

IN THE FIFTEENTH JUDICIAL CIRCUIT IN  
AND FOR PALM BEACH COUNTY,  
FLORIDA

GEORGE CLARENCE LIVESAY,  
Appellant,

APPELLATE DIVISION (CRIMINAL)  
CASE NO. 06-02AC A02

vs.

STATE OF FLORIDA,  
Appellee.

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Opinion filed: 8/3/06

Appeal from the County Court in and for Palm Beach County,  
Charles Burton, Judge.

For Appellant, Alan T. Lipson, Esq., Office of the Public Defender, Criminal Justice Building,  
421 Third Street, 6<sup>th</sup> Floor, West Palm Beach, FL 33401.

For Appellee, Michelle Zieba, Esq., Office of the State Attorney, 401 North Dixie Highway,  
West Palm Beach, FL 33401.

PER CURIAM.

Unlike the breath test affidavits in *Shiver v. State*, 900 So. 2d 615 (Fla 1st DCA 2005) and *Belvin v. State*, 922 So. 2d 1046 (Fla. 4th DCA 2006), *review granted*, 928 So. 2d 336 (Fla. 2006), the annual maintenance reports are not specifically prepared or kept for the purpose of being admitted into evidence to prove the guilt of a criminal defendant. *State v. Tapp*, 12 Fla. L. Weekly Supp. 978a (Fla. 12th Jud. Cir. 2005). They are kept for the purpose of recording the operation, use, and maintenance of instruments within the control of the Florida Department of Law Enforcement. *Id.* The annual maintenance reports are admissible as routine business records under the Florida Evidence Code, section 90.803(6) and are not testimonial pieces of evidence as

defined by *Crawford v. Washington*, 124 S. Ct. 1354 (2004). *Id.* Accordingly, the trial court's decision is affirmed.

RAPP, GARRISON, and BERGER, JJ., concur.