MELENDEZ-DIAZ v. MASSACHUSETTS.
129 S.Ct. 2527 (2009)
(edited opinion)

The Massachusetts courts in this case admitted into evidence affidavits reporting the results of forensic analysis which showed that material seized by the police and connected to the defendant was cocaine. The question presented is whether those affidavits are "testimonial," rendering the affiants "witnesses" subject to the defendant's right of confrontation under the Sixth Amendment.

I

In 2001, Boston police officers received a tip that a Kmart employee, Thomas Wright, was engaging in suspicious activity. The informant reported that Wright repeatedly received phone calls at work, after each of which he would be picked up in front of the store by a blue sedan, and would return to the store a short time later. The police set up surveillance in the Kmart parking lot and witnessed this precise sequence of events. When Wright got out of the car upon his return, one of the officers detained and searched him, finding four clear white plastic bags containing a substance resembling cocaine. The officer then signaled other officers on the scene to arrest the two men in the car-one of whom was petitioner Luis Melendez-Diaz. The officers placed all three men in a police cruiser.

During the short drive to the police station, the officers observed their passengers fidgeting and making furtive movements in the back of the car. After depositing the men at the station, they searched the police cruiser and found a plastic bag containing 19 smaller plastic bags hidden in the partition between the front and back seats. They submitted the seized evidence to a state laboratory required by law to conduct chemical analysis upon police request.

Melendez-Diaz was charged with distributing cocaine. At trial, the prosecution placed into three "certificates of analysis" showing the results of the forensic analysis performed on the seized substances. The certificates reported the weight of the seized bags and stated that the bags "[h]a[ve] been examined with the following results: The substance was found to contain: Cocaine." The certificates were sworn to before a notary public by analysts at the State Laboratory Institute of the Massachusetts Department of Public Health, as required under Massachusetts law.

Petitioner objected to the admission of the certificates, asserting that our Confrontation Clause decision in *Crawford v. Washington,* required the analysts to testify in person. The objection was overruled.

II

In *Crawford,* after reviewing the Confrontation Clause's historical underpinnings, we held that it guarantees a defendant's right to confront those "who 'bear testimony' " against him. A witness's testimony against a defendant is thus inadmissible unless the witness appears at trial or, if the witness is unavailable, the defendant had a prior opportunity for cross-examination.

There is little doubt that the documents at issue in this case fall within the "core class of testimonial statements" described [in Crawford]. Our description of that category mentions affidavits twice. The documents at issue here, while denominated by Massachusetts law "certificates," are quite plainly affidavits: "declaration [s] of facts written down and sworn to by the declarant before an officer authorized to administer oaths." and made for the purpose of establishing or proving some fact. The fact in question is that the substance found in the possession of Melendez-Diaz and his codefendants was, as the prosecution claimed, cocaine -- the precise testimony the analysts would be expected to provide if called at trial.

Here, moreover, not only were the affidavits " 'made under circumstances which would lead an objective witness reasonably to believe that the statement would be available for use at a later trial,' but under Massachusetts law the *sole purpose* of the affidavits was to provide "prima facie evidence of the composition, quality, and the net weight" of the analyzed substance. We can safely assume that the analysts were aware of the affidavits' evidentiary purpose, since that purpose-as stated in the relevant state-law provision-was reprinted on the affidavits themselves.

In short, under our decision in *Crawford* the analysts' affidavits were testimonial statements, and the analysts were "witnesses" for purposes of the Sixth Amendment. Absent a showing that the analysts were unavailable to testify at trial *and* that petitioner had a prior opportunity to cross-examine them, petitioner was entitled to " 'be confronted with' " the analysts at trial.

We turn now to the various legal arguments raised by respondent and the dissent.

A

Respondent first argues that the analysts are not subject to confrontation because they are not "accusatory" witnesses, in that they do not directly accuse petitioner of wrongdoing; rather, their testimony is inculpatory only when taken together with other evidence linking petitioner to the contraband. The Sixth Amendment guarantees a defendant the right "to be confronted with the witnesses *against him*." (Emphasis added.) To the extent the analysts were witnesses (a question resolved above), they certainly provided testimony *against* petitioner, proving one fact necessary for his conviction-that the substance he possessed was cocaine.

B

Respondent and the dissent argue that the analysts should not be subject to confrontation because they are not "conventional" (or "typical" or "ordinary") witnesses in that they "observe[d] neither the crime nor any human action related to it." [and] that their statements [reports] were not provided in response to interrogation. As we have explained, "[t]he Framers were no more willing to exempt from cross-examination volunteered testimony or answers to open-ended questions than they were to exempt answers to detailed interrogation." Respondent and the dissent cite no authority, and we are aware of none, holding that a person who volunteers his testimony is any less a " 'witness against' the defendant," In any event, the analysts' affidavits in this case *were* presented in response to a police request. If an affidavit submitted in response to a police officer's request to "write down what happened" suffices to trigger the Sixth Amendment's protection (as it does), then the analysts' testimony should be subject to confrontation as well.

C

Respondent claims that there is a difference, for Confrontation Clause purposes, between testimony recounting historical events, which is "prone to distortion or manipulation," and the testimony at issue here, which is the "resul[t] of neutral, scientific testing." Relatedly, respondent and the dissent argue that confrontation of forensic analysts would be of little value because "one would not reasonably expect a laboratory professional ... to feel quite differently about the results of his scientific test by having to look at the defendant." This argument is little more than an invitation to return to our overruled decision in *Roberts,* which held that evidence with "particularized guarantees of trustworthiness" was admissible notwithstanding the Confrontation Clause. _What we said in *Crawford* in response to that argument remains true:_Dispensing with confrontation because testimony is obviously reliable is akin to dispensing with jury trial because a defendant is obviously guilty. This is not what the Sixth Amendment prescribes."

Nor is it evident that what respondent calls "neutral scientific testing" is as neutral or as reliable as respondent suggests. Forensic evidence is not uniquely immune from the risk of manipulation [or error]. Confrontation is designed to weed out not only the fraudulent analyst, but the incompetent one as well.