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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

The batch of cases from May 22, 2025, included seven appeals by Defendants, all affirmed, and one appeal by the State, reversed. For some reason, I did not receive any e-mail from the Court on May 29, 2025. If that was sent and some has it, please forward and I will review the cases.

[Bailey v. State of Oklahoma ex rel. Service Oklahoma](#), 2025 OK 34 (May 29, 2025): **DUI (DPS)**: In this driver’s license revocation appeal, the Court affirmed, holding that Service Oklahoma may serve notice of revocation by mail (even without an affirmation of service; in this case, Bailey acknowledged receiving it); and also that even if a test is invalidated, the district court may rely on other evidence.

TENTH CIRCUIT

[United States v. Ke'Andre DeWayne Wilson](#), No. 23-6150 (10th Cir., May 19, 2025) (Published) (Hartz, Phillips & Federico) (W.D. Okla., Hon. David Russell): **Evidence (Guilty Pleas)**: Wilson was convicted in a drug conspiracy and received a ten-year mandatory minimum. He had sought to avoid going to trial by pleading guilty, but the district court rejected the plea. However, at trial the Government introduced evidence of the guilty plea. The Court found error in admission of the plea and reversed. NOTE: Judge Hartz dissented, in part, on the basis that Judge Russell followed the proper procedures in admitting the plea agreement. Also, Billy Coyle did the plea and trial in this case and reported that the client has been released on an uncontested order of immediate release. Great result!

[United States v. Xavier Zamora](#), No. 23-2178 (10th Cir., May 13, 2025) (Published) (Tymkovich, Baldock & McHugh): **Juveniles & Y.O.**: Under the federal Juvenile Delinquency Act, the Attorney General must certify that there is a substantial federal interest in the case to warrant the exercise of federal jurisdiction. Eleven circuits have held this requirement is an unreviewable act of prosecutorial discretion, while the lone Fourth Circuit has held to the contrary. In this opinion, the panel sided with the majority and held the certification is not subject to judicial review.

[United States v. Wilson Rene Calderon-Padilla](#), No. 24-2097 (10th Cir., May 13, 2025) (Published) (Bacharach, Baldock & McHugh): **Federal Sentencing Guidelines (Maximum Sentence)**: In this sentencing appeal, when the district court is required to consider the maximum punishment but errs in determining what that punishment is, does the defendant have to show prejudice or is prejudice presumed from the error itself? The panel held that the defendant must show prejudice.

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).

[Stamatios Kousisis v. United States](#), No. 23-909 (U.S., May 22, 2025): **Fraud:** Kousisis ran a business and made fraudulent representations on a government contract, performing the work in a satisfactory manner, but disregarding a provision to assist disadvantaged businesses. The Court decided whether 18 U.S.C. 1343 fraud, which requires a misstatement to trick a victim into a contract but does not require intent to cause the victim net pecuniary gain, can be used under these circumstances. The Court held that it can.

ODE TO APPELLATE WORK

This was sent to me by Tommy Adler, from an anonymous appellate lawyer:

An Ode to Appellate Work:

"Be patient," I plead,
"Be patient with me.
For I must confess
I've ADHD."

I cannot buckle down
My focus is nil
Espesh' when my friends
Come to share tea a li'l

I am on a deadline
The end, it draws nigh
My fingers are bleeding
My eyeballs are dry

Pray, leave me alone
To ponder my fate
And eke out my briefs
If I've left them too late

Now I really must go

For this brief I do dread
'Cause I've writ' scarce a word --
-- Did this poem instead

FUCK.

VICTORIES

JAY RAMEY, Tulsa, represented Tulsa attorney Ron Durbin in a case involving an accusation of Obstructing a Police Officer. Although Mr. Durbin still has 99 problems, this case is not one because the jury voted to acquit. Nice work, Jay!

KELLY SWEENEY, Tulsa, secured a Not Guilty verdict for her client accused of First Degree Arson, Endangering Human Life During Arson, and Possession of Drug Paraphernalia in Tulsa County. A co-defendant pled blind and continued sentencing out until after the trial, then asserted the Fifth to avoid testifying at trial. Rec was 15 in without any other conversation. Client testified. Great win, Kelly!

SHELLEY LEVISAY, Shawnee, represented a client accused of Child Neglect. The client has been described as a 24-year-old black man with four priors, gang tattoos, but a likeable dad. The evidence centered around a video showing the naked client in an altercation with the baby-momma but she and her sister attacked him. The client testified and knew about the priors, but the focus was upon lack of credibility of the State witnesses, lazy police investigation, and no pre-judging the case. Judge Canavan was fair. Nice job, Shelley!

GREG GRAVES & PIERRE ROBERTSON, Tulsa County PD, secured a verdict of Not Guilty in a First Degree Murder case out of Tulsa County recently. I do not have many details, but walking the client on Murder One is always special. Nice work, Greg & Pierre!

HEARSAY

IRONY: The OKC police officer who slammed that elderly Vietnamese man to the pavement has himself been approved for disability.

SPEED: The OKC PD has released data in a recent Traffic Safety Enforcement action on the NW Expressway. Not surprisingly, most of the 442 traffic stops were for speeding. Also, a foolish youth on a motorcycle led Tulsa police helicopter on a **chase** reaching 150 mph.

SUIT: With the Legislature out of session, Rep. J.J. Humphrey now has time to sue everybody.

ARRESTED: An Inola police officer has been arrested, in uniform, for pawning police property.

CHARGED: An OKC PD officer is on leave after being charged with domestic violence.

DENIAL: The denial rate for victim compensation claims has increased over the past few years.

NEW LAWS: Oklahoma Watch has examined some of the criminal justice reform bills that have made it into law this session.

GRAND JURY: NonDoc has examined a grand jury petition seeking removal of Wagoner County District Attorney Jack Thorp and Sheriff Chriss Elliott; and in a separate petition seeking prosecution of a man who shot into a crowd in Kingfisher County.

COMPENSATION: Gov. Stitt has signed a bill that will increase the compensation for those wrongfully convicted by typing the amount to the length of the wrongful incarceration.

CONFIRMED: Tim Tardibono has been confirmed as the Executive Director of the Office of Juvenile Affairs.

AWARD: OKC defense attorney Tim Laughlin has been awarded the Champion of Public Defense Award from the NACDL for his work at OIDS.

SUIT: Death row inmate John Hanson has filed suit against the Pardon and Parole Board, alleging that one of the members was biased against him.

CONCERN: Oklahoma County Public Defender Bridgette Biffle has expressed concern about a recent mass arrest in south OKC.

APPOINTED: Gov. Stitt has appointed Dana Hada as Associate District Judge in Custer County.

HOPE: The hope is that the purchase of Lawton Correctional Facility by the State will reduce the violence there.

CANCELLED: The Trump administration has canceled the DOJ investigation into six Oklahoma law enforcement agencies, including the OKC Police Department.

INCOMPETENT: Death row inmate Ricky Malone has been deemed mentally incompetent to be executed.

MOVE OVER: OHP will join other states in enforcing the “Move Over Law” beginning May 14.

RIP: The Muskogee County District Attorney died unexpectedly.

WACKY CRIME

MAYHEM: Mark Hoover said that he was not sure how to report this horror-movie-like weirdness out of Del City.

SAND SPRINGS: Inmates at the county jail in Sand Springs attempted to McGyver their way out, but were unceremoniously thwarted when one of them went into medical distress.

SPEED: The Tesla speeder who had been stopped at 133 mph and asked for a warning, has been stopped again...this time for 80 mph in a construction zone.

FOOD: A culinary arts teacher in Muskogee assigned students the task of making “prison ramen” and outraged followed.

PARTY: More than 150 people were arrested and 60 vehicles impounded for street racing at an OKC birthday party.

COP vs. COP: An OKC PD officer got into it with the Canadian County Sheriff.

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