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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

[Billy Zane Deo v. Hon. Lawrence Parish](#), 2023 OK CR 20 (December 14, 2023): **Indians; Guilty Pleas; Drug Court:** This is another tortured opinion on a *McGirt* claim, this time a guilty plea/Drug Court case out of Okfuskee County. The State filed a motion to terminate from Drug Court, but Deo filed a motion to dismiss since he was an Indian and the offenses occurred in Indian Country. The Respondent Judge Lawrence Parish denied the motion to dismiss, and in this opinion the Court affirmed, redefining the concept of jurisdiction, recasting the legal inquiry as one of federal preemption, and concluding that Deo had waived his jurisdictional claim by not proving federal preemption. **NOTE:** I find it difficult to make sense of this opinion, even though the Court stated that it is “clear” that the opinion does not confer or recognize a power by the State to prosecute Indians in

Indian Country, nor does it by-pass *McGirt*—even though the Court allowed the prosecution of an Indian in Indian Country in this case. Presiding Judge Rowland specially concurred, reasoning that this was about personal jurisdiction that can be waived. Vice-Presiding Judge Hudson, dissented, concluding that the rebranding of jurisdiction by the majority did by pass and was in conflict with *McGirt*. Judge Lumpkin concurred specially. Judge Lewis dissented.

TENTH CIRCUIT

[United States v. Isaac Manuel Ramos](#), No. 23-6071 (10th Cir., December 15, 2023) (Published) (Bacharach, Baldock & Murphy) (W.D. Okla., Hon. Jodi W. Dishman): **Search and Seizure (Impound; Community-Caretaking)**: The district court denied a motion to suppress an inventory search via impoundment of a vehicle. In this opinion, the panel reversed, concluding that the impound was not supported by a reasonable, non-pretextual community-caretaking rationale. NOTE: I think this is the first time I have ever seen Judge Bobby Baldock side with a citizen over the State. A true Christmas miracle.

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. Keyon Paylor](#), No. 19-7861 (4th Cir., December 15, 2023): **Guilty Pleas**: Paylor filed a 2255 motion seeking to withdraw his guilty plea on the basis that the law enforcement officers involved in his arrest planted the evidence and

stole money from him, as was subsequently found out they did in other cases. He asserted that had he known about their corruption, he would not have pled guilty. The district court denied the petition without discovery or an evidentiary hearing, but here the panel reversed, concluding the he is entitled to discovery and an evidentiary hearing.

[United States v. Sterling Robinson](#), No. 22-30442 (5th Cir., December 4, 2023):

Concurrent/Consecutive Sentences: Sentence for firearm possession by a felon is vacated because the district court misapprehended its authority to order sentences concurrently with other federal sentences.

VICTORIES

CARLOS HENRY, Ada, defended successfully at a bench trial in the Chickasaw Nation a client accused of A&B w/Firearm (Pistol-whipping). The Nation wanted two years (which is typically day-for-day). The client testified that he was not there when it happened. The dispute stemmed from the fact that both men were dating the same woman. Nice job, Carlos!

[WINSTON CONNOR](#), Miami, secured a dismissal in Ottawa County for a client charged with financial theft. Good job, Winston!

HEARSAY

[APPOINTED](#): The Edmond City Council has named Madeline Sawyer as the new City Attorney effective January 6, 2024.

[DENIED](#): The FAA has shot down a proposal to build the Oklahoma County Jail near the Will Rogers Airport.

[SOVEREIGN](#): A Sovereign Citizen in Payne County collides with the criminal justice system.

[BUST](#): The OBNDD intercepted a shipment of cocaine that had been disguised as counterfeit Xanax.

[FEES](#): The DAC responded to a question from Rep. Justin Humphrey about DA supervision fees.

RIP: Oklahoma City attorney Jerry Jones has passed.

FORGOT: The District Attorney in Hughes County forgot to arrest a murder suspect for three years.

WOMEN: The Tulsa County Police Department has a slightly above-average percentage of women on the force.

ONE: The tiny Bryan County town of Colbert is down to one active-duty police officer.

JAIL: A Lawton woman could actually go to jail for slandering the Lawton City Prosecutor on Facebook.

NOT CHARGED: The Pottawatomie County Commander who hit a Christie's Toybox employee with a sex toy will not be charged.

APPOINTED: Gov. Stitt has appointed Tommy Humphries as the new District Attorney for District Four (Garfield, Canadian, Blaine, and Grant), replacing long-time DA Mike Fields.

REFORM: The Cherokee Nation is looking to reform its judicial system.

HOOPER: The Tulsa Police Department says that it will continue enforcing traffic laws, despite the ruling in *Hooper*.

WACKY CRIME

GRINCH: This female Grinch...actually looks like a Grinch.

ARRESTED: The Superintendent of Mannsville schools was arrested after she showed up for work intoxicated.

CARTER COUNTY: A man in Carter County struck and killed a pedestrian with his truck, then loaded the body up and drove away from the scene.

NUMBER TWO: Oklahoma ranks number two in the nation for porch pirate thefts.

BILLS: A home builder in Lawton claimed that the \$209,112.00 a woman gave him to build a home was spent at a casino and paid to the Irish Mob.

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