



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Law

CRIMINAL DIVISION
Criminal Division Central Office

P.O. Box 110300
Juneau, Alaska 99811-0300
Main: 907.465.3600
Fax: 907.465.4043

April 11, 2014

Hon. Representative Bill Stoltze
Alaska House of Representatives
State Capitol, Room 515
Juneau, Alaska 99801

Dear Representative Stoltze:

Chuck Kopp, from Senator Dyson's office, provided me an article from the Alaska Dispatch identifying the person, John P. Rogers, as the individual Senator Dyson was speaking about during his April 10, 2014 appearance before the House Finance Committee. (The article is attached to this letter.) Mr. Rogers told the Alaska Dispatch that, "It [a charge of possession of a controlled substance] devastated my life." The article relates that Mr. Rogers said the police searched his vehicle after a "fender bender" and found an empty prescription drug bottle which, after analysis, came back positive for an opiate. He described doing two years in jail for the offense. We have obtained the police reports for the case to determine the amount of the drugs and the accuracy of other factual assertions made by Mr. Rogers. I can start by saying that according to CourtView and our database, Mr. Rogers was convicted of possession of a controlled substance under AS 11.71.040 and received a sentence of 2 years of jail with the 2 years suspended, that is, no jail time.

It is correct that he had a prescription pill bottle with a label for hydrocodone, which did not contain the prescription pills. It did contain "a leafy substance in the bottle." (This quoted language comes from the criminal complaint attached to this letter.) The amount of the leafy substance was small, less than a gram, according to the laboratory report. (Report attached.) The substance was found to be heroin. Mr. Rogers' blood was also tested and showed the presence of morphine. (Report attached.)

This was not Mr. Rogers' first encounter with the law. A check of CourtView and our records shows nine convictions. This includes the felony drug conviction. This was his third felony conviction in Alaska and you will note he received no jail time to serve for this third felony. Department of Law records show that in the last nine years, we have opened 15 files for this defendant. One of these cases was an appeal and three files were consolidated into one case, 3AN-10-2246. This leaves eleven criminal cases. (I am attaching our summary sheet itemizing these matters to this letter.) The following cases

SB 56

were submitted to us by law enforcement for criminal prosecution in the same order as in our summary.

Criminal Trespass in the Second Degree	AS 11.46.330
Possession of a Controlled Substance in the Fourth Degree	AS 11.71.040
Robbery in the Second Degree	AS 11.41.510
Criminal Mischief in the Fourth Degree	AS 11.46.484
Possession of a Controlled Substance in the Fourth Degree	AS 11.71.040
Distribution of a Controlled Substance in the Third Degree	AS 11.71.030
Possession of a Controlled Substance in the Fourth Degree	AS 11.71.040
Misconduct Involving a Weapon (Felon in Possession)	AS 11.61.200
Violating Conditions of Release	AS 11.56.757
Theft in the Second Degree	AS 11.46.130
Felony Criminal Mischief	AS 11.46.482

These are the primary charges the police submitted for prosecution. Mr. Rogers was not convicted of these offenses, but rather, they were the starting point. The DA office reviewed and screened these referrals and Mr. Rogers was convicted of the offenses described below.

Here are his convictions, in order of the date of conviction.

8/18/05	Driving on a Revoked License - his license was presumably revoked because of convictions from another state;
7/20/06	Felony Vehicle Theft;
12/28/07	Resisting or Interfering with an Arrest;
5/10/10	Felony Misconduct Involving Weapons;
8-14-11	Violating Conditions of Felony Release;
12/8/11	DUI;
12/20/12	Disorderly Conduct;
12/20/12	Violating Condition of Release;
5/24/13	Violating Conditions of Release;
5/24/13	Misconduct Involving a Controlled Substance - this is the offense referred to in the Alaska Dispatch article.

From the police reports regarding the case and Mr. Rogers' discussion with the Alaska Dispatch reporter, I notice that Mr. Rogers told the police officer that he had some problems in Texas. I checked with Texas and the following is a list of Texas cases that involved Mr. Rogers. These are arrests, not convictions. I do not have immediate access to Texas court records to determine which, if any, arrests resulted in a conviction.

Hon. Representative Bill Stoltze
Re: John P. Rogers

April 11, 2014
Page 3

12/29/1997 Failure to Identify a Fugitive From Justice
3/25/1999 Resisting Arrest, Search or Transport
1/23/2000 Unauthorized Use of a Motor Vehicle, a felony, and Evading Arrest
8/13/2003 Possession of a Controlled Substance Less than One Gram and
Possession of Marijuana Less than 20 Ounces
9/12/2003 Driving While License Suspended

I have a copy of the police reports for the case that was discussed on April 10, 2014, which I have not provided. They contain names and other personal information about witnesses. I can show them to you if you wish. I think it best that the information not become part of the public record. It is available for review. However, I believe that the information I have been able to send you will help you evaluate whether the prosecution of heroin in the pill bottle was appropriate.

Sincerely,

MICHAEL C. GERAGHTY
ATTORNEY GENERAL



By: Anne Carpeneti
Assistant Attorney General

Attachments

cc: Hon. Senator Fred Dyson

Alaska Dispatch

News and voices from the Last Frontier

Published on *Alaska Dispatch* (<http://www.alaskadispatch.com>)

[Home](#) > Former Alaska crime lab analyst's thefts could taint other cases

[Jerzy Shedlock](#) ^[1]

March 7, 2014

Main Image:

[Stephen Palmer](#) ^[2]

Stephen Palmer made his first court appearance Friday at the Anchorage Correctional Complex courtroom. A grand jury has handed up charges to Alaska Superior Court against the 53-year-old, accusing him of stealing drug evidence and drugs used for testing at the Scientific Crime Detection Laboratory in Anchorage while he worked there.

The former lab analyst, who worked at crime lab for nearly two decades, did not speak during the brief district court arraignment. He stood far behind the podium the jail's inmates step up to when addressing a judge -- partially out of view of media cameras.

Palmer faces six felonies, including a scheme to defraud, second-degree misconduct involving a controlled substance and four counts of tampering with physical evidence. He also faces four "official misconduct" misdemeanor charges.

Since a grand jury returned an indictment earlier Friday, there was no action for the district court judge to take. John Skidmore, chief of the state's Department of Law, said Palmer is charged with a class A felony, so there's "an appropriate no-bail hold." Private attorney Gregory Parvin is representing Palmer. A Superior Court arraignment is set for Friday.

Potential collateral damage

Sitting in the courtroom was John Rogers, who in 2013 pleaded guilty to a fourth-degree controlled substance charge and violating conditions of release for a felony conviction. He said he was arrested two years earlier for the drug charge after a fender bender. Police searched his vehicle and found an empty prescription drug bottle, he said.

The state tested the residue in the bottle, and it came back positive for an opiate derivative, Rogers said.

His defense attorney requested an independent review of the residue, he said, and the test came back negative. But the state allegedly wouldn't back down from its test results. Now he's concerned about the validity of the test after hearing about Palmer's alleged crimes. He spent about two years in jail before entering into the plea deal.

"It devastated my life," Rogers said. "The time, money and resources it took to get out of jail." He said he knows he's not an angel -- he hasn't made the most of his life -- but the possibility that he could have avoided jail, or the possibility of having the charge tossed, is why he'll "following the case closely."

Tainted cases?

The charges against Palmer accuse the former forensic lab analyst of adding adulterants to reference standards in an attempt to cover up the theft of drugs, some of which were opiates. Reference standards are pure substances used in laboratories to establish a base of measurement for evaluating similar substances.

There's also the matter of missing drug evidence, which raises the possibility of tainted cases and may prompt requests for full discovery in a plethora of drug cases.

Skidmore said he is not concerned about the standards. Despite the added adulterants, he said, as long as they contain some of the controlled substance being tested, they're still valid measurements.

"There's no concern about those other than the fact that someone was doing something with them that they shouldn't have been," Skidmore said. "That's obviously a concern but it didn't invalidate -- from a scientific standpoint -- any of the testing."

The larger dilemma, he said, is the missing drug evidence. Skidmore said if evidence of any sort goes missing as the result of conduct by someone who works with or in law enforcement, such a development is favorable to the defense due to presumption of innocence. Typically, a jury is told that the missing evidence would've been favorable to the party fighting criminal accusations.

For example, in drug and DUI cases, the defense has the right to conduct independent tests of seized evidence.

"The defense ought to have an opportunity to test something the state says is a controlled substance themselves, and if the evidence goes missing they're unable to do that," Skidmore said. "That's a problem."

The larger potential problem created by Palmer's case is rather than just some missing evidence, all of it went missing. Skidmore said he's doesn't know if that issue exists yet.

'May have altered the evidence'

Public defenders statewide could have a field day with charges against the formerly state employed lab analyst who's an alleged drug addict. The crime lab revelations may prolong any drug cases handed up while Palmer was working for the lab -- especially those involving his drugs of choice.

Alaska public defender Quinlan Steiner said the circumstances surrounding Palmer's case troubles him -- particularly the former analyst's "deception."

"(Palmer's alleged actions) may have altered the evidence of cases. We just don't know," Steiner said. "We have to take in all of the discoveries and take in what cases that could include." The reexamination of evidence could include past cases, he said.

He said he and other public defenders will request full discovery from the Palmer case in an attempt to find out if it affects current cases as well.

However, Skidmore said that although defense attorneys will likely raise the issue in court, he's unconcerned with current drug cases.

"It's not about cases that are in the system right now, because by and large I would say in 99.9 percent of the cases, Palmer wouldn't have had anything to do with them," Skidmore said.

Skidmore said the Department of Law is compiling a list of the cases Palmer handled. He did not provide a total but said the number was significant.

Supreme Court bans drug tests on state workers

Despite Palmer's and other crime lab employees' regular contact with controlled substances, none are required to take a drug test when hired.

The same goes for all state employees, with the exception of some maritime highway employees and commercial driver's license holders. A 2001 Alaska Supreme Court opinion says state employees cannot be drug tested unless there is valid reason to believe they're abusing substances.

Anchorage police employees and firefighters appealed a Supreme Court decision affirming the Municipality of Anchorage policy, adopted in 1994, of random drug testing for "employees in safety-sensitive positions." They argued the policy was unconstitutional, and the Appeals Courts agreed.

The court decided "that the Municipality's random drug testing provision violates the Alaska Constitution's prohibition against unreasonable search and seizures."

Said Skidmore: "We're now squarely dealing with that ruling."

The charges against Palmer detail years of alleged drug abuse, including daily use of meth and heroin. The abuse occurred when he was employed as a crime lab analyst.

Palmer testimony

During his time as a crime lab analyst, Palmer gave witness testimony during a drug-related case as well as a drunk driving and manslaughter case.

In the drug case, Palmer testified about pills possessed by defendant Neely C. Humpherville, who was charged with miscellaneous drug charges and breaking his probation conditions. Humpherville had pills that "were not pharmaceutical tablets. They were illicitly produced tablets." (Palmer) stated that he had seen such Bart Simpson-shaped pills before and that they were "generally the kind of rave pills that you would see, also known as Ecstasy," according to court documents.

Ecstasy contains MDMA, Palmer testified, but the tablets he'd tested for the state did not include it. Instead, the seized drugs contained ingredients not controlled by the state, the documents say. Still, the drug offers a high similar to MDMA, and based partly on that testimony, a grand jury indicted Humpherville, who was found guilty of a single third-degree miscellaneous

charge. The state dismissed the remaining charges, according to online court records.

Palmer allegedly admitted to using MDMA in a letter his son provided to an Alaska State Trooper investigator.

In a different case involving Palmer, a Kotzebue jury in 2011 convicted Patrick Tickett of manslaughter, first-degree assault and drunk driving after he slammed his snowmachine into a doctor on an icy lake outside the Western Alaska community.

According to court records, Palmer calculated what Tickett's blood-alcohol content "might have been" before the defendant's blood was drawn several hours after the fatal crash.

Source URL: <http://www.alaskadispatch.com/article/20140307/former-alaska-crime-lab-analysts-thefts-could-taint-other-cases>

Links:

[1] <http://www.alaskadispatch.com/authors/690181>

[2] <http://www.alaskadispatch.com/image/stephen-palmer>

DISTRICT COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT OF ANCHORAGE

11-50532

JACOB

STATE OF ALASKA

PLAINTIFF,

ATN: 113439042

vs.

POLICE CASE #: 11-50532

John Rogers

6701 E 6TH #9

CASE NO: 3ANS -11-13186 CR

DOB: 1/25/1973

OL: 7164396

APSIN ID: 7249931

DEFENDANT(S)

COMPLAINT

CERTIFICATION: I certify that:

X This document and its attachments do not contain information (1) the name of a victim of a sexual offense listed in AS12.61.140 or (2) a residence or business address or telephone number of a victim or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

_____ This document or an attachment contains confidential information that may be placed in a court file under an exception listed in AS12.61.130. (b). This document and its attachments do not contain the name of a victim listed in AS12.61.140.

Domestic Violence: Y N

Officer Ernest DSN 1309, signing this complaint under penalty of perjury or personally appearing before the undersigned District Judge and being duly sworn, states that on or about the 30 day of October, 2011, at or near Dimond & Arlene, Anchorage, Alaska, Third Judicial District, the defendant, did unlawfully commit the following offense(s):

Misconduct Involving a Controlled Substance in the Fourth Degree.: 1 count(s): AS 11.71.040.

I, Earl Ernest, being first duly sworn upon oath, depose and state:

A. This Investigation: APD Case # 11-50532

At approximately 1704 hrs 10/30/2011 John Rogers lost control of his 1995 Dodge, AK plate EKE272 e/b Dimond at Arlene, striking two vehicles stopped at the traffic light e/b Dimond. I contacted Rogers whom is on adult probation. I then contacted P.O. Hoyer whom requested I search Rogers' vehicle for evidence a drugs. I noted Rogers exhibited signs of drug impairment. I conducted SFST's and subsequently arrested Rogers for OUI. Dispatch advised Rogers is a scofflaw, owing \$1,190. Officer Grigg searched Roger's vehicle and located a prescription bottle for Hydracodone for Rogers, dated 10/19/2011. Officer Grigg noted it had a leafy substance in the bottom. I transported Rogers to the Anchorage Jail for OUI Processing. Rogers provided a breath sample with indicated .000 grams of alcohol per 210 liters of breath. I transported Rogers to the Magistrate's office, 303 K st and requested a search warrant for his blood. Magistrate Comfort issued the search warrant. I transported Rogers to the Anchorage Jail where I seized his blood, which I placed into APD Evidence Section. On 11/23/2011 Forensic Scientist III, John Giacaloone emailed me the results of the brown substance located in Rogers' prescription bottle - it was Heroin.

B. Defendant's Criminal History
8/2011 VCR
5/2010 MICS 3 Felon in Possesion

ATN: 113439042 Case No: ANM
Police Case #: 11-50532

page 1

2676



State of Alaska

Department of Public Safety

SCIENTIFIC CRIME DETECTION LABORATORY REPORT

Sean Parnell, Governor

Joseph A. Masters, Commissioner

11-50532

November 23, 2011

Requesting Agency: Anchorage Police Department

Laboratory Number: 11-05829

Agency File Number: 11-50532

Report To: Earl Ernest

Requested Service: Controlled Substance Analysis



Items Analyzed

Item

875987 Brown Substance

Results, Conclusions and Opinions

875987 Heroin, <0.1 gram.

Weights and identifications refer to analyzed items.

Analysis requires the consumption of some of the submitted sample. Reported weights, tablet and capsule counts are pre-consumption quantities.

Forensic Scientist III: John Giacalone

Report Technically Reviewed by Jack Hurd

5500 East Tudor Road

Anchorage, AK 99507

Voice (907) 269-6740

Fax (907) 338-8814

Accredited by ASCLD-LAB Certificate #157

WASHINGTON STATE TOXICOLOGY LABORATORY
FORENSIC LABORATORY SERVICES BUREAU
WASHINGTON STATE PATROL
2203 AIRPORT WAY S, SUITE 360
SEATTLE WA 98134-2027
PHONE (206) 262-6100 FAX (206) 262-6145

11-50532

DUI Toxicology Report

ST 1109778

agency case #: 11-50532 11-05829
sttn:
agency: State of Alaska Crime Lab
Attn: Toxicology Section
5500 E Tudor Rd
Anchorage AK 99507-1221

date received: 11-18-2011
date completed: 11-29-2011

Last name	First name	Middle initial
Rogers	John	

sample blood - peri
container vb
labeled y

BLOOD ETHANOL

BLOOD ANALYSES

morphine 0.025 mg/L

URINE TEST RESULTS

not performed

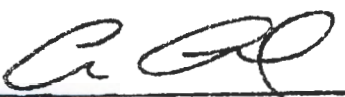
Asa Louis certifies under penalty of perjury that I performed the test on the blood or other tissues listed above. This document or another with contents appears in a true and complete copy of my official report and the test was administered according to WAC 448-14-010 and 020. Each document is a report of the results of tests completed by the undersigned where qualifications and experience are listed below their name in compliance with WAC 448-14-020. The person from whom the sample was collected is:

COMMENTS

Roth, Nikki

Fed Ex

Note: "nd" indicates drug not detected, "pos" indicates positive.


Asa Louis
ES Biochemistry 1988
Blood Analyst Permit since 2003

Analyst


Reviewer

Rogers, John P.	01/25/1973	A-09952	Closed	PA07-01010	Defendant		WALSHMI	Appeal
Rogers, John P.	01/25/1973	3AN-07-7190 CI	Closed	SP07-03759	Defendant		D25-KAMM M	Gener
Rogers, John P.	01/25/1973	3PA-S05-2016	Closed	PA05-02557-A	Defendant	CON:AS11.46.360(a)(1)		Crimin
Rogers, John Paul	01/25/1973	3AN-08-5373	Closed	AN08-03796	Defendant	ACC:AS11.71.040(a)(3)(A)	MICHALM	Crimin
Rogers, John Paul	01/25/1973	3AN-08-2623	Closed	AN07-09372	Defendant	ACC:AS11.41.510(a)(1)	OLSONGU	Crimin
Rogers, John Paul	01/25/1973	3AN-08-10766	Closed	AN08-07173	Defendant	ACC:AS11.46.484(a)(1)	WALKERJ	Crimin
Rogers, John Paul	01/25/1973	3AN-11-13186	Closed	AN11-10079	Defendant	CON:AS11.71.040(a)(3)(A)	STRYSACAM	Crimin
Rogers, John Paul	01/25/1973	3AN-10-3068	Closed	AN10-03158	Defendant	ACC:AS11.71.030(a)(1)	RUNNELSK	Crimin
Rogers, John Paul	01/25/1973	3AN-10-2725	Closed	AN10-01900	Defendant	ACC:AS11.71.040(a)(3)(A)	RUNNELSK	Crimin
Rogers, John Paul	01/25/1973	3AN-10-2246	Closed	AN10-01579	Defendant	CON:AS11.61.200(a)(1)	RUNNELSK	Crimin
Rogers, John Paul	01/25/1973	3AN-10-2246	Closed	AN10-04945	Defendant		CORBISIR	Probab
Rogers, John Paul	01/25/1973	3AN-10-2246	Closed	AN10-07018	Defendant			
Rogers, John Paul	01/25/1973							