



Briefcase

July, 2022 Vol. 55, No. 7

A Publication of the OKLAHOMA COUNTY BAR ASSOCIATION

WWW.OKCBAR.ORG



OKLAHOMA COUNTY BAR ASSOCIATION MEMBER DWIGHT BIRDWELL RECEIVES MEDAL OF HONOR

Specialist Five Dwight W. Birdwell
MEDAL OF HONOR
VIETNAM WAR

Photo courtesy of the U.S. Army

By Benjamin R. Grubb,
Editor-in-Chief, The Briefcase

On the morning of Tuesday, July 5, 2022, I was driving to work. Like I do most mornings, I tuned my car’s radio to NPR to see what news was fit to broadcast. I felt somewhat disconnected after a long Independence Day weekend and wondered what I had missed among the barbecues, fireworks and parades. This year just seemed *different*. Even in the midst of the persistent COVID-19 pandemic, turmoil in the U.S. Supreme Court, the ongoing war in the Ukraine, and deep political division at home, I still felt the swell of pride in our great country I feel every Fourth of July. America was — and is — still very worthy of

celebration.
That morning, the NPR news correspondent said the President was prepared to award Medals of Honor to four U.S. Army Soldiers who served in Vietnam. The Medal of Honor, of course, is the United States’ highest award for military valor in action. The four 2022 recipients’ names were read aloud and bear repeating here. They are:
Staff Sergeant Edward N. Kaneshiro (posthumous);
Specialist Five Dennis M. Fujii;
Retired Major John J. Duffy; and
Specialist Five Dwight W. Birdwell.
The final name was one I recognized. Years ago, I had a case with a lawyer

named Dwight Birdwell on the other side. I honestly cannot recall specifics about the case (nor would I print them here if I did), but I remember the name Dwight Birdwell because this lawyer would announce his full name each time he called. I also recall the dispute being somewhat contentious — but that’s the life we chose. The NPR story did not say where the recipients called home. As I made my way to the office, I wondered if this Dwight Birdwell was the same one I knew. It would not take me long to confirm he was. I also discovered I knew very little about the man on the other side of the “v” all those years ago.
Dwight Wayne Birdwell was born in Amarillo, Texas on January 19, 1948. Birdwell grew up in Bell, a town with a

population of a few hundred people, in Adair County, Oklahoma, right on the Arkansas border. Birdwell is a citizen of the Cherokee Nation. After he graduated from Stilwell High School in 1966, Birdwell enlisted in the Army, where he was assigned to Troop C, 3rd Squadron, 4th Cavalry, 25th Infantry Division.
On January 31, 1968, Birdwell’s unit was tasked with defending the Tan Son Nhut Air Base, which was under attack by Vietcong (VC) and People’s Army of Vietnam (PAVN) forces during the first days of the Tet Offensive. It was in this context Dwight Birdwell became a hero; a word used perhaps too gratuitously in our collective parlance. However

See BIRDWELL, page 2

Inside

2022 OCBA AWARDS
Pages 6-8



HOT MURDER AND APRICOT CORDIALS
Page 9

Stump Roscoe 3
Old News 4
Bar Observer 10

PRSRRT STD
US POSTAGE
PAID
PERMIT # 59
OKLA CITY OK

THE BRIEFCASE

JULY 2022

BRIEFCASE IS A MONTHLY PUBLICATION OF
THE
OKLAHOMA COUNTY BAR ASSOCIATION
119 NORTH ROBINSON AVE.
OKLAHOMA CITY, OK 73102
(405) 236-8421

Briefcase Committee

Judge Jim Croy, Chris Deason, Ryan Dean, J. Renley Dennis, Ben Grubb, Justin Hiersche, Scott Jones, Matt Kane, Jeff Massey, Joi Miskel, Travis Pickens, Kyle Prince, Miles Pringle, Austin Reams, Cari Remillard, Rex Travis, Judge Allen Welch & Alisa White

Editor Benjamin Grubb

Contributing Editors Michael Brewer

Richard Goralewicz

Katherine Mazaheri

Oklahoma County Bar Association

OFFICERS:

President Shanda McKenney

President-Elect Cody J. Cooper

Vice President Judge Richard Ogden

Past President Judge Don Andrews

Treasurer Robert D. Nelson

Bar Counsel Coree Stevenson

STAFF:

Executive Director Debbie Gorden

Legal Placement Director Pam Bennett

Membership Services Connie Resar

Journal Record Publishing Co. Inc.

Special Projects

For advertising information,
call 278-2830.

Postmaster: Send address changes to OCBA Briefcase, 119 North Robinson Ave., Oklahoma City, Oklahoma 73102.

Journal Record Publishing produces the Briefcase for the Oklahoma County Bar Association, which is solely responsible for its content.

© 2022 Oklahoma County Bar Association

OKLAHOMA COUNTY BAR ASSOCIATION

MISSION STATEMENT

Volunteer lawyers and judges dedicated to serving the judicial system, their profession, and their community in order to foster the highest ideals of the legal profession, to better the quality of life in Oklahoma County, and to promote justice for all.



BIRDWELL

continued from page 1

I am certain it is the right word to describe Dwight Birdwell. His actions are enshrined in his Medal of Honor citation. The citation reads, in its entirety:

Specialist Five Dwight W. Birdwell distinguished himself by acts of gallantry and intrepidity above and beyond the call of duty while serving with C Troop, 3d Squadron, 4th Cavalry, 25th Infantry Division in the Republic of Vietnam on 31 January 1968. On this date, C Troop was ordered to move south to help repel an enemy attack on Tan Son Nhut Airbase. As the C Troop column of tanks and armored personnel carriers approached the west gate of Tan Son Nhut Airbase, it came under intense enemy fire from a building to its right. Unbeknownst to C Troop, it had driven directly into an enemy force consisting of three battalions. The column tried to push through the initial attack but the lead tank, crippled by a rocket-propelled grenade explosion, was blocking the way forward. C Troop immediately came under heavy enemy fire from both sides of the road. Specialist Five Birdwell, upon seeing that his tank commander was wounded by enemy fire, immediately went to his aid. Under intense enemy fire, he lowered the injured tank commander to the ground, and moved him to safety. Specialist Five Birdwell then, with complete disregard for his own safety, mounted the tank and assumed the tank commander's position. Standing in the tank commander's hatch with the upper half of his body exposed to heavy enemy fire, Specialist Five Birdwell used the tank's .50 caliber machine gun and 90mm main gun to suppress the enemy attack. With the ammunition for the 90mm main gun exhausted, he continued to fire the .50 caliber machine gun until it overheated. At this point, Specialist Five Birdwell, rather than abandoning his position, continued to engage the enemy with his M-16 rifle, sometimes exposing his entire body to enemy fire in order to engage the enemy from a better vantage point. When a U.S. helicopter crashed nearby, Specialist Five Birdwell, under withering enemy fire, dismounted and moved to the helicopter where he retrieved two M-60 machine guns and ammunition. After giving one M-60 and ammunition to a fellow soldier, he remounted his tank and used the other M-60 to again engage the enemy. Specialist Five Birdwell continued to engage the enemy with complete disregard for his own safety until the M-60 he was firing was hit by enemy fire. Specialist Five Birdwell, now wounded in the face, neck, chest and arms, dismounted the tank but refused to be medically evacuated. Instead, Specialist Five Birdwell, under enemy fire, rallied fellow soldiers to advance toward the front of the armored column where they set up a defensive position by a large tree. From this position, he and the other soldiers engaged the enemy with M-16 fire and grenades. As the enemy fire lessened, Specialist Five Birdwell gathered ammunition from disabled vehicles and helped wounded soldiers move to safer positions.



Bell Grade School, Adair County, Okla., first grade, mid-1950's, second row from wall, five seats back. This building was the first modern school in Adair County. Photo courtesy of Dwight W. Birdwell



C Troop tank, Vietnam, late 1967-early 1968, with RPG plate protection on the side. Photo courtesy of Dwight W. Birdwell



Korea, July, 1967. Photo courtesy of Dwight W. Birdwell



C Troop motor pool, 1968. Photo courtesy of Dwight W. Birdwell

Stump Roscoe

By Roscoe X. Pound

Dear Roscoe: Lend a hand to a divorce lawyer over his head. One of my clients was picked up as he was leaving a house in a high crime neighborhood. He says he came to pay a debt. A police car blocked his way as he attempted to drive away. The officers then asked him if he had any contraband and weapons which my client denied. The police then asked him if he'd mind if they took a look. They ask this as they were already looking, to which my client replied, "might as well." They found a gun and a prescription bottle of pills. The pills were not the same as on the label. Police arrest client. If they had no probable cause to seize him, doesn't that bottle count as fruit of the poisonous tree or something? I've done mostly family law except for an internship with the D.A.'s office my second semester. I can barely spell "criminal." K.G., Guthrie, OK.

Dear K.G.: Good news is you spelled criminal exactly right. Bad news is that you probably are over your head. For starters, based upon who-knows-how-many Motions to Suppress I've sat in on, my opinion is that, on the bare facts above, you're probably right about the seizure. Generally speaking, the location of a stop in a "high crime area" may be one factor relevant to the Terry analysis. *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000); *United States v. Wright*, 485 F.3d 45, 54 (1st Cir. 2007). But the Supreme Court has made clear that "[a]n individual's presence in an area of expected criminal activity, standing alone, is not enough to support a reasonable, particularized suspicion that the person is committing a crime." *Wardlow*, 528 U.S. at 124. Based upon what you've told me, your client did nothing reasonably suggestive of criminal activity.

I can envision the police arguing that, in your client's failure to specifically object, he essentially consented. This will probably result in a "he-said-she-said" sort of contest. *Florida v. Royer*, 460 U.S. 491, 497 (1983) ("[W]ithout a warrant to search Royer's luggage and in the absence of probable cause and exigent circumstances, the validity of the search depended on Royer's purported consent). *Id.*

Now, about that poisonous tree.

The exclusionary rule "is a 'prudential' doctrine" whose "sole purpose... is to deter future Fourth Amendment violations," *Davis v. United States*, 564 U.S. 229, 236-37 (2011) (quoting *Pa. Bd. of Prob. & Parole v. Scott*, 524 U.S. 357, 363 (1998)), "suppression as fruit of the poisonous tree is not appropriate where "the connection between the illegal police conduct and the discovery and seizure of the evidence is 'so atten-

uated as to dissipate the taint,'" (quoting *Segura v. United States*, 468 U.S. 796, 805 (1984)). This will likely become a fact intensive inquiry as to whether the discovery of the contraband resulted in an exploitation of the illegal stop or if time and other circumstances existed to dissipate the taint. So, good luck to you, your client, and the criminal defense lawyer you sagely counsel your client to procure.

Dear Roscoe: Can a question be hearsay? **TB, OKC.**

Dear TB: Depends who you ask. For example, in your very own Tenth Circuit, a police officer stopped a car in which two bank robbery suspects were riding (a Ford Escape!). One of the suspects asked the officer, "How did you guys find us so fast?" At the trial of the second robbery suspect, the defendant objected that the question was inadmissible hearsay, violating his right to cross-examine his co-suspect who had uttered the question but was not in court. In response, the government argued that the question could not qualify as a statement or assertion, and thus was not hearsay. The Tenth Circuit found that the question was not designed to elicit information and a response, but was asserting the defendant's involvement with criminal activity. Thus, "[the questioner's] intent to make an assertion was apparent and that his question directed to police officers on the scene constituted hearsay," in *United States v. Summers*, 414 F.3d 1287, 1300 (10th Cir. 2005). On the other hand, in *State v. Palmer*, 270 P.3d 891, 893 (Ct. App. 2012) "The statement the women made to the defendant concerning a backpack that contained illegal drugs ["Where's my backpack?"] was not intended as an assertion and thus was not inadmissible hearsay... '[W]ords or conduct not intended as assertions are not hearsay even when offered as evidence of the declarant's implicit belief of a fact.'" In general, a lot of ink has been spilled over this issue, but allow me simply to say that courts that have considered the issue have reached one of three conclusions: (1) A question can be hearsay if it contains an assertion; (2) A question can be hearsay if the declarant intended to make an assertion; or (3) Questions can never be hearsay because they are inherently non-assertive.

The day was unseasonably warm. Only the bare trees and the smell of wood smoke gave winter away. We stopped at the iron gate to which a rotund guy in a bowling shirt and brandishing a sawed-off shotgun-controlled access. He kept his distance and motioned me out of the car.



**TIMELESS
DESIGNS AND
ALL-DAY
COMFORT FROM
OUR ALDEN
CASUALS**

TEENA HICKS COMPANY
OKLAHOMA TOWER 210 PARK AVENUE, SUITE 220
OKLAHOMA CITY, OK 73102
(405) 235-4800

"You got an invite?" he asked.

"Roscoe Pound," I replied with a smile and the practiced amiability I always afford to armed thugs.

"Prove it," he challenged.

I slowly reached back to my left hip pocket and pulled out my wallet. I held it open to display both my drivers and process server's licenses. The hood motioned me to show it to his colleague still positioned inside the now-closed gate. He checked out my credentials and checked something on a clipboard. Then he nodded to his pal. I flashed a smile at my new friend with the Mosburg and started back to my car. The Sicilian sentinel stepped between me and vehicle.

"Not so fast, friend. What about the hulk in the passenger seat?"

"Junior's not The Hulk. More like the Punisher."

I don't know if he got the Marvel reference or not. "So who is he?"

I could see his patience draining. Still, I replied: "My plus one."

"I don't know nothing about no plus one. Sammy, call the house. Meantime I'll take your gun."

"Mine or his?"

"Both," he said. I could see the color rising in his face.

I nodded toward Junior. He got out of the car and walked around to my side. I took my Barretta out of its holster and handed it over to my new bestie. He snorted a bit derisively at the size of the weapon. Not the first to make that mistake. He then turned toward Junior to take charge of his ordinance. He found it less than an inch from his left eye, hammer cocked.

"Christ," said the guy at the compound gate, "It's like a magic trick. It just appeared in his hand."

I could see a guy in a business suit approaching from further back within the property. He heaved a sigh, then called out, "You guys quit fooling around.

Roscoe, we got people waiting."

I waved. Then Junior and I returned to the car and drove in.

Tony Segar and his brothers bought three prime tracts atop the Palisades back in the Fifties, combining them into one large compound. Tony lived in the original house, a ginormous Mission-style mansion boasting 32 rooms. It had fantastic views of the Hudson and City from the Old World Trade Center site to the George Washington Bridge. From the tiled roof down to a sub-basement, where a psychiatrist who previously owned it allegedly conducted electro-shock experiments, it contained more prime timber, stone, and marble than your average cathedral. I also marveled at the thickness of its walls, and some of the sounds which never traveled beyond them, both incoming and outgoing. A well-heeled minion conducted us to a screened room overlooking the pool. The pool itself lay under cover for the winter, the patio area now the domain of some classic statues, or perhaps they were of more recent vintage filled with... But let's not go there. I'll leave it at this: I don't believe in ghosts but if I did, here's where I'd probably find them.

In addition to Tony and his brothers, guards patrolled the perimeter. Inside the room, a few guys I recognized but did not know sat around an ornate wooden dining table. They represented the last of the consiglieri from the old days, as well as a few old-timers from other Families anxious for a break from retirement. I did recognize a couple of the up-and-coming youngsters of the family, and also the seemingly ubiquitous white-haired punk.

"Well Roscoe," said Tony's brother Joe, "let's talk about what fresh hell you've dug up for us now."

THE JOURNAL RECORD

IN PRINT. ONLINE. IN PERSON.

For subscription information call 1-877-615-9536

www.journalrecord.com

Vol. 5 No. 4, April 1, 1973

The Special Client

By Jon Masters

What do you do when a client comes into your office and says, "I want you to sue some people and make them stop talking over my mind. I want you to get them out of my head because they make me do things I would not do by myself." Mary Curry with the Lawyer Referral Service calls Johnathan W. Burch to set up an appointment for this type of "client." Johnathan is an attorney with Burch & Burch in the First National Center, one of several attorneys who serve on the Sanity Commission in the Oklahoma County District Court, and Chairman of the Public Affairs Committee of the Oklahoma Mental Health Association.

While attending OCU Law School (1966 and 1967), Johnathan Burch served as Bailiff to then County Judge William S. Myers, Jr., and was a "next door" neighbor of Dr. Hayden H. Donahue. Judge Myers' Court handled all county sanity hearings (an average of 700 per year). Dr. Donahue was (and is) Director of the State Department of Mental Health and Superintendent of Central State Hospital. In this setting,

Johnathan developed a keen interest in the matter of Mental Health, and has since become recognized as somewhat of an authority on the subject of "Mental Health and the Law."

The first duty of the lawyer is to determine what real legal problems such a client has. We cannot say that such a person is crazy and obviously not in need of legal services. Many mentally ill people are competent to manage their business, keep house, hold a job or write a will. Even if they have been declared legally incompetent, they can still write a will if they know their property and their heirs. A mentally ill person can be a plaintiff in a personal injury suit, or workmen's compensation case, as well as the ward of a guardianship.

The mentally ill have rights and need legal service just as other citizens do. The Lawyer Referral Service in Oklahoma City serves these clients as well as others. It has been Johnathan's experience that most of these clients need medical attention rather than legal help for the problems they describe. He tries to help them contact the appropriate mental health facilities in the community, or their family doctor, if they will accept help.

"I always treat such clients gently, but firmly, and give them my frank opinion of their problem. I tell them what the law can do and cannot do. If they appear to have a possible mental illness, I tell them so and urge them to have it checked out medically."

His most frequent contacts with the subject arise because of his service on the Lawyer Referral Service Panel and his periodic service on the Oklahoma County Sanity Commission. His experiences with the mentally ill run the gamut. One example is the schizophrenic who wanted to sue the "other person" and the "other person's" psychiatrist to have them enjoined from entering and controlling her mind.

Johnathan is particularly interested in the system utilized for involuntary commitment of the mentally ill and more particularly in the improvement of that system. At the present time, a proceeding for involuntary commitment is commenced by the filing of a petition with the District Court (presently handled exclusively in Judge Traub's court through special Deputy Court Clerk Juanita Grider). If the petition (and evidence) presented merit serious consideration, a detention Order is issued by the court, the patient is then picked up by the Sheriff and incarcerated in special mental detentions cells in the county jail pending a hearing. In Oklahoma County this period of detention is one to five days; in some rural counties it may be in excess of two weeks. Prior to the sanity hearing, a three-member commission (two doctors and one lawyer—is

appointed to interview the patient and make a recommendation to the court at the time of the hearing. Assuming a positive finding, the court issues an order of involuntary commitment and the patient is then escorted to the hospital (public or private, depending on financial circumstances). At the time the latter order is issued, the patient becomes legally incompetent, a disability which continues until competency is restored through the same court, a step which is frequently overlooked.

Mr. Burch has certain specific recommendations for improvement of the system. These recommendations relate to keeping the "system" in step with the tremendous advances in treatment and cure of mental illness. He notes that when he first became involved, the average period of confinement for one who was involuntarily committed was eight years. Now, the average is ten days. With this in mind, he suggests that the initial incarceration be in a medical facility rather than jail, and that treatment should commence as soon as possible. He further suggests that the matter of legal competency should be deferred until after some reasonable period after confinement. This would eliminate the necessity of such a determination and redetermination in many instances due to the relatively short average period of treatment and confinement. Johnathan is working for legislation to update our laws pertaining to the subject of mental health and would most assuredly welcome his colleagues as allies in this cause.

Bill
Warren
OFFICE PRODUCTS

FURNITURE □ DESIGN □ SUPPLIES □ PRINTING

WARREN
COMMERCIAL INTERIORS
FURNITURE • INTERIOR DESIGN • SPACE PLANNING

Oklahoma City

(405) 947-5676 • www.warrenproducts.com

1. A Veteran owned Small Business (VOSB) as well as a locally owned Office Products Company since 1983
2. Free/Same day delivery if order is received by 11:30 AM
3. No minimum order, either dollar amount or size of order
4. Personal sales representation
5. Order online, fax, telephone or through sales representative
6. Very tenured, friendly and competent employees
7. One source provider:
 - Office supplies, office furniture, home office furniture, technology, cleaning and break room supplies, healthcare products, promotional products and custom printing
8. Certified Commercial Keurig Dealer
9. Substantial discounts on all products
10. No hassle return policy
11. Interior designers on staff to provide space planning and design services located in a beautiful furniture showroom
12. Furniture showroom which includes Teknion, National, Paoli, Humanscale, Global, Allseating, esi ergonomic solutions, Hon and many other lines.

MUSSER & BUNCH REUNION

By Patricia Parrish

Oklahoma County District Judge
(Retired)

Clark Musser and Doyle Bunch joined forces in 1981 and formed a boutique oil and gas law firm aptly named Musser & Bunch. A mere 41 years later, the firm reunited at Pizzeria Gusto to exchange

stories and express our gratitude for the extraordinary experiences we all had at the firm.

Musser & Bunch's "family tree" is quite remarkable, with so many accomplishments, worthy endeavors and ministries. Each of us is fortunate to have worked with one another, all the while forming lifelong friendships.



Back Row: Travis Pickens, Steven Cargill, Cathy Edinger, Scott Rayburn, Robert Edinger, Clark Musser, Bert Marshall, Jim Weber, Ken Blakley, Bruce Benbrook, Cheryl Plaxico, Patti Parrish & Leslie Freeman.

Front Row: Michelle Cargill, Karl Hirsch, Kay Musser, Martha Marshall, Lynn Pickens, Janet Rayburn, Cheryl Benbrook & John Keller.

Not shown, but in our hearts: Doyle Bunch, Judge Lisa Tipping Davis and Jim Chastain.

YOU DESERVE THE BEST.

You deserve the best customer service. In the event of a claim, you deserve the best local claims team working with the best local counsel. You deserve the state's only member-owned, Oklahoma-based lawyers professional liability insurance company. You deserve OAMIC.



OKLAHOMA ATTORNEYS
MUTUAL INSURANCE COMPANY

OAMIC.COM



THE NATIONAL ACADEMY OF DISTINGUISHED NEUTRALS

OKLAHOMA CHAPTER MEMBERS

Check Available Dates Calendars Online for the following members, recognized in 2022 for Excellence in the field of Alternative Dispute Resolution



Stephen Boaz
Oklahoma City



Daniel Boudreau
Tulsa



R. Lyle Clemens
Oklahoma City



David Cole
Oklahoma City



James L. Gibbs, II
Edmond



Bill Greenwood
Edmond



Bill Hetherington
Norman



Daniel E. Holeman
Tulsa



Jake Jones, III
Oklahoma City



Timothy L. Martin
Oklahoma City



Larry D. Ottaway
Oklahoma City



Joseph H. Paulk
Tulsa



Ted Sherwood
Tulsa

www.OklahomaMediators.org

The National Academy of Distinguished Neutrals is an invitation-only professional association of over 1000 litigator-rated Mediators & Arbitrators throughout the US and a proud sponsor of both the DRI & AAJ. For info, visit www.NADN.org/about

2022 OCBA AWARDS LUNCHEON

50-Year OBA Service Award Recipients



Bill Bowlby



Michelin Delier



Mark Coldiron



Michael Jackson



Larry Tawwater



Bruce Day



David Pardue



Harold McMillan



Charles Waters



Drew Neville



Bill Bleakley



Jim Ikard



Charles Byrd

60-Year OBA Service Award Recipients



Edward Barth



B.J. Brockett



Charles Ellis



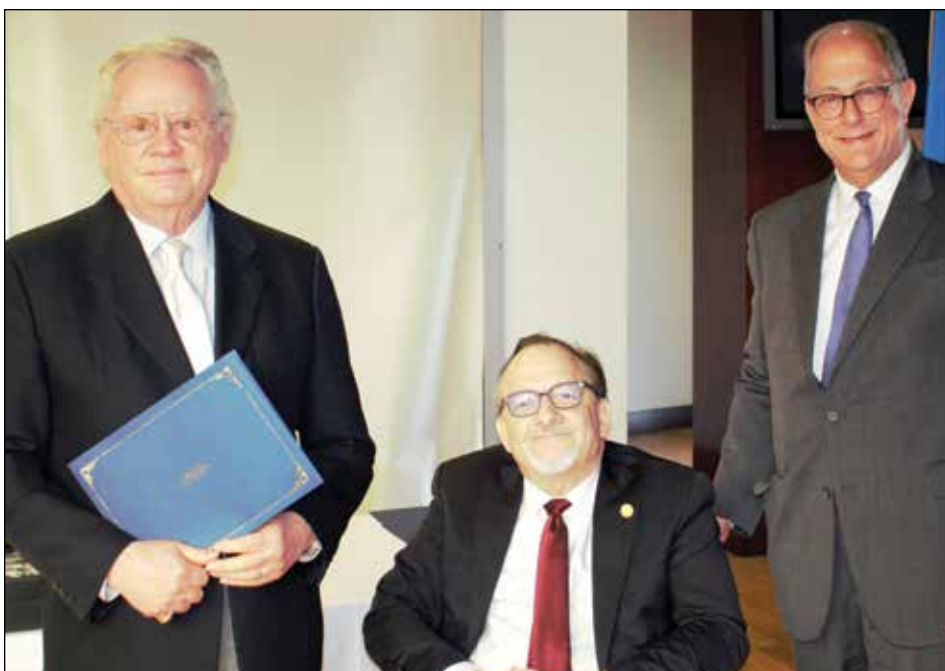
Preston Gaddis



John B. Hayes



Lewis Hunt



Neil Stanfield

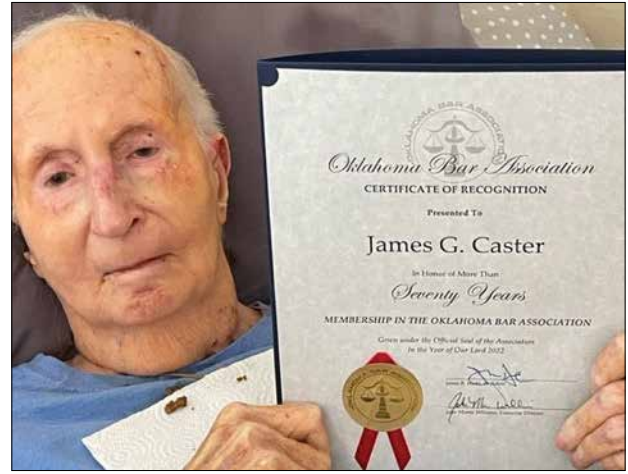


Rex Travis

70 Year OBA Service Award Recipients



Charles A. Shadid



Dr. James Garland Caster

OCBA Award Presentations



Professional Service Award, Judge Kenneth Stoner



Community Service Award, David Van Meter



Pro Bono Service Award, Rachel Morris



Outstanding Committee Award, Community Service Committee, Chair Judge Richard Kirby



Geary L. Walke Briefcase Award, Jeff Massey



Steven L. Barghols Award for Ethics, Michael Brewer



Outstanding Young Lawyer Director, Wyatt Swinford



President's Award for Bench & Bar Conference, Daniel Couch



President's Award for Winter Seminar, Justin Meek



Young Lawyers Division Beacon Award, Justice Noma Gurich

Hot Murder and Apricot Cordials

[Part 1 of 2]

By Jeffery W. Massey
Asst. Dist. Attorney

The sensational case made national news. FORMER OKLAHOMA SUPREME COURT JUSTICE UNDER HOUSE ARREST FOR MURDER. The year was 1922, and the upper crust of Oklahoma City society was suddenly rocked by scandal and mayhem. The uproarious behavior associated with the 'Roaring 1920's' had arrived early in Oklahoma City. The oil industry boomed with associated supporting businesses, including the clandestine type. Indeed, the returning veteran Doughboys had a thirst for outlawed liquor and the wilder sides of life.

One of the most prominent members of Oklahoma City society was the Honorable Jean Prentiss Day. His father, a Confederate survivor of Pickett's Charge at Gettysburg, had come to Oklahoma in the Land Run of 1889. The young Jean was a mere 14-year old boy from Mississippi who observed the senior Mr. Day build a successful farming operation near modern day McAlester. Jean was afforded the best education the Territory could produce and then went to law school. When statehood arrived, attorney Jean Day served on the legislative sub-committee tasked with compiling the laws and statutory enactments of the first Oklahoma legislatures. Soon, every attorney in the state cited to the *Harris-Day Code* for authority of Oklahoma law. The Code was named for its compilers, Judge Jean Day and Judge Samuel Harris. Both men were prominent in Democratic politics and in wealthy social circles. *[Readers will remember that Judge Day (defense) and Judge Harris (prosecution) had sat opposite of each other in the murder trial of Urban Patterson in 1918.]*

Day had undertaken a short stint as a Supreme Court Justice by gubernatorial appointment. But Day soon bored of the confinement and the measly stipend paid to civil servants. Day soon became vice-president and general counsel for several booming oil and gas firms in the city. He enjoyed the comradery of the city's legal elite, including the bombastic Moman Pruitt.

Day had associated with prominent oil and gas magnate and civic leader R.E. Seaman in 1910. By 1920, Day was a powerhouse of wealth and status. He was Seaman's personal lawyer, general counsel/vice-president of Seaman's Continental Oil and Asphalt Company and President of the Foursome Producing and Refining Company. Day, along with his wife, Aubye, were well known for their parties and champagne lifestyle. Besides Pruitt and Seaman, amongst their many friends and admirers was a handsome decorated military aviator named Paul Ward Beck.

Beck was the son of Brig. General William Henry Beck. The senior Beck was a career military man, having been an enlisted man during the Civil War with the 6th Illinois Cavalry. Following the war, Beck received an officer's commission and served in the cavalry during

the "Indian Wars" on the American western frontier. The senior Beck participated in the Spanish-American War and the Philippine Insurrection. In 1905 Beck was promoted to brigadier general before retiring from the army. Sadly, Beck did not enjoy a long retirement, dying at Walter Reed Hospital, aged 69, in 1911.

But it was the younger Beck, Paul Ward, that propels our story today. The younger had been born at Fort McKavett, Menard County, Texas where his father was on military assignment. Colonel George Custer had been destroyed at Little Big Horn a mere six months before Paul was born. Paul endured the standard "army brat" lifestyle associated with being an officer's kid on frontier postings. Paul's mother Rachel was from Illinois and presumably the family spent time there when his father was overseas on campaign.

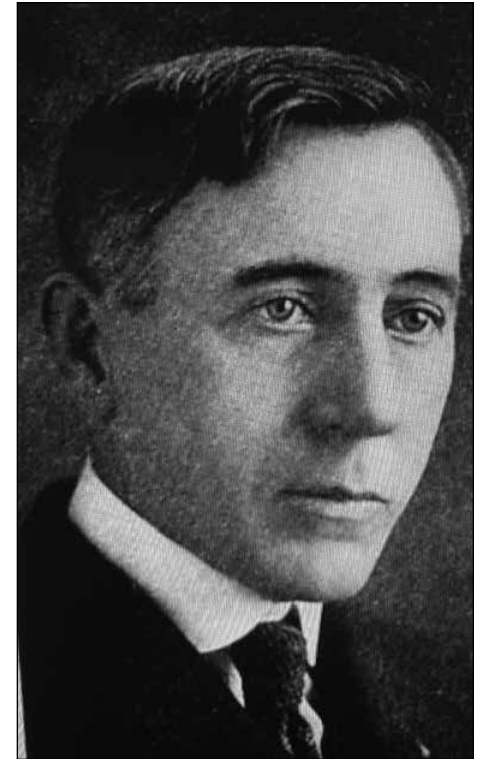
In 1895, the 20-year old Beck met and fell in love with a Nebraska girl, Ruth Evelyn Everett. They would marry the next year and have a son, Paul Junior in February 1897. They would have no further children. With the coming of the Spanish American War, Beck jumped at the idea of pursuing a military career. With drive and purpose, he pursued a military enlistment and was commissioned a second lieutenant in the U.S. Army, 5th Infantry on September 1, 1899. He was promoted to first lieutenant in 1901, and graduated from the Army Infantry School soon thereafter. He would also graduate from the Cavalry School in 1905 and the Signal Corps School in 1906. But it was the new 'aeroplane' that seized his attention. A mere 3 years after the Wright Brothers flew at Kitty Hawk, the maturing Paul became fascinated with the idea of flying. His interest in aeronautics was noted within the military and soon he became a test pilot and aviation pioneer.

In 1911 he was selected to attend the Army's first aviation school held at San Diego, California where he was promoted to Captain. It was Aviator Paul Beck that conducted the Army's first 'bombing' from an 'aeroplane' in 1910. In 1911 he transmitted the first military messages on a wireless telegraph set while flying 500 feet in the air, which was received 40 miles away by ground control. Beck was certified as one of America's first Military Aviators in 1912. He would later fly a test 'air mail' flight from Baltimore to Washington D.C. with U.S. Postmaster General Frank H. Hitchcock as a passenger.

Beck was recalled back to the Infantry from the Signal Corps Air Service and promoted to Major on August 5, 1917. The United States had declared war on Germany and experienced officers were immediately needed. (Ironically, his son, Paul Junior, was a lieutenant in the army artillery and also saw action in France.) Beck was promoted to Lieutenant Colonel of Infantry on August 5, 1918, but was relieved of the rank following the signing of the Armistice in November 1918. Beck stayed in the army and on August 28, 1919, he was appointed Major and trans-



Lt. Col. Beck circa 1910



Justice Jean Prentiss Day

ferred back to the Army Air Service. In January 1920, he was again promoted to Lieutenant Colonel and assigned as Commanding Officer of the Henry Post Airfield at Fort Sill, Oklahoma.

Despite his successful career, Beck's personal life fell apart as his lovely bride Ruth Evelyn died in Atlantic City, New Jersey, on July 22, 1921. Beck was distraught and took the unusual step of

having her cremated. Beck went back to his posting at Fort Sill and attempted to return to a normal life. With spring in the air, Colonel Beck came to Oklahoma City on the afternoon of Monday, April 3, 1922 to visit his old friend, Judge Jean Day.

Lt. Col. Beck safely arrived at the spacious Day home, not realizing he was witnessing his last mortal sunset.

ARE YOU ON THE MOVE?



Oklahoma County Bar Association
ATTORNEY PLACEMENT SERVICE

A GREAT OPPORTUNITY for attorneys seeking employment!
A GREAT WAY for law firms to find qualified attorneys!

Each candidate will be thoroughly screened by an employment specialist
ALL APPLICATIONS AND POSITIONS KEPT CONFIDENTIAL



For more information please contact

Pam Bennett
405.235.4399
or email to pam@okcbar.org

For an application packet go to
www.okcbar.org

Bar Observer

NEW OFFICERS ELECTED TO LEAD STATE REGENTS

The Oklahoma State Regents for Higher Education recently elected former Oklahoma Attorney General **Michael C. Turpen** of Oklahoma City as chairman of the board; retired Oklahoma Supreme Court Chief Justice **Steven W. Taylor** of McAlester, vice chairman; former State Rep. **Dennis Casey** of Morrison, secretary; and real estate investor **Jack Sherry** of Holdenville, assistant secretary. The new officer team will lead the nine-member board throughout the 2022-23 fiscal year, which ends June 30, 2023.

Appointed to the State Regents in 2009 and reappointed in 2018, Turpen is a partner in the law firm of Riggs, Abney, Neal, Turpen, Orbison & Lewis in Oklahoma City. Turpen served as Muskogee County district attorney from 1977-82 and was elected Oklahoma attorney general in 1982. He appears weekly on Oklahoma City NBC affiliate KFOR's award-winning public affairs show, "Flashpoint." Turpen is president of the Lyric Theatre Board of Directors and serves on the boards of the Oklahoma City National Memorial and Museum, Oklahoma State Fair Board, United Way, and Allied Arts. He is a member of the American, Oklahoma, Tulsa County and Oklahoma County bar associations, as well as a founding fellow of the Oklahoma Bar Foundation and a faculty member of the National College of District Attorneys. Turpen holds a bachelor's degree in history and law degree from The University of Tulsa.

Appointed in 2019, Taylor is a retired chief justice of the Oklahoma Supreme Court. He previously served as associate district judge and as chief judge of the 18th Judicial District. In over 20 years as a trial judge, Taylor presided over more than 500 jury trials, including the state trial of the Oklahoma City Bombing. He is a former mayor of McAlester and served in the U.S. Marine Corps as a prosecutor, defense counsel, and ultimately, as a special court martial judge. He became the youngest judge in the U.S. Armed Forces at the age of 28 and was later promoted to the rank of major. Taylor is a board member of the Oklahoma Hall of Fame and serves on the board of direc-

tors of the Oklahoma Medical Research Foundation. He currently serves as chairman of the Puterbaugh Foundation in McAlester and is a past chairman of the Oklahoma City National Memorial & Museum. He holds a bachelor's degree from Oklahoma State University and a law degree from the University of Oklahoma.

Casey, appointed to the State Regents in 2020, is a retired public school educator, coach, principal, and superintendent, and owns and operates a cow/calf operation and custom hay cutting business near Morrison. He served four terms in the Oklahoma State House of Representatives, representing District 35, and was a leader on the House Appropriations Committee. Casey spent 30 years in public education teaching, coaching, and as an administrator. As a high school athletic coach, his teams achieved 10 state championships and three academic state championships. He was inducted into the Oklahoma Coaches Hall of Fame in 2010. Casey holds bachelor's and master's degrees in education from Northeastern State University.

Sherry was appointed to the State Regents in 2020. He owns Jack Sherry Real Estate & Investments in Holdenville and operates a cattle ranch in Hughes and Seminole counties. He was appointed by former Gov. Mary Fallin to serve on the Oklahoma Lottery Commission Board and served as a trustee to the

Seminole State College Educational Foundation prior to his appointment as a state regent. Sherry currently serves as an advisory director to the First National Bank in Holdenville, president of the Hughes County Farm Bureau, and chairman of the Holdenville Hospital Board. He has also served on the Holdenville Public School Board of Education, the Holdenville Chamber of Commerce, Holdenville Lions Club, Oklahoma Southeast and Young Farmers of America, the FSA State Board, Hughes County Cattleman's Association, and Hughes County Fair Board. He was recognized as Holdenville's 2015 Citizen of the Year. Sherry attended Oklahoma State University and Seminole State College and earned his bachelor's degree from Southern Nazarene University.

The other State Regents comprising the board are **Jeffrey W. Hickman** of Fairview, **Dustin Hilliary** of Lawton, **Ann Holloway** of Ardmore, **Joseph L. Parker Jr.** of Tulsa, and **Courtney Warmington** of Edmond.

The State Regents are the constitutional coordinating board for the 25 public colleges and universities of the Oklahoma State System of Higher Education. The State Regents prescribe academic standards of higher education; determine functions and courses of study at state colleges and universities; grant degrees; request appropriations on behalf of state system institutions; set tuition and fees; approve institutional allocations; upon review, provide final approval of institutional budgets following governing board approval and submission; and manage numerous scholarships and special programs. The nine citizens who comprise the board are appointed to nine-year terms by the governor and confirmed by the state Senate.

MCAFEE & TAFT, SUSAN SHIELDS TOP-RANKED BY CHAMBERS HIGH NET WORTH 2022

For the fifth consecutive year, McAfee & Taft's Tax & Family Wealth Group received top marks among Oklahoma law firms in the Private Wealth Law category in the just-released 2022 edition of Chambers High Net Worth (HNW), and noted tax and family wealth attorney **Susan Shields** once again earned a Band 1 top ranking as one of the state's leading private wealth lawyers.

One source for the guide remarked that Shields "remains at the forefront of the estate planning market in Oklahoma," noting her expertise in providing wealth transfer guidance for high net worth families and assisting businesses with succession issues. In addition, the firm's Tax & Family Wealth Group was lauded for its expertise and ability to provide comprehensive planning, advisory and transactional services to high net worth individuals and families.

For nearly 35 years, Shields has concentrated her practice in the areas of

tax and family wealth law, focusing on wealth transfer tax planning for high net worth families and individuals, business planning for closely held family businesses, and estate and trust administration. She is an elected Fellow of the prestigious American College of Trust and Estate Counsel and past president of the Oklahoma Bar Association. Her legal achievements have also earned her perennial inclusion in The Best Lawyers in America as well as Oklahoma Super Lawyers, where she has been named to its exclusive list of "Top 10 Lawyers."

Published by Chambers & Partners, the Chambers HNW guide focuses on the international private wealth market. Rankings are the result of independent research in which hundreds of interviews were conducted of lawyers, family offices, accountants, tax advisers, bankers, investment managers, and other professionals about the private wealth industry. This is the fifth year that Chambers HNW has ranked Oklahoma professionals.

McAfee & Taft has offices in Oklahoma City, Tulsa and Springfield (MO) and is one of the nation's 250 largest law firms as ranked by the National Law Journal.

OGLETREE DEAKINS RECENTLY WELCOMED MATTHEW CRAIG TO THE OKLAHOMA CITY OFFICE

Matthew Craig joins Ogletree Deakins as an associate in the firm's Oklahoma City office. He represents employers in state and federal court litigation and administrative proceedings, including disputes involving allegations of wrongful termination, harassment, discrimination, violations of wage and hour laws, as well as unfair competition and misappropriation of trade secrets. Matthew earned his J.D. from the University of Oklahoma College of Law, where he graduated with highest honors, was inducted as a member of the Order of the Coif, and served as an Assistant Executive Editor for the American Indian Law Review.

Honoring Special Judge Allen Welch



Special Judge Allen Welch, center, retired from the Bench in June and stands surrounded by fellow judges and special friends.

BIRDWELL

continued from page 2

His leadership and tenacity under fire inspired the other C Troop soldiers to continue fighting against the superior enemy force, and directly contributed to the enemy’s ultimate defeat. Specialist Five Birdwell’s extraordinary heroism and selflessness above and beyond the-call of duty were in keeping with the-highest traditions of military service and reflect great credit upon himself, his unit, and the United States Army.

Months later, on July 4, 1968, Dwight Birdwell again risked his own life to rescue more American soldiers, some-wounded, stranded in an enemy-occupied village. Birdwell exposed himself to heavy enemy fire to reach a damaged armored personnel carrier, loading his wounded compatriots and evacuating them to safety. In addition to the Medal of Honor, Birdwell was also awarded two (2) Purple Hearts and two (2) Silver Stars for Bravery for his courageous action and leadership in Vietnam. In 1997, Birdwell co-authored a book about his experiences in the Vietnam War entitled “A Hundred Miles of Bad Road.”

Birdwell returned home in December 1968. He attended Northeastern State University, graduating with academic distinction in 1972. Birdwell earned his law degree from the University of Oklahoma School of Law, graduating with honors in 1976. Birdwell has practiced law in Oklahoma City for forty-six years in the areas of energy, natural resources and Indian law. From 1987 to 1999, Birdwell was a member of the Cherokee Nation’s Judicial Appeals Tribunal (Supreme Court) and served as its Chief Justice from 1995–1996 and 1998–1999. He was inducted into the Oklahoma Military Hall of Fame by the Oklahoma Military Heritage Foundation in 2017. Today, Dwight Birdwell remains an active private practitioner in Oklahoma City. He and his wife, Virginia, have been married fifty-three years. They have two children and two grandchildren.

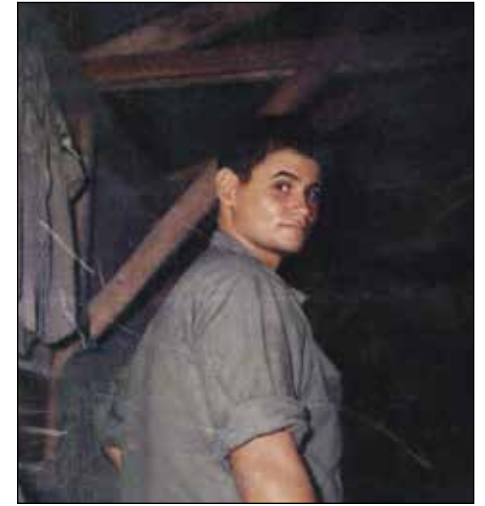
In 150 years, only 3,534 medals have been awarded. Recipients displayed, “in the moments that mattered — bravery, courage, sacrifice, integrity. A deep love of country and a desire to always do what is right.” The Medal of Honor truly is presented only to the deserving. Something like one in six recipients made the ultimate sacrifice and were awarded their medals posthumously. Yet, many lawyers (like me) hadn’t the slightest inclination the person standing next to them in the courtroom, or speaking on the other end of the line, was a *bona fide* American hero. But Dwight Birdwell wouldn’t have it any other way. “I’m just not used to all this,” he said, when contacted by the *Briefcase*. “I did my duty . . . I served with pride. And I might not have done enough, but I did as much as I could.” Our country owes Dwight Birdwell a debt of gratitude for his distinguished service. As practitioners, we are all very proud to count him a colleague and friend.



North of Imjin River, just south of the DMZ, Korea, with friends Melvin and Cunningham. Photo courtesy of Dwight W. Birdwell



C Troop tank stuck in mud, rain season, Vietnam. Photo courtesy of Dwight W. Birdwell



DWB in Vietnam. Photo courtesy of Dwight W. Birdwell



C Troop tank, C-35, captured by NVA at Hoc Mon, February, 1968. This is the tank DWB was assigned to at TSN Air Base, January 31, 1968. Photo courtesy of Dwight W. Birdwell



DWB, U.S. Army photo. Photo courtesy of Dwight W. Birdwell



DWB 1949 photo taken by Adair County, Oklahoma relatives. Photo courtesy of Dwight W. Birdwell



Stillwell High School senior photo, 1966. Photo courtesy of Dwight W. Birdwell



C Troop picture, C-35 tank. Photo courtesy of Dwight W. Birdwell



1976 Graduation from OU Law school. Photo courtesy of Dwight W. Birdwell



Cherokee Nation court picture. Photo courtesy of Dwight W. Birdwell



C-35 tank photo, taken late 1967 early 1968. Photo courtesy of Dwight W. Birdwell



Recent photo taken by Mrs. John Greiner. Photo courtesy of Dwight W. Birdwell

LAWPAY[®]

AN AFFINIPAY SOLUTION



Member
Benefit
Provider

“I love LawPay! I’m not sure why I waited so long to get it set up.”

– Law Firm in Ohio

Trusted by more than 150,000 professionals, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.



22% increase in cash flow with online payments



Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA



62% of bills sent online are paid in 24 hours

YOUR FIRM LOGO HERE

Trust Payment
IOLTA Deposit

New Case Reference

**** * 9995

TOTAL: \$1,500.00

VISA



POWERED BY
LAWPAY

eCheck

DISCOVER

PAY ATTORNEY

PAYMENT
RECEIVED



Get started at
lawpay.com/okcbar
866-276-9492

Data based on an average of firm accounts receivables increases using online billing solutions.

LawPay is a registered agent of Wells Fargo Bank N.A., Concord, CA and Synovus Bank, Columbus, GA.