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Category



OKLAHOMA CRIMINAL DEFENSE WEEKLY

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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

[United States v. Kasie Keys](#), No. 21-CR-332-RAW (E.D. Okla., November 22, 2022): **Sufficiency**: In this federal prosecution for child abuse, the district court granted a motion for acquittal because the Government failed to produce evidence at trial that the accused was a non-Indian.

TENTH CIRCUIT

[United States v. Jonathan Kearn](#), No. 22-3068 (10th Cir., December 2, 2022) (Published) (Tymkovich, Seymour & Phillips): **Jurisdiction (Appellate)**: In this

Government appeal of a 2255 grant, the panel held that the order was not a final appealable order because the district court had not issued a re-sentencing order.

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. Trinity Phillips](#), No. 21-5762 (6th Cir., November 28, 2022): **Federal Sentencing Guidelines (Child Porn)**: This involves the 75:1 Rule where videos of child porn are treated as 75 images for sentencing purposes. The appellant argued that recent SCOTUS precedent regarding agency deference has changed the rules governing whether a district court can rely on this rule, but the panel rejected the assertion.

[Samuel Fields v. Scott Jordan, Warden](#), No. 17-5065 (6th Cir., December 1, 2022): **Habeas Corpus; Jurors**: In this nearly 30-year-old murder case, the panel reversed the denial of habeas relief on the basis that jurors conducted an experiment during deliberations using a flat-tipped knife submitted into evidence to remove a cabinet door in the juror room to see if the story checked out. NOTE: This is a 2-1 opinion.

VICTORIES

DOUGLAS G. SMITH, II, JARED GUEMMER, and WILLIAM P. WIDELL, JR., Federal Public Defender’s Office, secured the judgment of

acquittal outlined in the Keys opinion featured above from Judge White in the Eastern District. Great work, Douglas, Jared, and William!

HEARSAY

FUSION: Government information is being “fused” by the transfer of the Information Center from the OSBI to the DPS.

IMPROVEMENTS: The Beckham County Jail has benefitted from some recent improvements.

LET’S MEET: A news station in Joplin, MO, has a news story titled “Meet Brenda Andrew” featuring the only woman on death row in Oklahoma.

SAFETY: The Waukomis Police Department has put its new, donated police car to service in aid of school safety.

RIP: A police captain in Sperry has died.

SCRUTINY: The spending habits of the Pawnee County Sheriff are being scrutinized.

SHOPLIFTING: An officer arrested in Miami, OK, for shoplifting now has additional charges, and his wife may end up being arrested as well (article contains list of items stolen).

MOVE: OHP reports that drivers are still not moving over for emergency vehicles.

CRIME: OSBI reports that most major crimes are down from previous years.

WACKY CRIME

LUTHER: The Grinch has been arrested in Luther.

WISHES: A man wished to go to jail so that he could have a place to go...wish granted.

PRANK: Police in Broken Arrow are warning of a new prank in which a person’s car is surrounded by shopping carts.

THREATS: Jerry Rice, II, has been arrested for threatening kill justices of the Oklahoma Supreme Court.

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