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Confrontation Clause Requires In Court Testimony of Analyst in Drug Cases

The United States Supreme Court finds that the 6th Amendment right to confrontation requires that an analyst who tested drugs in the lab must testify in court to get those lab results entered into evidence. This important case will impact both drug cases and DWI/DUI cases in Albuquerque and throughout New Mexico.

The United States Supreme Court case of *Melendez v. Massachusetts* involved the introduction of evidence by the prosecution of laboratory certificates from the state laboratory regarding cocaine connected to the defendant. The analyst that conducted the testing of the cocaine was not present at trial.

The defendant objected to the admission of the lab certificate without in-court testimony by the lab analyst. The defendant argued that the practice was a violation of the 6th Amendment confrontation clause as set forth in the 2004 Supreme Court case *Crawford v. Washington*.

The United States Supreme Court in *Melendez v. Massachusetts* agreed that the practice of admitting lab certificates in lieu of or in the absence of foundational testimony was a violation of the confrontation clause as set forth in *Crawford*.

The court rejected the prosecution's arguments that these analyst were not accusatory witnesses. The court stated that there was no exemption from the confrontation clause for those witnesses testifying to facts other those observed at the crime scene. The court found any witness who offers his testimony is subject to the confrontation clause.

The court also refused the prosecution's argument that these certificates are excluded from the hearsay rules as official business record. Likewise, the Court refused the argument that these lab analysts are neutral and unbiased simply applying scientific methods to the substance in question. Finally, the court stated that it was immaterial that the defendant himself could have subpoenaed the analyst to court holding that it was the State's burden to bring their witnesses to court for foundational purposes.

The *Melendez* case could have significant impact on cases throughout the State of New Mexico. It appears that the ruling will cover the admission of lab results from New Mexico's scientific lab division in both drug cases and DWI/DUI cases. The cases are winding their way through the New Mexico courts now as the Courts here attempt to deal with the *Melendez* rulings.

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.albuquerquecriminallawyerblog.com/>