

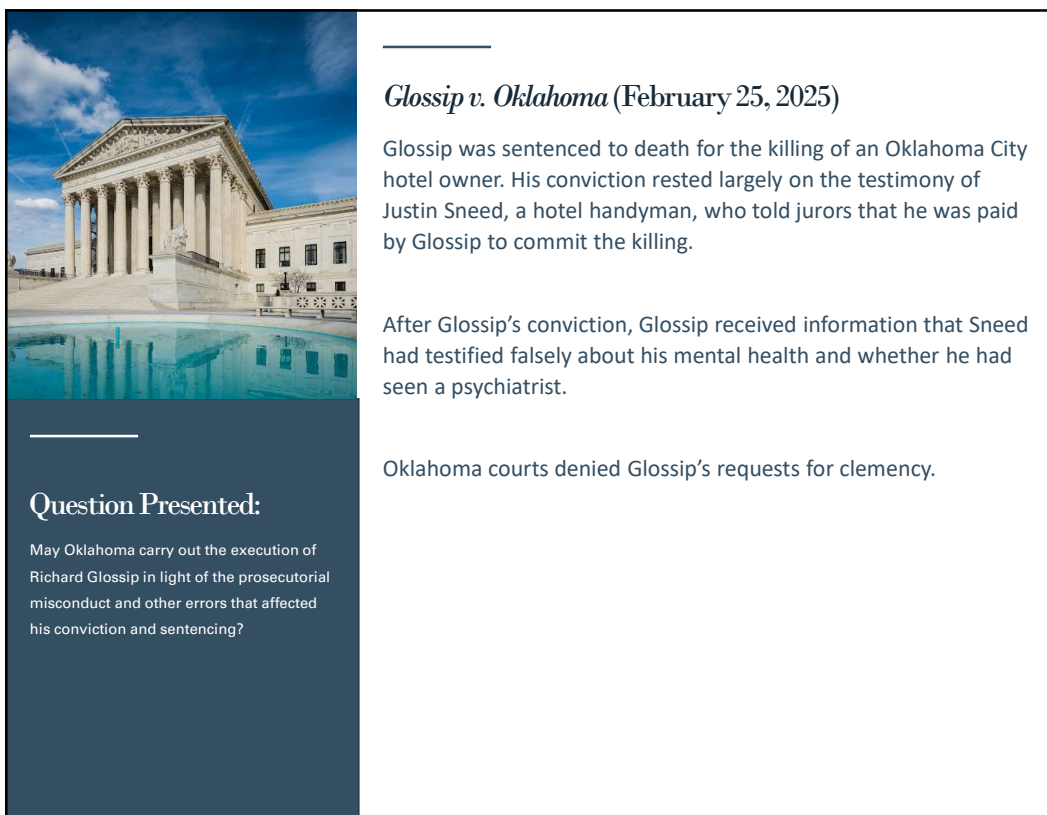
Mississippi Public  
Defenders  
Conference

Contact

Justin T. Cook  
Assistant State Defender  
jcook@ospd.ms.gov  
601-576-4290

Appellate  
Update  
Spring 2025

1



*Glossip v. Oklahoma* (February 25, 2025)

Glossip was sentenced to death for the killing of an Oklahoma City hotel owner. His conviction rested largely on the testimony of Justin Sneed, a hotel handyman, who told jurors that he was paid by Glossip to commit the killing.

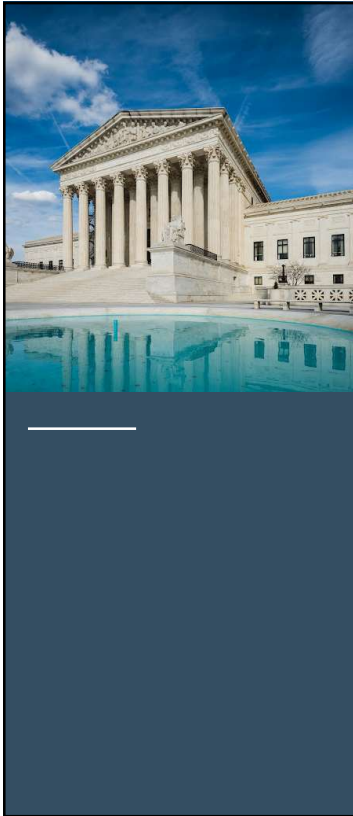
After Glossip's conviction, Glossip received information that Sneed had testified falsely about his mental health and whether he had seen a psychiatrist.

Oklahoma courts denied Glossip's requests for clemency.

**Question Presented:**

May Oklahoma carry out the execution of Richard Glossip in light of the prosecutorial misconduct and other errors that affected his conviction and sentencing?

2




---

### *Glossip* (Cont.)

The prosecution's failure to correct Sneed's false testimony violated the Due Process Clause under *Napue v. Illinois*. A conviction that relies on false evidence, knowingly allowed by the prosecution, requires reversal if there is a reasonable likelihood that the falsehood affected the jury's judgment.

Correcting this false testimony would likely have changed the jury's assessment of Sneed's reliability. Additionally, the prosecution's violations extended beyond *Napue*: it suppressed exculpatory evidence, interfered with witness testimony, and allowed destruction of key physical evidence. Given these cumulative errors and their impact on the fairness of the trial, *Glossip* is entitled to a new trial. The Oklahoma Court of Criminal Appeals' rejection of the Attorney General's confession of error was based on a misapplication of federal law.

3




---

### Mississippi Supreme Court Cases

---


### *Toler v. State* (November 14, 2024)

Toler was convicted of four counts of aggravated assault, one count of shooting into a motor vehicle, four counts of aggravated assault against law enforcement, and felony fleeing.

The Court found that Toler's multiple convictions for aggravated assault were multiplicitous.

"In today's case, the evidence supports only one conviction and sentence of aggravated assault as to counts one through four. Each of those charges in Toler's indictment do not differ in fact. The record does not reveal any criminal act Toler took against any individual one of the youths that was separate and distinct from the others."

4



MISSISSIPPI SUPREME COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL GARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---


*Holly v. State* (December 5, 2024)

Jury sent out three notes expressing confusion about the deliberation process. The most interesting aspect of the case comes from the concurrence from Justice Ishee:

“I certainly am not assigning trial courts a duty to issue supplemental instructions. I am, however, urging trial courts to take the opportunity to clarify the deliberation process for the jury in cases in which the jury is so blatantly confused, as it was here. The standard should not be for trial courts to remain silent when a jury requests guidance on how to deliberate.”

**MAY BE AN IMPORTANT CONCURRENCE TO HAVE IN BACK POCKET.**

5



MISSISSIPPI SUPREME COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL GARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---

*Quinn v. State* (December 12, 2024).

The COA originally reversed Quinn’s conviction because the State failed to prove venue. The only evidence of venue came through hearsay testimony offered by one of the State’s detectives.

The MSSC held that because Quinn did not object to the two questions that brought out the hearsay, the impropriety of the testimony could not be considered on appeal.

The testimony itself was sufficient to establish venue, because venue can be established through circumstantial evidence.

6




MISSISSIPPI SUPREME COURT CASES

---

*Fluker v. State* (September 12, 2024)

In a prosecution for conspiracy to commit aggravated assault, the trial court erred in denying Fluker’s lesser-included offense instruction for conspiracy to commit simple assault.

7



MISSISSIPPI SUPREME COURT CASES

---


*Barnett v. State* (January 30, 2025).

In a conviction for sale of methamphetamines, the trial court granted the following instruction:

“It is permissible for a technical reviewer to testify in place of the primary analyst even if the witness did not perform the analysis first hand, as long as the witness has intimate knowledge of the analyses and was actively involved in the production of the report at issue.”

This was error.

8



MISSISSIPPI SUPREME COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL MARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---

*Barnett (cont.)*

The instruction in this case improperly conflated the admissibility of the analyst’s testimony with that testimony’s weight and credibility.

This is another line of cases where the MSSC has reversed based upon jury instructions that tell jurors how to weigh evidence.

Be on the lookout.

9



MISSISSIPPI SUPREME COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL MARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---

*Knight v. State (February 20, 2025)*

Knight was convicted of two counts of child exploitation and one count of fondling. The central issue in this case involved the warrantless search of Knight’s cell phone.

Knight gave his girlfriend the passcode to Knight’s phone and went to sleep. The girlfriend found an unfamiliar app called “Vaulty” which was passcode protected. She looked on YouTube for a video on how to crack Vaulty’s password protection and did so. On the phone, she discovered a pornographic video of her daughter.

The girlfriend then went to the police department. She showed a sergeant the video and gave the sergeant the phone and passcode.

10



MISSISSIPPI SUPREME COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL GARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---

*Knight (cont.)*

A detective ordered the sergeant to place the phone on a charger and activate airplane mode. When the detective arrived at the station, the girlfriend told him that the phone was Knight's but that she had permission to use it. The detective was further aware that the girlfriend had broken into Vaulty.

The girlfriend gave the detective the password to the phone and showed him how to break into Vaulty.

In an issue of first impression, the Court applied the private search doctrine.

11



MISSISSIPPI SUPREME COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL GARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---


*Knight v. State (February 20, 2025)*

Private search test:

The government does not conduct a search that implicates the protections of the Fourth Amendment when (1) a private individual—not acting as the government's agent—first conducts the search or seizure, and (2) the government does not thereafter exceed the scope of the private citizen's initial search or seizure.

In this case, the Court found that the private search test applied and the Fourth Amendment was not violated.

12



MISSISSIPPI SUPREME COURT  
OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL GARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---

*Minor v. State* (February 27, 2025)

Minor was convicted of possession of marijuana and trafficking of THC.

The Court found cumulative error in the prosecutor’s repeated misconduct. Here are some examples:

In opening, the prosecutor commented on Minor’s right to remain silent.

During its direct examination of an MBN Agent, the prosecutor elicited inflammatory testimony regarding the effect of edibles on children without an evidentiary basis.

On re-direct of the same witness, the prosecutor elicited an out-of-court-statement from a witness that Minor was not allowed to cross-examine.

13



MISSISSIPPI SUPREME COURT  
OF APPEALS OF THE STATE OF MISSISSIPPI

ROLL GARTIN JUSTICE BUILDING

---

Mississippi Supreme Court Cases

---

*Minor* (cont.)

Then, in closing, the State referenced the inadmissible hearsay and used evidence of the co-defendant’s guilt as evidence of Minor’s guilt, a violation of the severance of the two.

The MSSC dressed down the prosecutor and applied the cumulative error doctrine to reverse Minor’s convictions and refused to apply procedural bars to some of the prosecutor’s blatant conduct.

“[A] line must be drawn, a line to dispel the notion that endless errors can be rectified on procedural grounds.”

14



MISSISSIPPI SUPREME COURT CASES

---


*MSSC quick hits:*

*Walker v. State* (March 20, 2025) – “Unfortunately, we must yet again instruct, as unambiguously and plainly as we possibly can, that in *all* felony cases, the entirety of the proceeding should be transcribed.”

\*\*\*THERE IS A PROCEDURE – Look at Miss. R. App. P. 10(c)\*\*\*

*Pitts v. State* (March 20, 2025) – A defendant’s confrontation rights were not violated when a screen was placed between a child witness and the defendant at trial.

15



COURT OF APPEALS CASES

---

*Lucas v. State* (December 3, 2024).

Lucas was charged with burglary with the underlying crime of malicious mischief.


The State sought to have the jury instructed on the offense of “malicious mischief.” Lucas argued that because malicious mischief is not a lesser-included offense of burglary, such an instruction was improper.

Lucas was convicted of malicious mischief.

The COA reversed, holding that the jury was improperly instructed.

16





Court of Appeals Cases

---


*Gibson v. State* (January 14, 2025)

Gibson was charged with killing his brother-in-law. The State called the defendant's wife who witnessed the moments leading up to the killing. Gibson did not object to his wife's testimony.

Rule 601(b) provides that one's spouse is only competent to testify against the other under limited circumstances. But, because Gibson did not object to his wife's testimony, that issue is procedurally barred.

Of note, there was a concurrence from Judge Lawrence that argued that Mississippi's spousal competency rules are outdated, problematic, and should be changed.

17



Court of Appeals Cases

---


*Haynes v. State* (January 28, 2025).

In a homicide prosecution, the jury was given four separate jury instructions on self-defense. However, the trial court denied Haynes's stand-your-ground/no-duty-to-retreat instruction.

Because there was an evidentiary basis for the instruction, based on the State's cross-examination of Haynes, the trial court erred, given that none of the given instructions accurately outlined the law on retreat.

This is a relatively fact intensive case that should be analyzed and applied to any self-defense cases you may have.

18



Court of Appeals Cases

---


*Roncali v. State* (February 20, 2025).

Roncali was convicted of capital murder of his wife.

The facts leading up to the wife’s death read like a meth horror story and defy succinct summation.

Though the wife’s body had bruising and ligature marks, her cause of death was due to a methamphetamine overdose. Dr. LeVaughn testified that the wife’s manner of death was a homicide based on his autopsy and information he obtained throughout the investigation. Dr. LeVaughn testified that the wife’s death was a result of a third party injecting her with meth.

19




Court of Appeals Cases

---

*Roncali* (cont.)

The COA held that the trial court erred in allowing Dr. LeVaughn’s testimony about third-party injecting. The statement by an unidentified investigator was “unsupported speculation or subjective belief” and was not a “reasonably accurate basis” to support Dr. LeVaughn’s expressed expert opinion.

20



SEVEN JUSTICE BUILDING  
THE COURT OF MISSISSIPPI  
APPEALS OF THE STATE OF MISSISSIPPI

---

**Court of Appeals Cases**

---

***Court of Appeals Quick Hits***


*Ellzey v. State* (November 11, 2024) – a concurrence from Judge McCarty highlighting the need for prosecutors to remain diligent in narrowing indictments when at all possible.

*Levi v. State* (December 10, 2024) – it was improper to admit Levi’s prior convictions for simple possession in his drug trafficking trial.

*Johnson v. State* (February 4, 2025) – dual convictions for felon in possession of a weapon did not violate double jeopardy when those weapons were recovered at different times (but were they really though?).

*Wallace v. State* and *Taylor v. State* (February 18, 2025) – both involve speedy trial claims and contain concurrences bemoaning the current state of Mississippi’s speedy trial jurisprudence.

21



SEVEN JUSTICE BUILDING  
THE COURT OF MISSISSIPPI  
APPEALS OF THE STATE OF MISSISSIPPI

---

**Court of Appeals Cases**

---

***Court of Appeals Quick Hits***

*Star v. State* (February 25, 2025) – indictment for being a felon in possession of a “knife” did not allege a crime.

*Harper v. State* (March 11, 2025) – a prosecution for felony fleeing was not commenced within two years of the date of the offense and was barred by the statute of limitations.

22

2025 Spring Public  
Defender Conference

**Session Ten:**

Appellate Law Update

Friday, April 25, 2025

8:45am – 10:00am

Justin Cook

