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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

[Lopez v. State](#), 2025 OK CR 15 (September 25, 2025): **Right to Testify**: Lopez was convicted by jury in Oklahoma County (the Hon. Susan Stallings, presiding) of Murder in the First Degree. In an odd fact pattern, Lopez took the stand and violated an evidentiary restriction when he asserted that the decedent had been to prison for “stabbing somebody.” Judge Stallings then terminated his entire testimony. The Court found this was reversible error. NOTE: Lumpkin, P.J., specially concurred.

[In Re: Revision of Portion of the Rules of the Court of Criminal Appeals](#), 2025 OK CR 14 (September 12, 2025): Changes to the Judgment and Sentence Form,

the Plea of Guilty Form, and a new form regarding notice of registration under the Mary Rippy Violent Crime Offenders Registration Act.

[In Re: Adoption of the 2025 Revisions to the Oklahoma Uniform Jury Instructions-Criminal \(Second Edition\)](#): 2025 OK CR 13 (September 12, 2025): Various additions to the jury instructions on prior convictions and verdicts.

[Matina Davis v. State](#), No. M-2024-412 (Okla. Cr., September 25, 2025) (unpublished): **Sufficiency**: Davis was convicted by jury in Comanche County (the Hon. Christine M. Galbraith, presiding) of the misdemeanor False Reporting of a Crime. She had reported feeling harassed and intimidated. The Court agreed and reversed.

[Laurie Elizabeth Garland v. State](#), No. F-2024-439 (Okla. Cr., September 11, 2025) (unpublished): **Child Endangerment by DUI**: Garland was convicted in Carter County (the Hon. Ryan G. Hunnicutt, presiding) of Child Endangerment by DUI. However, the jury was instructed that she could be convicted if DUI or driving impaired. The Court found plain error and reversed because the statute requires DUI, not impaired driving. **NOTE**: Lumpkin, P.J., concurred in results, joined by Hudson, J., noting that this was invited error but sufficiently prejudicial. Rowland, J., also concurred in results.

[State v. Tedrick Beasley](#), No. S-2024-924 (September 18, 2025) (unpublished): **State Appeals; Waiver (by State); Self-Defense**: In this case out of Tulsa County, the Hon. Sharon K. Holmes granted immunity under the Stand Your Ground Act. The State appealed, arguing that the motion to dismiss was filed by Beasley after arraignment and not prior to PH as required, and that the ruling was otherwise an abuse of discretion. The Court found that the State had waived its right to complain about the late-filing because the State did not object to it until after the notice of appeal had been filed, and that the ruling was otherwise lawful. **NOTE**: Rowland, J., specially concurred, “reluctantly” agreeing with the majority and noting that the record was insufficient to show an abuse of discretion.

[REPRIMANDED](#): Special Judge Emily Mueller has been reprimanded by the Oklahoma Supreme Court. Link to the reprimand [HERE](#).

TENTH CIRCUIT

[United States v. Kyle Davey](#), No. 24-3132 (10th Cir., August 10, 2025) (Published) (Matheson, Bacharach & McHugh): **Possession (Firearm by Drug User)**: Davey

was convicted of being an “unlawful user” of heroin in possession of a firearm. He made the spirited argument that, although federal law criminalizes possession of heroin, it does not criminalize its use. The panel was unpersuaded and affirmed.

NOTE: The panel noted in footnote 1 that “use” is actually permitted in connection with Government-approved research projects.

[United States v. Chad Henry Jones](#), No. 24-6189 (10th Cir., August 19, 2025) (Published) (Tymkovich, Phillips & Moritz) (W.D. Okla.): **Possession (Firearm by Felon); Evidence (Impeachment)**: Jones was convicted of Possession of Firearm by Felon. He did not dispute that he was a felon or that the gun traveled in interstate commerce; rather, he defended on the ground that he did not possess the gun that was found within arm’s reach when he was arrested. Jones testified to his prior of possession of marijuana in a manner that the Government deemed minimizing his criminal history, so the Government was allowed to ask him if he had ever been convicted of felon-in-possession of a firearm, which he had. The panel affirmed the Government allowing this impeachment of the same crime for which he was on trial.

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. Wesley Guard](#), No. 23-6886 (2nd Cir., September 10, 2025): **Child Porn; Search and Seizure (State Actor)**: Guard was prosecuted when the National Center for Missing and Exploited Children (“NCMEC”) received images from the app Kik. The panel affirmed, finding that the NCMEC is a government agent, but that Kik was not in this case. The opinion is interesting as it outlines the method by which NCMEC examines images in apps and the internet.

VICTORIES

LORA HOWARD, Chief Public Defender in Tulsa County & FENELLA FLANAGAN, secured 30-minute Not Guilty verdict in a case where the State had accused the client of Assault w/Dangerous Weapon—and this was Fenella’s first jury trial! Jack Gordon reports that the case was essentially won during strong voir dire and opening statements. Great job Lora & Fenella!

HEARSAY

AVERTED: Tragedy was averted on a DOC transport van when a correctional officer took the wheel after the driver collapsed.

ARRESTED: A Wagoner County jailer has been arrested for smuggling drugs into the jail.

SPEAKER: The Director of the Oklahoma Innocence Project, Andrea Miller, spoke to Tulsa’s Fox23 about the Karl Fontenot case.

JAM: DOC may be authorized to jam cell phone signals at all 23 facilities by the end of this month. Also, DOC supports the FCC’s proposal to allow states to use **jamming devices** at correctional facilities.

GUNS: OKC PD said that the number of guns stolen from vehicles so far this year is 317; of those, 210 were from unlocked vehicles.

LEAVE: The Del City Chief of Police has been placed on administrative leave.

RETIREMENT: The Lincoln County Court Clerk, Cindy Kirby, has announced her retirement.

SHORT: DMH is falling short of its requirements of the lawsuit it settled.

RESIGNATION: The Executive Director of the Pardon and Parole Board has announced his resignation.

PROSECUTORS: There is apparently a shortage of prosecutors, so the DAC will ask the Legislature for funds to recruit and retain attorneys. Also, the DAC will

seek \$500,000.00 to create a new 8-12 attorney team to [provide assistance](#) with death penalty cases.

[HONORS](#): Attorney General Gentner Drummond has announced Regional Officers of the Year Award winners.

[ICE](#): ICE is looking to expand its presence in OKC.

[COMMITMENT](#): Oklahoma County District Judge Kathryn Savage had no choice but to dismiss a criminal case against a defendant to seek civil commitment.

[EXPANSION](#): The Oklahoma Forensic Center in Vinita is expanding and will hire 100 more employees.

[RECORDS](#): The City of Tulsa is limiting public access to court records, and requests for information can take weeks or months.

[LAWYERS](#): The State of Arizona is so desperate for criminal defense attorneys that it is considering a one-year Master of Legal Studies program followed by two years of supervision by an experienced attorney which allows people to practice law. Also, the Oklahoma Supreme Court has limited the number of times a person can take the [bar exam](#) to five.

[RETIRED](#): Sapulpa K-9 “Pepper” has retired.

[COLD CASE](#): OSBI has doled out more playing cards to DOC inmates in an effort to solve cold cases.

[INCREASE](#): The Board of Judicial Compensation has recommended a 17.58% increase in compensation.

[SUICIDE](#): Suicide at county jails, including the Oklahoma County Jail, is an ongoing problem.

[RETURNED](#): DPS actually returned \$62,000.00 of seized money to a man in Tulsa.

[RESIGNED](#): The interim CEO of the Oklahoma County Detention Center has resigned and the COO has been fired.

[REEFER](#): OBNDD reports that foreign nationals from 12 countries across three continents have infiltrated Oklahoma’s marijuana business; 70%-80% are Asian, mostly Chinese.

AI: A.G. Drummond has accused Brent Swadley's defense team of using AI to prepare documents, noting that some citations in legal documents were "AI hallucinations"; noted criminal defense attorney Tommy Adler commented. Also, Oklahoma is considering contracting with a company to **monitor probationers** and parolees with AI.

PLED: Former Garfield County Associate District Judge Brian Lovell has pled guilty and received a 20-year suspended sentence. Lovell still faces charges in Texas.

CHARGED: A former Admore police officer has been charged with rape.

DRAG SHOWS: Coverage of the AG ruling that public drag shows containing obscenity are illegal (with photo).

RETIRED: Retiring O.U. Chief of Police Nate Tarver looks back at his career and a KKK rally at Moore High School in 1980 (long, but interesting article).

APPOINTED: Fera Terrell has been hired as a new Municipal Judge in Ponca City.

MCCURTAIN COUNTY: In the first indictment of the McCurtain County Sheriff scandal, a former county jail supervisor has been charged with conspiring to commit an attack in the jail.

WACKY CRIME

LAWTON: Nude Dude Acted Rude and Jailed.

GRASS: A traffic stop in Love County resulted in the discovery of \$70,000.00 worth of stolen...lawn mowers.

GOLFING: OKC police captured a video of a horse out for a walk...on the Lincoln Park Golf Course.

CLASSIC MISTAKE: "Suspect shot after throwing bricks at police."

STOLEN: A man was caught at a Tulsa Home Depot trying to steal...an inflatable "Chucky" Halloween decoration.

GOLFING II: The City of The Village has impounded an unregistered golf cart after stopping it for driving at night with no headlights. The driver had warrants.

UPDATE: Update on the story of that inmate hanging out of the DOC transport van.

ENID: Here is the annual “You Might from Enid if...” article from Enid Buzz.

HIT: An Oklahoma man tried to hire a hitman to murder a couple that had sued him successfully...for selling them a home infested with bats.

KARMA: A Tulsa man attempted to assault his ex...but inadvertently shoot himself in the head.

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