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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

[Foote v. State](#), 2023 OK CR 12 (June 29, 2023): **Confrontation/Cross-Examination; Evidence (Impeachment)**: In this child sex abuse case out of Lincoln County (the Hon. Cynthia Ferrell Ashwood, presiding), the State chose to not call the minor complaining witness at either PH or trial, choosing instead to simply “make her available” and proceeded to introduce here allegations in the form of hearsay statements. The Court found plain error in this procedure, but also found that by not objecting at trial the error had been waived. The Court also found no error in the introduction of a prior conviction for Lewd Acts to impeach the testifying defendant.

## TENTH CIRCUIT

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[United States v. Aaron Lee Porter](#), No. 22-1134 (10<sup>th</sup> Cir., May 2, 2023) (Published) (Eid, Ebel & Kelly): **Search and Seizure (Abandoned Property)**: Denial of a motion to suppress evidence found in a backpack is affirmed where the district court found that the accused had abandoned it and that the firearm would have been discovered pursuant to an inventory search.

[Anthony V. Santucci v. Commandant](#), No. 20-3149 (10<sup>th</sup> Cir., April 25, 2023) (Published) (Holmes, C.J., Ebel & Eid): **Military**: The U.S. Army Court of Criminal Appeals found error in a sexual assault case, but found the error harmless. On appeal to the Circuit, the appellant argued that the district court must review the claims on the merits rather than simply finding that the military court had fully and fairly considered the claims. The panel rejected this contention and affirmed.

[United States v. Lougary Eddington](#), No. 22-1076 (10<sup>th</sup> Cir., April 24, 2023) (Published) (Moritz, Briscoe & Rossman): **Federal Sentencing Guidelines (Possession of Ammunition)**: Sentence for felon-in-possession of ammunition is vacated where the district court erred in applying a four-level enhancement for possessing ammunition “in connection with another felony offense.”

## 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).

[Counterman v. Colorado](#), No. 22-138 (U.S., June 27, 2023): **First Amendment**: This case involved a Facebook stalker who sent messages to a singer he did not know. The Court clarified the extent that the First Amendment protects such “threat” speech: the State must show subjective understanding by the accused of the threatening nature of the speech, but this showing may be made under a reckless standard (the State must show that he consciously disregarded a substantial risk that his communications would be viewed as threatening violence).

## OTHER CASES OF NOTE

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[United States v. Jaron Howard Morgan](#), No. 22-1445 (6<sup>th</sup> Cir., June 26, 2023): **Search and Seizure (Community Caretaking)**: Denial of motion to suppress evidence in a car is reversed where the officer saw Morgan sleeping in a running car and opened the door without any exigency.

## VICTORIES

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*None noted.*

## HEARSAY

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[THE KANSAS TWO-STEP](#): A federal judge has apparently ruled in favor of drives in Kansas after troopers there targeted drivers with out-of-state tags traveling to or from states where marijuana is legal and effecting a stop, letting them go, and then continuing to question them without any reasonable suspicion. I cannot find the actual opinion, but this is a common practice here.

**PRESS RELEASE**: A press release from State House Rep. Rick West (R-Heavener) details the ceremonial signing of the Hannah McKenzie Act which requires opioid treatment programs to comply with federal regulations, including drug testing. Also, signed was HB1005 which allows medical providers to verify by affidavit that a person is unable to sit for jury duty because of health reasons.

[BUSTED](#): Judge Traci Soderstrom was the subject of an embarrassing piece showing her reviewing social media on the bench during the murder trial where a 2-year-old was the decedent. This was her first case. I am not sure how the press acquired the security stills.

[CUTS](#): Federal Public Defenders may be looking at serious budget cuts.

[OD](#): Marijuana overdoses in Oklahoma occur most often when children mistake edibles for candy.

**STING**: More than 30 persons were arrested in a prostitution sting in OKC.

**RESIGNED**: The entire police force in Warner, OK (in Muskogee County) has resigned.

**THEFT**: A Tulsa man has been arrested for stealing \$40k in diesel fuel from four area gas stations.

**HIRED**: The Tulsa County Sheriff wants to hire over 100 deputies and detention officers.

**NEW CHIEF**: The town of Lone Grove has a new Chief of Police.

**STOPS**: The Johnston County Sheriff is performing interdictions to combat fentanyl trafficking. Also, the Sheriff has a new K-9 officer named "**Snoopy**."

**JURORS**: Random people are apparently being ambushed with jury summons.

**RIGGED**: A lawmaker alleges that the Gossip clemency hearing was rigged.

**REPORT**: The OKC PD has released its annual report.

**JAIL**: An investigation has been launched against an Oklahoma County detention officer for head-stomping an inmate.

**BUST**: OBN found a truckload of marijuana in boxes marked "mushrooms."

**ESCAPE**: A man attempted to escape from Edmond police while holding a butter knife.

**MENTAL ILLNESS**: The State is still struggling to treat the mental illnesses of inmates in jail.

**RETRIAL**: A new trial has been granted in an old Oklahoma County murder case of Glynn Simmons.

**AI CREEP**: Artificial Intelligence programs are creeping into our lives. The latest is an AI system that analyzes driving patterns of millions of cars daily and determines whether there is criminal activity such as drug trafficking.

**AWARDS**: The Oklahoma District Attorneys Association conveyed awards to its members.

**TECH**: The Cleveland County Jail is incorporating technology into its "site check" of inmate cells.

**POLICE**: The City of Mangum has no active police force.

**DRUGS**: Drug trafficking is on the rise in Comanche County.

**FAIL**: Most Oklahoma jails failed Health Department inspections in 2022.

## **WACKY CRIME**

**PROBABLE CAUSE**: A female passenger of a car smoked crack cocaine...during a traffic stop.

**ANADARKO**: A man initiated a “demolition derby” with police.

**DUNCAN**: A Duncan woman committed assault and battery on a man...with a mirror.

**TULSA**: A report says that Tulsa has the worst drivers in the state.

**TULSA II**: A Tulsa resident rendered aid to an officer by tackling a fleeing suspect. Mark Hoover likes the last line of the story.

**TULSA III**: A patient in Tulsa stole the ambulance he was being transported in...only to crash into low-hanging signs in the hospital parking garage.

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