OCBA YLD GEARING UP FOR ANOTHER GREAT YEAR

By Curtis Thomas,
YLD Chair

It’s the best time of year for many Oklahomans as the weather begins to cool and we have football on the weekends, and, if you’re like me, the rare chance to watch your favorite baseball team, the Chicago Cubs, in postseason play. However, for many Oklahomans, the changing season does not bring change but only the constant reminder of hunger. Oklahoma is one of the hungriest states in the nation. One in six Oklahomans struggles with hunger and one in four children in Oklahoma struggles with hunger every day.

This is why for the past 28 years, the Young Lawyers Division of the Oklahoma County Bar Association has committed to raising money for the Oklahoma Regional Food Bank through its annual Harvest Food Drive. Every year the YLD pledges to raise $20,000 to benefit the Regional Food Bank of Oklahoma. The YLD has committed to the Regional Food Bank because it does a fantastic job of using the resources entrusted to it. Indeed, each week, the Regional Food Bank provides enough food to feed 110,000 hungry Oklahomans. A donation of just one dollar provides 5 meals for hungry Oklahomans, and 96 cents out of every dollar donated is attributed directly to hunger relief.

We need your help because together we can make a difference. The members of the YLD will be reaching out to firms and individual attorneys in the coming weeks with letters and phone calls to solicit donations to the Regional Food Bank. All donations are tax deductible and, of course, cash donations are welcome. I urge you to take a few moments to review the letter, email or listen to a pitch on the phone and to seriously consider making a donation to an absolutely worthy cause.

In addition to the Harvest Food Drive, the YLD will undertake two other events to raise money for the Regional Food Bank including the YLD’s Annual Chili Cook-Off and the YLD’s Annual Bowling Tournament. Please be on the lookout for more information on these great events in the coming months.

Last, but certainly not least, the YLD makes community service projects a priority and is always looking for opportunities to serve. If you have an organization or project that you would like to suggest to the YLD, please don’t hesitate to contact myself or any member of the YLD. The YLD is looking forward to a great year of service, community involvement and appreciates all of your support.

Oklahoma County Bar Auxiliary President Becky Taylor received the annual donation from OCBA President Angela Ailles Bahm.

BELOW: Oklahoma County Bar Foundation Treasurer Bob Nelon presented one of the 2015 grant checks to Cindy Goble, representing Legal Aid Services of Oklahoma, Inc.

ABOVE: Cindy Goble, Managing Attorney for Legal Aid Services of Oklahoma, Inc. accepted the donation check from OCBA President Angela Ailles Bahm.

Oklahoma County Bar Auxiliary President Becky Taylor received the annual donation from OCBA President Angela Ailles Bahm.

BELOW: Oklahoma County Bar Foundation Treasurer Bob Nelon presented one of the 2015 grant checks to Cindy Goble, representing Legal Aid Services of Oklahoma, Inc.
From the President

Knowledge is Power

By Angela Ailles Bahm

OCBA President

I want to thank everyone who attended the OCBA Annual Dinner Dance. It was a blast. We had a lot of fun grooving to the tunes of the Elderly Brothers. They really are excellent. I hope to see more folks next year and we’ll try not to schedule it on a holiday weekend.

As I start writing my second column, I’m thinking this may not be so bad after all. You will find I’m pretty optimistic. But then, my pragmatist side kicks me in the keester and I am brought back to reality... it’s only my second column.

I am starting out my tenure by trying to attend as many committee meetings as possible. I want to meet members, let them know I am available, and find out what they are doing and their game plan for the year. I’ve attended the Young Lawyers Division (Oh, yea – that will make you feel your age.), Lawyers for Learning Committees, and Family Law Section meetings. There are truly committees for EVERYONE.

I have been a member of the Lawyers for Learning Committee since Tracy Nester started it. This year it is being chaired by Jake Krattinger; vice-chair is Celeste England. The objective is to provide reading support to 3 Oklahoma City elementary schools, Adams, Lee and Rockwood. Jake and Celeste are doing a great job getting folks assigned and ready to read at the schools. Generally, one or two members of the team assigned to each school reads at least once a week with second graders for an hour. I just love going to the school and interacting with the kids and faculty. They are all so grateful; you know you’re doing something good.

The YLD Board has several folks on it who have never participated before. Chair Curtis Thomas has a great group that is very enthusiastic. This will be a fun year and I look forward to what they will accomplish. Last year they donated time and some paint to spruce up a reading room at Lee elementary. They are going to try to do it this year at Adams. The annual YLD Harvest Food Drive will also be starting soon. So be on the lookout with pen in hand to write a check or donate some time. Every $1 provides $13 of food for the Oklahoma Regional Food Bank.

One of the YLD board members said his firm buys lunch for the employees and the employees donate to eat the lunch. All the proceeds of the lunch are donated to the food drive. Now that’s what I call a win-win for employee morale and fund raising for a worthy cause.

The Fee Grievance committee is chaired by George Dalnake; vice-chair is Karan Maye. Happily, they have just a few matters they are currently working on. However, it is a group of truly dedicated men and women who have been active on this committee for years–in two instances 37 years! I got the impression that many of the members had devoted a lot of time to the committee; they believe in what they are doing, assisting lawyers and their clients in finding their way through a fee dispute.

The Family Law Section is chaired by Tracy Martinez. Her co-chair is Sarah Schumacher. On the day I visited, they already had a panel of the judges there to talk about processes and procedures on the retention ballot works. It explains the history of the Judicial Nominating Committee; why and how the committee came to be. I highly recommend it as a tool to help you, family, friends, and your staff understand our Oklahoma judicial system and the objective of creating and maintaining an independent judiciary. An added bonus is that it has some beautiful pictures in it!

Another excellent resource is CourtFacts, www.courtfacts.org. This site was initially created during Cathy Christensen’s tenure as OBA President. Again, it is an easy to access and follow primmer on the Oklahoma judicial selection process.

The purpose of the JNC is discussed and members are listed. In 2009, the legislature began the process to change the Constitution and change the makeup of the JNC to have more lay person members than lawyers. By vote of the people, the Constitution was changed in 2010 and added two “at large” members to the JNC, one to be selected by the President Pro Tempore of the Senate, the other by the Speaker of the House of Representatives. The change also added that “No more than two members at large (3 total) shall belong to any one political party.” Of note is that two of the at large positions are vacant.

The position appointed by the Speaker of the House has been vacant since December 31, 2014; the member appointed by the President Pro Tempore has been vacant since April 14, 2015. Hopefully, they will all be filled when the new members are sworn in, early this October. Our very own, Jim Webb, immediate past-president of the OCBA, will be sworn in as the new JNC member for Congressional District 5.

Below is the home logo on the CourtFacts site. Please check it out. There will be more informational tips to come. Again, if you have a topic you would like me to know about and to write about, please collaborate on, please let me know. Send me an email or give me a call at 405-475-9070. I look forward to hearing your ideas on what we can do to improve the OCBA, encourage leadership and engagement.
For us digital immigrants that don’t have a budget for a professional writer, we may publish a blog on LinkedIn. I’ve always assumed that LinkedIn’s original purpose was to be the business side of Facebook. For confirmation, we turn to Wikipedia, which defines: “LinkedIn is a business-oriented social networking service. Founded in December 2002 and launched on May 5, 2003, it is mainly used for professional networking.” All sorts of business blogs, professional advice and news update columns can be found on LinkedIn. Some HR people use it to advertise for positions and to review resumes in the form of LinkedIn biographies. Many national, international and regional groups of lawyers have dedicated LinkedIn group members. Some are exclusive and control membership. LinkedIn can be a great networking source. I find it more difficult to keep up on LinkedIn because of the large amount of information added daily and it rarely has any information on good local eats.

Many lawyer and law firm blogs can be found on LinkedIn. Blogs can be your electronic newsletter and may already function as the printed newsletter that you post on the firm website or mass-deliver to clients via email. Blogs can be distributed via emails, tweets, Facebook and LinkedIn posts. An entire smorgasbord of Google devices allows you to, for free, write a blog using Google+ and then spread it via Google+ and Gmail. The APA publishes its annual list of the best blogs. This can be found at www.abajournal.com/blawg100. My personal favorites are both educational and witty. Many lawyers are good communicators and good writers (which is likely why they are lawyers in the first place) but sadly, it’s a diminishing skill. Keeping a blog will require a lot of time and effort, sometimes more than you’re willing to put in.

Sonya Patterson, A Short Life Well Lived

By Cindy Goble

Sonya Lea Patterson, 30, of Oklahoma City passed from this life on September 5, 2015, from an ATV accident. She was born on August 5, 1985 in Ft. Hood, TX. After graduating from Oak Grove High School in 2003, she then received a Bachelor of Business management from Oklahoma State University in 2007. Her education dream was realized, upon completion of a juris doctorate degree from Oklahoma City University School of Law in 2012.

Sonya was a bright, shining star in the legal profession. While in law school, Sonya served as Pro Bono Coordinator and President for the Public Interest Law Group, and was an active participant in the International Human Rights Law Group. She was on the Dean’s List, Faculty Honor Roll, and a member of Phi Delta Phi. She studied abroad in Zanzibar in the areas of human trafficking, slavery, and piracy. She was a Merit Scholar, Licensed Legal Intern, and completed the Child Abuse and Neglect Interdisciplinary Training Program.

As a result of her passing, the Patterson Family has set up a scholarship fund in her name at the University of Oklahoma Law School. In Sonya’s memory, the fund will provide scholarships to enrolled first-year law students who demonstrate leadership and commitment to serving the needs of the community.

To contribute, please visit www.okcbar.org.

Sonya Lea Patterson

By Michael W. Brewer

Brewer is an attorney, founder, and partner of Hiltgen & Brewer, PC in Oklahoma City, Oklahoma. To contact Mike, email mbrewer@hiltgenbrewer.com, call (405) 605-9000 or tweet him at @attymikeb. For more information, please visit www.hiltgenbrewer.com

Have you noticed that most successful writers and movie producers stop on the third installment and call it good? This is the third installment in our series, so it should be good, right? Reconciling communication gaps between a generation that communicates in 140 characters or less via tweets and a generation that continues to hold on to paper, magazines and newsletters is our task. Many firms hire full-time writers to produce their blogs and business/social media vehicles for sites like LinkedIn in order to span this generational gap. Others hire professional marketers to write their commercial tweets. Facebook posts, and blogs. Most of these writers are educated and skilled at communicating a message to a larger audience. Other firms identify the native tech employee for whom these skills have been naturally acquired and perform these jobs in-house.

Contrary to these trends, I contend that old dogs can indeed learn new tricks. My recommendation for lawyer communicators is a back-to-basics approach that I was taught (with apologies to the TV show “Are You Smarter Than a 5th Grader?”). Fashion your message so that you hold the audience’s attention for fifteen (15) to twenty (20) minutes. Thirty (30) minutes may be too long. Tech immigrants will remember the ten (10) minute openings and closings from the TV show “L.A. Law.” So your task now is to apply that concise, entertaining communication to the newly available media platforms.

A proper blog requires good writing, top writers are educated and skilled at communicating a message to a larger audience. Other hires hire professional marketers to write their commercial tweets, Facebook and LinkedIn posts. An entire smorgasbord of Google devices allows you to, for free, write a blog using Google+ and then spread it via Google+ and Gmail. The ABA publishes its annual list of the best blogs. This can be found at www.abajournal.com/blawg100. My personal favorites are both educational and witty. Many lawyers are good communicators and good writers (which is likely why they are lawyers in the first place) but sadly, it’s a diminishing skill. Keeping a blog will require a lot of time and effort, sometimes more than you’re willing to put in.

Sonya had an impressive career during her three short years as a lawyer. Sonya joined Legal Aid Services of Oklahoma in 2012 and was a fearless advocate for domestic violence victims. She would take on any case for her client, no matter how complicated. She was a great mentor and example for law students and new lawyers. While it is impossible to measure, there is no doubt Sonya saved lives through her work.

During her career, Sonya testified in an interim study at the Capitol on domestic violence and homelessness, coordinated a legal advice clinic at the local domestic violence shelter, organized and ran a weekly courthouse clinic to assist pro se litigants with their divorces, represented domestic violence victims at a courthouse clinic on the protective order docket, argued a case on appeal before a referee at the
The statement of facts as set forth in the attorney general's brief in this case is as follows:

"Melvin Stephens, an unmarried negro, at the time of this larceny, was living in the city of Muskogee. His father, George Stephens, was a farmer in McIntosh county, about fifteen miles south of Muskogee.

On Saturday, the 3rd day of May, 1913, George Stephens came to Muskogee. He drove a double team to a buggy, one of the horses being grey. He arrived at Muskogee about noon of that day and put his team in a stable where his son Melvin kept a little sorrel roan mare. Melvin and George both claim that they did not see each other on the occasion of this visit.

On that night, Mr. E.S. Stockwell had a yellow Jersey cow stolen from a lot in the city of Muskogee where the cow had been staked out for the night. The cow was missing about six o'clock in the morning following and her loss immediately reported to the sheriff's office. The sheriff and one of his deputies at once started a search and about four o'clock that evening found the cow in the brush, near George Stephen's farm fifteen miles south of town. There had been a rain that night and the tracks of the cow and a horse were followed.

Persons along the way saw a negro, riding a grey horse, drive a yellow cow in that direction early in the morning. These witnesses were unable to positively identify that person as the defendant, but recognized the horse as the one owned by George Stephens, and one of the witnesses believed the rider to be Melvin Stephens.

There is no dispute in this case but that the cow of Stockwell was stolen on the night of May 3, 1913, and immediately driven, by someone riding George Stephens' grey horse, to George Stephens' farm fifteen miles south. The defendant, however, relied upon an alibi, claiming that on the night in question he left Muskogee on the south bound Katy train between the hours of eight and nine and went to Stringtown, Oklahoma, in Atoka county and worked there from the 5th day of May until the time of his arrest in the following month.

Defendant admits that he took his father's grey horse out of the stable on Saturday evening; that he put a saddle and bridle on it; that he took it without his father's knowledge or consent; but, he says, that one Eugene Moore, another negro who looked just like him (just his color, weight, age and height) wanted a horse to ride out into the country five or six miles and as his (Melvin's) sorrel mare was lame that he (Melvin) after searching around for his father and failing to find him, took the liberty of letting Eugene Moore use his father's grey horse, with the understanding that Moore would take the horse, after using it, to his father's farm south of town.

Melvin says this generous offer of his was accepted by Moore and that the last time he saw the old grey horse was that evening just before he took the train for Stringtown. At that time Moore had not departed on his trip.

Now just how Melvin expected the old man to get back home with the use of his little lame sorrel roan mare is not disclosed by the record, but having requested Moore to take the grey horse home to the old man, he (Melvin) must have thought the old man would use the sorrel roan mare, because he knew the old man had to have a double team to return with.

Now if the sorrel roan mare was too lame for Moore to ride five or six miles why wasn't she too lame for the old man to drive fifteen miles? Melvin doesn't explain.

Another thing: why should Moore if he wanted to steal a cow, drive the animal to old man Stephens' place?

The evidence shows that Moore had never been there, at least before that time. How did he know the way on a dark rainy night and why should he select that time to make the trip, and, why if Melvin is telling the truth, didn't Moore when he had returned from his trip into the country and found that old man Stephens had not yet departed for home, why is it that Moore didn't leave the grey horse in the barn and let the old man take it home himself? The old man never started home until the Sunday following.

We'll admit that a nice, slick, yellow milk-giving Jersey cow has its attraction, but the unusual and uncalled for milk-giving Jersey cow has its attractions, and if, by chance, you should return, we made a good selection. But rest assured, where ere you go, we made a good selection.

And if, by chance, you should return, "For better or for worse," Come 'round and serve out Melvin's term and ride to "the pen on the old grey horse."

DOYLE, P.J. The plaintiff in error, Melvin Stephens, was tried in the District Court of Muskogee county on an information charging him with the theft of a cow. The jury found him guilty, but failed to agree upon the punishment. The court rendered judgment and sentenced him to be imprisoned in the penitentiary for the term of five years. To reverse the judgment he appeals.

The first assignment of error relied upon is as follows: -- "That the court erred in overruling the motion to quash and set aside the information filed in the District Court that the preliminary examination in this case was a crossing of the defendants' tracks and the highway, and there was a freight train obstructing the crossing. The car was driven into the side of, and, under, one of the freight cars, and Margie Bowles was killed. This happened about 10:30 or 11:00 o'clock p.m.

It is alleged that the defendants were negligent in allowing the train to obstruct the crossing, and in not having signals, lights, warning devices, or employees to warn the public using the highway of the presence of the train.

Since this case was appealed, this court has had occasion to give consideration to the liability of a railroad company for injuries to persons injured as the result of automobiles colliding with a standing train at a highway crossing. Kurn v. Jones, 187 Okla. 93, 101 P.2d 242.

The rule stated therein is: 

"To charge railroad with negligence in leaving train at night across highway without lights or other signals to disclose its presence, motorist injured must show that trainmen, exercising reasonable care, should know that, because of darkness, cars were such obstruction that people traveling in automobiles properly equipped with lights and carefully operated at reasonable rate of speed would be likely to come into collision with them. "The burden in such case is upon plaintiff to establish a set of circumstances that would warrant the jury's
Work Life Balance

At Age 38, Are You Biologically 38......or 61?

By Warren E. Jones

In a new study published online last week in the Proceedings of the National Academy of Sciences, researchers (from Duke, Kings College London, Hebrew University of Jerusalem, UCLA, and University of Otago, New Zealand) followed approximately 1000 individuals over a 12 year stretch from chronologica

al age 26 to 38. On three occasions, at chronologica

al age 26, age 32, and age 38, the researchers measured 18 separate biomarkers to track the aging of the cohort. Those 18 biomarkers were markers of risk for age related chronic diseases consistent with age dependent decline.

Some of the biomarkers they measured were body mass index; waist to hip ratio; cardiorespiratory fitness; blood pressure; blood lipids; diabetes risk; lung function; kidney and liver function; periodontal health (predictive, interestingly, of cardiovascular health); inflammation; and chromosome telomere length (as we age, telomeres shorten).

As you probably gathered from the title to this article, some of the subjects aged much more rapidly than others. Some (at least one; a graph in the published study is unclear) were biologically as old as 61 while some were as young, biologically speaking, as 28.

I find it interesting that the deterioration of the integrity of various organ systems in our bodies can begin, this study tells us, at such young ages. Or, to put it more prosaically, the sudden, massive heart attack (about which we have all heard) may have developed, after all, over decades. The pitch goes that that sudden, massive, fatal heart attack can be avoided by intervention earlier, much earlier....as in decades earlier.

In addition to studying biological age, a snapshot of the product of the 18 biomarkers, the researchers likewise studied “pace of aging.” Those who had an older biological age and who experienced a faster pace of aging reported feeling in worse health.

And beyond physical and cognitive? Those who had an older biological age and who experienced a faster pace of aging scored lower on IQ tests, showed actual decline in full-scale IQ score from baseline, and exhibited signs of elevated risk for stroke and for dementia.

And how about the impact, cognitively speaking? They also scored lower on IQ tests, showed actual decline in full-scale IQ score from baseline, and exhibited signs of elevated risk for stroke and for dementia.

And beyond physical and cognitive? Those who had an older biological age and who experienced a faster pace of aging reported feeling in worse health.

And if nothing else in the study gets your attention, try this on. In an interesting twist to the study, the researchers tell us that observers (blind as to the nature of the study) of photographs of the study cohort scored study members with advanced biological age as looking older than their biologically younger peers....even though they were all the same chronological age, 38.

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consideration of the question of reasonable care on the part of the trainmen. If the court is of the opinion that reasonable men might differ as to whether the trainmen in the exercise of reasonable care might have anticipated the accident, then the jury should be allowed to decide the questions of primary negligence and of proximate cause." 

The plaintiffs endeavored to show a set of circumstances in this instance that would cause the employees of the defendants to anticipate, as reasonable men, that the driver of an automobile properly equipped and carefully operated approaching this crossing while it was obstructed by this train would be likely to come into a collision with the train. It is admitted that none of the trainmen saw any trainmen's lookout, and other than the presence of the train and some stationary wood crossing warning signs there were no other warning devices.

The evidence, including photographs, indicates that the street approaching the crossing was raised fairly level, but the level of the railroad tracks was somewhat higher than that of the street or surrounding terrain, the estimates of the difference in levels varying up to six feet. There is no evidence or contention that the railroad tracks in any way obscured the view of the crossing to passing motorists.

The evidence shows that it was a cold, dark night, and it was "foggy in low places." The evidence also shows that there was fog at or around the crossing, and the photographs do not raise an inference that the crossing was a low place wherein fog could gather.

There is evidence that automobiles were moving on the east side of the train, headed west, because of the train obstructing the crossing; that their lights were burning; that the occupants of the automobile saw those lights between the bottom of the freight car and the tracks (because of the lower levels of the street and railway tracks) and believed the automobiles were actually moving toward their automobile, and they did not see the superstructure of the freight car, and therefore did not see the particular freight car nor the standing train. It is asserted that this constituted a deceptive condition and led up to the collision. . . .

We do not think the elevation of the tracks above the surrounding levels nor the railroad guard rails on the other side of the automobiles on the opposite sides of the standing train, even if deceptive to the driver and occupants of this automobile were sufficient as a matter of law to cast upon the employees of the defendants, exercising due care, the duty to anticipate that the traveling public would be deceived and led to collide with the standing train. . . .

Certain witnesses for the plaintiffs were permitted to testify over the objections of the defendants that they considered a train difficult to see on this crossing at nights. We think this was inadmissible. It would have been proper for them to describe the crossing and its surroundings to establish this fact, but we feel that it was an invasion of the province of the jury to permit non-expert witnesses to express conclusions upon the very fact that the jury would be called upon to determine from all of the evidence. The simple conclusions of witnesses on this point are not evidence.

The town officers who were called testified that there were no trainmen present traveling toward the scene of the wreck (without knowledge of the exact location or the cause of the wreck) at a speed of about 45 miles per hour, and did not see the train until they were so close upon it the driver had to turn alongside the train to avoid striking it. That is not driving with reasonable care within the contemplation of the law that the railway employees must anticipate. The officer driving did see the train and avoided striking it, traveling at the rate of speed admitted and certainly under some stress.

We do not believe any of this evidence is of the character to justify submitting to a jury the issue of reasonable care.

October 6, 1965 Fifty Years Ago


This is an original proceeding for a Writ of Habeas Corpus filed by Lawrence Jay Snow seeking his release from the County Jail of Oklahoma County; where he contends he is being illegally restrained. It is contended by petitioner that said illegal restraint is the result of a refusal of the trial judge to sustain a motion to dismiss the charge under which he is held. The motion being based on lack of a speedy trial guaranteed him under the Constitution and Statutes of the State of Oklahoma.

Petitioner further asserts that he was charged with Robbery with Firearms, taken into custody, and placed in jail on December 6, 1964, where he has continuously remained until this cause was filed in the Court of Criminal Appeals September 21, 1965. That said period of confinement exceeds two terms of court in which he was never brought to trial. That he has requested a speedy trial and never at any time asked for said cause to be dismissed. Petitioner that said delay violated his Constitutional Rights and he is entitled to be forever discharged.

Petitioner bases his argument upon the Bill of Rights of the Oklahoma Constitution, Article 2, § 6, which provides: "[R]ight and justice shall be administered without sale, denial, delay or prejudice." And, further, Article 2, § 20: "In all criminal prosecutions the accused shall have the right to a speedy and public trial, the place thereof to be in the county in which the crime shall have been committed."

And, further, that he should be discharged by virtue of Title 22 O.S. 1951 § 812.1, which provides that: "If a defendant, prosecuted for a public offense, whose trial has not been postponed upon his application, is not brought to trial at the next term of court in which the indictment or information is pending, then, if it is not further in said court the defendant shall be discharged and the cause shall return to the docket."

It has never been made quite clear what constitutes good cause as contemplated by the statute (Title 22, OSA, § 812) but we know it cannot be presumed that a defendant (McLeaster v. State, 57 Okl. Cr. 149, 51 P.2d 504, 118 P. 160. supra), and the reason should be stated in such cases in connection with each continuance by the court and made a part of the record. Each case therefore, stands on its own merits.

A person charged with a criminal offense has a right to a speedy trial in order that, if innocent, he may go free. To detain him in custody, or to compel him by the exaction of bail, to dance attendance upon a court while his trial is indefinitely postponed involves his confinement, is not only wrong and an injustice to him, but a detriment to the public.

The decision of the statute, § 812, above quoted, in the opinion of the Court, is to prevent these evils. It very clearly says the Legislature would never have enacted such a law if this were the only case in which it could be made effective. The truth is, the law was enacted, like all similar provisions relating to a speedy trial, for the benefit of the innocent and not for the sake of screening the guilty. It is true with respect to this, as with respect to all rules of procedure deemed necessary for the security of innocent men unjustly accused. Guilty men, also, being deemed innocent until proven guilty, have the right to take advantage of these rights to a speedy trial, and have right and justice administered without sale, denial, delay or prejudice.

In this case reviewing the facts in the case and for the reasons here-tofore stated, it is the opinion of this Court that the petitioner is entitled to be discharged from custody and the charge under which he is hereby held, dismissed.

October 24, 1990 Twenty-Five Years Ago

[Excerpted from Stafford v. State, 1990 OK CR 74, 800 P.2d 738.]

On March 14, 1989, petitioner pled guilty to two counts of Second Degree Murder in the District Court of Oklahoma County before the Honorable Charles Owens, District Judge. The trial court sentenced the petitioner to consecutive sentences of seven (7) years for the murder of Linda Lores and five (5) years for the murder of Terry Horst, a Sirloin Stockade employee. . . .
Profiles in Professionalism:

A Saint Among Us

By Judge Allen Welch

Former District Judge John Amick has been retired from the bench for sixteen years now. He reports that he is doing fine, and that “if you do what your wife says, you’ll be okay.”

John Amick was raised in Jefferson, a small burg in Grant County in northwest Oklahoma which, according to the 2010 census, is now populated by twelve souls. He received an undergraduate degree at Oklahoma State University. His education was interrupted by World War II, where he served as a machine gun platoon leader in Germany and Austria. After the war, he graduated from the University of Oklahoma College of Law. Between spats in private practice, Judge Amick served as the County Attorney of Grant County. He was then approached about a position with the Department of Interior in Anadarko, Oklahoma, a position which offered a “much higher” salary than he enjoyed at the time. After being assured that “only an act of Congress” would prevent his appointment, Judge Amick sold his house in Medford and moved his family to Anadarko. “An act of Congress” followed quite literally, however, and the appropriations necessary to fund the position were cut. Judge Amick and family then made the trek back to Medford to find a new residence. The family had rented out their old house, in the course of their brief “move” to Anadarko. Judge Amick recalled that time as the most difficult stretch of his life.

He then received an unsolicited call about an open position in the Oklahoma City office of the U.S. Attorney, and moved to The Big City. Judge Amick, however, was a Republican in the days after the Oklahoma Republican party could hold their state convention in a phone booth. And when John Kennedy moved to The Big City, Judge Amick, friend and (almost) neighbor Henry Bellmon appeared on the political radar about then, and continued to enjoy political success which continued for decades.

Judge Amick was appointed District Judge of Oklahoma County in 1964. He served first in the domestic division where, historically, new Judges were assigned. He was thereafter assigned to the criminal and civil docket. After a five-year sabbatical, spent teaching at the OCU College of Law, he returned to the bench, and retired on January 1, 1999.

On the evening of October 22, 1993, Governor David Walters appeared before Judge Amick and pled guilty to one misdemeanor count. The felony charges were dismissed, as part of the plea bargain. Judge Amick said that he gets more questions about that case than about the rest of his career on the bench combined. He volunteered that he regrets taking the plea after hours. His regret is a result of widespread and false stories about the Court frantically accommodating the Governor in the dark of the night.

Judge Amick accepted the plea after hours in an effort to minimize the crowd, crush and commotion which would accompany the appearance if held during regular courthouse hours. The hearing was packed, intentions notwithstanding. The plea was a national news story including, for example, an article in the New York Times. The related Tulsa World article described the “packed courtroom.” Deputies had to physically usher the standing room only crowd out of the way so that the Judge could make his way out of chambers and into the courtroom. If Judge Amick was trying to sweep the matter under the rug in some secret light of the moon proceeding (and he most emphatically was not), he failed miserably.

Judge Amick has fond memories of yesteryear, and of the Judges he served with and the attorneys who practiced before him. He was particularly fond of Judges Richard Freeman, Leaman Freeman, Jack Parr and William Myers. (He was, on the other hand, once sued by a colleague who accused him of letting the air out of her car tires.) He held, and, in high esteem several lawyers, including Jack Dawson and Charlie Alden (who served as Judge Amick’s bailiff for one year.) He often found fascinating the courtroom performances of the George Miskovskys (Senior and Junior).

Judge Amick recalled a hearing with two attorneys who “could not agree on the time of day.” The only issue before the Court was the computation of statutory interest over a defined period of time. Tired at last of the vitriol, he told the attorneys “Never mind, I’ll do the math myself over the lunch hour. Please return after lunch.” A deputy knocked on his door over the lunch hour and asked Judge Amick if he knew Attorney and Attorney Jones. “Why, yes,” replied Judge Amick, “They were here a little while ago, and they’ll be back soon.” The deputy then reported that he and other deputies had to separate the attorneys in the alley between the courthouse and the annex in the midst of their “knock down drag out” fist fight. When the attorneys returned at the appointed time, Judge Amick entered his ruling and didn’t mention the lunch hour adventures, but could not help but notice that one attorney was sporting an impressive fresh bruise on his cheek.

Judge and Mrs. Amick were married in 1948. He proudly reports that Mrs. Amick has a degree in piano from the University of Oklahoma. They have four children. Linda Dodson is a Deputy Court Clerk in Oklahoma County. Daughter Margaret lives in Iowa. Douglas, who earned a degree in philosophy, is a professional musician in Bozeman, Montana. Martin, who earned a law degree, is the CEO of a private charter company in Bermuda. Alan is a commercial pilot in Colorado. His claim to fame, in addition to being the son of Judge Amick, is that Alan (and Yul Brenner) had roles in a Broadway play called The King and I.

Judge Amick reports that his children and grandchildren keep him busy. He got very animated when remembering how very much he enjoyed an Honor Flight of World War II veterans to Washington, D.C. He loves to read, especially biographies and has recently finished biographies about Colin Powell and Henry Bellmon. He particularly enjoyed Alexander Hamilton, by Ron Chernow. Judge Amick recited in minute details fascinating details about Hamilton.

It was my pleasure to recently visit with Judge Amick over lunch, in the course of preparing this article. He recited word-for-word a two verse poem that one of his sons had found scrawled on the wall of a London pub. It seems that a distressed passerby saw an inebriated man passed out in the gutter, beside a slumbering pig. The poem concludes with the summation that, when the passerby mumbled “Well, you sure know someone by the company they keep,” the offended passerby replied, “He’s my uncle.”

It was my honor to listen to this lion of the profession recite verbatim conversations, and tell stories, about events decades ago. Judge Amick is a treasure to the Bar, to the bench, and to the community. The saints are among us.

Letter to the Editor

This letter from Jan Webb should have been published in September, but the Editor, Geary Walkle, missed it. Being tired of making apologies for errors, the editor reports that he will try to blame it on someone else.

Thanks and So Long (Well, Not Really)

Thank each of you for the honor of serving as your President over the last year. In the words of my sons, “I had a blast!” I made a lot of new friends, strengthened existing relationships, and came to an even greater appreciation for the work and mission of the OCBA.

The real heroes of the OCBA, of course, are Debbie, Pam and Connie. They do most of the work, and for none of the accolades. Ladies, please know how much we appreciate all that you do.

I will end the year as I started it – with the mission statement, the purpose of the OCBA are:

Sovereign Court, and represented countless domestic violence victims in divorce and paternity cases. Sonya was a member of the Oklahoma County Lawyers Against Domestic Abuse Committee and gave numerous CLE presentations on divorce and domestic violence. She was recently elected Oklahoma County Law Library Trustee and was nominated into the William J. Holloway, Jr. American Inn of Court. Sonya recently became a member of the OCBA Lawyers for Learning Committee.

Sonya was a lover of animals, which led her into leadership in a pet rescue organization. Having two pug babies of her own did not stop her from fostering other pugs. She was an avid fan of anything OSU and the Oklahoma City Thunder. She loved tailgating before every OSU home football game. Sonya loved the outdoors and in her spare time she would go fishing, hunting, camping, boating, or ATV riding.

She was a member of First Christian Church in Stillwater, Oklahoma. She is survived by her husband of 4 years B.J. Patterson, parents Dana Mallett (Don) and Steve Ostrowski (Judith), Parents-in-law Lance and Gaylene Patterson, Sister Kayla Ostrowski, Brother Kyle Ostrowski, Grandparents Bill and Sharon Brown and Thad and Marilyn Ostrowski.

A Celebration of Life Service was held at the OSU Conoco/Phillips Alumni Center in Stillwater, OK on October 4, 2015 at 4:00PM. The legal profession has lost a great one. Sonya will be missed.

In lieu of flowers, a memorial has been set up at http://www.gofundme.com/SonyaLPatterson. The proceeds collected will be donated in Sonya’s name to local Pug Rescues and to victims of Domestic Violence.
Community Service Committee Holds CLOTHING DRIVE

November 2 - 6, 2015

Have you noticed all the new winter clothes in the stores? In order to help the economy, you need to clean out your closets and send your gently used or clothes you thought you wanted but never wore to the Oklahoma County Drug Court Closet! If your teenage kids have the clothes you bought them that they would never wear or have outgrown, the teens at Family Junction Youth Shelter would love to have them.

Upcoming OBA Annual Meeting to Focus on Leadership

“Leadership U” is the theme for this year’s OBA Annual Meeting, which returns to the Oklahoma City Downtown Sheraton Hotel Nov. 4 – 6. The conference will focus on the role lawyers play as leaders in society as citizens whose specialized knowledge and training who can make a positive contribution to their communities. Presentations of annual awards, CLE offerings and bar business including election of officers will take place during the conference along with several social events.

OBA President David Poarch of Norman selected the meeting’s focus, observing that service and leadership are core values of the legal profession.

“Many of us can relate to the notion that service beyond self and a willingness to contribute to the greater good in some way pointed us in the direction of law school,” said Mr. Poarch. “In Oklahoma from the beginning lawyers have served as elected officials, judges, lawyers play as leaders in society as citizens whose specialized knowledge and training who can make a positive contribution to their communities. Presentations of annual awards, CLE offerings and bar business including election of officers will take place during the conference along with several social events.

Serving as keynote speaker for the meeting is Eric Liu, a Harvard-educated lawyer, professor and author, and the founder of Citizen University, a nonprofit initiative encompassing projects aimed at the work of community-building and teaching leadership in civic life.

“Mr. Liu brings an interesting perspective that will challenge us all to look at the morality of our individual politics on all sides and examine what it means to be a true American patriot,” Mr. Poarch said. “I’m confident our members will find his message thought provoking and that we will have the opportunity to hear him speak during our Annual Luncheon at noon on Thursday, Nov. 5.”

The Annual Meeting also offers the opportunity to earn all your MCLE credits for the year. OBA CLE will present various electives to choose from designed for substantive, informative, inspiring and even entertaining learning experiences that will provide you with an edge on being leaders in the law. On Wednesday, there will be an all-day program, a morning program, as well as two afternoon programs to choose from. Topics include “Legal Tips & Trends,” “Elder Investment Fraud and Financial Exploitation,” “Preserving and Prosecuting Your Appeal” and “Rock ’n Roll Law.” Additionally, on Thursday morning, a three-hour morning plenary session is planned that will relate to the “Leadership U” theme. Check out www.amokbar.org/cle for more details and registration information.

Don’t miss out on this meeting! Register for all events using the Annual Meeting registration form found in the Sept. 12 Oklahoma Bar Journal or online at www.amokbar.org. For the best price, register by Oct. 13. Questions? Contact Mark Schneidewent at 405-416-7026, 800-522-8065 or marks@okbar.org.

Quote of the MONTH

By: Rex Travis

Lawrence Peter “Yogi” Berra died September 22, 2015 at the age of 90. Somehow, it seemed one quote from him would be totally inadequate since he was a life-long hero to those of us who, from time to time, say things which don’t come out quite like we meant them to. So here are several quotes from Yogi:

“You’ve got to be very careful if you don’t know where you are going, because you might not get there.”

“You can observe a lot by just watching.”

“A nickel ain’t worth a dime anymore.

“Baseball is 90% mental and the other half is physical.”

“You better cut the pizza in four pieces because I’m not hungry enough to eat six.”

“Congratulations. I knew the record would stand until it was broken.

“Always go to other people’s funerals, otherwise they won’t come to yours.”

“You wouldn’t have won if we’d beaten you.”

“Never answer an anonymous letter.

“Slump? I ain’t in no slump… I just ain’t hitting.”

“The future ain’t what it used to be.

“Even Napoleon had his Watergate.”

“It was impossible to get a conversation going, everybody was talking too much.”

“I’m not going to buy my kids an encyclopedia. Let them walk to school like I did.”

“I never said most of the things I said. And, finally: “It ain’t over till it’s over.” Well, Yogi, it’s over. Rest in Peace!”
Hall Estill Keeping It Local With Renovations Of Downtown OKC Office Space

Oklahoma law firm Hall Estill hosted community members and clients at an open house for its renovated office space in downtown Oklahoma City. Located on the 28th, 29th and 30th floors of Chase Tower, the redesigned offices feature work from local artists and renovations by local contractors and designers. Local artists whose work is featured in the new space includes: painter John Odgers, metal artist Dan Garrett, and photographers Carl Shortt and Don Risi.

Renovations for the space began in winter of 2014, and were completed this month. The decision to source local artists, designers and contractors came from a desire to support the local economy and add local flavor and artistry to the downtown office space. The renovated space provides additional offices and conference rooms to accommodate Hall Estill’s expanding practice.

Jari Askins To Serve As Administrative Director of the Courts

Jari Askins, a native of Duncan, Oklahoma, has been hired to serve as the Administrative Director of the Courts, beginning October 1, 2015. She has served the State in every branch of government and in many capacities including: Special Advisor to the Governor for the Oklahoma Department of Human Services, Executive Director of the Pardon and Parole Board, Associate Provost for External Relations at the University of Oklahoma Health Sciences Center, Lieutenant Governor, State Representative, Deputy General Counsel of the Office of the Governor, and Special Judge.

Pursuant to the Oklahoma Constitution Article 7, §5, the Oklahoma Supreme Court appoints an administrative director who serves at its pleasure to assist the Chief Justice in administrative duties and to assist the Judiciary. The Administrative Director of the Courts and staff, under the supervision of the Chief Justice and the Court, coordinate judicial operations and personnel throughout the state handling payroll, training, the Oklahoma Supreme Court Network, research and other responsibilities. Additionally, the Administrative Office of the Courts provides leadership and administrative support for the Judicial Nominating Commission, the Oklahoma Children’s Court Improvement Plan, the Board of Certified Interpreters and the recently established Oklahoma Access to Justice Commission.

Chief Justice John Reif noted Askins’ unique qualifications. He said, “Her experience at every level of state government, including all three branches, will benefit not only Oklahoma’s judiciary but all Oklahomans.”

EXPERTISE

Crowe & Dunlevy’s Taxation practice group is further enhanced with the addition of corporate tax attorney Louis W. Utsch. Mr. Utsch has extensive expertise in energy tax law and tax consulting, specifically in the areas of IRS tax audits, mergers and acquisitions, tax structuring and public company tax regulatory compliance. His legal counsel is a valuable asset to clients in the energy, financial and corporate sectors, among others. We welcome him to the firm.
7th Annual End of Year CLE

OKC: Tuesday, December 8th, 8:30 am - 12:30 pm
Tulsa: Wednesday, December 9th, 8:30 am - 12:30 pm

Panelists:

George Socha - Cofounder of EDRM, started Socha Consulting
Amy Sellars - Attorney & E-Discovery Subject Matter Expert, Williams Companies
Ian Campbell - President & CEO, iCONECT
Amanda J. Chapman - Litigation Paralegal, Brown & James (St. Louis)
Justin Van Alstyne - Associate Attorney, Stone Pigman (New Orleans)
Lance McLearen - Director of Legal Consulting for Legal Outsourcing, Pangea 3
Meredith Lee - Online Document Review Supervisor & Litigation Paralegal, Avansic
Dr. Gavin W. Manes - CEO of Avansic

Panel Discussion for Four Hours of Credit (including 1 Ethics):

Cost Effective E-Discovery Strategies
Five Forces Changing E-Discovery in 2016
Putting Together Your E-Discovery Team
Ethics of ESI

Come & go for up to 4 hours FREE CLE
RSVP required to CLE@avansic.com

www.avansic.com | 918 856 5337
OCBA Announces New Law Library Trustee

Miguel Garcia has been appointed by the Board of Directors to serve as Law Library Trustee for 2015 & 2016. He is the managing partner of the firm Miguel Garcia, PLLC. Miguel graduated from the OU College of Law in 2010 and has been active on the Awards Committee of the OCBA. He has also served on the OBA Diversity Committee and is on the Board of Directors of the Latino Community Development Agency. Miguel serves on the Board of Directors for the Youth Leadership Exchange and is an assistant soccer coach for U16 at St. James Catholic School.

In Celebration of the Red Mass

By Doneen Douglas Jones

On October 31, 2015 at 5:00 p.m., the Red Mass will be held at the Cathedral of Our Lady of Perpetual Help, 3214 North Lake Avenue, Oklahoma City. The principal celebrant will be the Most Reverend Paul S. Coakley, The Most Reverend Anthony Taylor, Bishop of Little Rock and formerly a priest of the Archdiocese of Oklahoma City will deliver the homily. The Red Mass is traditionally celebrated shortly before or after the convening on the first Monday in October of the United States Supreme Court.

The Red Mass derives its name from the red vestments worn symbolizing the tongues of fire that descended on the Apostles at Pentecost. The Red Mass is rooted in the thirteenth-century European custom of pursing the Holy Spirit for those who seek justice and offers an opportunity to reflect on the responsibility of the members of the Bench, Bar, and legal community to uphold the highest standards of justice and to work for justice and truth.

Members of the judiciary and law school faculty and members are invited to robe in the Connie Center at 4:40 p.m. for a procession into the Cathedral. If you have any questions, please contact Rosemary Lewis at 405-709-2759 or emlewis@archokc.org. Please bring a part of this long standing tradition and receive God’s blessing for the coming year.

* Doneen Douglas Jones, Esq., (405) 232-0621, djonessnider.com

Bar Observer

Holladay & Chilton, PLLC Announces New Associate Attorney

Holladay & Chilton, PLLC, announces the addition of Nicole Nash, former law clerk for the Honorable Robin J. Cauthorn, as an associate attorney with the firm. Ms. Nash is a 2012 cum laude graduate of New York Law School, New York, NY, where she was the Executive Editor of the New York Law School Law Review. A graduate of Oklahoma State University with a degree in News Editorial Journalism and Broadcasting, she taught Mass Communications Law at OSU during the 2013-2014 school year prior to joining Judge Cauthorn’s staff. Ms. Nash’s practice will focus on advising and representing individuals and organizations in matters involving media and mass communications, including free speech, censorship, defamation, networking, open records, advertising, social media, copyright, and trademark.

She may be contacted at the firm’s offices at 204 N. Robinson, Suite 1550, Oklahoma City, OK 73102, (405) 236-2343.

Phillips Murrah welcomes two new attorneys

Erica K. Halley has joined Phillips Murrah’sTransactional Practice Group as an associate attorney.

Halley represents individuals and businesses in a broad range of transactional matters.

Phillips Murrah also welcomed Ashley M. Schovanec to the firm’s Litigation Practice Group as an associate attorney.

Schovanec represents individuals and both privately-held and public companies in a wide range of civil litigation matters.

Halley and Schovanec are recent graduates of the University of Oklahoma School of Law.

Blaney Tweedy & Tipton announces new associate

Blaney Tweedy & Tipton, PLLC is pleased to announce that Eric Odom has joined the firm, as an associate attorney. Mr. Odom is a 2015 graduate of the OU College of Law and holds a B.S. in Agricultural and Applied Economics and a B.B.A. in General Business from Texas Tech University. His practice will include commercial transactions and commercial litigation. Mr. Odom can be contacted at Eric@btlawwco.com.

Fellers Snider Welcomes New Litigator

The Fellers Snider law firm recently welcomed associate attorney Michael A. Fagan to the firm.

Fagan, an experienced workers’ compensation attorney and civil litigator, joined the firm from Liberty Mutual. He will be based out of the firm’s Oklahoma City office and will focus on workers’ compensation law as well as general civil litigation.

Fagan earned his Juris Doctor from the University of Oklahoma and holds a Bachelor of Arts from the University of Missouri-Kansas City School of Law.

Craig A. Fitzgerald Named Fellow of Litigation Counsel of America

GableGotwals attorney Craig A. Fitzgerald has been selected as a Fellow of the Litigation Counsel of America. Fitzgerald is a senior attorney whose practice focuses on complex litigation, Insurance Property Litigation and Aviation. He has handled a number of high-stakes, complex business litigation matters in state and federal courts. He represents a diverse client base of privately held and publicly-traded companies in Oklahoma, the Southwest and across the nation. Fitzgerald joins two other GableGotwals attorneys as a Fellow in this trial lawyer honorary society including Graydon D. Luthey, Jr. and John D. Russell.

The LCA is a trial lawyer honorary society composed of less than one-half of one percent of American lawyers. Fellowship in the LCA is highly selective and by invitation only. Fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. The LCA is aggressively diverse in its composition. Established as a trial and appellate lawyer honorary society reflecting the American bar in the twenty-first century, the LCA represents the best in law among its membership. The number of Fellowships has been kept at an exclusivity limit by design, allowing diversification, diversity and inclusion to align effectively, with recognition of excellence in litigation across all segments of the bar. Fellows are generally at the partner or shareholder level, or are independent practitioners with recognized experience and accomplishment. In addition, the LCA is dedicated to promoting superior advocacy, professionalism and ethical standards among its Fellows.

Associates Riane Fern and Anna Lukeman join Oklahoma’s largest law firm

McAfee & Taft has announced the addition of Riane T. Fern as an associate in its Oklahoma City office and Anna C. Lukeman as an associate in its Tulsa office.

Riane Fern is a trial lawyer whose civil litigation practice involves the resolution of a broad range of complex commercial and business disputes in both state and federal courts and in arbitration proceedings. Fern has assisted summary judgment motions with a bachelor of arts degree from the University of Oklahoma in 2011 and summary judgment motions with a bachelor of arts degree from the University of Oklahoma in 2011. While in law school, she was a member of the Oklahoma City University Law Review, earned 17 CALI Awards for top academic performance and was selected by the law school faculty to receive the Outstanding Senior Law Student Award presented by the Oklahoma Bar Association.

During her final semester of law school, Fern served as a judicial extern for The Honorable Robert E. Bacharach of the U.S. Court of Appeals for the Tenth Circuit.

Anna Lukeman is a labor and employment attorney who represents management exclusively in all aspects of dispute resolution arising from the employee-employer relationship, including litigation before state and federal courts, arbitration panels, and regulatory and administrative agencies. She also counsels employers on such issues as wage and hour matters, employee discipline and discharge, handbook development and personnel policy violations, anti-discrimination and anti-harassment, employee contracts and non-compete agreements, confidentiality agreements, and litigation avoidance and compliance with other state and federal laws.

The Tulsa native graduated with special distinction with a bachelor of business administration degree in human resource management from the University of Oklahoma in 2012 and with highest honors from the University of Tulsa College of Law in 2015. While in law school, Lukeman served as editor of the Tulsa Law Review and as president of Phi Alpha Delta legal fraternity and was named to the Order of the Curule Chair.

Tax law attorney joins Crowe & Dunlevy

Louis W. Utch is former senior in-house counsel and tax director for one of the largest U.S.-based independent natural gas and oil producers.

Crowe & Dunlevy recently announced attorney Louis W. Utch has joined the firm as a director in the Oklahoma City office. He is a member of the firm’s Taxation practice group.

Uutch has concentrated his career in the practice of energy tax law and tax consulting. In his capacity at the firm, Utch offers legal counsel and advice with respect to Internal Revenue Service (IRS) tax audits, as well as state and international audits. He also provides tax advice to clients involved with mergers and acquisitions, start-ups and issuing financial statements with the U.S. Securities and Exchange Commission.

A former senior in-house counsel and tax director for one of the largest U.S.-based independent natural gas and oil producers, Utch is an authority in U.S. and, to a lesser extent, international taxation. He has resolved complex issues amicably before the IRS and other tax authorities. Utch has also led the tax structuring on dozens of large transactions and managed public company tax regulatory compliance for many years.

A longtime member of the American Petroleum Institute, Utch participated in the Joint Federal Tax Conference as an advisor advocating for sensible tax legislation.
nate sentences were improper because the statute mandating such a sentence, 21 O.S.Supp. 1973 § 701.4, was repealed in 1976.

The Honorable Richard W. Freeman, District Judge, sustained petitioner’s application, insofar as it related to the vacation of her invalid original sentences, and ordered a hearing for the purpose of resentencing pursuant to 22 O.S. 1981 § 1085. Following the presentation of evidence and arguments by both petitioner and the State, the court sentenced petitioner to two (2) terms of life imprisonment and ordered that the sentences be served consecutively. From said sentences, petitioner has perfected this appeal.

In her first assignment of error, petitioner argues that the district court lacked authority to resentence her, but only that the sentences imposed were improper. We disagree.

As petitioner readily admits, she was originally incarcerated under illegal, and thus void, sentences. Therefore, when the district court granted petitioner’s application for post-conviction relief and vacated her original sentences, she was placed in the same position as if she had never been sentenced. Indeed, following the district court’s determination that the original sentences were invalid, petitioner was given the opportunity to withdraw her previous pleas and specifically declined to do so. Thereupon, the court conducted a hearing and resentenced petitioner pursuant to 22 O.S. 1981 § 1085. The two (2) terms of imprisonment meted out were within the range of punishment authorized 21 O.S.Supp. 1976 § 701.9, the section under which petitioner should have originally been sentenced.

In support of her due process and double jeopardy claims, petitioner advances several arguments which are all premised upon the fact that the terms of new sentences exceed the terms of the original invalid sentences. Petitioner initially argues that she had a liberty interest, by virtue of her original plea bargaining agreement, in the expectation that she could be released from incarceration after serving a term of ten (10) years, that she justifiably relied on this interest in entering into an agreement in “any and all rehabilitative activities available” in anticipation of earning early release, and that the imposition of the new sentences deprived her of the opportunity to obtain parole after serving a term of ten (10) years. However, as petitioner was given the opportunity to withdraw her previous pleas, we deem this argument meritless.

With respect to petitioner’s claim of double jeopardy, we do not agree that the resentencing procedure resulted in multiple punishments for the same offense. As previously stated, when petitioner’s original sentences were vacated as void, she stood in the same position as if she had never been sentenced. Therefore, upon affirmation of her original pleas, the trial court was authorized to sentence petitioner to whatever punishment was statutorily permissible, subject only to the limitation that she receive credit for time served.

In her second assignment of error, petitioner asserts that the sentences imposed were improper because they were based upon certain inadmissible evidence and public opinion. On this basis, she asks this Court to modify her sentences. We first note that petitioner failed to object to the admission of any of the aforementioned evidence when it was offered at the sentencing proceeding. Therefore, all but fundamental error has been waived. Furthermore, this Court will not modify a sentence on appeal unless it is so excessive that it shocks the conscience of this Court. . . . As previously stated, the sentences imposed were within the statutory limits and the evidence presented supported such sentences. Having determined that the sentences imposed do not shock this Court’s conscience, and finding no fundamental error in the admission of the now contested evidence, we dismiss this assignment as meritless.
Stump Roscoe

By Roscoe X. Pound

It proved a lot more difficult to get out of Upstate New York than it had getting in. No surprise there. Our efforts, while legitimate and necessary, did, in fact, result in the de facto kidnapping of a number of youths and adults associated with Stockel’s “camp and school”. That, however, posed the least of our problems to date. Many who would have complained focused more on getting out of town with their kids before the police arrived at the campus. Actually, when law enforcement – State, federal, and INTERPOL – finally did swoop in and lock down the camp, very few remained. I can’t say that I blamed them. Someone had efficiently torched both the dormitories and administrative buildings on-site. Preliminary reports indicate that computer drives had undergone erasure via sledge hammer. For his part, Stockel remained silent, and currently busied himself with a hunger strike to call attention to his status as a victim of religious and political persecution. I wish him the best of luck on his quest for starvation.

We – by which I mean I – killed two men, one of whom an officer of the law quite popular both within his department and in the community at large. Seery provided adamantine testimony as to the defensive necessity of my actions, and all supported the necessity of my taking out Rudi in order to save Ernie. Thanks to some impressive action by the DOJ, it did not take long to discover a money trail resulting in accounts and investments far above Nielsen’s pay grade. This lent some credibility to our account. A wealth of anti-government and racially charged material found among his personal files – both on paper and electronic – provided some additional credence. It took about a week before investigators had satisfied themselves that there appeared no immediate reason to delay our departure back to Jersey, once we received the usual warnings regarding the on-going nature of the case. Truth be told, I sense a number of persons involved actually felt relieved by our exit.

Let’s get something clear. No one not a professional gets off scot free from a killing regardless of how righteous. There’s no going back from the taking of a life, and I, lamentably, have more hands-on experience than most. I can analyze it, justify it, and rationalize it, but I could never escape it.

Anyway, this brings us to Stockel’s hoard of Nazi treasure. I actually can’t believe I even typed that phrase, but there’s no getting around it. I’ll probably never know the true value of the trove, most dating back to objects alleged missing by French institutions and individuals following that country’s fall to Germany. The Feds and INTERPOL quickly tossed a blanket of secrecy over the on-going inventory, so I know very little about it beyond what I personally observed. That, in itself, however, would round out to about seven figures. I hope the stolen items would be quickly restored to their rightful owners and, in many cases, the world at large.

Well, one temporary exception. On an appropriately chilly and blustery October night – with just enough scudding cloud cover to alternately conceal and reveal the moon at appropriate intervals – a group of us gathered at the Crenshaw residence to watch a film thought lost for more almost ninety years. In addition to London After Midnight, Mr. Crenshaw also treated us to the Rasputin version of Phantom of the Opera, as well as Das Hexes and the Cabinet of Doctor Caligari. The latter films came courtesy of a friend of Crenshawn’s at the New York Public Library. I would not be at all surprised if London After Midnight turned up at that institution as well through the carefully orchestrated actions of person or persons unknown.

Oh, before I forget:

Dear Roscoe: I’m currently working on an elder abuse case on behalf of a client whose father suffered financial and physical abuse. The abuser is her dad’s stepson. He had been estranged from his mother (dad’s late wife) but they reconciled shortly before her death. He moved in with them and, after his mom passed, stayed on with client’s dad. Somehow, he obtained a DPOA and made a number of questionable transfers in favor of himself. A respite care worker noticed that dad had been losing weight and had a number of bumps and bruises and quizzed him about it. He indicated that sometimes stepson had to “keep him in line.” Respite worker took photos and contacted APS and contacted my client. Dad suffers from stroke related dementia and cannot testify on his bad days and will not testify on his good ones. Aren’t we pretty well screwed Confrontation Clause-wise? D.E., Oklahoma City


OK, so I may be chucking rocks from my glass house. Failure of a victim to testify does not automatically squelch the prosecution of a civil case, or even a criminal one for that matter. Case in point, when was the last time you had a victim testify in a murder or wrongful death proceeding? At any rate, the Confrontation Clause applies in criminal trials, or in civil trials which may result in imprisonment such as contempt. I take that avant-garde view relying solely on the language of the Sixth Amendment which starts out “in all criminal prosecutions, the accused shall enjoy the right…to be confronted with the witnesses against him.” But what do I know? Well, apparently as much as most courts and commentators who share this view. Buck up though, you’re not alone. Many among the legal profession have made this error.

Even if the Confrontation Clause did apply, your case is eerily similar to that considered by SCOTUS in Clark v. Ohio. In this unanimous opinion, a 3 year-old’s preschool teachers noticed injuries and asked him where they came from. The child said “Dad” (his mom’s puppet) did it. Apparently, while mom served her time on a prostitution conviction, she had made Clark her all-purpose charge d’affaires. When was the last time you had a victim testify in a murder or wrongful death proceeding? At any rate, the Confrontation Clause applies in criminal trials, or in civil trials which may result in imprisonment such as contempt. I take that avant-garde view relying solely on the language of the Sixth Amendment which starts out “in all criminal prosecutions, the accused shall enjoy the right…to be confronted with the witnesses against him.” But what do I know? Well, apparently as much as most courts and commentators who share this view.

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Damn!
Winter’s Tales

By Bill Gorden

I don’t use first person in book reviews. Here, however, my purpose is to persuade. I hope to give you an idea that will make Winter pass easier, if not faster. I actually happened on this idea while preparing for the Bar Exam in the winter of ’74-’75. I did not take it up again until a very few years ago.

When doing all the reading for the Bar, I would take refuge from that reading in other, recreational reading. (Yes, I am a total nerd.) I was interested in Russia in a variety of ways, and ended up reading Solzhenitsyn’s The Gulag Archipelago, Vol. One and part of Two, a memoir about Stalin’s daughter Anna Alfiluyeva, John Reed’s work on the Revolution, and several other works. I played Russian music to boot. As I took the Bar, that music was in my head, the law stuff in my head being played back as well.

Fast forward a bunch of years. I really like Shakespeare, and though I had read and seen a bunch of plays, I had by no means exhausted the canon. As October approached, I cordoned off what I had read/seen in one of those comprehensive bigger-than-life compendiums and set to read the rest of it, and set the goal to be finished by Winter’s end. It worked.

The ensuing year it was the Bible, Cover-to-cover, the Catholic version, with the additional books. I even read all the Begats. Again, it worked. It even worked in Summer, when I read lighter fare. All of John LeCarre’s spy works, but also, more than one summer. Another winter, The Koran. Another Winter, as many African American fiction works as I could find. I consulted an African American friend to make sure I got it all.

This year, I am fascinated by the old Private-eye fiction stretching from the thirties through the fifties. Raymond Chandler, Dashiell Hammett are the first two authors here. I recently read a long biography on Robert Mitchum, and film noir, the movie adaptation of these greats. That got me interested in these authors, including the books that never made it to the movies. Chandler’s books read like Bogart talked. It will be a good Winter.

Here is why I think this program works. Eventually in Winter, everyone gets tired of nothing but sporty on TV. It is too cold to cycle, run, garden, or much else outside. Book, kindle, snack, blanket, and you are there. Don’t try to read a whole play, a whole book, maybe even a chapter. Savor the feeling, the pictures in your head. Reading something like the Private-eye thirties stuff, pay attention to the little things. The detective stomps on the bright-lights button in his car. Every five seconds someone lights up a cigarette. It is a history lesson without a test.

Oh, by the way, every writer writes some bad stuff. That’s the price for committing to do an entire author’s work. Tell me you’ve never written a less-than-artful brief.

Sometimes I tell people I have read my way through Shakespeare two-and-a-half times. They are suitably impressed, but I don’t tell them my secret, that years have gone by in the meanwhile. The interesting thing is each time one sees something new, regardless of the genre. It is not the same thing as taking a course. It is much more enjoyable.

And when you are done, it is Spring.
The Greatest Generation Passes

By Rex Travis

Time continues to take a toll of the greatest generation of Oklahoma County lawyers. In September, we lost two of our World War II era lawyers.

Harry Marberry died September 11 at age 95. Harry practiced oil and gas law in Oklahoma City for more than 50 years. When I was in law school, I worked as a law clerk in the firm of Brown, Darrough, Darrough and Marberry. Harry was always helpful and willing to serve as a mentor to me and to other young lawyers.

Harry went to undergraduate school at Southern Illinois University. He then served in the Army Air Corps as a weather observer in Scotland and later in France. His job was to predict the weather over the continent which would determine whether American bombers flew or not. He served from 1943 until the end of the war. After the war, he returned to Illinois and got his law degree from University of Illinois.

Harry had a long and happy retirement after he concluded his law practice. He will be missed.

John Chiaf died September 17 at age 93. John, too served in the Army Air Corps in WWII. He was the son of Italian immigrants, born in Brooklyn. The family name was Chiafelli, which John Americanized to Chiaf.

To help support his family during the depression, John had to drop out of school at age 9 to work. As a result, John had a struggle getting sufficient education to end up a lawyer.

While he was assigned to Tye Army Airfield (later to become Dyess Air Force Base) at Abilene, Texas, he met and married a local girl with the ultimate result that he ended up living and practicing law in Oklahoma City. There, he worked as a waiter and got his GED and ultimately went to night law school at OCU. He graduated there in 1952 and practiced law in Oklahoma City for more than 50 years.

John was always a trial lawyer. He started out practicing with O.A. Cargill, Sr. and O.A. Cargill, Jr. in a firm which later became Cargill, Cargill and Chiaf. He then established the Chief Law Office, which continues to this day under the ownership of his son, Joey Chiaf.

He represented injured people his whole career and was a fierce opponent to have a lawsuit against. However, once the trial was over, he was also happy to be your friend. I know all this because I tried cases against him and more than once lost to him and had a cordial relationship with him afterward.

John had a cabin at Lake Eufaula where he spent many of his retirement years. He started out spending long weekends at the Lake and eventually lived there pretty much full time. He appeared to be happy in his much-deserved retirement. We will miss him.

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