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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.

TENTH CIRCUIT

[United States v. Briar Clayton Eugene Adams](#), No. 21-3043 (10th Cir., July 20, 2022) (Published) (Bacharach, Ebel & Carson): **Federal Sentencing Guidelines (Crime of Violence)**: Kansas prior conviction for Aggravated Battery is not a crime of violence because it includes battery against a fetus.

[United States v. Jose Felipe Hernandez-Calvillo](#), No. 19-3210 (10th Cir., July 13, 2022) (Published) (Matheson, Baldock & Moritz): **First Amendment**: Federal statute criminalizing encouragement or inducement of a noncitizen to reside in the U.S. is unconstitutionally overbroad. NOTE: Judge Baldock dissented, viewing the statute as a simple solicitation statute that the majority made unnecessarily complicated.

[United States v. Jason Reed](#), No. 21-2073 (10th Cir., July 7, 2022) (Published) (Tymkovich, C.J., Baldock & Rossman): **Federal Sentencing Guidelines (ACCA); Guilty Pleas**: In this felon in possession of firearm case, enhancement under the ACCA is affirmed over his claims relating to: 1) his plea was not knowingly and voluntarily entered because counsel advised him erroneously that the ACCA was unlikely to apply; 2) the district court lacked the power to decide whether his prior drug offenses were ACCA predicates; and 3) insufficient notice that the ACCA might apply.

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. Daryon D. Kelley](#), No. 20-30436 (5th Cir., July 8, 2022): **Felon in Possession Firearm**: *Rehaif* error is a new right that applies retroactively.

[United States v. Andres Vargas](#), No. 21-20140 (5th Cir., May 31, 2022): **Federal Sentencing Guidelines (Inchoate Crimes)**: The issue raised in this drug case is whether inchoate crimes count as predicates for Career Offender status. The Commentary say yes, but Vargas argued that Supreme Court precedent has

indicated that such Commentary no longer need be given binding interpretive effect. The panel disagreed, but the question appears to be live.

[United States v. Damone Dominique Bell](#), No. 21-5008 (6th Cir., June 24, 2022): **Plea Bargains; Guilty Pleas:** Bell pled guilty to a lesser-included, but not indicted, drug offense. The district court accepted the plea, but rejected the plea agreement and sentenced Bell to a substantially lower sentence than that contemplated by the plea agreement. The Government appealed/writ but the panel affirmed.

2022 LEGALUPDATE

Check out the [2022 Legal Update](#) prepared by CLEET General Counsel Preston Draper. It contains good recent case-law summaries as well as legislative enactments that will take effect on November 1, 2022, that will amend/affect several statutes pertaining to criminal justice and our clients. Thanks to Preston for forwarding this to me.

I did not know that there is a “Livestock Offender Registry.”

VICTORIES

None noted.

HEARSAY

ACCIDENTS: The Tahlequah Chief of Police says that the two most common causes of vehicular crashes are following too closely and failing to yield.

CHARGED: The now-former Wilson police officer who falsely reported being shot in February has been charged with misdemeanors.

DEATH: There has been another inmate death at the Oklahoma County Jail.

REDUCTION: The OKC municipal court has extended the “penalty reduction program” to December 31.

RIP: A police officer in Guthrie has been found deceased in his home, apparently of natural causes.

COURTHOUSE CLOSE: The “chemical exposure” that shut down the Comanche County Courthouse on Thursday turned out to be meth.

DROPS: DOC has found a contraband-drop operation in a warehouse in OKC.

THIEVES: Local media reports a group of thieves stealing cars in Norman.

HONORED: Assistant Attorney General Jennifer Crabb has received an award for appellate advocacy in capital and complex homicide cases.

CHECKPOINT: A DUI checkpoint in Pawhuska netted 25 arrests and 14 citations.

STATE: DOC is in bad shape, but this article suggests that things may be equally dire in the BOP.

READERS: License-plate reading cameras will assist Tula police in finding stolen cars.

PRO SE: Attorney Shelley Levisay told KFOR that a grandmother who wants to represent herself in a murder trial has the right to do so, but should not.

NIGHTMARE: This is a nightmare episode out of Indiana where a jailer sold access to women.

WACKY CRIME

TULSA: Two motorcycle riders that were part of a “street takeover” in Tulsa were caught...and their own Go-Pro cameras will provide very good evidence against them.

MISTAKES WERE MADE: Confetti Canons fired at Quail Springs Mall were mistaken for gunfire from an active shooter.

WHO KNEW?: Oklahoma is apparently a great state...for cycling while naked.

CAUGHT: A peeping Tom in OKC has been caught...at the grocery store.

OKC: A woman turned in a box of explosives to the Sheriff's Office...her father had been holding onto them.

CLIMBER: An inmate at Mack Alford Correctional Center climbed a nearby radio tower.

LAWTON: A butcher in Lawton fashioned a "Thor's Hammer" cut of beef...that looks like Thor's Hammer.

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