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Category



OKLAHOMA CRIMINAL DEFENSE WEEKLY

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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

No new cases of note.

TENTH CIRCUIT

[United States v. Jorge Portillo-Uranga](#), No. 20-3191 (10th Cir., March 10, 2022) (Published) (Tymkovich, C.J., Seymour & Ebel): **Search and Seizure (Wire Taps); Federal Sentencing Guidelines (Firearms Enhancement)**: In this drug trafficking case spanning over several years, the defendant pled guilty but maintained the right to challenge the search and seizure of evidence obtained from

wire wiretaps, as well as enhancement for firearm possession when guns were found on his property. The panel affirmed.

[United States v. Tiahmo Lenell Draine](#), No. 20-6118 (10th Cir., March 1, 2022) (Published) (Matheson, Phillips & Moritz) (W.D. Okla., the Hon. Stephen Friot): **Evidence (Drug Jargon); Experts; Confrontation and Cross-Examination (911 call)**: In this drug and firearms case, the panel affirmed over claims relating to: 1) admission of testimony from law enforcement officers based on specialized training without qualifying them as experts; 2) admission of opinion testimony about intent to distribute heroin; and 3) admission of 911 call recording without proper authentication and in violation of the Confrontation Clause (not testimonial).

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).*

[Wooden v. United States](#), No. 20-5279 (U.S., March 7, 2022): **Federal Sentencing Guidelines (ACCA); Statutory Construction; After-Formers (Enhancement)**: Wooden was convicted of felon in possession of a firearm. Under the Armed Career Criminal Act (ACCA), this carries a mandatory minimum of 15 years if the accused has at least three prior felonies “committed on occasions different from one another.” Part of Wooden’s prior record was burglary of a storage unit where he burgled ten different storage units. This netted him ten separate convictions under state law. The legal question was whether this counted as three or more felonies under the ACCA or a single criminal episode. The Court held that this was a single criminal episode that did not occur on different “occasions” and thus counts as only one prior conviction under the ACCA.

VICTORIES

RYAN D. RECKER, Weatherford, and **DENNIS SMITH**, tried a juvenile delinquent case to a jury in Woodward. The case started out as a Y.O., but both boys were certified as juveniles at the preliminary hearing. Ryan's client was charged with Rape in the First Degree; Dennis's client was charged with Sexual Battery and Abetting the rape. The jury was out about one hour before returning Not Guilty verdicts as to both clients. Great job, Ryan and Dennis!

HEARSAY

NEW JUDGE ON THE OCCA: The Tulsa World ran an article about Judge Musseman contemplating the transition from district judge to the Court of Criminal Appeals and a little bit about his background.

INMATE DEATH: Another inmate has died at the Oklahoma County Jail.

COURT REPORTERS: Interesting article about some of the numbers associated with the dearth of court reporters.

PAROLE: The "Crossbow Killer" has been recommended for parole.

ELECTION NEWS: Canadian County attorney Rachel Bussett is running for Associate District Judge in Canadian County.

ELECTION NEWS II: Latimer and LeFlore County District Attorney Jeff Smith has announced that he will not run for re-election.

ARRESTED: A special education teacher in Porum (Muskogee County) has been arrested for drug trafficking.

UPDATE: Oklahoma Watch has issued an update on some stories, including an interesting one about Drug Court.

CAR WRECK: Rogers County District Attorney Matt Ballard and his daughter were involved in a car wreck, but were not seriously injured.

RAPE KITS: The Tulsa P.D. has been awarded \$2 million to help clear the backlog on testing rape kits.

ARRESTED: A Tillman County Commissioner has been arrested for embezzlement.

UNIFICATION: The benefit of unifying the OSBI, OBNDD, and DPS is being debated.

EXPUNGEMENT: Article about the long and expensive process of expungement of records, but that may change.

FENANYL: The Oklahoma County Jail has as serious fentanyl problem.

McGIRT: Officials with the City of Tulsa argue that McGirt makes Indian crime victims second-class citizens.

OKMULGEE: There may possibly be some corruption in the operation of the Okmulgee County Jail.

NEW POSITION: The Muskogee County Sheriff now has a new “Agricultural Investigator” position.

REGISTRY: The Cleveland County Sheriff’s Office has joined a nation-wide sex-offender registry network.

BILLS: Update from Oklahoma Watch on important criminal justice bills.

WACKY CRIME

LOVE COUNTY: A gun-toting vandal shot up an electrical substation in Love County.

WATONGA: Local police pulled over a minivan only to find 17 immigrants packed inside.

ARKANSAS: The CEO of the U.S. Marshals Museum in Arkansas has resigned...after his arrest for pointing a gun at utility workers.

OKC: A stabbing in OKC was the result of a fight over...two pork chops.

NO JUSTICE: An inmate has lost his small claims case against DOC.

TULSA: Thieves in Tulsa broke into a store and stole \$27,000.00 worth of...knives.

CHICKASHA: “Grave Diggers Backhoe Stolen from Cemetery in Chickasha.”

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