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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 notable cases.

TENTH CIRCUIT

[United States v. Craig Gordon](#), No. 23-4094 (10th Cir., May 22, 2025) (Published) (Hartz, Kelly & Rossman): Second Amendment: 18 USC 922(g)(8)(C)(ii) prohibits firearm possession by a person subject to a court order that prohibits the use, attempted use, or threatened use of physical force against an intimate partner or child. The panel held that because there at least some circumstances in which

this section can be applied in a constitutional manner, it is not facially unconstitutional.

[United States v. Barry B. Jackson, Jr.](#), No. 23-6047 (10th Cir., May 28, 2025) (Published) (Rossman, Kelly & Murphy) (W.D. Okla.): **Second Amendment; Federal Sentencing Guidelines (Relevant Conduct)**: Jackson moved to declare 18 USC 922(g)(9) unconstitutional, but this motion was denied, so he pled guilty. Following the offense, but prior to pleading guilty, he was found in possession of additional firearms. The district court held that this second “possession” was the same course of conduct and was thus “relevant conduct” under the Guidelines. The panel affirmed.

[United States v. Perry Maryboy](#), No. 23-4117 (10th Cir., May 29, 2025) (Published) (Hartz, Phillips & Federico): **Experts; Jury Instructions (Second Degree Murder; Self-Defense)**: Conviction for second degree murder is vacated—on plain error review, no less—because two errors at trial involving an expert witness opining on Maryboy’s mental state and failure to instruct on imperfect self-defense and the burden of the Government to disprove that affirmative defense, constituted reversible plain error. NOTE: Judge Hartz dissented in part, viewing the expert testimony as not error.

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).

[Rivers v. Guerrero, Director](#), No. 23-1345 (U.S., June 12, 2025): **Habeas Corpus (Second/Successive)**: Rivers filed a habeas corpus petition, was denied, and he appealed. While that denial was on appeal, he acquired his trial counsel’s file and sought to file a new claim based on new evidence. The Fifth Circuit denied his request to supplement the record on appeal, so he filed another habeas in the district court, which classified it as second/successive and transferred it to the Fifth Circuit for authorization, which the circuit denied. The Court affirmed, holding that once a district court enters judgment in a first petition, a second-in-time petition qualifies as second or successive.

JUDGE EMILY MUELLER

In what appears to be a run-of-the-mill divorce case out of Lincoln County, a surprising pleading that hits hard on the presiding judge has been filed in an effort to disqualify Judge Emily Mueller.

The case, *Charles Andrew Cowden v. Kristie LaDawn Cowden*, No. FD-2021-52 (Lincoln County), features submission of a [pleading](#) with an affidavit by Judge Mueller's former bailiff, Elonda Smiley, outlining injudicious behavior, mostly concerning counsel appearing before the court.

VICTORIES

[JESSE MUTH](#), OIDS in Cleveland County, secured an acquittal for a client accused of assault. Nice job, Jesse!

[ROYCE HOBBS](#), Stillwater, heard the words Not Guilty from the jury in favor of his client who had been accused of feloniously discharging a firearm. Great work, Royce!

HEARSAY

[RETIRED](#): Carter County District Judge Dennis Morris has announced his retirement.

[COUNSEL](#): The State of Mississippi is poised to begin a pilot project to make public defenders available throughout the state.

[FORENSICS](#): Indiana State University will launch a Forensic Science Program this fall. Few schools have such programs.

[DOUBLE](#): A Washington County man has his bond doubled after acting up during a video hearing.

[ERROR](#): In an ongoing feud, the DOC now states that 6 of the 7 inmates that Rep. Justin Humphreys claimed were killed in prison are, in fact, still alive.

APPROVED: The Oklahoma Legislature has approved the purchase of the Lawton Correctional Facility.

PAROLE: A convicted murderer is seeking medical parole.

OOPS: The District Attorney has dropped charges against that guy who had claimed to have been the Chief of Police of Arapaho because it turns out that Arapaho in fact has a police department and a chief.

WACKY CRIME

WHO KNEW?: Michael Richards, the actor who played Kramer on *Seinfeld*, was once jailed in the town of Cordell.

FORE!: An unknown person drove a white minivan across the 18th hole of a gold course in Bartlesville.

“PRANK”: A senior prank at Broken Bow High School went awry as a student scattered razor blades in the courtyard and stairwell of the school.

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