

OCDW 06.06.22

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OKLAHOMA CRIMINAL DEFENSE WEEKLY

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06.06.22

[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

[State v. Jeffrey Paul Bales](#), No. S-2021-870 (Okl.Cr., June 2, 2022) (unpublished): **State Appeals; Bogus Checks:** In this Bogus Check case out of Payne County, the Hon. Katherine Thomas, Special Judge, granted a demurrer at PH, holding that the State had failed to show that the accused knew, prior to or at the time that they were obtaining that their checks were fraudulent. The Hon. Cynthia Ferrell was assigned to hear the appeal and affirmed. In this opinion, the Court also affirmed, holding that there was nothing in the record indicating that the accused were aware that the checks written over the Memorial Day weekend would not be honored by the bank. NOTE: Judge Hudson dissented in his usual manner, failing to apply the standard of review and simply disagreeing with the judges below rather than analyzing whether discretion was abused.

[Kaleb Young v. State](#), No. F-2020-887 (Okla. Cr., May 26, 2022) (unpublished): **Plea Bargains:** Young was convicted by jury in Tulsa County (the Hon. Kelly Greenough, presiding) of Murder in the First Degree and Shooting with Intent to Kill. On appeal, he argued that the district court erred in rejecting a plea bargain after listening to a victim impact witness object to the possibility of parole. The Court found no error.

TENTH CIRCUIT

[United States v. Patrick Lajuan Jones, Jr.](#), No. 20-6112 (10th Cir., May 9, 2022) (Published) (*en banc*): **Federal Sentencing Guidelines (Controlled Substance definition):** In this *en banc* order, the Court denied review of a panel decision regarding the legal issue of the definition of “controlled substance” under USSG 4B1.2(b), whether there is a uniform definition or whether it varies according to the state of conviction. The panel held that it varies. NOTE: Judge Rossman, dissented on this legal question and apparently decided to publish his dissent from the denial of *en banc* review.

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).*

[Shinn v. Martinez-Ramirez](#), No. 20-1009 (U.S., May 23, 2022): **Habeas Corpus (Procedural Default):** The Court held that 2254(e)(2) does not allow a habeas petitioner to develop a record outside the state-court record on the issue of IAC of state post-conviction counsel. NOTE: This is a severe blow and a restriction of prior cases from the Court that had allowed this when considering judge-made procedural default rules, but the Court held that it could not apply those rules to the statute.

OTHER CASES OF NOTE

[United States v. John D. Helton](#), No. 21-5144 (6th Cir., May 24, 2022): **Search and Seizure (Search Warrants; Sufficiency)**: Affidavit for search warrant of a home where drugs were allegedly sold found deficient because anonymous and informant tips were no corroborated and no nexus between the drug activity and the home, but the panel affirmed anyway under *Leon*. **NOTE**: This case is not a winner, but does have a good discussion, and example of, deficient affidavits.

VICTORIES

TOMMY ADLER, OKC, filed a *Jackson v. Denno* motion in Oklahoma County which was heard by Judge Palumbo. The issue involved the police interrogation of a then-15-year-old client without Miranda, followed by police placing the father in a recorded interrogation room to elicit incriminating information in direct response to his invocation of counsel. The State announced intent to writ the issue, of course, but for now it is a win. Great job, Tommy!

HEARSAY

ENID: Here is another “You Might Be from Enid” article, my hometown.

JAIL: A surprise inspection of the Oklahoma County Jail turned up a few violations.

JAIL II: The Chief of the Cherokee Nation has taken to social media to deny rumors that the tribe intends to build a jail in North Tulsa.

SCHOOL SHOOTING: The Wagoner County Sheriff says that his office would handle things differently in an active shooter situation at a school.

CHARGED: An OKC eye doctor has been charged with biochemical assault for using a date-rape drug.

CHARGED II: A civil attorney in Tulsa has been arrested for assaulting multiple police officers.

CHARGED III: Three now-former employees of the City of Tryon, including the former Chief of Police and his wife, have been charged with embezzlement.

PELLETS: Pellet guns were fired at a visiting collegiate golf team in OKC.

DPA: Cherokee County prosecutors have agreed to one Deferred Prosecution Agreement this year. One.

RACING: Two teens have been cited for street racing at over 100 mph in the Kilpatrick Turnpike.

NEW CHIEF: The Oklahoma Public School system has a new chief of security.

REEFER: New medical marijuana business licenses are on hold.

WAL-MART: Wal-Mart may issue “citations” for self-checkout “mistakes.”

RIP: The Love County Sheriff has died.

DOC: DOC employees will get a pay bump.

SHOOTER: The last postal employee on duty during Patrick Sherill’s shooting rampage years ago has retired.

ARRESTED: 13 persons have been arrested in a meth sting.

DRUGS: OBNDD canine dog “Bolo” discovered 30 kg of cocaine and 5 kg of heroin.

“JUGGING”: OKC police have warned residents about “jugging”—robbery of people coming out of banks carrying cash.

WOUND: An Oklahoma County Jail inmate has a nasty facial wound after a fight (photo in story).

LICENSURE: Gov. Stitt has signed a bill that would make it easier for felons to obtain professional licenses.

WEB: The Oklahoma County Sheriff’s Office will get a new, stand-alone web site.

DRUG COURT: With participation in Drug Court falling, courts are trying to figure out the path forward.

WACKY CRIME

TULSA: A Tulsa man could drive 55...that is, 55 mph over the speed limit, which is 120 mph.

TULSA II: A Tulsa burglar has been arrested after he tried to sell looted goods...back to the original owner.

MUSKOGEE: A Muskogee man went “Hunger Games” on a women by trying to hunt her with a bow and arrow.

KAY COUNTY: A woman in Kay County has been arrested for pretending to be a nurse.

ALVA: A local man took offense when his offer to mow a lawn for free was rejected...which landed him in jail.

OKC: An OKC man threw a grenade into the back of an Amazon delivery truck.

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