

## Evidence

### *Crawford* Issues

*Williams v. Illinois*, 567 U.S. \_\_\_ (June 18, 2012) (<http://www.supremecourt.gov/opinions/11pdf/10-8505.pdf>). In a plurality opinion the Court affirmed the holding below that the defendant's confrontation clause rights were not violated when the State's DNA expert testified to an opinion based on a report done by a non-testifying analyst. The defendant Sandy Williams was charged with, among things, sexual assault of L.J. After the incident in question L.J. was taken to the emergency room, where a doctor performed a vaginal exam and took vaginal swabs. The swabs and other evidence were sent to the Illinois State Police (ISP) Crime Lab for testing and analysis. An analyst confirmed the presence of semen in the swabs. About six months later, the defendant was arrested on unrelated charges and a blood sample was drawn from him pursuant to a court order. An analyst extracted a DNA profile from the sample and entered it into ISP Crime Lab database. Meanwhile, L.J.'s swabs from the earlier incident were sent to Cellmark Diagnostic Laboratory for DNA analysis. Cellmark returned the swabs to the ISP Crime Lab, having derived a DNA profile for the person whose semen was recovered from L.J. At trial, ISP forensic biologist Sandra Lambatos testified as an expert for the State. Lambatos indicated that it is a commonly accepted practice in the scientific community for one DNA expert to rely on the records of another DNA analyst to complete her work and that Cellmark's testing and analysis methods were generally accepted in the scientific community. Over a defense objection, Lambatos then testified to the opinion that the DNA profile received from Cellmark matched the defendant's DNA profile from the blood sample in the ISP database. Cellmark's report was not introduced into evidence. Also, while Lambatos referenced documents she reviewed in forming her opinion, she did not read the contents of the Cellmark report into evidence. At the conclusion of Lambatos' testimony, the defendant moved to strike the evidence of Cellmark's testing based upon a violation of his confrontation clause rights. The motion was denied and the defendant was convicted. On appeal to the Illinois Supreme Court the defendant again argued that Lambatos' testimony violated his rights under *Crawford* and *Melendez-Diaz*. The Illinois court disagreed, reasoning that because the Cellmark report supplied a basis for Lambatos' opinion, it was not admitted for the truth of the matter asserted. The U.S. Supreme Court affirmed. Justice Alito wrote the plurality opinion, which was joined by the Chief Justice and Justices Kennedy and Breyer. The plurality determined that no confrontation clause violation occurred for two reasons. First, the Cellmark report fell outside of the scope of the confrontation clause because it was not introduced for the truth of the matter asserted. In this respect, the plurality was careful to distinguish the Court's prior decisions in *Bullcoming* and *Melendez-Diaz*, which it characterized as involving forensic reports that were introduced for that purpose. Second, the plurality concluded that no confrontation clause violation occurred because the report was non-testimonial. Justice Thomas concurred in judgment only. He agreed that the report was non-testimonial, though he reached this conclusion through different reasoning. Thomas disagreed with that portion of the plurality opinion concluding that the report was not introduced for the truth for the matter asserted. Justices Kagan, Scalia, Ginsburg and Sotomayor dissented, noting among other things, the "significant confusion" created by the fractured opinion.