

SUPREME COURT OF LOUISIANA

State of Louisiana v. Dion P. Simmons

78 So. 3d 743 (La. 2012) · No. 2011-K-1280 · Decided January 20, 2012

SUMMARY

The Supreme Court of Louisiana held that Louisiana's statutory procedure for admitting a crime laboratory certificate as prima facie evidence was a permissible notice-and-demand procedure under the Sixth Amendment Confrontation Clause. Because Dion P. Simmons failed to timely request a subpoena for the criminalist, he waived his confrontation objection, and the court reversed the Fourth Circuit's decision and remanded for consideration of the remaining assignment of error.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	January 20, 2012
DOCKET	2011-K-1280
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought review of a Fourth Circuit decision reversing Simmons's conviction and sentence based on the admission of a crime-laboratory certificate without live testimony from the analyst.
STANDARD OF REVIEW	The court reviewed the legal question concerning the constitutionality and application of the statutory certificate-of-analysis procedure de novo; it also concluded that the trial court did not abuse its discretion in declining to issue an instanter subpoena that would have delayed trial.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential.
PARTIES	State of Louisiana v. Dion P. Simmons

TOPICS

- sixth amendment
- criminal procedure
- evidence
- appellate procedure
- statutory interpretation

PRACTICE AREAS

- criminal procedure
- constitutional law
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether Louisiana's statutory procedure permitting admission of a crime-laboratory certificate as prima facie evidence, subject to a timely defense request for a subpoena of the analyst, violated the Sixth Amendment Confrontation Clause after *Melendez-Diaz v. Massachusetts*.
2. Whether the trial court abused its discretion by denying Simmons's untimely request for an instantter subpoena for the out-of-parish criminalist.
3. Whether the admission of the certificate was proper when Simmons failed to timely request a subpoena for the analyst.

HOLDINGS

1. Louisiana's statutory procedure, construed as a notice-and-demand procedure, is consistent with the Sixth Amendment Confrontation Clause and was not superseded by *Melendez-Diaz v. Massachusetts*.
2. Simmons waived his Sixth Amendment confrontation right by failing to timely request a subpoena for the analyst, and the trial court properly admitted the certificate in lieu of live testimony.

KEY QUOTATIONS

“In the present case, respondent waived his Sixth Amendment right of confrontation by failing to timely request a subpoena for the analyst who performed the test on the rocks of cocaine.” (747)

*“The First and Second Circuits reached the correct conclusion that our decision in *Cunningham* is consistent with, and not superseded by, *Melendez-Diaz*.” (747)*

FACTUAL BACKGROUND

New Orleans police arrested Simmons after observing him discard fourteen individually wrapped rocks that a crime laboratory later determined contained cocaine. Before trial, the State provided notice that it intended to introduce the laboratory certificate of analysis as prima facie evidence under Louisiana's statutory procedure. Simmons objected on the morning of trial but had not timely requested a subpoena for the analyst, and the trial court admitted the certificate when the analyst was unavailable to appear immediately.

PROCEDURAL HISTORY

Simmons was charged with possession of cocaine with intent to distribute, convicted by a jury, and sentenced to twelve years at hard labor. The Fourth Circuit reversed the conviction and sentence, holding that admission of the crime-laboratory certificate violated the Sixth Amendment Confrontation Clause. The Louisiana Supreme Court granted the State's application, reversed the Fourth Circuit, and remanded for consideration of an assignment of error that the intermediate appellate court had pretermitted.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The decision of the Fourth Circuit was reversed, and the case was remanded to that court to consider Simmons's remaining assignment of error that had been premitted on the original appeal.

CASES CITED

- Melendez-Diaz v. Massachusetts, 557 U.S. 305, 129 S. Ct. 2527, 174 L. Ed. 2d 314 (2009)
- Crawford v. Washington, 541 U.S. 36, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004)
- State v. Cunningham, 04-2200 (La. 6/13/05), 903 So. 2d 1110
- State v. Beauchamp, 10-0451 (La. App. 1st Cir. 9/10/10), 49 So. 3d 5
- State v. Dukes, 46,029 (La. App. 2d Cir. 1/26/11), 57 So. 3d 489
- State v. Simmons, 10-1508 (La. App. 4th Cir. 5/18/11), 67 So. 3d 525