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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

No notable cases.

The Court processed eight cases last week—all affirmed.

TENTH CIRCUIT

[United States v. Alexander William Santiago](#), No. 24-6015 (10th Cir., April 30, 2025) (Published) (Bacharach, Seymour & Phillips) (W.D. Okla.): **Search and**

Seizure (Cell Phone): Denial of suppression motion is reversed where police searched a cell phone initially under an impermissibly broad state statute, and then later searched under a federal search warrant whose underlying affidavit relied on the results of the state search. NOTE: Tenth Circuit precedent dictates that the good faith exception does not apply at all when a warrant affidavit is based on tainted evidence from a prior, unlawful search.

[United States v. Hatcher Ramon Day](#), No. 23-5084 (10th Cir., May 2, 2025) (Published) (Hartz, Phillips & Moritz) (N.D. Okla.): **Federal Sentencing Guidelines (Maintaining Drug House):** Two-level enhancement for maintaining a drug house is affirmed.

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

[Allen R. Walker v. United States](#), No. 23-5265 (6th Cir., April 11, 2025): **Habeas Corpus (Statute of Limitations):** In this 2255 post-conviction case, the district court dismissed the petition as untimely, even though the Government did not raise the statute of limitations as a defense. The case was remanded with directions for the district court to consider whether the issue was waived by the Government or forfeited. The district court determined that the issue was forfeited and considered it anyway. In this opinion, the panel reversed, holding that the Government waived the defense and the district court should not have considered it. NOTE: Judge Murphy dissented.

[United States v. Tyzheem Kwazhon Nixon](#), No. 23-4207 (4th Cir., March 10, 2025): **Federal Sentencing Guidelines (Reasonableness):** Sentence for felon in

possession of a firearm of almost double the Guidelines range is vacated as unreasonable because the district court relied on criminal acts of violence committed while he was incarcerated and awaiting sentencing that, per an expert report, were likely the result of mental illness.

VICTORIES

SARAH KENNEDY, Perry, and her client heard the words from the jury foreman, Not Guilty, in Payne County. This was a hard-fought case involving an allegation of Child Sexual Abuse. Notably, Sarah convinced the district court to preclude the forensic interview absent authentication by the interviewer. Great work, Sarah!

KYLE McCALLUM, Hugo, secured a Not Guilty in Choctaw County for a client accused of murder in a deadly shooting. Nice job, Kyle!

STEPHEN CALE, Tulsa, secured a verdict of Not Guilty in Pawnee County for a client accused of DUI-Drugs. The State presented one witness: the arresting officer, who had stopped the accused for not wearing a seatbelt. Terrific result, Stephen!

MATT SWAIN and DAN POND, Norman, had the high honor of representing criminal defense attorney Jason May, a longtime fierce advocate down in Carter County. The State had accused Jason of five counts of filing forged documents. The result was five verdicts of Not Guilty. Incredible win for Matt and Jason!

HEARSAY

FAIL: An OKC family says that the Oklahoma County District Attorney and the Oklahoma City Police Department has failed them after notifying them that the criminal case against a person accused of killing a relative will not go forward because of insufficient evidence.

DEFUNDED: The City of Guthrie has discontinued the use of FLOCK cameras because it no longer has funding to operate them.

RECORDS: The Tulsa FOP is seeking a restraining order against the City of Tulsa for failing to prevent the release of police personnel records.

CRASH: The News9 helicopter crashed at Wiley Post airport, but only minor injuries were reported.

STABBED: An Edmond police officer was stabbed during a recent traffic stop.

RESIGNED: Oklahoma County Jail Trust Chairman Joe Albaugh resigned abruptly last week.

JAILS: Gov. Stitt has signed into law the Jail Standards Act which requires annual inspections of county jails.

REVIEW: A 2010 murder case in Tulsa County is under review.

WAGONER COUNTY: Residents in Wagoner County are circulating a petition for a grand jury investigation of the Sheriff and the District Attorney.

WACKY CRIME

ENID: An update on the grand jury petition out of Garfield County calling for an investigation of the local DHS...a woman set it on fire at a bar in Enid.

LAWTON: You will all be glad to hear that the inflatable gorilla stolen last week at the car dealership in Lawton has been recovered.

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