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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

[Shari Monique Tyson v. State](#), No. F-2024-57 (Okl.Cr., February 27, 2025) (unpublished): **Waiver (Jury Trial)**: Tyson was convicted at a bench trial of Assault and Battery on a Police Officer in Muskogee County (the Hon. Orvil Loge, presiding). The Court reversed because the purported waiver of her right to a jury trial was insufficient.

[Rodney Vaughn Thompson v. State](#), 2025 OK CR 4 (February 13, 2025): **Search and Seizure (Traffic Stops); Jurisdiction (Police)**: Thompson was convicted of drug counts in Canadian County (the Hon. Paul Hesse, presiding). On appeal he asserted error in the denial of his motion to suppress evidence stemming from a traffic stop made by a Norman police officer and District Attorney Investigator as

outside of his jurisdiction. The Court affirmed based on *Virginia v. Moore*, 553 U.S. 164 (2008), a totally ridiculous opinion in which the Supreme Court held that a violation of state law does not necessarily render a Fourth Amendment violation unreasonable; thus, even though the officer here may not have had jurisdiction, he conducted the traffic stop for speeding and subsequent search reasonably. NOTE: Judge Lewis concurred in result, concluding that the officer was within his jurisdiction.

[Larry Dequan Griffin, Jr., v. State](#), No. C-2023-950 (Okla. Cr., February 13, 2025) (unpublished): **Guilty Pleas**: In this case out of Okfuskee County, the Court reversed denial of a motion to withdraw the plea and remanded for a proper hearing because a conflict developed between the accused and counsel at the hearing on the motion to withdraw. NOTE: Judge Lumpkin dissented.

TENTH CIRCUIT

[United States v. Cledale Caldwell](#), No. 24-3134 (10th Cir., February 19, 2025) (Published) (Tymkovich, Matheson & Bacharach): **Federal Sentencing Guidelines (Criminal History)**: Caldwell pled guilty to failure to register as a sex offender for 13 months. During that time, he was convicted and sentenced for two Oklahoma offenses. The question was whether the Oklahoma offenses count as convictions for criminal history calculations or should have been used for relevant conduct (which would have lowered the range). The panel held that the district court did not err in concluding that the Oklahoma offenses were properly calculated as criminal history.

[United States v. Raymond Lee Goldesberry](#), No. 23-5008 (10th Cir., February 19, 2025) (Published) (McHugh, Eid & Rossman) (N.D. Okla.): **Sufficiency (Sexual Assault of a Minor)**: In this amazing opinion involving a conviction for Aggravated Sexual Abuse of a Minor under 12 in Indian Country, the split panel reversed on sufficiency of the evidence in a case that has law school exam fact pattern for facts. The accused was sleeping at home. His wife usually slept next to him, but unbeknownst to him she got up and left. Meanwhile, his daughter had a nightmare and went to his bed and laid down next to him. He touched her sexually while still half-asleep and four years later the Government brought criminal charges and he was convicted. The panel reversed on the basis that this evidence was insufficient to convict on the element of “knowingly.” NOTE: Judge Eid dissented. Also, as a practice pointer, in footnote 2, the panel chastised both counsel for devoting pages of the appellate briefs to a factual discussion of facts

developed at sentencing and also evidence excluded before trial. The panel reminded practitioners that it reviews only the evidence heard by the jury.

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).

[Glossip v. Oklahoma](#), No. 22-7466 (U.S., February 25, 2025): **Prosecutorial Misconduct (False Testimony)**: This is the odd capital case from Oklahoma where the Attorney General confessed *Napue* error where the prosecution failed to correct false testimony at trial, and the OCCA affirmed anyway. In this sharply divided opinion, the Court reversed, holding that the OCCA was “mistaken” in interpreting *Napue*.

OTHER CASES OF NOTE

[United States v. Dario Giambro](#), No. 24-1052 (1st Cir., January 15, 2025): **Search and Seizure (Exigent Circumstances; Warrantless (Home))**: Denial of motion to suppress is reversed where police had no warrant to enter a home and the emergency aid exception did not apply.

[United States v. Mario Rafael Castillo](#), No. 21-1599 (1st Cir., January 28, 2025): **Prosecutorial Misconduct (Breach Plea Agreement)**: Sentence of 235 months is vacated when the prosecutor breached the plea agreement by giving only “lip service” to the Government’s promise to recommend up to a 180 month sentence.

VICTORIES

PATRICK ADAMS & CHERYL THIGPEN, Tulsa, secured a Rule 29 dismissal and a not guilty verdict in a sex offense case out of the Northern District. The jury was out one hour. Great job, Patrick and Cheryl.

BRIAN MORTON, OKC, has become the driver's license whisperer, recently representing clients one morning in four hearings and going 4-0 (two on jurisdictional grounds, one where the officer called it a refusal when the client was unconscious, and a no show). Good job, Brian!

BOBBY DON GIFFORD, OKC, secured a not guilty verdict in the Western District in a "false statements" case before a jury in the courtroom of Judge DeGiusti. The client was a long-time federal HUD employee in OKC and a union representative who was in a child custody battle and struggling with alcoholism and ended up embezzling money from the union. She was accused of not reporting the embezzled funds. However, she paid the money back, was not fired, and in fact turned her life around and received a national award in 2024. Politics entered the scene with Sen. Joni Ernst from Iowa making the client's case a cause and because of this publicity she was charged and forced to resign after 23 years. The jury was out less than one hour. Great work, Bobby Don!

HEARSAY

AWARD: A Tulsa jury has awarded a woman \$15 million in a judgment against a peeping tom who set up cameras in a bathroom.

TEXAS: Apparently there is a severe shortage of defense lawyers in rural Texas.

FIRE: An employee at a public defender's office in Missouri has been terminated after it was uncovered that he had been hired while on parole after pleading guilty to hindering prosecution and child endangerment related to the rape and murder of his nine-year-old stepdaughter. More on the background of this story can be found **HERE**.

OSBI: Greg Mashburn has left the District Attorney's Office for the OSBI.

RETIRED: Oklahoma County District Judge Aletia Timmons has announced her retirement effective March 1, 2025.

APPOINTED: Gov. Stitt has appointed Sean Karl Hill as the new Associate District Judge in Garfield County.

CITED: The City of Oklahoma City has cited the Oklahoma County Jail Annex for a code violation.

ADVOCATE: The former chair of the Pardon and Parole Board has now publicly advocated for the abolition of the death penalty.

TICKETS: Attorney James Wirth discussed with Oklahoma Watch the 7,000 traffic tickets issued by the Texas County Drug Task Force.

UNIT: The Lawton Police Department has established a sex crimes unit.

DEFUNCT: OBA-NET is now officially defunct.

SURVIVOR: Another woman has filed for relief under the Oklahoma Survivor's Act.

CHARGED: An employee at James Crabtree Correctional Center has been charged with bringing contraband into the facility.

ARRESTED: A Tulsa County Sheriff's Deputy has been arrested for obstruction for failure to comply with a search warrant.

TRANSFER: Attorney General Pam Bondi has agreed to transfer John Hanson to Oklahoma for execution.

DIRECTOR: The Oklahoma County Jail Trust has named Paul Timmons as acting Director.

WACKY CRIME

911 CALL: A toddler called the Moore Police Department to get some emergency doughnuts.

ANADARKO: The Anadarko Police Department had a bit of fun with Valentine's Day.

TAG: Police in Moore stopped a vehicle with an "unusual expiration date" on the temporary tag.

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