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Category



**OKLAHOMA CRIMINAL DEFENSE WEEKLY**

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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

[Spybuck v. State](#), 2025 OK CR 7 (July 3, 2025): **Waiver (Right to Counsel)**: Spybuck was charged in Comanche County with APC and proceeded to a bench trial before the Hon. Susan Zwaan, who found him guilty. However, Spybuck had proceeded *pro se* and repeatedly asked for counsel, which Judge Zwaan denied for some reason and the prosecutor went along. In this opinion, the Court reversed based on the denial of counsel without any waiver. This error was so obvious that the Attorney General conceded the error. Not sure what is going on Comanche County.

## TENTH CIRCUIT

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[United States v. Justin Peck](#), No. 23-4000 (10<sup>th</sup> Cir., June 10, 2025) (Published) (Phillips, Kelly & Rossman): **Forfeiture**: This appeal involves criminal forfeiture of land by the Government and an assertion by a third-party of interest in the forfeited property. The district court granted relief to the third-party. NOTE: Judge Phillips concurred in part/dissented in part.

[United States v. Santiago Adelio-Cortez](#), No. 23-2177 (10<sup>th</sup> Cir., June 10, 2025) (Published) (Tymkovich, Baldock & McHugh): **Illegal Reentry; Federal Sentencing Guidelines (Reasonableness)**: Sentence of 60-months, varied upward from a 21-27 month range, is affirmed over claims of procedural and substantive reasonableness. NOTE: Judge McHugh concurred.

## UNITED STATES SUPREME COURT

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“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)*.

[Hewitt v. United States](#), No. 23-1002 (U.S., June 26, 2025): **First Step Act**: The Court answers “an edge case” involving application of the First Step Act to cases where the defendant had been sentenced at the time of the Act, but those sentences were subsequently vacated and remanded for resentencing. Does the Act apply? The Fifth Circuit held no, but here the Court reversed and held yes.

## OTHER CASES OF NOTE

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[United States v. Edwin A. Tavaréz](#), No. 23-3666 (6<sup>th</sup> Cir., June 23, 2025): **Supervised Release**: Denial of motion for early termination of supervised release is vacated.

[United States v. Dehaven Darnell Craig](#), No. 22-4230 (4<sup>th</sup> Cir., June 30, 2025):

**Prosecutorial Misconduct (Breach Plea Agreement):** Craig pled guilty to unlawful firearm possession, but argued that the Government breached the plea agreement by seeking two enhancements under the Guidelines based on facts outside the stipulated relevant conduct provision of the plea agreement. The panel agreed with Craig.

## **HEARSAY**

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**OFFENSE**: A decedent's family in Adair County has taken offense at the decision of the District Attorney to not file criminal charges in a case.

**RETIREMENT**: The Chief of Police for the City of Catoosa has announced his retirement.

**ARRESTED**: A Carter County Deputy has been arrested for burglary and domestic violence.

**CURFEW**: City Councilors in Tulsa have enacted a 9:00 p.m. curfew for juveniles in downtown Tulsa.

**ACADEMY**: Carter County DA Melissa Handke held a "DA Academy" for high school students.

**SECURITY**: The Oklahoma County Courthouse may increase security based on recent vandalism and vagrants.

**FUNDS**: The Oklahoma County Jail could run out of money by August 1.

**SHOPLIFTING**: The Oklahoma Attorney General has additional power to go after shoplifting rings.

**FORFEITURES**: Oklahoma law enforcement continue to seize money from motorists.

**JNC**: Steve Stice and Trace Sherill have won seats on the Judicial Nominating Commission.

**JURISDICTION**: By agreement, Tulsa will not exercise criminal jurisdiction over Indian defendants inside the Muscogee Nation, although Tulsa police officers retain authority to make arrests.

**GUN VIOLENCE**: Tulsa's Chief of Police has formed a gun violence task force on the heels of a fatal shooting during the Juneteenth celebration.

**WARDEN**: Oklahoma's own Clara Waters was the first woman in the country to be the warden at an all-male prison.

## WACKY CRIME

**SUNSET**: A man climbed the scaffolding of the Beckham County Courthouse...so he could watch the sun set.

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