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OKLAHOMA CRIMINAL DEFENSE WEEKLY

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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

No notable cases.

TENTH CIRCUIT

[United States v. Charles Warner](#), No. 22-2092 (10th Cir., March 18, 2025) (Published) (Holmes, C.J., Bacharach & Eid): **Possession (Firearm by Felon)**: In this appeal out of New Mexico involving convictions for Felon in Possession of a Firearm and Dealing in Firearms without a License, the panel affirmed over claims relating to: 1) an argument that he was not a person prohibited from owning

firearms (two prior state law felonies count); 2) denial of motion to suppress search of home pursuant to a warrant (harmless because none of the evidence obtained was actually used); 3) sufficiency; and 4) the number of firearms in his possession was improperly counted to be between 25 and 99.

[United States v. Lance Keith Maytubby, Sr.](#), No. 23-7084 (10th Cir., March 18, 2025) (Published) (Hartz, Phillips & Moritz) (N.D. Okla., Hon. Ronald A. White): **Interrogations (Fifth Amendment)**: Maytubby confessed to sexually assaulting his nieces, but argued that the confession was invalid because an officer offered to write a “mitigation report” and suggested that Maytubby could receive counseling in lieu of prison. The panel rejected the contention that his confession was involuntary and affirmed.

[United States v. Martin Lopez](#), No. 23-2121 (10th Cir., March 18, 2025) (Published) (Matheson, Bacharach & Carson): **Closing Argument; Evidence (Hearsay)**: Lopez was convicted of Carjacking and Brandishing a Firearm in Furtherance of a Crime of Violence. The panel affirmed over claims related to: 1) introduction of testimonial hearsay/Confrontation (officers did not directly testify about what the witness said, but implied it); and 2) improper closing argument (any error not plain). NOTE: Judge Bacharach concurred, noting that it is an open question in the Circuit whether the Confrontation Clause applies to closing arguments (such as where the prosecutor uses hearsay during closing).

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).

[Salvatore Delligatti v. United States](#), No. 23-825 (U.S., March 21, 2025): **Federal Sentencing Guidelines (Crime of Violence)**: A “crime of violence” under 18 U.S.C. § 924(c)(3)(A) includes a felony that involves the “use of physical force” against another person. Delligatti was a mafia enforcer alleged to have recruited several street gang members to murder a police informant and he provided them a car and a gun. He was charged with using or carrying a firearm during or in relation to a “crime of violence.” The Court held that, under *United States v.*

Castleman, 572 U.S. 157 (2014), knowing or intentional causation of bodily injury necessarily involves the use of physical force. This includes crimes that cause bodily injury omission rather than action. NOTE: Justice Gorsuch, joined by Justice Jackson, penned a persuasive dissent.

Thompson v. United States, No. 23-1095 (U.S., March 21, 2025): **False Statements**: Thompson took out three bank loans totaling \$219,000.00. He later told the FDIC that he had “borrowed \$110,000.00” from the bank. This was true, but misleading because he had taken out three loans only one of which was for \$110,00.00. He was convicted of making a “false” statement, but in this opinion the Court reversed, holding that the statute does not criminalize statements that are misleading but not false.

VICTORIES

ANDREA BROWN, Tulsa, secured dismissal of Rape charges against her juvenile client in Tulsa County. New evidence showed that he was merely a witness and not the perpetrator. Nice work, Andrea!

Also, a theft charge in Ponca City has been dismissed...possibly because the judge realized that the taking of free publications is likely not theft.

HEARSAY

APPLICANTS: The Judicial Nominating Commission has released the names of the three applicants for the vacant District Judge position in Oklahoma County.

ARRESTED: An OHP Trooper has been arrested for committing a sexual assault during a traffic stop.

BOARD: Former Tulsa Police Department Commander Dave Walker now serves on the Crime Stoppers board.

TROOP: OHP is building a new Troop Headquarters in Northeast Oklahoma.

BONDS: New software at the Tulsa County Jail is causing problems with processing bonds.

RIP: The Bryan County Sheriff has died unexpectedly at home last Thursday.

DOC: The Vera Institute is partnering with the Oklahoma DOC and the Massachusetts DOC “to transform their prison systems” over the next two years.

REEFER: OBNDD estimates that the value of Oklahoma’s illicit marijuana trade at more than \$100 billion.

FUNDS: The Comanche County Community Sentencing Program will end this summer because of lack of funding.

WARRANTS: Oklahoma City and Oklahoma County will hold a municipal/county warrant-clearing event on Friday, April 4, 2025.

REPRIMAND: The Chief Justice of the Oklahoma Supreme Court has reprimanded District Judge Amy Palumbo following a complaint by the Oklahoma County Sheriff. Unsatisfied, the Sheriff is calling for her **resignation**.

JAMMED: Attorney General Drummond has joined a coalition asking Congress to allow states to utilize cell phone jamming devices to combat prison contraband and threats to public safety.

RESIGNED: After numerous lengthy absences from work drew complaints from county residents, the Woodward County Sheriff has submitted his resignation.

JAIL: Tulsa County has a new website for accessing information about county jail inmates.

ZERO: In a bit of county jail good news, the Wagoner County Jail has received zero infractions for a second consecutive year. Nicely done.

NEW CHIEF: The City of Miami has a new Chief of Police.

AGING: Oklahoma Watch reported on the aging population of inmates in DOC.

EXPLOSION: There was an explosion at the Pushmataha County Sheriff’s Office resulting in injury.

DIVERSION HUB: Canadian County now has a Diversion Hub program.

GRAND JURY: Residents in Garfield County have called for a grand jury investigation into the criminal justice system.

SHIFT: More than 100 cases filed in Tulsa municipal court involving Native Americans have been shifted to tribal courts.

PAWHUSKA: Pawhuska County District Attorney Mike Fisher has criticized, but declined to file charges against, the Chief of Police.

CHARGED: A female detention officer in Stephens County has been charged with raping an inmate.

WACKY CRIME

OIL: Thieves have stolen brass valves from an oil storage tank and caused an oil spill.

CHIEF: A man pulled over for an invalid license plate claimed to have been the newly-hired Chief of Police of Arapaho...the only problem was that Arapaho does not have a police department.

TRIFECTA: A Duncan man has been charged with assault using a brick, brass, and glass.

CLASSIC MISTAKE: A Tulsa man brought a baseball bat to a gun fight.

DOLLY: OHP stopped a vehicle on Turner Turnpike for having a furniture dolly...as a wheel for a trailer being towed.

LAWTON: A Lawton man has been jailed for “stabbing and mayhem.”

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