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Category



**OKLAHOMA CRIMINAL DEFENSE WEEKLY**

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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

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[David Cummings v. Oklahoma Department of Corrections](#), No. 120,115 (Okla. Civ. App., Div. IV, May 18, 2022) (Not for Official Publication): **Sex Offender Registration**: Cummins was sentenced as a sex offender in Kansas in 1997. When he moved to Oklahoma, it triggered registration duties and he moved for injunctive relief. The district court dismissed on an Equal Protection claim and also as to standing. Here, the panel affirmed on the Equal Protection claim, but reversed the dismissal on the basis of standing.

## TENTH CIRCUIT

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[United States v. Laquan Kyle Duane Shakespeare](#), No. 21-8010 (10<sup>th</sup> Cir., April 29, 2022) (Published) (Hartz, Kelly & Murphy): **Supervised Release:** Shakespeare was revoked on supervised release and argued that this violated his right to jury trial and Double Jeopardy, based upon language the concurring opinion of Justice Breyer in *United States v. Haymond*, 139 S.Ct. 2369 (2019). The panel found no error because he had admitted facts (thus no *Apprendi* issue) and Supreme Court precedent on the Double Jeopardy question has never been overruled.

[United States v. Gaspar Leal](#), No. 21-2003 (10<sup>th</sup> Cir., April 25, 2022) (Published) (Hartz, Holmes & Bacharach): **Conspiracy; Sufficiency; Outrageous Government Conduct:** Conviction and 30-year sentence in a drug conspiracy case is affirmed over claims relating to: 1) insufficient evidence of drug type and quantity; 2) outrageous government conduct during the investigation (using an informant to target Leal who was a recently released drug addict with severe cognitive difficulties—no plain error); and 3) unreasonable sentence.

[United States v. Richard Holzer](#), No. 21-1080 (10<sup>th</sup> Cir., April 25, 2022) (Published) (Bacharach, Briscoe & McHugh): **Waiver (Appeal Rights):** In this exhaustive opinion, Holzer was convicted of planning to bomb a synagogue, and part of the sentence was a special rule of supervised release that prevented him from possessing/using any material supporting antisemitism or white supremacy. He sought to challenge this condition on First Amendment grounds, but the panel dismissed the appeal based upon the appeal waiver in the plea agreement.

## UNITED STATES SUPREME COURT

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“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

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[United States v. Jonathan Kyle Morehouse](#), No. 20-4389 (4<sup>th</sup> Cir., May 20, 2022): **Child Porn; Federal Sentencing Guidelines (Child Porn)**: Morehouse was convicted of distribution of child porn and sentenced to 84 months. The panel reversed a sentencing enhancement of distribution for a thing of value, but not pecuniary gain because a change in the Guidelines altered this enhancement in favor of Morehouse.

[United States v. Virgilio Cesar Luna-Gonzalez](#), No. 21-40397 (5<sup>th</sup> Cir., May 18, 2022): **Possession of Firearm (Illegal Alien); Federal Sentencing Guidelines (Firearm Enhancement)**: Sentence vacated where Government failed to prove that the firearm and the magazine were compatible.

## VICTORIES

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**CALEB HARLIN**, Muskogee, navigated an instructive win on an application to accelerate in Muskogee County on a 2018 guilty plea to False Personation. The application was based upon a new case, which was dismissed under *McGirt*, but the State refused to dismiss the application. Caleb briefed the issue and the State withdrew the application. If you want to look at the pleadings, the case is CF-2018-219. Nice job, Caleb!

## HEARSAY

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**[K-9 ATTACK](#)**: The wife of a Cherokee County Deputy is suing the county, claiming that the Sheriff's K-9 utilized by her husband, attacked her without provocation inside the marital home.

**[ARRESTED](#)**: A now-former Canadian County deputy has been arrested for sexually assaulting a female jail inmate.

**[BEACON](#)**: The Talala Police Department (Rogers County) has issued beacons to officers to prevent them from being struck by cars (the beacon is demonstrated in the video link).

**SEIZED**: The OKC PD Narcotics Team seized 8 pounds of meth during a traffic stop.

**CONCERNED**: Officials in Garvin County are concerned by the number of crimes committed against children.

**MYSTERY SOLVED**: 42-years after disappearing from Las Vegas, the body of a woman has been found and identified along a river in Oklahoma.

**RESIGNED**: The Chief of Police in Calvin (in Hughes County), who was arrested recently on meth charges, has resigned his post. He was the only law enforcement officer in Calvin.

## WACKY CRIME

**TEXAS**: A woman was charged with trying to buy another woman's baby...in the self-checkout line at Wal-Mart.

**LOUISIANA**: Headline: "Former Priest and Two Dominatrixes Charged with Vandalism After Alleged Altar Threesome." Oh boy.

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