indian Country, convictions are affirmed over his claim that introduction of prior acts of molestation under 414 were inadmissible because he was a juvenile at the time, and hence they were not “crimes” under the Rules. The panel rejected this argument.

## 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)*.

[Villarreal v. Texas](#), No. 24-557 (U.S., February 25, 2026): **Right to Counsel**: During a trial in Texas, the defendant took the stand and his testimony was interrupted by an overnight recess. The trial court instructed defense counsel to refrain from “managing his testimony” but otherwise allowed access to the client. The Court held this was a reasonable order.

## OTHER CASES OF NOTE

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[United States v. Ali Al-Timimi](#), No. 14-4451 (4<sup>th</sup> Cir., January 9, 2026): **First Amendment**: Inflammatory and offensive statements made in the immediate aftermath of 911 are held to be protected under the First Amendment.

[United States v. Charles Hembree](#), No. 24-60436 (5<sup>th</sup> Cir., January 27, 2026):  
**Second Amendment:** Hembree was convicted of felon in possession of a firearm with his single predicate felony conviction being a 2018 conviction for simple possession of meth. The Court found his conviction unconstitutional as applied to him.

[United States v. Eugene J. Lockhart, Jr.](#), No. 24-11081 (5<sup>th</sup> Cir., January 29, 2026):  
**Coram Nobis:** Denial of a petition for a writ of coram nobis is affirmed, but the case contains a good discussion of this esoteric writ, and underscores that a component of it is diligence of the Petitioner in seeking relief.

## VICTORIES

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**BAILEY HANDLEY**, OKC PD, tried a Murder I case and secured a Manslaughter I w/4 years after the trial court refused to give a self-defense instruction. Nice job, Bailey!

**JOEY DEGIUSTI**, DeGiusti & Welch, represented a client accused of Trafficking/Proceeds in Oklahoma County, and secured a dismissal! The State's evidence consisted of a lot of cash and almost 400 pounds of marijuana found in close proximity to the client. The prosecutor seemed puzzled when Joey set the matter for PH. Joey focused on a lack of evidence tying the client to the location; and the fact that the State seized the money, immediately checked it out of evidence, and deposited the money as forfeiture proceedings pursuant to 63 O.S. 2-506. The State moved to dismiss based on these weaknesses in the case. Great job, Joey!

## HEARSAY

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**TRANSFER:** Patients will be transferred from Griffin Memorial Hospital to the new facility in southwest Oklahoma City this week.

**ACTIVE SHOOTER:** The Marietta school district will become the first in the state to install a red light/green light system which detects gunfire inside schools and directs students to safety.

**COCKFIGHTS**: A former McIntosh County Sheriff has been charged with cruelty to animals after holding a cockfighting event on his property.

**OSA**: The Oklahoma Survivor's Act is becoming the hot-button legal issue in the race for Tulsa County District Attorney.

**DOC**: DOC and the City of McAlester have revived a partnership which will bring inmate labor crews into the city for a variety of manual labor projects.

**UPDATE**: The Choctaw Nation has revised its criminal code to reflect its limited jurisdiction over non-Indians.

**SHORTAGE**: The current shortage of police officers in Tulsa will be made worse by upcoming retirements.

**HARMON COUNTY**: The Sheriff of Harmon County and four employees have resigned under suspicious circumstances.

**SHORTFALL**: The Oklahoma County Jail could implement staff cuts as a result of \$5.3 million budget shortfall.

## **WACKY CRIME**

**HOME ALONE**: MaCauley Caulkin has filed for expungement of his 2024 Oklahoma County case.

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## **OKLAHOMA CRIMINAL DEFENSE WEEKLY**

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