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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

[Robert Jordan Robertson v. State](#), No. F-2021-935 (Okla. Cr., December 7, 2023) (unpublished): **Child Sexual Abuse**: Robertson was convicted by jury of Child Sexual Abuse in Jackson County (Hon. Clark E. Huey, presiding). The Court affirmed over several claims, but I included the opinion because it has a good discussion of the jury instructions in these types of cases which often involve multiple allegations, and the constitutionality of 21 O.S. 843.5(E) on overbreadth/as applied grounds.

[Juan Angel Venegas v. State](#), No. F-2022-665 (Okla. Cr., December 7, 2023) (unpublished): **Right to Present a Defense**: Venegas was convicted by jury of felony murder while in the commission of distribution of CDS in Oklahoma

County (Hon. Natalie Mai, presiding). The Court affirmed over his sole claim that he was deprived of his right to present a defense when the trial court prevented testimony about a third-party perpetrator. Good discussion of the law in this area.

[Royal Alejeron Fritz v. State](#), No. F-2021-708 (Okla. Cr., December 7, 2023) (unpublished): **Double Jeopardy**: Fritz was convicted by jury in Tulsa County (Hon. Tracy Priddy, presiding) of Murder in the First Degree and other offenses. The Court affirmed, but did vacate one count, finding that convictions for Domestic Assault and Battery with a Dangerous Weapon, and Domestic Assault and Battery—Second Offense, violated 21 O.S. 11.

TENTH CIRCUIT

[United States v. Stacey Yellowhorse](#), No. 23-2011 (10th Cir., November 21, 2023) (Published) (Holmes, Bacharach & Eid): **Evidence (Hearsay—Statement Against Penal Interest)**: Instructive opinion where the hearsay statement was an admission that the declarant and another person killed the decedent. The district court held that admitting that a third-party did not implicate the penal interests of the declarant, but here the panel held that the district court applied the wrong legal test and remanded to consider admissibility in the first instance.

[United States v. Terrence Michael Taylor](#), No. 22-6114 (10th Cir., November 14, 2023) (Published) (Hartz, Kelly & Matheson) (W.D. Okla., Hon. David L. Russell): **Double Jeopardy (Multiplicity); Guilty Pleas**: Taylor pled guilty to three separate offenses involving possession of ammunition and firearms. On appeal, he claimed that these charges were multiplicitous but the panel held that he has waived the claim when he entered his plea to the three separate offenses.

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. Steven Potter](#), No. 22-1579 (1st Cir., August 22, 2023): **Search and Seizure (Traffic Stops)**: Potter was a passenger in a vehicle that was stopped for failing to signal when merging from a double-lane to a single lane. He argued in the district court that state law did not require a signal, thus the stop was unlawful, thus the evidence should be suppressed. The district court agreed, the Government appealed, and in this opinion the panel affirmed.

[United States v. Jorge Munoz-Martinez](#), No. 20-1749 (1st Cir., August 22, 2023): **Racketeering; Extortion**: The defendant was a police officer in a corrupt narcotics unit that stole items out of homes while executing search warrants. In this RICO prosecution, the predicates were extortion, and he argued that his conduct did not meet the element of extortion. The panel agreed.

[United States v. Cynthia Leon Montoya](#), No. 21-50129 (9th Cir., September 13, 2023) (*en banc*): **Supervised Release; Right to be Present**: The *en banc* court held that the district court must announce orally all discretionary conditions of supervised release, including the “standard” conditions (in line with other circuits).

VICTORIES

SHANNON MCMURRAY & WHITNEY MAULDIN, Tulsa, represented a client charged with First Degree Murder in Rogers County, which the State alleged was gang-related. After what appears to have been a grueling two-week trial, the jury convicted on a lesser Manslaughter count and rejected the State’s gang enhancement. Self-defense was also argued throughout the trial. This is a good partial victory for the client. Nice job, Shannon & Whitney!

BRIAN MORTON, Hunsucker Legal Group in OKC, had a banner day last week in the driver’s license revocation trenches in Oklahoma County—going six out of six(!) on a mixture of defective affidavits, bad arrests and no shows. Great work, Brian!

HEARSAY

RECORDS: The OSBI and the Osage Nation have signed a letter of agreement pertaining to arrest records.

DOWN: The crime rate for auto theft in Tulsa...is *down* 49% since 2021.

STABBED: Three staff members at Lawton Correctional Facility were stabbed last week.

SPIKES: A man carrying 162-pounds of marijuana in Garvin County deployed his own spikes to deflate the tires of pursuing police vehicles.

APPOINTED: Gov. Stitt has appointed Lynne McGuire as Special Judge in Cleveland County.

OBJECTION: Sarah Hill has been recommended for the federal bench in the N.D. Oklahoma, over the objection of Gov. Stitt.

RELEASED: Two inmates were inadvertently released from the Oklahoma County Jail.

ARRESTED: A Commander with the Pottawatomie County Sheriff's Office has been arrested for assaulting a clerk at Christie's Toy Box in OKC.

ARRESTED II: The Assistant Chief of Police in Earlsboro (outside of Shawnee) has been arrested for DUI.

RESIGNED: The Director of the Oklahoma Wildlife Conservation has resigned.

PLED: The man who started it all, Jimcy McGirt, has entered pleas to resolve the charges against him.

PROCEDURES: In light of the "delayed releases" from the Oklahoma County Jail, new procedures have been put in place.

REFORM: Kris Steele continues to push for criminal justice reform.

UNIT: The Tulsa County District Attorney's Office has a new "Crime Strategy Unit" that focuses on repeat offenders/career criminals.

NO FILE: The Carter County District Attorney will not file any charges for the hidden camera found by defense attorney Jason May in the Carter County Jail last year.

SWORN: The new Chief of Police in Duncan has been sworn in.

WACKY CRIME

TOP TEN: Here is the Top Ten List of Oklahoma counties where drivers speed.

SUSPENDED: A lawyer in Ohio has been suspended for...well, just read it.

ODD: After reporting alleged abuse, a staffer at Greer found flyers saying that she was available for sex acts.

HOTWIRE: A Tulsa man attempted to hot-wire a motorcycle...but the only thing that generated heat occurred when he set himself on fire.

TULSA: A man in Tulsa took potshots at the Tulsa Police Department helicopter.

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