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Category



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 new cases of note.

TENTH CIRCUIT

[United States v. Guy Rosenschein](#), No. 23-2017 (10th Cir., May 12, 2025) (Published) (Hartz, Eid & Carson): **Search and Seizure (State Actor); Child Porn; Discovery (Suppression Hearing)**: Rosenschein was indicted for possession of child porn, which was discovered when it was uploaded to an internet chatroom and the room used software to match images with known child

porn through the National Center for Missing & Exploited Children [NCMEC]. The *pro se* Rosenschein filed three motions, seeking suppression based on unlawful search, discovery of the computer programs used to search, and for expert reports prior to the suppress hearing. The district court denied all three, as did the panel in this opinion because Chatstep and Microsoft were not state actors thus no Fourth Amendment violation, the discovery information was discoverable through the examination of witnesses, and Rule 16 discovery does not apply to suppression hearings.

[United States v. Brandon Richardson](#), No. 24-6052 (10th Cir., May 12, 2025) (Published) (Hartz, Phillips & Moritz) (W.D. Okla., Hon. David L. Russell): **Concurrent and Consecutive Sentences:** Richardson received a 182-month sentence in Missouri for federal firearm and drug convictions, after which he was transported to Oklahoma to face another federal firearm offense, to which he pled guilty. The Oklahoma district court sentenced him to 27 months, but ran 10 months consecutively to the Missouri sentence. The panel found no error and affirmed the sentence.

[United States v. Omari Davis](#), No. 23-1367 (10th Cir., May 21, 2025) (Published) (Hartz, Phillips & Federico): **Possession (Firearm by Felon):** The issue here is whether a prior conviction under Colorado law for the crime of Possession with Intent to Distribute an Imitation Controlled Substance (baking soda) satisfied the prior-conviction requirement. The panel held that it did not because that conviction was not punishable by imprisonment for more than one year. Reversed.

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

[United States v. Isaac Riojas](#), No. 24-40378 (5th Cir., June 4, 2025): **Waiver (Appellate Claims)**: Riojas was arrested and prosecuted for drugs after a traffic stop. He filed a motion to suppress, it was denied, so he then entered an unconditional plea of guilty. However, he still pursued an appeal to attack the validity of the search. Ordinarily, the guilty plea would waive all non-jurisdictional issues, but the Government never invoked such a waiver. The issue was whether the panel could raise waiver on its own motion. The panel declined to do so here, holding that a party's silence can "waive a waiver" and it thus proceeded to address and deny the search issue on the merits.

[United States v. Edwin Leo Brown](#), No. 22-7105 (4th Cir., May 20, 2025): **IAC (Plea Agreements)**: The parties conceded that, when analyzing the Government's plea offer, counsel provided erroneous advice as to the sentencing exposure. Thus, counsel's performance was deficient. The issue on appeal was whether there was prejudice in the form of a reasonable probability that Brown would have accepted the plea deal if advised accurately. The panel held that there was, and remanded with instructions for the Government to re-offer the same plea agreement.

VICTORIES

[DICK TANNERY](#), Lawton, represented a client on several counts, including Second Degree Murder in a fentanyl-related death. The jury convicted on a count of using a phone to facilitate a drug deal, but acquitted on the murder count. That is a pretty good result. Nice work, Dick!

JOI MISKEL, OKC, reportedly made "quick work" of the State's case for a client accused of First Degree Murder and Shooting w/Intent. The result of was two verdicts of Not Guilty in Oklahoma County. Terrific lawyering, Joi!

JESSE MUTH, OIDS, represented a client in Ottawa County charged with two counts of Assault and Battery w/Dangerous Weapon. This same client also has a separate murder case, so this one was supposed to be the "easy" conviction for the State, so it decided to proceed with these two counts first. Jesse even asked for a lesser offense instruction over the State's objection. The result was two pristine verdicts of Not Guilty. Great job, Jesse!

HEARSAY

MENTAL HEALTH: The Frontier examined the broken mental health system in county jails.

BOOK: A retired Tulsa County homicide detective has written a book about the FBI and the Whitey Bulger case.

STORMS: OSP and Jackie Brannon Correctional Center in McAlester were damaged in recent storms.

LCF: DOC Executive Director Steven Harpe stated that Lawton Correctional Facility was purchased by the State for \$312 million, and that every current employee will be offered a job contingent upon passing a background check; also, a correctional officer at LCF has been **arrested** for attempting to smuggle a cell phone, cologne, and THC wax into the facility.

CHIEF: The new Chief of Police in Miami has pledged transparency to residents.

THERMAL: OKC police and fire fighters are increasingly relying on thermal imaging from drones.

PANHANDLE: Oklahoma Watch examined stories of differential justice in the Oklahoma panhandle.

CLOSED: The Woods County Courthouse will be closed June 19-20, 2025.

SAFETY: Gov. Stitt has launched a plan to ensure safety at mass-gathering events.

REMOVED: Tulsa County Judge Sharon Holmes has been removed from hearing a murder case.

IMPOUND: The Grady County Sheriff's Office has impounded a fake Sheriff's Office patrol vehicle.

FIRED: The Valley Brook Chief of Police has been fired after less than three months on the job.

APPOINTED: Gov. Stitt has appointed a retired Navy Admiral as the interim head of the Department of Mental Health.

WACKY CRIME

RATS: A secondary effect of all the recent rain has been “cat-sized rats that show no fear of humans” running loose in Tulsa.

LAWTON: A woman named MaryAnn Roughface tried to stab another woman over a beer (with booking photo).

SERVICE ANIMALS: Misrepresenting a pet as a service animal will now be a misdemeanor criminal offense beginning November 1, 2025. The story has a photo of a sample pet being misrepresented.

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