

Circuit Court for Baltimore County
Case No. C-03-CR-20-003378

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1009

September Term, 2022

DAVON DOMINIC CURRY

v.

STATE OF MARYLAND

Arthur,
Tang,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 27, 2023

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Convicted by a jury in the Circuit Court for Baltimore County of second degree murder and use of a firearm in the commission of a crime of violence, Davon Dominic Curry, appellant, presents for our review a single issue: whether the court erred in allowing a witness “to testify about mapping latitude and longitude coordinates.” For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State produced evidence that on October 12, 2020, Mr. Curry and the victim, Dwayne Elliott, agreed to meet that evening on Samuel Owings Drive in Owings Mills. “Just after” 6:00 p.m., Marni Globerman was in her home on Donatello Square in Owings Mills, when she heard four gunshots “in rapid succession.” Ms. Globerman looked outside and observed “a silver car” traveling on Samuel Owings Drive toward Lyons Mill Road. Ms. Globerman subsequently approached a Volkswagen parked outside a residence located at the intersection of Samuel Owings Drive and Christo Court, and found in the driver’s seat Mr. Elliott, who had suffered multiple gunshot wounds. After speaking with Ms. Globerman and other witnesses, police obtained from a Weis Markets located at the intersection of Samuel Owings Drive and Lakeside Boulevard a video recording taken by the store’s surveillance cameras. Police viewed the recording and observed Mr. Curry driving and parking a silver Honda Accord in the parking lot of the Weis. Police subsequently conducted two interviews of Mr. Curry, during which he stated that he had attempted to meet with Mr. Elliott, but was unsuccessful. Police later determined that Mr. Curry’s statements regarding his whereabouts and communication with Mr. Elliott prior to the shooting were inconsistent with the video recording from the Weis, and with information, including text messages and received calls, downloaded from Mr. Elliott’s

cellphone. Forensic testing of the interior handle of the driver's door of Mr. Curry's Accord revealed "lead/antimony particles" consistent with gunshot residue.

Mr. Curry contends that the court erred in "permitting a detective, who was not qualified as an expert, to testify about mapping latitude and longitude coordinates." At trial, the State called Ashley Hofmann, a "Computer Forensic Examiner" for the Baltimore County Police Department. Ms. Hofmann was admitted, without objection, "as an expert in forensic, mobile[,] and digital analysis." Ms. Hofmann testified that on October 13, 2020, she conducted a "download" of information contained on a cellphone seized from the Volkswagen. The download included a list of "Locations," which indicates, in pertinent part, that at 5:46:18 p.m. on October 12, 2020, the cellphone was located at 39.396301 degrees latitude and -76.791209 degrees longitude, which is the geographic location of Samuel Owings Drive. The list was admitted into evidence without objection. During Ms. Hofmann's testimony, the following colloquy occurred:

[PROSECUTOR: T]he . . . Position [column], what is that?

[MS. HOFMANN:] That's the latitude and longitude.

[PROSECUTOR:] Okay. And at the top it indicates "[Open in] Google Earth." What does that mean to you?

[MS. HOFMANN: I]f your computer's hooked up to the internet, the person reading this PDF report can actually just click on that and it links you to Google Earth.

And then it will actually open up a map and map everything that's in them, in the locations.

* * *

[PROSECUTOR:] So, . . . if someone plugged this . . . into Google Earth, it would give you the point that it[']s referring to?

[MS. HOFMANN:] That is correct.

[PROSECUTOR:] Okay. And that's not difficult?

[MS. HOFMANN:] No.

[PROSECUTOR:] Okay. Now, looking at the next column, what does Info indicate?

[MS. HOFMANN:] So, it gives the time, and then it gives the address and then the [s]ource is Apple Maps. So that address was put into Apple Maps at that date and time.

* * *

[PROSECUTOR:] And the address is what?

[MS. HOFMANN:] Samuel Owings Drive, Owings Mills, Maryland 21117, and then United States.

[PROSECUTOR:] Okay. So, that's something someone actually typed into the phone?

[MS. HOFMANN:] Or it could have been that they open up their Apple Maps to see their location, but that was basically through Apple Maps.

The State subsequently called Baltimore County Police Detective McDonnell Jones. During Detective Jones's testimony, defense counsel objected to the detective's expected testimony regarding "how Google Earth is used and how they plot longitude and latitude." Defense counsel contended that the State was required to call an expert from "Google who can testify as to what happens when you put longitude and latitude lines on their system and how it's plotted." The court rejected defense counsel's argument.

Detective Jones subsequently testified that he “was able to take that longitude and latitude” from “the forensic download of [Mr. Elliott’s] phone” and “plot it using Google . . . Maps.” The results “brought up a pinpoint plotting the . . . longitude and latitude provided from the . . . phone and . . . plotted it on Samuel Owings Drive.” Detective Jones “then took a screen shot of that and put it onto a piece of paper to review with” Mr. Curry. Over defense counsel’s objection, the court admitted into evidence the portion of the download that the detective used to create the “screen shot,” and the “screen shot” itself.

Mr. Curry contends that the court erred in allowing Detective Jones’s testimony and admitting the related documents into evidence, because Detective Jones “was not qualified as an expert,” and his testimony and the related documents “require . . . specialized training or expertise to understand.” We disagree for two reasons. First, the jury heard similar testimony from Ms. Hofmann, who was admitted as an expert. Second, the Supreme Court of Maryland has held “that data from a business record indicating locations and durations of time determined by a [global positioning system (GPS)] device [is] admissible without need for expert testimony to explain the operation of, and science underlying, [such] devices.” *Johnson v. State*, 457 Md. 513, 537 (2018). The Court explained:

In our view, the times and locations reflected in GPS data in a business record do not necessarily require expert testimony to be admissible. Courts regularly admit business records through witnesses who are not experts in the technology that produced those records. In many instances, such records indicate, like the GPS report here, a person’s (or device’s) location at a given time, are produced or processed by computers, and are admitted without expert testimony – *e.g.*, computer generated reports from electronic ankle monitoring devices, electronic records of employee card access, computer reports generated from electronic hotel key cards, and computer reports from electronic toll transponders. Expert testimony about how a clock works is

not necessary every time an employee's timesheet is offered into evidence. The same is true for GPS entries.

Id. at 532 (footnotes omitted). Hence, the court did not err in allowing Detective Jones's testimony and admitting the related documents into evidence.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**