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Published Wed, Aug 18, 2010 04:55 AM

Modified Wed, Aug 18, 2010 05:40 AM

SBI lab failed to test drugs in trials

For decades, State Bureau of Investigation drug analysts identified prescription drugs by simply looking at pills, forgoing definitive tests to detect controlled substances.

Veteran drug analyst Irvin Allcox testified in 2007 that the SBI didn't want to waste time testing these drugs when experienced analysts could look through a pharmaceutical manual and identify pills based on their appearance.

A stern ruling from the N.C. Supreme Court this summer forced a change in agency practices.

"It is difficult to view this testimony as reflecting anything other than a technique for 'cutting corners,'" Justice Edward Thomas Brady wrote in a majority opinion in June. Brady said in the opinion that he had little faith in Allcox's ability to get it right, despite his education and years of experience.

The ruling casts another layer of doubt on work by the embattled SBI laboratory.

The News & Observer published the series "Agents' Secrets" this month highlighting laboratory practices out of step with the larger scientific community. Agents have bent rules to please prosecutors at the expense of defendants. The SBI reports to state Attorney General Roy Cooper, a Democrat first elected in 2000. In response to The N&O's inquiry into the lab's practices, Cooper replaced Robin Pendergraft, who had been SBI director for a decade, with his legislative aide Greg McLeod.

It's too early to see the full of the Supreme Court ruling. Lawyers predict it will bring a wave of appeals, joining an untold number of other challenges spurred by recent revelations about shoddy work in several other units of the lab.

Many cases affected

"I think there are potentially tens of thousands of cases that could be impacted," said Paul Herzog, a Fayetteville lawyer who won the case at the Supreme Court. "The scary thing is that lawyers like me had trusted they were doing a thorough examination all along."

In the wake of the decision, SBI leaders have forbidden visual inspection alone in drug cases, even when the volume of drug would constitute only a misdemeanor charge.

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similar a-
situation at the

practice had been affirmed by
courts have blocked the practice.

in the SBI's visual examination practice
by Waylon Ward in New Hanover

the Court ruling, is a 70-year-old man who
lives in New Hanover County in 2006. During an
investigation in New Hanover County Sheriff's Office bouq,
thought to be Lorcets, a prescription pain medicine
from Monte Carlo. A month later, he was indicted

for the collection of pills, cash and rocks resembling
heroin. A month later, he was indicted

in Garner, which handles the analysis for drug
test Allcox, a 34-year veteran of the SBI, picked
up only half of the drugs for chemical analysis.

He consulted a pharmacy handbook. Among the
drugs: hydrocodone, Adderall, Xanax, diazepam

Smith said he expected Allcox to say that a chemist
couldn't figure out how he knew these weren't counterfeit
Smith, Ward's lawyer.

Instead, Allcox said he could distinguish counterfeit
high quality as those made by pharmacists
appeared to be fake.

Smith pressed on and learned that during
the chemical examination of

Allcox testified: "We have limited resources and we have to weed out. ...we have to analyze the most important items."

Allcox had worked in the SBI laboratory's drug chemistry section for nearly 25 years. He said during Ward's trial that he has testified as a drug analyst over 500 times in state and federal courts. Allcox retired from the SBI in 2001 but had returned on a temporary basis when he worked Ward's case.

Allcox could not be reached for comment.

'We have trusted them'

"All these years, we have trusted them," Herzog said. "It turns out that a guy with an eighth-grade education could do what they've been doing."

The impact on Ward is likely minimal. The Supreme Court upheld convictions for the drugs the SBI had chemically analyzed. The charges for which Allcox relied upon visual clues have been returned to New Hanover Court for re trial.

Because Ward's 10-year sentence is based on trafficking charges reliant on drugs that Allcox had chemically tested, Herzog doesn't anticipate any change in Ward's status. He is due to be released in 2017.

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