

EXCERPT

No. 09-10876

PETITION FOR CERTIORARI FILED MAY 12, 2010

CERTIORARI GRANTED SEPTEMBER 28, 2010

IN THE

Supreme Court of the United States

DONALD BULLCOMING,

Petitioner,

v.

NEW MEXICO,

Respondent.

On Writ of Certiorari to the
Supreme Court of New Mexico

JOINT APPENDIX

No. 09-10876

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Report of Blood Alcohol Analysis 62

PROCEDURE

1. The laboratory named on the front of this report is a laboratory authorized or certified by the Scientific Laboratory Division of the Health Department to perform blood and alcohol tests.

The agency has established formal procedures for receipt, handling and testing of blood samples to assure integrity of the sample, a formal procedure for conduct and report of the chemical analysis of the samples by the gas chromatographic method (_____) (specify, if other method used) and quality control procedures to validate the analyses. The quality control procedures include semi-annual proficiency testing by an independent agency. The procedures have the general acceptance and approval of the scientific community, including the medical profession, and of the courts, as a means of assuring a chemical analysis of a blood sample that accurately discloses the concentration of alcohol in the blood. The same procedures are applicable for samples other than blood if submitted for alcohol analysis. The analyst who conducts the analysis in this must meet the qualification required by the director of this laboratory to properly conduct such analyses. The supervisor of analysts must also be qualified to conduct such analyses.

2. When a blood sample is received at the laboratory, the receiving employee examines the sample container and:

- (a) determines that it is a standard container of a kit approved by the director of the laboratory;
- (b) determines that the container is accompanied by this report, with Part A completed;

(c) determines that the donor's name and the date that the sample was taken have already been entered on this report and on the container and that they correspond;

(d) makes a log entry of the receipt of the sample and of any irregularity in the condition of the container or its seals;

(e) places a laboratory number and the date of receipt on the log, on the container, and on this report, so that each has the same laboratory number and date of receipt;

(f) completes and signs the Certificate of Receiving Employee, making specific notations as to any unusual circumstances, discrepancies, or irregularities in the condition or handling of the sample up to the time that the container and report are delivered to the analysis laboratory;

(g) personally places the container with this report attached in a designated secure cabinet for the analyst or delivers it to the analyst.

3. When the blood sample is received by the analyst, the analyst:

(a) makes sure the laboratory number on the container corresponds with the laboratory number on this report;

(b) makes sure the analysis is conducted on the sample which accompanied this report at the time the report was received by the analyst;

(c) conducts a chemical analysis of the sample and enters the results on this report;

(d) retains the sample container and the raw data from the analysis;

(e) completes and signs the Certificate of Analyst, noting any circumstance or condition which might affect the integrity of the sample or otherwise affect the validity of the analysis;

(f) delivers this report to the reviewer.

4. The reviewer checks the calculations of the analysis, examines this report, signs the Certificate of Reviewer, and delivers the report to a laboratory employee for distribution.

5. An employee of the agency mails a copy of this report to the donor at the address shown on this report, by depositing it in an outgoing mail container which is maintained in the usual and ordinary course of business of the laboratory. The employee signs the certificate of mailing to the donor, and mails the original of this report to the submitting law enforcement agency.

6. The biological sample will be retained by the testing laboratory for a period of at least six (6) months pursuant to regulations of the scientific laboratory division.