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SUPREME COURT
STATE OF WASHINGTON
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SUPREME COURT OF THE STATE OF WASHINGTON

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b/h

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| STATE OF WASHINGTON, |) | No. 85227-8 |
| Respondent, |) | consol. with 85558-7 |
| |) | & 85557-9 |
| |) | |
| v. |) | STATEMENT OF |
| |) | ADDITIONAL |
| DOUGLAS JASPER, |) | AUTHORITIES |
| Petitioner. |) | (RAP 10.8) |

Pursuant to RAP 10.8, Petitioner, Douglas Jasper, submits the following statement of additional authorities for the consideration of the Court in the above-captioned matter, regarding the scope of the constitutional right to confront witnesses:

Bullcoming v. New Mexico, __ U.S. __, 131 S.Ct. 2705, 2715, 180 L.Ed.2d 610 (2011) (holding that “[a]n analyst’s certification prepared in connection with a criminal investigation or prosecution” is testimonial and the person testifying must know and observe the test and testing process employed); see also Id. at 2715 (“the analysts who write reports that the prosecution introduces must be made available for confrontation even if they possess ‘the scientific acumen of Mme. Curie and the veracity of Mother Teresa.’”).

Statement of Additional Authorities

Washington Appellate Project
1511 Third Avenue
Seattle, WA 98101
(206) 587-2711

ORIGINAL

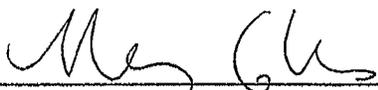
Commonwealth v. Parenteau, 948 N.E.2d 883, 890 (Mass. 2011) (certificate from registry introduced to prove the defendant was notified of his license revocation was created for use at trial to prove an element of the offense, it “made a factual representation” about a particular action, and thus, “like a certificate of drug analysis, [it] is testimonial in nature”).

United States v. Sweeney, 70 M.J. 296, 302, 304 (U.S. Ct. of Armed Forces 2011) (under Sixth Amendment, results of routine urinalysis tests are testimonial, reasoning that while “those performing initial drug tests may well be ‘independent scientist[s]’ carrying out ‘non-adversarial public duties,’ that does not mean their statements are not produced to serve as evidence,” and holding that formal documents reporting conclusions of test results create statements of evidence that are testimonial).

Deer v. State, __ A.3d __, 2011 WL 4483937, *11 (Md. 2011) (overruling prior state case that autopsy report was non-testimonial business record because the report “clearly contemplates” it would be used prosecutorially).

DATED this 27th day of October 2011.

Respectfully submitted,



NANCY P. COLLINS (WSBA 28806)
Washington Appellate Project-91052
Attorneys for Petitioner Douglas Jasper

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original of the document to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **Case No. 85227-8**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

- respondent Jerry Taylor, Jr., DPA; Peter Lewicki, DPA;
James Whisman, DPA; Jennifer Atchison, DPA
King County Prosecutor's Office – Appellate Unit
- petitioner
- Kristin Murray; Christine Jackson; Eric Broman;
Attorneys for other parties
- Travis Stearns; Suzanne Elliott
Attorneys for Amici


MARIA ANA ARRANZA RILEY, Legal Assistant
Washington Appellate Project

Date: October 27, 2011