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OKLAHOMA CRIMINAL DEFENSE WEEKLY

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[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

[Tressie Rose Shaffer v. State](#), No. F-2023-395 (Ok1.Cr., March 13, 2025) (unpublished): **Waiver (Appellate Issues)**: Shaffer was convicted on Lewd Molestation in Tulsa County. In this opinion the Court affirmed over several claims, but I included it because the Court sprung a procedural trap by waiving a claim of error because appellate counsel had failed “to provide citation to the record on appeal sowing where the evidence was admitted at trial[.]” This is a violation of 3.5(A)(5) of the Court’s rules. NOTE: The Court has been aggressive lately in waiving claims where appellate counsel raises two claims under one proposition; and now it appears it is being picky on other parts of the rules governing appellate briefs.

TENTH CIRCUIT

[United States v. Joseph Gaye](#), No. 23-1240 (10th Cir., March 11, 2025) (Published) (Tymkovich, Baldock & Eid): **Search and Seizure (Search Warrants; Particularity; also Bullet from Leg)**: Odd case where Gaye was at his office and reported being shot by an intruder. Police realized that he had actually shot himself in the leg, which was a problem because he was a convicted felon. In this opinion, the panel found the search warrant was particular enough and survived on the good faith exception as well. The hospital kept the bullet after it was removed from his leg and gave it to police. The panel found this reasonable as Gaye had requested medical help and removal of the bullet (thus consented) and it was in “plain view” in any event.

[United States v. Tegan C. Gulley](#), No. 24-3078 (10th Cir., March 10, 2025) (Published) (Holmes, C.J., Carson & Rossman): **Supervised Release**: Interesting opinion where Gulley was on three-year supervised release, but the Government filed a revocation just before it expired. The district court did not hold a hearing and revoke until six months later, which the majority held was unreasonable, and thus ordered him released. NOTE: Judge Carson dissented, holding that there is no jurisdictional issue.

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

[Doerr v. Shinn](#), No. 09-99026 (9th Cir., January 29, 2025): **Habeas Corpus (Abeyance)**: Capital case where the panel approved the stay-and-abeyance procedure to allow the Petitioner to exhaust state court claims.

[United States v. Isac Schwarzbaum](#), No. 22-14058 (11th Cir., January 23, 2025): **Taxes**: This case deals with a wealthy naturalized citizen from Germany holding wealth in bank accounts in Switzerland and Costa Rica. The IRS is nosy and requires a FBAR form to report any foreign bank account information. He failed to do this properly and was assessed penalties. One issue in the case is whether these penalties are punitive and thus restricted by the Eighth Amendment. The First Circuit has held they are not, but in this opinion the Eleventh Circuit disagreed, thus creating a circuit split.

SCOTUSblog Publisher Arrested

An ace appellate lawyer who has argued many cases before the Supreme Court and publisher of the excellent SCOTUSblog website, has been [arrested and charged](#) with tax-related federal charges related to high stakes poker. Tom Goldstein has essentially been as close to an appellate rock star as anyone can get. His arrest not only shocked the legal world, but the details are amazing—tales of super high stakes poker sessions where he won and lost millions of dollars.

He had argued more than 40 cases before the Supreme Court before retiring from the legal practice in 2023. The case has had twists and turns, including his release on bond, but subsequent re-arrest as a flight risk when prosecutors alleged he had been moving crypto-currency to bank accounts.

Sometimes truth is stranger than fiction.

VICTORIES

[BOBBY DON GIFFORD](#), OKC, secured an acquittal in federal court for a client a few weeks ago which was featured here. However, advocacy does not necessarily end after the trial. A reporter at the Southwest Ledger had printed a blistering article about the client prior to trial. The client was a government employee and the allegations of fraud were harsh. After the acquittal, Gifford reached out to the same reporter who did an updated piece on the case which

included the acquittal. Also, at the end of the article is an interesting stat on acquittals in federal court. According to Southwest Ledger, only 290 of 71,954 defendants in federal criminal cases went to trial and were acquitted in 2022.

RICK YOHN, secured a verdict of Not Guilty in a Lewd Acts case out of Dewey County. The mother of the minor stated that she had known of the abuse for years but did not say anything until the client decided to move on with a new woman. Also, during the forensic interview the mother and police officer were allowed to stay in the room and encourage the minor. Great job, Rick!

HEARSAY

GRISSOM: Continued discussion of the *Grissom* case by Oklahoma Watch, including attorney John Coyle, III.

RETIRED: Longtime Enid City Attorney Carol Lahman has announced her retirement.

APPOINTED: Gov. Stitt has appointed Christopher Anderson as Associate District Judge in Seminole County.

EXPANDED HOURS: Service Oklahoma is expanding hours to include weekends to allow citizens to obtain REAL ID compliant ID cards/Driver's Licenses.

LEAK: Eddie Warrior Correctional Center persevered through a natural gas leak.

LOBBER: Another lobbyist has been caught near James Crabtree Correctional Center.

INDICTED: A pastor at a mega-church in Texas has been indicted in Oklahoma for indecent acts with a child.

ANNOUNCED: The Judicial Nominating Committee has announced the three candidates it is forwarding to the Governor for consideration for Justice of the Oklahoma Supreme Court.

CHIEF: A captain of the Houston Police Department has been named the new Chief of Police in Stillwater.

CHARGED: A former Oklahoma legislator is facing embezzlement charges in Murray County.

UNHEEDED: A former inmate at Eddie Warrior Correctional Center told The Frontier that she had been sexually harassed and assaulted and that her complaints about it went unheeded.

RIP BILL SMITH: Oklahoma criminal defense lawyer Bill Smith passed on March 4, 2025, at the age of 64. He was in my section at O.U. law back in the 90s and we had several classes together and sometimes studied and brain-stormed whatever they threw at us. I also worked some cases with him over the years and he was definitely one of the good guys who will be missed.

CONCERN: Cleveland County District Judges Michael Tupper and Thad Balkman have expressed concern that delays in attorney/client visits and denials of access to health care might be civil rights violations at the Cleveland County Jail.

COLD CASE: The Oklahoma Attorney General is creating a cold case unit.

HISTORIC: The one-room jail of Langston has been named to the National Register of Historic Places.

WACKY CRIME

TULSA: A little red Corvette passed a Tulsa Police Officer...doing 17 mph on the Broken Arrow Expressway.

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