

COURT OF CRIMINAL APPEALS OF OKLAHOMA

Battee v. State

2026 OK CR 5 · No. F-2023-930 · Decided February 5, 2026

SUMMARY

The Oklahoma Court of Criminal Appeals affirmed Trymel Keith Battee's conviction and sentence for conjoint robbery. The court held that the trial judge's undisclosed pursuit of employment with the Oklahoma State Bureau of Investigation did not establish an unconstitutional potential for judicial bias. It also held that due process did not require exclusion of in-court identifications based on the witnesses' own pretrial research because the identification procedures were not arranged or sponsored by state actors.

CASE DETAILS

COURT	Court of Criminal Appeals of Oklahoma
WRITING FOR THE COURT	Musseman, Vice Presiding Judge; Lumpkin, Presiding Judge; Lewis, Judge; Hudson, Judge; Rowland, Judge
JURISDICTION	Oklahoma Court of Criminal Appeals
DECIDED	February 5, 2026
DOCKET	F-2023-930
DISPOSITION	affirmed
PROCEDURAL POSTURE	Battee appealed his conviction and sentence for conjoint robbery after a jury found him guilty and assessed thirty years' imprisonment, with all but the first twenty years suspended. He challenged the trial judge's failure to recuse or disclose a prospective OSBI employment relationship and the admission of in-court identifications.
STANDARD OF REVIEW	The court applied an objective due-process analysis to the judicial-bias claim. The identification claim was reviewed for plain error because the specific objection asserted on appeal was not made at trial. The concurrence additionally stated that the recusal claim was reviewed for plain error because no recusal request or objection was made below.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Trymel Keith Battee v. The State of Oklahoma

TOPICS

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QUESTIONS PRESENTED

1. Whether the trial judge's undisclosed effort to obtain employment as OSBI general counsel created an unconstitutional potential for actual bias requiring reversal under the Due Process Clause.
2. Whether admission of the Taylors' in-court identifications violated due process when the witnesses' allegedly suggestive pretrial identification activity was independently undertaken and not arranged or sponsored by state actors.
3. Whether the admission of the challenged identifications constituted plain error.

HOLDINGS

1. A trial judge's effort to obtain employment as general counsel for an investigative agency, without more, did not establish an unconstitutional potential for actual bias or a direct pecuniary interest in the defendant's case.
2. The Due Process Clause does not require a preliminary reliability inquiry into an allegedly suggestive identification unless the identification procedure was arranged or sponsored by law enforcement or another state actor.
3. The admission of the Taylors' in-court identifications did not constitute plain error.

KEY QUOTATIONS

“An allegedly suggestive pre-trial identification alleged to violate a defendant's constitutional due process rights must be the result of either police or prosecution action to have an effect on the admissibility of a subsequent in-court identification.” (¶ 21)

“The Judgment and Sentence of the district court is AFFIRMED.” (¶ 24)

FACTUAL BACKGROUND

Battee was tried for the conjoint robbery of the Stoned 4 Survival dispensary and was convicted based in part on the in-court identifications of Donny and Sheri Taylor. Neither Taylor identified Battee at the preliminary hearing, but by trial both had learned his name and identified him after Sheri independently studied surveillance footage and searched social-media accounts, sharing that information with Donny. After trial, it became known that the trial judge had been seeking employment as general counsel for the Oklahoma State Bureau of Investigation during the case, although there was no evidence that the OSBI was interested in the case or that the judge highlighted her involvement in it.

PROCEDURAL HISTORY

The District Court of Choctaw County entered judgment and sentence after a jury trial in Case No. CF 2021 67. Battee appealed to the Oklahoma Court of Criminal Appeals, which denied his propositions of error, denied his motion for new trial and request for an evidentiary hearing, affirmed the judgment and sentence, and ordered the mandate issued.

DISPOSITION

affirmed

CASES CITED

- Fort v. State, 2022 OK CR 12, 516 P.3d 690
- Williams v. Pennsylvania, 579 U.S. 1 (2016)
- Caperton v. A.T. Massey Coal Co., Inc., 556 U.S. 868 (2009)
- Rippo v. Baker, 580 U.S. 285 (2017)
- Withrow v. Larkin, 421 U.S. 35, 47 (1975)
- Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813, 828 (1986)
- Tumey v. State of Ohio, 273 U.S. 510 (1927)
- Ward v. Village of Monroeville, Ohio, 409 U.S. 57 (1972)
- In re Al-Nashiri, 921 F.3d 224 (D.C. Cir. 2019)
- Bench v. State, 2021 OK CR 39, 504 P.3d 592
- Davis v. State, 2018 OK CR 7, 419 P.3d 271
- Gillioms v. State, 2022 OK CR 3, 504 P.3d 613
- Washington v. State, 2023 OK CR 22, 541 P.3d 852
- Hogan v. State, 2006 OK CR 19, 139 P.3d 907
- Simmons v. United States, 390 U.S. 377, 384 (1967)
- Neil v. Biggers, 409 U.S. 188, 199-201 (1972)
- Foster v. California, 394 U.S. 440 (1969)
- United States v. Wade, 388 U.S. 218 (1967)
- Perry v. New Hampshire, 565 U.S. 228, 233, 248 (2012)
- Manson v. Brathwaite, 432 U.S. 98, 116 (1977)
- Simpson v. State, 1994 OK CR 40, 876 P.2d 690