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Category



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

[McCauley v. State](#), 2024 OK CR 8 (April 4, 2024): **Indians:** McCauley was convicted in Osage County (the Hon. Burl O. Estes, presiding) of Manslaughter in the First Degree (Heat of Passion). The central issue was one of jurisdiction and whether the Osage Nation reservation had been disenfranchised by Congress. The Tenth Circuit has held that it had, and in this opinion the Court held that this was determinative of the issue.

[State v. Antwuan Desyre Parks](#), No. S-2023-498 (Okla. Cr., April 4, 2024) (unpublished): **Search and Seizure (Warrantless; Reasonable Suspicion):** Parks was accused in Oklahoma County of several gang and drug related counts. He filed a motion to suppress stemming from an illegal seizure of her person and

subsequent search of his vehicle. The Hon. Amy Palumbo granted the motion. The State appealed. In this opinion, the Court affirmed, finding that the investigatory detention in a “high crime area” in which Parks sped away from a marked police car, was not justified.

[Janice Steidley v. William “Bill” Higgins, et al.](#), No. 121,822 (Okla. Civ. App., Div. I, April 5, 2024) (Not for Official Publication): **Abuse of Process**: This is part of lingering litigation related to former District Attorney Janice Steidley who sued several officials. In this opinion, the defendants had sought signatures for a grand jury investigation. The panel held that this was not part of a court’s processes for purposes of an abuse of process civil claim.

TENTH CIRCUIT

[United States v. Kevin Alonso Zamora](#), No. 22-4096 (10th Cir., April 5, 2024) (Published) (Phillips, Kelly & Rossman): **Federal Sentencing Guidelines (Flight)**: Challenge to the procedural reasonableness of the sentence enhanced two-levels for reckless endangerment during flight are rejected.

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

[United States v. Alex Oliveras](#), No. 21-2954 (2nd Cir., March 15, 2024): **Supervised Release; Search and Seizure (Probation & Parole; Special Needs Doctrine)**: In this drug case, the district court imposed a special condition of

supervised release that subjected him to suspicionless searches by a probation officer. The panel concluded that the “special needs” doctrine of the Fourth Amendment permitted this, with a sufficient record, but that the district court failed to make a sufficient individualized assessment. NOTE: This opinion contains a good discussion of the law in this area and explains the origination of the “special needs” doctrine.

[United States v. William Barksdale](#), No. 22-2284 (3rd Cir., April 4, 2024):

Supervised Release: Revocation of supervised release is vacated when the accused was denied his right to testify in his own defense.

[United States v. Danny Cruz](#), No. 23-1192 (3rd Cir., March 8, 2024):

Prosecutorial Misconduct (Breach Plea Agreement): Sentence is vacated when prosecutor breached plea agreement when he promised to support a total offense level of 14, but later endorsed an extra enhancement.

VICTORIES

STACY SMITH, OKC, represented the accused in the Parks opinion featured above, convinced Judge Palumbo to grant a motion to suppress, and then convinced the OCCA that she was correct. That is a tall order, but Stacy did it. Great job, Stacy!

HEARSAY

TECH: The City of Moore is now using electronic ticket-writing machines.

EXECUTION: Oklahoma executed death row inmate Michael DeWayne Smith.

SHERIFF: Pontotoc County Sheriff John Christian will not seek re-election.

ARRESTED: A former police officer has been arrested after hidden cameras were found in a girl’s bedroom.

AMICUS: The U.S. Attorney’s Office filed an amicus brief with the OCCA supporting the position that the State had no jurisdiction to cite the brother of Governor Stitt for speeding in Indian Country.

STAFF: Some Oklahoma prisons are better staffed than others.

STABBED: A guard at the Great Plains C.C. has been stabbed by an inmate.

TAGS: During the month of March, the OKC PD cracked down on vehicles with expired tags, with the oldest displayed tag dated 2017 (it had a nice run).

SEX SHAMED: Interesting article about a perspective on death row inmate Brenda Andrew and prosecutors used sex and infidelity to sex-shame her. Also, the New York Times ran a [similar article](#).

WACKY CRIME

HOW MUCH DEPRAVITY IS ENOUGH: A Texas man was arrested for fondling himself as he followed kids around a grocery store...which resulted in confiscation and search of his phone...which resulted in police finding videos of his wife having sex with their Great Dane and other child porn...which resulted in the arrest of the wife.

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