

Friday, October 2, 2009

[Greenbelt Court Interprets Melendez-Diaz](#)

United States of America v. Clark Darden, Case No. 09-602M

The opinion is available [here](#) (pdf).

Last week, Judge DiGirolamo signed an opinion interpreting the Supreme Court's recent decision in *Melendez-Diaz v. Massachusetts*, 129 S. Ct. 2537 (2009). In *Melendez-Diaz*, the Court held that state forensic analysts' "certificates of analysis" performed on seized substances, and prepared for use in criminal prosecutions are testimonial evidence, and subject to confrontation as set forth in Crawford: "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." Very generally, *Melendez-Diaz* held that the government may not prove the contents of a printed forensic analysis record without the presence of the analyst.

In *Darden*, the defendant argued that the Government was required to produce the testimony of two lab technicians who conducted tests on the seized substances, and who produced the raw data, upon which the supervising toxicologist relied in forming his opinion as to the alcohol content of the sample.

The defendant argued that under the Supreme Court's decision in *Melendez-Diaz*, the Government was required to produce the testimony of each of the lab technicians, and not only the testimony of the supervising lab technician. The Government argued that the data gathered and recorded by the lab technicians, which was eventually used by the supervisor, were not "statements" of the lab technicians, were not "hearsay" statements, and were not "testimonial."

The Court disagreed with the defendant. It held that the inculpatory "statements" of the lab technicians were not statements at all, but rather "printed data generated by the testing machines." The Court stated that "[The supervising technician] did not simply conduct a technical review" of the findings and conclusions of the underlying testing individuals. He reviewed the raw data in order to form his own conclusions and findings. . . . [The] technicians did not generate their own conclusions but simply ran the tests which generated the data."

In the end, *Darden* is an interpretation of *Melendez-Diaz* that the presence of the technicians involved in the chain of custody of a sample is not required for cross-examination regarding the reliability of the data generated from the sample.

Posted by [Brennan Sullivan and McKenna](#)