

December 29, 2025

### NJ SUPREME COURT ISSUES MAJOR DECISION INVOLVING PENDING DWI CASES ACROSS NEW JERSEY

*By: Georgia D. Reid, Esq.*

What began as a high-stakes challenge to the scientific reliability of New Jersey's primary breath-testing device has ended without a decision on the merits. With thousands of New Jersey driving while intoxicated (DWI) cases on hold, last week, the New Jersey Supreme Court dismissed State v. Cunningham and lifted the statewide stay on DWI prosecutions involving the Alcotest 9510, which brought certain municipal DWI cases to a standstill.

The matter of State v. Cunningham was first opened to the Supreme Court in January of 2023 on the State's motions for various forms of relief, including to directly certify nine separate prosecutions pending in municipal court for DWI. On May 1, 2023, the Court directly certified the matter involving only defendant Colleen Cunningham (A-38-22)(087913), and not the other eight matters. The Court simultaneously imposed a limited stay of DWI matters that involved the use of Alcotest 9510 machines, subject to certain conditions. These matters have been stayed ever since – in other words, they have been in legal limbo, not being prosecuted, for the time being.

**On December 19, 2025, the Court *dismissed* the Supreme Court litigation and lifted the stay on any matters involving the use to Alcotest 9510 machines, effective immediately.**

As a result of the Court's order, DWI prosecutions utilizing Alcotest 9510 results may now proceed statewide without restriction. The more than two-year stay imposed in May 2023, which had paused many DWI cases in municipal courts across the State, has been fully vacated. **This means municipal courts may resume hearings, trials, and dispositions in affected matters.**

Notably, the Court's action does not constitute a substantive ruling on the scientific reliability or admissibility of the Alcotest 9510. Rather, the global challenge has ended solely due to the absence of a live dispute. The lifting of the stay permits the criminal justice system to move forward with DWI cases that had been held in abeyance. Municipal courts should expect a prompt resumption of DWI proceedings involving Alcotest 9510 evidence. Practitioners are advised to review pending cases for scheduling impacts and to assess any case-specific evidentiary or constitutional challenges that may remain available.

#### Florham Park

220 Park Avenue  
Florham Park, NJ 07932  
973-539-1000

#### Paramus

115 West Century Road  
Suite 100  
Paramus, NJ 07652  
201-262-1600

#### Sparta

351 Sparta Avenue  
Sparta, NJ 07871  
973-295-3670

#### New York

9 East 40th Street  
New York, NY 10016  
646-652-7775

### **Important Note for Defendants and Defense Attorneys**

Although the statewide stay has been lifted, individual defendants retain the right to challenge the reliability, operation, calibration, and admissibility of Alcotest 9510 results on a case-by-case basis. Defense counsel should evaluate such issues individually in each matter, as the Supreme Court has not issued a merits decision approving the Alcotest 9510.

Defendants charged with DWI may require experienced legal counsel to navigate complex issues concerning the admissibility, reliability, and operation of the breath-testing device in their individual cases. While prosecutions may proceed, the evidentiary landscape remains technical and fact-sensitive, and outcomes may depend on case-specific challenges.

For more information on what the Alcotest 9510 is, visit [https://www.draeger.com/en-us\\_us/Products/Alcotest-9510](https://www.draeger.com/en-us_us/Products/Alcotest-9510)

See the official New Jersey Court Order here <https://www.njcourts.gov/notices/notice-and-order-supreme-court-lifts-limited-stay-of-dwi-matters>

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**For more information or questions, please contact Georgia D. Reid, Esq. at [greid@spsk.com](mailto:greid@spsk.com) or 973-540-7343.**

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