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Category



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

[Jamie W. Gray v. State of Oklahoma, ex rel. Service Oklahoma](#), No. 121,655 (Okla. Civ. App., Div. IV, March 28, 2024) (Not for Official Publication): **DUI (DPS)**: Oklahoma County judge Hon. April Collins sustained a DL revocation, but in this opinion the panel reversed because Service Oklahoma failed to present evidence of an admissible chemical test showing the licensee operated a motor vehicle with a blood/breath concentration of .08 or greater.

TENTH CIRCUIT

No new published cases.

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.

VICTORIES

TOMMY ADLER, OKC, secured a terrific result in a fatality accident case (no DUI or toxicology, just an allegation of Illegal Passing/Reckless Driving as predicates) in which the State increasingly charges as Manslaughter I instead of a reasonable lesser charge. In this case out of Craig County, Tommy beat the rec on Man I where the client, a 53-year-old with 20+ years as a CDL truck driver, was convicted of misdemeanor Negligent Homicide which fit the facts. Prosecutor Kali Strain suggested 19 years at 85% to the jury in closing, which was one year for every year of the life of the decedent. Instead, the jury convicted on the misdemeanor that it should have been in the first place. Great result, Tommy!

JOHN MARTINO & MARK BRIGHT, OKC, got a nice appellate win against DPS in the *Gray* case featured above. Great work, John & Mark!

DAN POND, Norman, secured a not guilty verdict in Beckham County in a “weird” case that began when the client sent an e-mail to the Superintendent of his son’s school when the son was suspended for striking another student. This somehow turned into a “Terroristic Threat” case, and at PH turned into a Threatening Act of Violence case. Dan attacked the woeful investigation by the Sheriff’s Office and reported that the client took the stand and got into a shouting match with the prosecutor, which made the jury uncomfortable, but they set that aside and rendered the just verdict of not guilty. Nice job, Dan!

CHRISTINA HUNT, F.P.D. in Tulsa, secured a victory in the N.D. in the case of a man accused of stabbing another man through the head with a flagpole. The jury went out around 3:30 p.m. and deliberated until 5:30 p.m., then returned in the morning to deliberate until 2:00 p.m. before returning a verdict of not guilty, as well as not guilty on the lesser offense of simple assault. Terrific job, Christina!

HEARSAY

EXECUTION: Inmate Michael DeWayne Smith is scheduled for execution this week. Defense counsel Mark Henricksen is quoted. Also, district judge Michael Hogan in Pittsburg County has ruled that **James Ryder** is not competent to be executed. Also, the Frontier quoted **Judge Lumpkin** as saying, “Suck it up!” in reference to the strain on DOC staff of execution protocols.

WRONG-WAY: The City of Okarche has experienced a rash of wrong-way drivers.

NO DEFENSE: A Tulsa County man convicted of murder explained his “Vietnam Defense” that did not fly with jurors. **HERE** is another story with a quote from defense counsel.

ARRESTED: A DOC employee at LARC has been arrested for sexual battery of an inmate.

CONCERN: Attorney Bobby Don Gifford has expressed concern about the new “Taser Gloves” at the Oklahoma County Jail.

DRUG COURT: This is a nice story on the Drug Court program in Payne County from the college newspaper.

JUSTICE: Stephens County First Assistant D.A. Courtnie Siess informed KSWO that she seeks justice for victims.

ROBBED: Kendall’s in Noble was robbed recently in a brazen manner.

PURCHASED: The Love County Sheriff has purchased a behemoth of an armored vehicle.

RIP: The OCCA published a nice In Memoriam for appellate counsel Ricki Joann Walterscheid, OIDS, who passed peacefully at her home at 45. I did not know her

personally, but saw her name regularly in OCCA opinions as defense counsel during her 20-year career. She was one of the very good ones.

WACKY CRIME

SPEED: OHP cited a motorcyclist for traveling 135 mph in a 50 mph zone...a mere 85 mph over the speed limit.

PONCA CITY: A Ponca City man assaulted a woman...with power steering fluid.

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SUBSCRIPTIONS AND SUBMISSIONS: To subscribe to the *Oklahoma Criminal Defense Weekly* just send an e-mail to James L. Hankins at jameshankins@ocdw.com and include the e-mail address to which you want the issues to be delivered. I am sending out the issues for free now to whoever wants to receive them. Submissions of articles, war stories, letters, victory stories, comments or questions can be sent to Mr. Hankins via e-mail or you can contact him by phone at 405.753.4150, by fax at 405.445.4956, or by regular mail at James L. Hankins, MON ABRI BUSINESS CENTER, 2524 N. Broadway, Edmond, OK 73034.

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