

Recent *Crawford* Cases of Interest

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May 2008

Testimonial Nature of Victims' Statements to the Police

State v. Lewis, 361 N.C. 541 (2007) (on remand from the U.S. Supreme Court for reconsideration in light of *Davis*, the court held that a victim's statements to a first responding officer at the scene and to a detective in the hospital were testimonial).

State v. Calhoun, __ N.C. App. __, 657 S.E.2d 424 (2008) (stating that even if the statements had been made to a police officer, they would have been nontestimonial because the primary purpose of the questioning was to deal with an ongoing emergency; in this case, a homeowner arrived at her home along with an officer who was responding to a report of shots fired; they found the victim inside the home and the homeowner, with the officer present, asked the victim who had shot him; the court indicated that establishing the identity of an assailant so that officers might know whether they would be encountering a violent felon was relevant to resolving an emergency).

Testimonial Nature of 911 Calls

State v. Hewson, 182 N.C. App. 196 (2007) (victim's statements during 911 call were nontestimonial).

Testimonial Nature of Tests, Reports, Records & Related Materials

On March 17, 2008, the U.S. Supreme Court granted certiorari in *Melendez-Diaz v. Massachusetts* (No. 07-591). The case will address whether a state forensic analyst's laboratory report prepared for use in a criminal prosecution is testimonial evidence for purposes of *Crawford*.

State v. Raines, 362 N.C. 1 (2007) (detention center incident reports are nontestimonial).

State v. Hewson, 182 N.C. App. 196 (2007) ((I) 911 event report detailing the timeline of a 911 call and the response made by law enforcement was a nontestimonial business record; (II) "pass on information" form used by neighborhood security officers was a nontestimonial business record; the form contained an entry indicating, in part, that the victim's husband was threatening her).

State v. Heinrichy, __ N.C. App. __, 645 S.E.2d 147 (2007) (affidavit by a chemist containing the defendant's blood-alcohol level was nontestimonial).

Forfeiture by Wrongdoing

Giles v. California (No. 07-6053) is currently pending before the U.S. Supreme Court. The case was argued in April 2008 and a decision is expected soon. At issue is this question: If an accused murdered a witness, should the accused be deemed to have forfeited his or her confrontation clause right, absent proof that the accused committed the murder for the purpose of rendering her unavailable as a witness?

Dying Declarations

State v. Calhoun, __ N.C. App. __, 657 S.E.2d 424 (2008) (“a dying declaration is a ‘special exception’ under *Crawford*”).