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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Writ of Certiorari to the Supreme Court
Appeal from Beaufort County
The Honorable Carmen T. Mullen, Circuit Court Judge
Appellate Case No. 2021-000332

THE STATE,

Respondent,

v.

TYRONE ANTHONY WALLACE, JR.,

Petitioner.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the South Carolina Court of Appeals properly upheld the trial court's decision to qualify the Director of the Fourteenth Circuit Solicitor's Office Intelligence Unit as a historical cell site analysis expert where the record demonstrates he had over 72 hours of education in the discipline, had evaluated more than 100 sets of phone records pursuant to the type of analysis presented at trial, and had the requisite knowledge, skill, experience, training, and education necessary to assist the trier of fact to understand the evidence and determine the facts at issue.

STATEMENT OF THE CASE

The Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Beaufort County Clerk of Court. Petitioner Tyrone Anthony Wallace, Jr., was indicted by a Beaufort County Grand Jury for kidnapping and murder during the March 2016 Term. (2015-GS-07-01907 and 2016-GS-07-00044). R. 591–96. He proceeded to trial by jury before the Honorable Carmen T. Mullen on June 18, 2018 and was found guilty of both charges on June 22, 2018. R. 522–23. Assistant Solicitors Mary C. Jones, Esquire, and Kimberly L. Smith, Esquire, prosecuted the case for the State and attorneys Trasi Campbell, Esquire, and Eric Staggs, Esquire, represented the Petitioner. R. 2. Judge Mullen sentenced Petitioner to twenty-five years' imprisonment for kidnapping and life imprisonment for murder. R. 523–24.

A timely notice of appeal was submitted and Appellate Defender Susan B. Hackett, Esquire, filed Initial and Final Briefs on Petitioner's behalf. The South Carolina Court of Appeals affirmed Petitioner's convictions and sentences. State v. Wallace, 2021-UP-029 (Ct. App. 2021) (per curiam). Appellate Defense filed a Petition for Rehearing on February 11, 2021 and the South Carolina Court of Appeals issued an Order denying it on March 2, 2021. A Petition for Writ of Certiorari was subsequently submitted on Petitioner's behalf. This Return to the Petition for Writ of Certiorari follows.

STATEMENT OF FACTS

Andre Frazier and Verome Steve ("victim") watched a football game together at Buffalo Wild Wings on the afternoon of October 25, 2015. R. 144, L. 9–18. The victim made plans to have Frazier over to his home that night and left the restaurant. R. 145, L. 6–25. When Frazier arrived to the victim's home late that night, he saw the victim's car parked outside of the house but did not see the victim. R. 148, L. 1–12. Instead, the victim's roommate, Varsheen Smith ("Twiz") and Petitioner met Frazier outside and said they had just seen the victim. R. 151, L. 3–19. Twiz lied and said he was inside the house, so Frazier entered the home, closely followed by Twiz and Petitioner. R. 153, L. 7–25 to R. 156, L. 25. The two men then "jumped him" and pushed him inside the house. R. 156, L. 1–25. Twiz pulled a gun and held it to Frazier's stomach. R. 157, L. 1–20, R. 158, L. 1–15. Petitioner then rifled through Frazier's pockets at Twiz's instructions. R. 158, L. 11–23. While Twiz held the gun to Frazier's head, Petitioner then used a belt to tie Frazier's hands behind his back and forced a rag into his mouth. R. 160, L. 8–25. The two men only released Frazier after they saw cops in the area (there for an unrelated matter). R. 164, L. 1 to R. 167, L. 20.

Frazier testified that after the cops left, Petitioner then jokingly said he was going to steal the victim's car. R. 170, L. 21–25, R. 171, L. 1–9. Frazier also said Twiz told him the victim had actually run away because he thought Twiz was going to shoot him. R. 168, L. 6–14. Frazier testified that Petitioner was never threatened by Twiz and did not look nervous or scared during the incident. R. 170, L. 3–15. He also said he spent the rest of the night and the next day trying to get in touch with the victim but was unsuccessful. R. 168, L. 3 to 169, L. 24.

The police were called to the victim's address at 8:34 PM on the night of October 25, 2015 for a report of shots fired. R. 294, L. 3–10. A single bullet was recovered from the wall of

the victim's house. R. 355, L. 8 – 25, R. 365, L. 1–16. No other evidence was found. R. 337, L. 4–16. The victim's body was discovered twenty-three days later on November 28, 2015 in a field off of Pea Patch Road on Saint Helena Island. R. 182, L. 7–22 to R. 188, L. 24. The body and the area had been doused in gasoline and set on fire. R. 192, L. 22–25, R. 193, L. 1–13, R. 200, L. 1.

Dominique Cook testified at Petitioner's trial. R. 204, L. 1 to R. 233, L. 21. He said he had pled guilty to accessory after the fact for the murder of the victim, and had pled guilty before agreeing to testify. R. 204, L. 17 to R. 205, L. 20. He had received no promises of leniency from the Solicitor. R. 205, L. 18–20. He said he had met Petitioner the night of the murder after one of his friends, Tayquan Lampkin, asked to borrow his car to handle some "dirt" they had "just done." R. 208, L. 12 to R. 208, L. 23; R. 213, L. 9–16. Cook had met Petitioner at Lampkin's house and Petitioner drove Twiz, Lampkin, and Cook to Saint Helena Island in Cook's vehicle. R. 210, L. 1 to R. 214, L. 22. Petitioner stopped the vehicle in an open field and Twiz and Petitioner pulled a body out of the trunk and put it into the woods. R. 214–15. Petitioner doused the area in gasoline and set it on fire. R 214, L. 9 to R. 215, L. 6. Meanwhile, the vehicle had gotten stuck in the mud, so they called for a tow truck. R. 215, L. 3–7.

Cook testified Petitioner told him that he had gone over to the victim's house to rob him but he shot him after the victim started yelling. R. 215, L. 12 to R. 216, L. 19. Petitioner told Cook he had collected the shell casing from outside of the side door of the home after the shooting. R. 216, L. 17–21. Cook characterized Petitioner as Twiz's "right-hand man." R. 217, L. 17–21. Even though Cook later changed his story about Twiz being present, he maintained Petitioner had confessed to killing the victim and that Petitioner had set the victim's body on fire. R. 218, L. 1 to R. 219, L. 24; R. 221, L. 12 to R. 222, L. 17; R. 230, L. 14 to R. 233, L. 21.

STANDARD OF REVIEW

"The decision to admit or exclude testimony from an expert witness rests within the sound discretion of the trial court." State v. Price, 368 S.C. 494, 498, 629 S.E.2d 363, 365 (2006); State v. Caldwell, 283 S.C. 350, 352, 322 S.E.2d 662, 663 (1984). The trial court's decision to admit or deny expert testimony will not be reversed on appeal absent a prejudicial abuse of discretion. State v. White, 382 S.C. 265, 269, 676 S.E.2d 684, 686 (2009). An abuse of discretion occurs when the trial court's ruling is based on an error of law or a factual conclusion that is without evidentiary support. State v. McDonald, 343 S.C. 319, 540 S.E.2d 464 (2000). "A trial court's ruling on the admissibility of an expert's testimony constitutes an abuse of discretion when the ruling is manifestly arbitrary, unreasonable, or unfair." Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C. 19, 25, 609 S.E.2d 506, 509 (2005).

DISCUSSION

The Court of Appeals properly upheld the trial court's decision to qualify the Director of the Fourteenth Circuit Solicitor's Office Intelligence Unit as a historical cell site analysis expert where the record demonstrates he had 72 hours of education in the discipline, had evaluated 100 to 120 sets of phone records pursuant to the type of analysis presented at trial, and had the requisite knowledge, skill, experience, training, and education necessary to assist the trier of fact to understand the evidence and determine the facts at issue.

This Court should deny the Petition. Petitioner has not asserted a special or important reason pursuant to Rule 242, SCACR, that warrants the issuance of a writ. The question presented by the defense is not a novel issue before this Court as the rules governing the qualification and admission of expert witness testimony have long been in place. Further, the Court of Appeals' decision was an unpublished per curiam opinion in which there was no dissent, the decision is not in conflict with a prior decision of the Supreme Court of South Carolina, there are no substantial constitutional issues involved, and Petitioner does not present a federal question. Instead, the record demonstrates that Investigator Hightower had amassed 72 hours of training in his field, had attended multiple courses on the subject, and had the requisite specialized knowledge to help the trier of fact understand the data (information unable to be understood by their common knowledge or good judgment) and determine the facts at issue. The trial court properly qualified him as an expert witness pursuant to his qualifications. Petitioner has not proven any error in the judge's ruling, or that any alleged error resulted in prejudice that directly influenced the jury's verdict. This Court should deny the Petition.

Relevant Facts

The State called Mr. Dylan Hightower to the stand during the defense's pretrial motion to suppress and laid the foundation to establish him as an expert witness in historical cell site analysis and tracking. R. 9–51. Petitioner's phone records had been acquired from Verizon and the State wished to present the call logs and location data to the jury. R. 5, L. 9 – 25. The

Honorable Carmen T. Mullen said Hightower would have to demonstrate adequate specialized training in order to interpret what the records demonstrated. R. 26, L. 5 to R. 27, L. 4. The State offered the resume of a man who had been previously qualified as an expert witness in the same subject matter for comparison purposes because his qualifications were similar to Hightower's. R. 7, L. 1–9. The State conceded that Hightower had not been qualified as an expert witness before. R. 3, L. 12–20. However, in his role as the Director of the Intelligence Unit for the Solicitor's Office, he said he had been hired to conduct historical cell phone analysis to prepare cases for trial by taking cell phone records and analyzing them in order to create a geo-spacial map. R, 10, L. 23–25.

Hightower testified he had graduated from the University of South Carolina in 2010 with a Bachelor of Arts in Sociology. R. 11, L. 2–7.[1] After graduating, he interned with SLED and was then hired as an investigator with the Fourteenth Circuit Solicitor's Office. R. 11, L. 2–7. He immediately attended a four-week SLED Certified Intelligence Criminal Analyst course, which gave him a background in basic criminal intelligence analysis. R. 11, L. 8–13. The course's curriculum included cellular analysis and cell phone forensics, cell phone analysis software and database use, and discussed how to track an individual through their cell phone records. R. 11, L. 14–19.

He then attended a one-week course with SLED called "PenLink" where he learned how to read and map cell records, use relevant software, and import the records to the software for analysis. R. 11. L. 23–25, R. 12, L. 1–5. He said he had also attended a two-day course entitled "Fundamentals of Call Detail Records Analysis" that covered how to manually search, analyze, and map cell phone records *without* software. R. 12, L 7–16. His other courses included a one-

[1] Hightower's resume is located on page 574 of the Record on Appeal.

day mobile forensics course and a two-day "FBI Cell Site Analysis" course. R. 14, L. 11–21, R. 33, L. 8–24. He was required to take annual online training courses on the technological changes in cellular devices pursuant to his employment contract and said he received those courses from the National Domestic Communications Assistance Center. R. 15, L. 20–25. He said he had attended those courses for the past seven years and they always included sector and tower analysis training. R. 14, L. 11–21, R. 15, L. 1–6, R. 16, L. 10–25. In total, he had received 72 hours of instruction on the subject matter in question. R. 24, L. 11–24. He had analyzed between 100 and 120 different sets of cellular records throughout the course of his career as the Director of the Fourteenth Circuit Solicitor's Office Intelligence Unit. R. 29, L. 24–25, R. 30, L. 1–6.

He testified he received a certification in each of the classes he attended and he provided copies of his certifications to the court. R. 12, L. 19–25 to R. 15 L. 25; R. 25 L. 22–25. He said his instructors tested and certified his work at each course. R. 12, L. 18, R. 13, L. 11, R. 29, L. 2–6. He said he was certified in an "understanding of how to read records, as well as an understanding of how cell site towers work, as well as sectors." R. 14, L. 22. He said, "All entities of call detail records is what you learn as a result of taking these classes." R. 15, L. 6.

The judge asked the State to proffer Investigator Hightowers' testimony on the record in order for her to determine how accurate of a location tracking he intended to provide. R. 19, L. 11 to R. 20, L. 14, R. 36, L. 1–6. Hightower testified he received Petitioner's phone records from Verizon and they contained his incoming and outgoing phone calls, call durations, the towers utilized for each call, and each sector and side of the sector utilized for each call on the dates in question. R. 38, L. 13 to R. 39, L. 11. He then explained the mechanics of the sector usage and that he never estimates or assumes conclusions from the data. R. 39, L. 13 to R. 40, L. 6. When he sets out to investigate a case, he testified he first contacts the investigating officer to

determine the timeframe of the proposed analysis. R. 40, L. 7–16. In Petitioner's case, the timeframe was October 25, 2015 at 7 PM to October 26, 2015 at 5 AM. R. 40, L. 7–16. He then puts the phone company's raw data into a more easily comprehended format. R. 40, L. 17–25. From there, he creates a map with the cellular analysis software, which includes a visual representation of the towers and sectors used during the timeframe in question. R. 41, L. 20 to R. 42, L. 10. In Petitioner's case, he said he inputted the timeframe along with the relevant locations of the street the victim lived on and the location of where the remains were found off of Pea Patch Road on Saint Helena Island. R. 41, L. 20 to R. 42, L. 10.

He explained the various elements of the software-created map and demonstrated how Petitioner's phone records corresponded to the various towers and sectors utilized and what areas they covered. He testified that Petitioner's phone utilized Tower 209 in Sector 3 between 7:11 PM and 8:37 PM on October 25, 2015, which serviced the home where the victim was shot. R. 43 __, R. 254, L. 1–4. He said the tower was only 327 yards away from the victim's house. R. 46, L. 18–24. He then demonstrated how Petitioner's phone utilized Tower 298, Sector 3, between 12:34 AM and 2:29 AM on October 26, 2015 – and how that tower serviced the area where the victim's remains were found. R. 43, L. 24 to R. 44, L. 7. The tower was 2.67 miles from that location. R. 45, L. 13–25.

Hightower also testified that Petitioner made various phone calls on the dates in question to Twiz' and Lampkins' phones and showed how Petitioner made an outgoing call to Palmetto Towing. R. 44, L. 15–24, R. 46, L. 19 to R. 47, L. 7. He testified the software determines which tower a phone "pings off of" by calculating the strength of the tower and not its location. He said if a tower was overloaded, a phone would bounce to the next closest tower. R. 47, L. 22 to R. 49, L. 10. In Petitioner's case, he said his phone used Tower 298 continuously for two-and-a-half

hours, indicating the tower was not overloaded at that time. R. 46, L. 1–15. He testified about how the software worked and noted that even though he was not personally responsible for writing or managing the software, he conducts a manual analysis of all of the data he inputs in order to corroborate the software's accuracy and results for each data set. R. 49, L. 16 to R. 51, L. 11. He said in Petitioner's case, his manual results matched the software's results. R. 51, L. 18–21.

The State moved to have Hightower qualified as an expert witness and the defense objected. The judge took the matter under advisement in order to study Hightower's training certificates. R. 69–70. The defense argued that the notation at the bottom of the FBI CAST certificate denoted that completion of the course did not qualify someone as an expert witness in the field. R. 69, L. 1–12. The State argued that Hightower was qualified to testify as an expert in historical cell phone analysis and tracking based off of the totality of his education, training, and experience. R. 69, L. 13 to R. 70, L. 3. Judge Mullen noted that courts across the country were split on the issue of historical cell site analysis and corresponding expert witness qualification requirements. Yet in Petitioner's case, she concluded, "Mr. Hightower has shown enough education, certainly, and experience and training in this triangulation technology." R. 70, L. 17–20. She ruled that any dispute regarding the adequacy of his qualifications would go to the weight of the testimony and not the admissibility. R. 70, L. 21 to R. 71, L. 2.

At trial, the State presented the same qualifications to the jury and the defense had Hightower read the disclaimer on the bottom of his FBI CAST certificate. R. 249–255. Judge Mullen qualified him as an expert witness in historical cell site analysis and tracking and instructed the jury that they were permitted to reject, accept, and give weight to his testimony as

they saw fit. R, 255, L. 24 to R. 256, L. 7. Petitioner was convicted of kidnapping and murder and timely appealed.

On appeal, Petitioner argued the trial court improperly qualified Hightower as an expert witness. The Court of Appeals concluded:

Because Hightower is the Director of the Fourteenth Circuit Solicitor's Office Intelligence Unit; has amassed seventy-two hours of training related to historical cell-site analysis; continues his education in historical cell-site analysis in the form of yearly online trainings; and has reviewed over one hundred sets of cell phone records, we find the trial court did not abuse its discretion in qualifying Hightower as an expert in historical cell-site analysis.

Accordingly, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: State v. Franks, 432 S.C. 58, 76, 849 S.E.2d 580, 590 (Ct. App. 2020) (affirming the qualification of a police officer as an expert in call record translation and cell phone location data using GeoTime signature based on over fifteen years' experience, seminar attendance, and previous use of GeoTime in over fifty other cases); Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C. 19, 25, 609 S.E.2d 506, 509 (2005) ("Qualification of an expert and the admission or exclusion of his testimony is a matter within the sound discretion of the trial court."); *Id.* at 26, 609 S.E.2d at 509 ("An abuse of discretion occurs when the ruling is based on an error of law or a factual conclusion that is without evidentiary support.");

Rule 702, SCRE ("If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise."); O'Tuel v. Villani, 318 S.C. 24, 28, 455 S.E.2d 698, 700-01 (Ct. App. 1995), overruled on other grounds by I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000) ("To be competent as an expert, a witness must have acquired by reason of study or experience or both such knowledge and skill in a profession or science that he is better qualified than the jury to form an opinion on the particular subject of his testimony."); Lee v. Suess, 318 S.C. 283, 285–86, 457 S.E.2d 344, 346 (1995) (determining a witness's qualification is dependent on the particular witness's reference to the subject; any defects in the amount and quality of education and experience go to the weight of the expert's testimony and not its admissibility);

State v. Henry, 329 S.C. 266, 273, 495 S.E.2d 463, 466 (Ct. App. 1997) ("There is no abuse of discretion as long as the witness has acquired by study or practical experience such knowledge of the subject matter of his testimony as would enable him to give guidance and assistance to the jury in resolving a factual issue which is beyond the scope of the jury's good judgment and common knowledge.")." State v. Wallace, 2021-UP-029 (Ct. App. 2021) (per curiam).

Analysis

Petitioner has not demonstrated he has a claim pursuant to Rule 242, SCACR, which warrants the granting of certiorari. The question presented is not a novel question of law. The Court of Appeals issued a short per curiam opinion upholding the decision of the trial court, for which there was no dissent. The decision of the Court of Appeals is not in conflict with a prior decision of the Supreme Court, there are no constitutional issues directly involved, and Petitioner does not present a federal question. Rule 242 (b)(1-5), SCACR. Therefore, this Court should deny Petitioner certiorari as Petitioner has not presented a special and important reason that would warrant review of the Court of Appeals' final decision. However, if this Court decides to grant Petitioner certiorari, his claim is likely meritless.

It is within the sound discretion of the trial court to admit or exclude expert witness testimony, and only a prejudicial abuse of that discretion will suffice as grounds for reversal. State v. Price, 368 S.C. 494, 498, 629 S.E.2d 363, 365 (2006). An abuse of discretion must have resulted from an error of law or a factual conclusion that lacked evidentiary support. *Id.* "A trial court's ruling on the admissibility of an expert's testimony constitutes an abuse of discretion when the ruling is manifestly arbitrary, unreasonable, or unfair." Fields, 363 S.C. at 25, 609 S.E.2d at 509. "To warrant reversal based on the admission or exclusion of evidence, the [petitioner] must prove *both* the error of the ruling and the resulting prejudice, i.e., that there is a reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof." *Id.* (emphasis added). "There is no abuse of discretion as long as the witness has acquired by study or practical experience such knowledge of the subject matter of his testimony as would enable him to give guidance and assistance to the jury in resolving a factual issue

which is beyond the scope of the jury's good judgment and common knowledge." Henry, 329 S.C. at 273, 495 S.E.2d at 466.

Here, the record demonstrates the trial judge properly qualified Hightower as an expert witness. The South Carolina standard for qualifying an expert witness is not a bright-line test. Our courts have found that "to be competent as an expert, a witness must have acquired by reason of study or experience, or both, such knowledge and skill in a profession or science that he is better qualified than the jury to form an opinion on the particular subject of his testimony." O'Tuel v. Villiani, 318 S.C. 24, 28, 455 S.E.2d 698, 700–01 (Ct. App. 1995), overruled on other grounds by I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000); Rule 702, SCRE.[2] There is no precedent in place that establishes a requirement concerning how the relied-upon knowledge or skill of a potential expert is acquired. Honea v. Prior, 295 S.C. 526, 530, 369 S.E.2d 846, 849 (Ct. App. 1988). If the proposed witness can satisfy the above standards to the satisfaction of the trial court, any dispute to the inadequacy of the witness's qualifications go to the weight of the testimony and not the admissibility. Henry, 329 S.C. at 273, 495 S.E.2d at 466; State v. Myers, 301 S.C. 251, 256, 391 S.E.2d 551, 554 (1990).[3] "The test for qualification of an expert is a relative one that is dependent on the particular witness's reference to the subject." Wilson v. Rivers, 357 S.C. 447, 452, 593 S.E.2d 603, 605 (2004).

By comparison, in State v. Franks, the Court of Appeals upheld the trial court's expert witness qualification of a Sheriff's Office Sergeant in the use of GeoTime and other call records

[2] "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise." Rule 702, SCRE.

[3] "Defects in the amount and quality of education or experience go to the weight to be accorded the expert's testimony and not its admissibility." Myers, 301 S.C. at 256, 391 S.E.2d at 554.

translation tools. State v. Franks, 432 S.C. 58, 76, 849 S.E.2d 580, 590 (Ct. App. 2020). They found he was qualified to testify about the subject matter as he had fifteen years' experience working with call records and cell phone technology, had attended several seminars about GeoTime, and used GeoTime in approximately fifty cases over the course of three or four years. *Id.* They found the record supported the trial court's conclusion that he had the relevant experience, training, and skill to testify about GeoTime and other call record translation tools as it would assist the trier of fact to understand the evidence and determine the facts at issue. *Id.* They also found the trial court did not abuse its discretion in finding the testimony reliable as the data came from Verizon and the analysis was conducted by GeoTime and the witness was merely explaining how he used the software to present the data in a map format for the jury. *Id.*

Similarly, here, the record clearly demonstrates that Hightower had the necessary specialized qualifications and training pursuant to Rule 702, SCRE, to be qualified as an expert witness. He had 72 hours of training in the field of historical cell site analysis and tracking and each hour including peer-review and performance analysis by the instructors. He participated in seven years of annual continuing education classes in the field and testified his career relied on his competence in the field, as he is the Director of the Intelligence Unit for the Fourteenth Circuit Solicitor's Office. He had performed the type of analysis proffered on between 100 and 120 sets of phone records prior to trial and performed the analysis using the software specifically designed for forensic criminal analysis. His qualifications matched those of another man who had been previously qualified as an expert witness in the field. It was clear that his testimony would assist the jury in understanding Petitioner's cell phone records and to determine the fact at issue: whether Petitioner was at any location associated with the victim's death at the times and dates in question. It was clear that Hightower had extensive experience and training that satisfied

the necessary reliability threshold pursuant to State v. White, 382 S.C. 265, 269, 676 S.E.2d 684, 686 (2009). The State met its burden of showing he possessed the necessary learning, skill, and practical experience to enable him to give opinion testimony.

Judge Mullen demonstrated she had extensively researched the topic at the pretrial hearing and the record shows she had exceptional understanding as to the nuances in the case law regarding when, how, and by whom historical cell site data testimony could be offered. She exercised extreme caution and thoroughly examined Hightower as to his qualifications to discuss a mapping of the data. Judge Mullen ensured the entirety of Hightower's testimony was proffered before trial to ensure that his testimony at trial would not overstep the bounds of his expertise. She gave the defense ample opportunity to conduct their own voir dire and cross-examination of Hightower before his testimony was presented to the jury.

Given the trial court's thorough voir dire examination of Hightower, the court was fully within its discretion to qualify him as an expert witness. Petitioner has not shown a factual or legal error that would support a finding of an abuse of discretion or that the court's ruling was manifestly arbitrary, unreasonable, or unfair. Moreover, Petitioner cannot demonstrate prejudice in the admission of Hightower's testimony in light of the record or that any alleged error affected the jury's decision. Petitioner's argument has no merit. As such, this Court should deny his Petition for Writ of Certiorari.

CONCLUSION

For the reasons stated above, this Court should deny the Petition for Writ of Certiorari.

Respectfully submitted,

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