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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

[Metoyer v. State](#), 2022 OK CR 27 (October 20, 2022): **Fines:** Metoyer was convicted by jury in Tulsa County (the Hon. Sharon K. Holmes, presiding) of First Degree Manslaughter AFCF x 2. In this opinion the Court affirmed over claims relating to: 1) imposition of a fine by the trial court that was not recommended by the jury (this was vacated and the discussion of whether the trial court can do this appears to be the reason for publication); 2) cumulative error; 3) sufficiency; 4) instructional error on causation (no plain error); 5) no *Jackson v. Denno* hearing (no plain error because no hearing was requested and the accused was not in custody thus no *Miranda* warnings required); 6) admissibility of the blood draw (no objection and no plain error); 7) prosecutorial misconduct (no plain error); and 8) IAC. NOTE: Judge Lumpkin Specially Concurred, noting the use of imprecise

language by the Court over the years describing the jury verdict as merely a recommendation rather than a final judgment on punishment subject to specific statutory provisions regarding imposition of that verdict. Judge Lewis Concurred in part/Dissented in part, concluding that the Court erred in vacating the fine.

[Manarang v. State](#), No. F-2021-515 (Okla. Cr., October 20, 2022) (unpublished):

PSI: In this rape/child sexual abuse case out of Cleveland County, the accused requested a pre-sentence report, but the Hon. Thad Balkman refused to order it. In this opinion, the Court held that such reports are not mandatory and further that in this case Judge Balkman did not abuse his discretion by refusing the request.

TENTH CIRCUIT

[United States v. Michael Jackson Winrow](#), No. 21-6069 (10th Cir., September 27, 2022) (Published) (Hartz, Seymour & Moritz) (W.D. Okla., Hon. Patrick R.

Wyrick): **Federal Sentencing Guidelines (ACCA):** In this felon-in-possession of a firearm case, the sentence under the ACCA is vacated because prior convictions in Oklahoma for Aggravated Assault and Battery are not categorically violent felonies.

[United States v. Abasi S. Baker](#), No. 20-3062 (10th Cir., August 16, 2022)

(Published) (Hartz, Holmes & Eid): **Robbery; Federal Sentencing Guidelines (Crime of Violence):** Dismissal of a successive 2255 motion attacking a conviction for Hobbs Act robbery as invalid because it was not a crime of violence in that it involved threat to intangible property, is affirmed; and motion to expand COA is denied. **NOTE:** The Government filed a motion to publish this opinion, which was granted.

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.

VICTORIES

None noted.

HEARSAY

COMPENTENCY: Jennifer Kunzweiler will undergo a competency evaluation concerning the attack on the District Attorney. Also, the Tulsa County District Attorney's Office has been awarded \$1.6 million to provide **mental health and addiction resources**.

GHOSTS: The OBN asserts that three lawyers may be tied to one-fourth of the ghost-owner marijuana grow operations in the state.

ADMISSION: An OKC police officer has been charged in Grady County after admitting to taking cocaine from stolen/abandoned cars as trophies. Also, a write-up indicating that the **OKC Master Sergeant and his wife** had actually overdosed in Grady County.

HOST: A state Representative is hosting a study on criminal justice reform.

SEIZURE: ABLE Commission employees have seized 11,000 bottles of alcohol in Guthrie.

REPLACEMENT: Adam Panter has been appointed to replace Allan Grubb as District Attorney in Pottawatomie County.

EXECUTION: The Attorney General seems pleased that the Tenth Circuit has upheld Oklahoma's execution protocols.

ARRESTED: A woman suspected of being behind several contraband drops at state prisons has been arrested.

ARRESTED II: An Oklahoma attorney has been arrested on marijuana-related charges.

DEBATE: NonDoc covers the gubernatorial debate between Gov. Stitt and Joy Hofmeister, including a segment on the *McGirt* issue.

CALLS: Phone calls placed by inmates at the Oklahoma County Jail are still expensive...when the phones work.

APPOINTED: Gov. Stitt has appointed a new Director of the OMMA.

WACKY CRIME

CONSPIRACY: Three men have been charged with conspiring to transport elephant tusks from Oklahoma to Texas.

DELIVERY: A Bryan County Deputy made a delivery...at a store that makes deliveries.

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