

## OCDW 08.11.25

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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

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[William Lewis Reece v. State](#), 2025 OK CR 8 (July 10, 2025): Jurors; Interrogations (Fifth Amendment); Evidence (Spoliation); Evidence (Sexual Propensity); Evidence (Character); Prosecutorial Misconduct (Improper Argument; Vouching); Avoid Arrest Aggravator: Capital case out of Oklahoma County (Hon. Susan Stallings, presiding) is affirmed over claims related to: 1) denial of removal of jurors for cause; 2) admission of confessions and out-of-court statements; 3) spoliation of evidence (failure to preserve recorded conversations); 4) IAC (failure to cross-examine over spoliation); 5) admission of sexual propensity evidence; 6) admission of sexual propensity evidence (under 2404(B)); 7) admission of character evidence; 8) prosecutorial misconduct during closing arguments (both

stages); 9) sufficiency of evidence regarding “avoid arrest” aggravator; 10: HAC issues.

## TENTH CIRCUIT

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[United States v. Edgar Rene Garcia-Limon](#), No. 23-7055 (10<sup>th</sup> Cir., July 22, 2025) (Published) (Tymkovich, Baldock & Eid) (E.D. Okla., Hon. Ronald A. White): **Indictment (Vague); Duplicity; Constructive Amendment:** Convictions for Sexual Assault in Indian Country are affirmed over claims related to: 1) vague indictment; 2) duplicitous convictions; and 3) constructive amendment of the indictment.

[United States v. Michael Troy Kay](#), No. 24-4018 (10<sup>th</sup> Cir., July 21, 2025) (Published) (Hartz, Kelly & Rossman): **Federal Sentencing Guidelines (Obstruction of Justice):** In this firearm possession case, imposition of obstruction of justice enhancement is affirmed (hidden firearm in trunk of vehicle; pre-investigative conduct counts).

## 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).

*No new cases.*

## OTHER CASES OF NOTE

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[United States v. Emil Bon Chicol-Najarro](#), No. 24-20424 (5<sup>th</sup> Cir., August 6, 2025): **Judgment and Sentence:** A condition of supervised release is vacated because the condition created a conflict between the written judgment and the oral pronouncement of sentence in open court. NOTE: This issue comes up more than

it should, where the J&S contains sentencing aspects not articulated by the judge in open court in the presence of the accused. The rule is that the oral pronouncement of sentence is the controlling sentence over any subsequent written judgment.

[United States v. Ankita Singh](#), No. 24-3655 (6<sup>th</sup> Cir., August 8, 2025): **Jury Instructions (“Willfully”); Evidence (Hearsay; Exculpatory Statements); Witnesses (Experts)**: Singh was convicted of six counts of healthcare fraud and raised three issues on appeal: 1) faulty jury instruction on the word “willfully”; 2) exclusion of exculpatory statements made by Singh to an insurance company investigator that reflected her state of mind; and 3) abuse of discretion in allowing lay witnesses to testify that a provider must personally examine a patient in order to determine the medical necessity for certain prescribed equipment. The panel found merit in all three claims!

## VICTORIES

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*None noted.*

## HEARSAY

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**MOVIE**: A crime-themed movie is being filmed in Sapulpa with some actors that us old-timers would know.

**BJJ**: Broken Arrow police officers can now receive training in Brazilian Jiu-Jitsu. I trained for a few years until I had a health issue that disrupted it, but BJJ is an effective self-defense system and a very good workout. I never tried to advance in belt rank, like B.J. Penn, I am a white belt forever.

**STATION**: The City of Ardmore will get a new police station.

**VENUE**: News coverage of the request by accused former Garfield County judge Brian Lovell for a change of venue.

**SUPPORT**: A study concluded that families of incarcerated inmates spend \$4,200.00 annually supporting them.

**PANHANDLE**: Oklahoma Watch examines the criminal justice system in the Oklahoma panhandle (a Mark Hoover-certified good read).

**NEW**: OHP has acquired some new vehicles with a new livery.

**BUST**: State and local officials have arrested 18 suspects in a drug trafficking ring out of Murray County.

**INVESTIGATION**: The Wagoner County Sheriff is investigating the people behind a failed grand jury petition to investigate him and District Attorney Jack Thorpe.

**REBRAND**: The Lawton Correctional Facility is now known as Red Rock Correctional Center.

**INDICTED**: A suspect has been indicted for the robbery of a medical marijuana operations after a...*joint* investigation (blame Mark for this).

**AI**: DOC Director Steven Harpe said that AI may help with inmate counts and with monitoring prison airspace for drones carrying contraband.

**RIP**: Cleophas “Cleo” Fields, long-time shoe-shiner at the Oklahoma County Courthouse has passed at the age of 87. Cleo was positive presence in the stress of the courthouse, gave me many a good shine, and was always ready with a smile and a good story. I will miss him.

**FUNDS**: Oklahoma County Commissioners have approved funds to expedite the repair of the Oklahoma County Courthouse elevators (I was there last week and it is indeed a headache).

**OSA**: Tulsa County had held its first re-sentencing hearing pursuant to the Oklahoma Survivor’s Act.

**APPOINTED**: A.G. Gentner Drummond has appointed Assistant Executive Coordinator Ryan Stephenson of the District Attorney’s Council as a special prosecutor in the Glossip case.

**AWARD**: Attorney/Law Professor Randy Coyne has received the Lifetime Abolitionist Award from the Coalition to Abolish the Death Penalty.

## **WACKY CRIME**

**PAWNEE**: The Pawnee County Sheriff’s Office is catching more cows than criminals these days.

**NAKED**: Politicians are concerned about witnesses saying that State Superintendent Ryan Walters had a video featuring naked women on his computer during a meeting in his office.

**SPEED**: An OKC driver has been cited for going 110 mph on the Northwest Expressway. Police say drivers should slow down because, “Northwest Expressway isn’t an airport runway.”

**ARRESTED**: A Rogers County Deputy has been arrested for DUI.

**AI2**: The OKC PD will acquire equipment that utilizes facial recognition and Artificial Intelligence to solve crimes and missing persons cases, saying, “It’s important to reassure the public that this isn’t surveillance.”

**DARROW AWARD**: Bobby Don Gifford has received the Clarence Darrow Award from the OCDLA.

**OHP**: The OU Daily featured an in-depth story about the DPS decision to reallocate OHP resources away from seven urban areas (not just OKC and Tulsa).

**SUED**: The Muscogee Nation is suing the City of Henryetta for violating jurisdictional laws established in *McGirt*.

**PETITION**: Gov. Stitt’s brother has petitioned the Supreme Court for review of the OCCA ruling on jurisdiction.

**MISMANAGEMENT**: The mismanagement of DMH has been going on for more than a decade and appears to be mostly poor budgeting and mission creep.

**TOP TEN**: Oklahoma ranks in the top ten states...for damage from weather events.

**BROKE**: The Oklahoma County Jail may go broke at the end of July.

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**SUBSCRIPTIONS AND SUBMISSIONS**: No subscriptions are necessary. I will post the issues weekly to my web site: [www.ocdw.com](http://www.ocdw.com). Submissions of articles, war stories, letters, victory stories, comments or questions can be sent to Mr. Hankins via e-mail ([jameshankins@ocdw.com](mailto:jameshankins@ocdw.com)) or you can contact him by phone at 405.753.4150, by fax at 405.445.4956, or by regular mail at James L. Hankins, MON ABRI BUSINESS CENTER, 2524 N. Broadway, Edmond, OK 73034.

**ABOUT THE OCDW:** The *Oklahoma Criminal Defense Weekly* is compiled, maintained, edited and distributed weekly by attorney James L. Hankins. Archived issues can be obtained by contacting Mr. Hankins directly, although some of them are on the web site at [www.ocdw.com](http://www.ocdw.com). OCDW accepts no money from sponsors. Mr. Hankins is solely responsible for its content.

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