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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

[Dominguez v. State](#), 2024 OK CR 13 (May 23, 2024): **Suspended Sentences:**

This is a revocation appeal out of Custer County (the Hon. Donna L. Dirickson), presiding) involving revocation in full in a Domestic Violence case on technical violations. On plain error review, the Court affirmed, construing statutes in tension on this issue. NOTE: Judge Musseman dissented. Judge Lewis specially concurred.

[Max Leroy Townsend v. State](#), No. F-2021-897 (Okl.Cr., May 23, 2024)

(unpublished): **Double Jeopardy**: In this appeal out of Cleveland County (the Hon. Lori M. Walkley, presiding), multiple counts stemming from a fatality accident are affirmed, but the Court reversed several convictions on the basis that

three counts of Leaving the Scene of a Fatality Accident and three counts of Leaving the Scene of an Accident Involving Injury violate 21 O.S. 11, and that these convictions are based on a single event of leaving the scene of an accident which can occur only once. NOTE: Presiding Judge Rowland concurred in part/dissented in part. Judge Lewis concurred.

TENTH CIRCUIT

[United States v. Corban Josiah Elmore](#), No. 22-1432 (10th Cir., May 21, 2024) (Published) (Bacharach, Briscoe & Moritz): **Search and Seizure (Search Warrants; Delay)**: Elmore’s son overdosed in his house and police secured the home, obtaining a search warrant eight hours later which yielded guns in his bedroom. He pled conditionally to felon in possession. In this opinion, the panel reversed, concluding that the eight-hour delay was unreasonable.

[United States v. Douglas D. Smith](#), No. 22-2142 (10th Cir., May 7, 2024) (Published) (Hartz, Ebel & Carson): **Indians**: The panel held that the Pueblo of Santa Clara in New Mexico is Indian Country for purposes of federal jurisdiction.

[United States v. Patrick DeWayne Murphy](#), No. 22-7021 (10th Cir., May 7, 2024) (Published) (Holmes, C.J., Phillips & McHugh) (E.D. Okla., Hon. Ronald A. White): **Kidnapping; Statute of Limitations; Prosecutorial Misconduct (Pre-Indictment Delay)**: Kidnapping convictions are reversed on sufficiency because the victim was not held for an appreciable period of time, but conviction for murder is affirmed over claims related to delay between the crime and prosecution of 20 years, and statute of limitations.

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).*

[Brown v. United States](#), No. 22-6389 (U.S., May 23, 2024): **Federal Sentencing Guidelines (ACCA)**: A state court drug conviction counts as an ACCA predicate if it involved a drug on the federal schedules at the time of that offense (even if removed later).

VICTORIES

DAVID HAMEL, Hunsucker Legal Group in OKC, secured a 20-minute not guilty verdict in Oklahoma County for a client accused of Domestic Assault and Battery, a he-said/she-said and self-defense case. Great work, David!

DUSTIN PHILLIPS, OKC, represented a client charged with Sexual Battery, actually two separate cases involving separate accusers filed months apart. In light of the State's tactic of using each accusation in the trial of the other, Dustin sought consolidation into one trial. This is already a bold strategy—that worked with two not guilty verdicts in McCurtain County based on impeachment and great lawyering. This is truly an amazing result. Terrific work, Dustin!

HEARSAY

DOMESTIC ABUSE: First in a series of reports by KFOR TV on criminal justice in domestic abuse cases. Also, [HERE](#). Also, Gov. Stitt has signed into law a [provision](#) that grants judges discretion in sentencing victims of domestic abuse if they can prove the abuse contributed to the commission of the offense.

ARRESTED: A State Trooper has been arrested, then fired, for sexual assault following a traffic stop in Craig County.

ARRESTED II: An Osage County deputy has been arrested for bringing contraband into the jail.

TECH: Bixby police have their new Glock sidearms equipped with hi-tech optics.

McGIRT: Jimcy McGirt has left the building...the litigant that started it all has been released from prison after a plea deal.

SENTENCES: The Oklahoma County Sheriff has called upon judges, prosecutors and lawmakers to increase sentences for repeat offenders.

BUST: The OSBI seized a huge quantity of cocaine and marijuana.

COLLISION: An Ardmore police officer crashed into a bicyclist resulting in a fatality.

PLATES: 27 of the 33 Oklahoma tribes that issue license plates share information with Oklahoma law enforcement.

RELEASED: A woman released from Mabel Bassett has been transformed by the canine program there.

JOY: The Office of Juvenile Affairs has a therapy dog that “touches lives and spreads joy.”

WACKY CRIME

CREEK COUNTY: The Creek County Sheriff is searching for a stolen...school bus.

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