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[James L. Hankins,](#)
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(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

[Irwin v. State](#), 2024 OK CR 24 (August 22, 2024): **Indians:** Irwin was convicted by jury in Tulsa (the Hon. Sharon Holmes, presiding) A&B w/Deadly, Kidnapping, Possession of Firearm by Felon AFCF, and Trafficking in a case involving horrific details of torture-murder. Although judge Holmes presided over the trial, the case was transferred post-verdict to the Hon. Dawn Moody based on information that Irwin may have made threats against Judge Holmes. The Court affirmed over claims related jurisdiction in Indian Country (he is 1/32 Choctaw and the crimes occurred on the Muscogee/Creek and/or Cherokee Reservations) and IAC for failing to raise that issue. NOTE: Judge Lewis dissented.

[State v. Alvarado](#), 2024 OK CR 23 (August 22, 2024): **State Appeals; Evidence (Impeachment)**: In this prosecution out of Comanche County (the Hon. Scott D. Meadors, presiding) where the State accused Alvarado of Conspiracy to Commit Larceny by False Pretenses and Obtaining Money by False Pretenses, both AFCF, the trial court granted a demurrer to count two and the jury acquitted on count one. The State appealed on a reserved question of law: whether a supplemental information alleging prior felony convictions gave the advance written notice for impeaching the testimony of the accused with stale felony convictions under 12 O.S. 2609. The answer is no. NOTE: Judge Hudson and Judge Lumpkin concurred specially.

[State v. Jody Lee Sharp](#), No. S-2023-894 (Okla. Cr., August 22, 2024) (unpublished): **State Appeals**: In this State appeal out of Grady County involving accusations of Lewd Acts, the case was called for trial but the State had released its witnesses to go out of state. The accused objected on speedy trial grounds, but the Hon. Kory Kirkland denied the oral motion of the State to continue the trial and dismissed without prejudice for failure to prosecute (not on speedy trial grounds which would have been a dismissal with prejudice). The State appealed, and in this opinion the Court dismissed for want of jurisdiction over this type of appeal. NOTE: The defense lawyers were none other than Dan Good and Tommy Adler, who have been winning other cases as noted below.

TENTH CIRCUIT

[United States v. David Lesh](#), No. 23-1074 (10th Cir., July 16, 2024) (Published) (Tymkovich, Baldock & Rossman): **Statutory Construction (Void for Vagueness); Right to Jury; C.F.R.**: Lesh was a “content creator” on social media and basically went snowmobiling at a resort when it was closed because of COVID, violating National Forest Service regulations which prohibit using a snowmobile off a designated route, and conducting unauthorized work activity on NFS land. He was convicted at a bench trial on both counts. The panel affirmed the trespassing count, but reversed the other count because the regulation does not fairly warn social media users that posting images on the internet could constitute a federal crime with imprisonment up to six months. The panel held that the delegation by Congress to the Agency was lawful (based on an intelligible principle), but that the regulation was void for vagueness, and also that he was not entitled to a jury. NOTE: Judge Tymkovich and Judge Rossman both concurred,

expressing the idea that the Supreme Court should re-examine the right to jury in this context, but concluding that current precedent forecloses it here.

[United States v. Feng Tao](#), No. 23-3013 (10th Cir., July 11, 2024) (Published) (Tymkovich, Briscoe & Moritz): **Sufficiency (False Statements); False Statements**): Tao was a professor at Kansas University and conducted research funded by the DOE and National Science Foundation. At some point, he developed a relationship with a university in China and concealed it from KU. He was prosecuted on ten federal charges of make a materially false statement in a matter within the jurisdiction of the executive branch. In this opinion, the panel reversed on the basis that the Government offered insufficient evidence that the statement to his employer was material to any DOE or NSF decision. NOTE: Judge Briscoe dissented in a lengthy opinion.

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. Richard Plezia](#), No. 23-20483 (5th Cir., August 22, 2024): **Statute of Limitations**: Finding by the district court that a count of Making False Statements had been equitably tolled is reversed and convicted vacated with prejudice.

[United States v. Jamarr Smith, et al.](#), No. 23-60321 (5th Cir., August 9, 2024): **Search and Seizure (Search Warrants; Geofence Warrants)**: A “geofence warrant” is when law enforcement specify a location and time for companies (like Google which gets the majority of them) to conducting sweeping searches of the their location databases and provide a list of cell phone phones and affiliated users

found at or near a specific area during a given time. In this opinion, the panel held that these warrants are unconstitutional. NOTE: This opinion, as recognized by the Fifth Circuit panel, conflicts with a holding from the Fourth Circuit, thus creating a circuit split.

VICTORIES

DAN GOOD & TOMMY ADLER, OKC, geared up for trial in Pawnee, Oklahoma, to represent their client the world renowned Native American artist Bunky Echo-Hawk, who had been charged with indecent acts u/16 and possession of child porn (which turned out to not be child porn). On the way to argue pre-trial motions Dan was informed that the State was going to dismiss the case after two and half years of hard advocacy. Great job Dan & Tommy!

MIRANDA SNODGRASS, Tulsa, scored a terrific win by getting a Murder One case demurred at PH and then defending it on the State's appeal. The case proceeded to trial on Manslaughter One, A&B w/Deadly, and Transfer of Firearm to a Felon, which resulted on Not Guilty (Self-Defense), Not Guilty (Self-Defense), and 6 months on CM TCJ. Miranda had prevailed on a series of complex evidentiary arguments and then prevented the State from introducing 2403 evidence, as well as precluding a jury instruction on transferred intent. Miranda has been a lawyer all of two years. Great work, Miranda!

HEARSAY

PROMOTED: Josh Henderson has been promoted to Deputy Chief of Police of Ponca City.

CRIME: The crime rate in Wagoner County is...down.

ARRESTED: A Broken Arrow jailer has been arrested for child abuse.

ARRESTED II: Two detention officers in Oklahoma County have been arrested for smuggling contraband into the jail.

ARRESTED III: A Lone Grove police officer has been arrested for DUI.

INDICTED: The now-former Love County Treasurer has been indicted for embezzlement.

GOP: A Republican party meeting in Osage County descended into chaos as District Attorney Mike Fisher got combative.

CHARGED: A now-former deputy in Pottawatomie County has been charged with faking a high-speed pursuit and an officer-involved shooting.

LEAVE: An OKC firefighter has been placed on leave after an indecent exposure incident.

HIDE-AND-SEEK: On Halloween this year, the Mooreland Police Department will hold its third annual “Hide and Seek from the Police” event.

EXTORTION: Disturbing story of a family with a relative in prison being extorted by prison gangs.

FIRE: The Broken Arrow Police Department has fired three officers after an internal probe.

SUSPENDED: Two Pawhuska police officers have been suspended from duty.

REMEMBER: It has been an astonishing 38 years since the Edmond Post Office shooting.

ANNEX: Comanche County Commissioners are looking at building a jail annex on property near the country fairgrounds.

WACKY CRIME

COWETA: A police officer in Coweta pursued a motorcycle...and ended up crashing into the wife of the Wagoner County Sheriff.

BARTLESVILLE: A man trespassed onto property in rural Bartlesville...to cut down walnut trees.

JUSTIFIED: An OKC man pulled a gun on his roommate because the roommate and his girlfriend were eating too much pizza.

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