

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

MELLENDEZ-DIAZ v. MASSACHUSETTS

CERTIORARI TO THE APPEALS COURT OF MASSACHUSETTS

No. 07–591. Argued November 10, 2008—Decided June 25, 2009

At petitioner’s state-court drug trial, the prosecution introduced certificates of state laboratory analysts stating that material seized by police and connected to petitioner was cocaine of a certain quantity. As required by Massachusetts law, the certificates were sworn to before a notary public and were submitted as prima facie evidence of what they asserted. Petitioner objected, asserting that *Crawford v. Washington*, 541 U. S. 36, required the analysts to testify in person. The trial court disagreed, the certificates were admitted, and petitioner was convicted. The Massachusetts Appeals Court affirmed, rejecting petitioner’s claim that the certificates’ admission violated the Sixth Amendment.

Held: The admission of the certificates violated petitioner’s Sixth Amendment right to confront the witnesses against him. Pp. 3–23.

(a) Under *Crawford*, a witness’s testimony against a defendant is inadmissible unless the witness appears at trial or, if the witness is unavailable, the defendant had a prior opportunity for cross examination. 541 U. S., at 54. The certificates here are affidavits, which fall within the “core class of testimonial statements” covered by the Confrontation Clause, *id.*, at 51. They asserted that the substance found in petitioner’s possession was, as the prosecution claimed, cocaine of a certain weight—the precise testimony the analysts would be expected to provide if called at trial. Not only were the certificates made, as *Crawford* required for testimonial statements, “under circumstances which would lead an objective witness reasonably to believe that the statement would be available for use at a later trial,” *id.*, at 52, but under the relevant Massachusetts law their *sole purpose* was to provide prima facie evidence of the substance’s composition, quality, and net weight. Petitioner was entitled to “be confronted with” the persons giving this testimony at trial. *Id.*, at 54.

2 MELLENDEZ-DIAZ v. MASSACHUSETTS Syllabus

Pp. 3–5.

(b) The arguments advanced to avoid this rather straightforward application of *Crawford* are rejected. Respondent’s claim that the analysts are not subject to confrontation because they are not “accusatory” witnesses finds no support in the Sixth Amendment’s text or in this Court’s case law. The affiants’ testimonial statements were not “nearly contemporaneous” with their observations, nor, if they had been, would that fact alter the statements’ testimonial character. There is no support for the proposition that witnesses who testify regarding facts other than those observed at the crime scene are exempt from confrontation. The absence of interrogation is irrelevant; a witness who volunteers his testimony is no less a witness for Sixth Amendment purposes. The affidavits do not qualify as traditional official or business records. The argument that the analysts should not be subject to confrontation because their statements result from neutral scientific testing is little more than an invitation to return to the since-overruled decision in *Ohio v. Roberts*, 448 U. S. 56, 66, which held that evidence with “particularized guarantees of trustworthiness” was admissible without confrontation. Petitioner’s power to subpoena the analysts is no substitute for the right of confrontation. Finally, the requirements of the Confrontation Clause may not be relaxed because they make the prosecution’s task burdensome. In any event, the practice in many States already accords with today’s decision, and the serious disruption predicted by respondent and the dissent has not materialized. Pp. 5–23.

69 Mass. App. 1114, 870 N. E. 2d 676, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which STEVENS, SOUTER, THOMAS, and GINSBURG, JJ., joined. THOMAS, J., filed a concurring opinion. KENNEDY, J., filed a dissenting opinion, in which ROBERTS, C. J., and BREYER and ALITO, JJ., joined. _____ 1 Cite as: 557 U. S. ____ (2009)

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 07–591

LUIS E. MELENDEZ-DIAZ, PETITIONER v. MASSACHUSETTS
ON WRIT OF CERTIORARI TO THE APPEALS COURT OF MASSACHUSETTS

[June 25, 2009]

JUSTICE SCALIA delivered the opinion of the Court.

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. Mass. Gen. Laws, ch. 111, §12 (West 2006).

Melendez-Diaz was charged with distributing cocaine and with trafficking in cocaine in an amount between 14 and 28 grams. Ch. 94C, §§32A, 32E(b)(1). At trial, the prosecution placed into evidence the bags seized from Wright and from the police cruiser. It also submitted 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.” App. to Pet. for Cert. 24a, 26a, 28a. 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. Mass. Gen. Laws, ch. 111, §13.

Petitioner objected to the admission of the certificates, asserting that our Confrontation Clause decision in *Crawford v. Washington*, 541 U. S. 36 (2004), required the analysts to testify in person. The objection was overruled, and the certificates were admitted pursuant

to state law as “prima facie evidence of the composition, quality, and the net weight of the narcotic . . . analyzed.” Mass. Gen. Laws, ch. 111, §13.

The jury found Melendez-Diaz guilty. He appealed, contending, among other things, that admission of the certificates violated his Sixth Amendment right to be confronted with the witnesses against him. The Appeals Court of Massachusetts rejected the claim, affirmance order, 69 Mass. App. 1114, 870 N. E. 2d 676, 2007 WL 2189152, *4, n. 3 (July 31, 2007), relying on the Massachusetts Supreme Judicial Court’s decision in *Commonwealth v. Verde*, 444 Mass. 279, 283–285, 827 N. E. 2d 701, 705–706 (2005), which held that the authors of certificates of forensic analysis are not subject to confrontation under the Sixth Amendment. The Supreme Judicial Court denied review. 449 Mass. 1113, 874 N. E. 2d 407 (2007). We granted certiorari. 552 U. S. ___ (2008).

II. The Sixth Amendment to the United States Constitution, made applicable to the States via the Fourteenth Amendment, *Pointer v. Texas*, 380 U. S. 400, 403 (1965), provides that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him.” In *Crawford*, after reviewing the Clause’s historical underpinnings, we held that it guarantees a defendant’s right to confront those “who ‘bear testimony’” against him. 541 U. S., at 51. 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. *Id.*, at 54. Our opinion described the class of testimonial statements covered by the Confrontation Clause as follows: “Various formulations of this core class of testimonial statements exist: *ex parte* in-court testimony or its functional equivalent—that is, material such as affidavits, custodial examinations, prior testimony that the defendant was unable to cross-examine, or similar pretrial statements that declarants would reasonably expect to be used prosecutorially; extrajudicial statements . . . contained in formalized testimonial materials, such as affidavits, depositions, prior testimony, or confessions; statements that were made under circumstances which would lead an objective witness reasonably to believe that the statement would be available for use at a later trial.” *Id.*, at 51–52 (internal quotation marks and citations omitted).

There is little doubt that the documents at issue in this case fall within the “core class of testimonial statements” thus described. [text omitted] The “certificates” are functionally identical to live, in-court testimony, doing “precisely what a witness does on direct examination.” *Davis v. Washington*, 547 U. S. 813, 830 (2006) (emphasis deleted).

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,” *Crawford, supra*, at 52, 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, Mass. Gen. Laws, ch. 111, §13. 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. See App. to Pet. for Cert. 25a, 27a, 29a.

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.

[text omitted]

This case involves little more than the application of our holding in *Crawford v. Washington*, 541 U. S. 36. The Sixth Amendment does not permit the prosecution to prove its case via *ex parte* out-of-court affidavits, and the admission of such evidence against Melendez-Diaz was error.¹⁴ We therefore reverse the judgment of the Appeals Court of Massachusetts and remand the case for further proceedings not inconsistent with this opinion.

It is so ordered.

[footnotes omitted]

For the entire 61 pages of this document that includes the majority opinion, the concurrence by J. Thomas, and the dissent by Kennedy please go to <http://www.supremecourtus.gov/opinions/08pdf/07-591.pdf>