

No. 1-15-1887

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,                    ) Appeal from the Circuit Court of  
  ) Cook County.  
  )  
  )  
v.    ) No. 14 CR 15650 (2)  
  )  
SAUL SANDOVAL,    )  
  ) Honorable Gregory Robert Ginex,  
  ) Judge Presiding.

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JUSTICE DELORT delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Cunningham concurred in the judgment.

**ORDER**

¶ 1 **Held:** We reverse defendant’s conviction for armed robbery because the circuit court improperly admitted hearsay testimony concerning defendant’s cell phone location history on the day of the offense, and the error was not harmless.

¶ 2 After a joint jury trial with co-defendant Juan Ramos, defendant Saul Sandoval was convicted of armed robbery with a firearm and sentenced to 23 years in prison.<sup>1</sup> For the reasons discussed in *People v. Ramos*, 2018 IL App (1st) 151888, we reverse and remand for a new trial.

¶ 3 **BACKGROUND**

¶ 4 Given the substantial overlap in the facts between this case and *Ramos*, which has also

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<sup>1</sup>Ramos filed a separate appeal docketed as case No. 1-15-1888. See *People v. Ramos*, 2018 IL App (1st) 151888.

been decided today, we recite only those facts absolutely necessary to disposing of this appeal. A more detailed version of the facts may be found in this court's opinion in *Ramos*.

¶ 5 In June 2015, the State charged defendant by indictment with, among other things, one count of armed robbery. 720 ILCS 5/18-2(a)(2) (West 2014). The indictment alleged that defendant robbed Francisco Vivas of jewelry while brandishing a firearm. The case proceeded to a jury trial. At trial, 71-year-old Francisco Vivas testified that on August 3, 2014, he went to Swap-O-Rama, a flea market located at 42nd Street and Ashland Avenue in Chicago, to sell jewelry. He left around 4:30 p.m. and went to a fruit market a few miles away, and from there to Kathleen Snyder's home in Riverside to drop off some jewelry. When Vivas arrived at Snyder's house, two men who were later identified as defendant and co-defendant Juan Ramos attacked Vivas, gained access to his car, from which they removed bags containing jewelry, and fled.

¶ 6 Snyder testified that she went outside to greet Vivas and instead witnessed him being attacked. She testified that Ramos was actually assaulting Vivas and that defendant was standing a few feet to the side. Snyder confronted Sandoval, who responded by pulling a gun on her. Two days later, Snyder identified defendant and Ramos in a lineup.

¶ 7 Detective James Lazansky testified that he was a detective with the Riverside police department. As part of the robbery investigation, Detective Lazansky served a search warrant on T-Mobile company seeking historical cell site location data for cell phones that were recovered from defendant and Ramos when they were arrested. Detective Lazansky explained to the jury that "cell tower location history is when you use your cell phone, it pings on a certain tower. So it could be within a short distance of where your phone is hitting." He elaborated: "[w]herever you travel, you're going to go from one tower to another tower to another tower, and your cell phone is going to ping on that certain tower in the area that you're at."

¶ 8 Detective Lazansky then explained that in response to the warrant, “T-Mobile gave us a spreadsheet of all the latitudes and longitudes and dates and times of where the cell phone towers were hitting.” Detective Lazansky stated that the T-Mobile records for defendant’s phone for August 3, 2014, “dictated the exact location of Swap-O-Rama and followed the victim exactly how he showed us going down I-55. It kept pinging down I-55 to Harlem Avenue. It pinged at Harlem Avenue; and actually where the crime occurred, it also pinged there.” Detective Lazansky explained that a ping “[b]asically \*\*\* gives us the latitude and longitude and then you punch in the latitude and longitude into Google Earth, which gives you the exact geographic location of where the phone is hitting on the cell tower.”

¶ 9 The jury found defendant guilty of armed robbery and the court imposed a sentence of 23 years in prison. This appeal followed.

¶ 10 ANALYSIS

¶ 11 Because it is dispositive, we limit our analysis to the circuit court’s decision to admit Detective Lazansky’s HCSA testimony. As we noted at the outset, defendant was tried jointly with co-defendant Juan Ramos. Thus, the same evidence which was used to convict Ramos, including Detective Lazansky’s HCSA testimony, was also used to convict defendant. In *People v. Ramos*, 2018 IL App (1st) 151888—decided today—we held that Detective Lazansky’s testimony was inadmissible hearsay. We explained:

“T-Mobile, which authored the document, was a declarant, and the data showing which towers Sandoval’s cell phone pinged, and at what times, was an out-of-court statement. And the only reason Detective Lazansky conveyed this information to the jury was for its truth—that is, to convince the jury that Sandoval’s phone

followed Vivas around all day on August 3, 2014. That fact is borne out by Detective Lazansky’s testimony, which meticulously detailed the cell phone’s path of travel, and in the State’s closing argument, in which the prosecutor emphasized, ‘ we \*\*\* know from Saul Sandoval’s phone that he was at the Swap-O-Rama at the same time that Mr. Vivas was because we know from his phone that his phone took the same path that Mr. Vivas took \*\*\*.’ ” *Id.* ¶ 20.

Likewise, we found it immaterial that Detective Lazansky used a software program to convert the T-Mobile report’s raw data into a comprehensible format:

“It makes no difference that Detective Lazansky used Google Earth to convert the raw coordinate data from the T-Mobile report, which was in code and would have been meaningless to the jury, into a format that was actually comprehensible. Information that is hearsay when presented as numerals in a spreadsheet is still hearsay when those numerals are converted to waypoints on a map, and it remains hearsay when that information is conveyed to a jury.” *Id.* ¶ 21.

We ultimately concluded that Detective Lazansky’s testimony was *inadmissible* hearsay because the State failed to: (1) authenticate it as a business record under Illinois Rule of Evidence 803(6) or (2) establish that the report was self-authenticating under Rule 902(11). *Id.* ¶¶ 22-23; see Ill. Rs. Evid. 803(6), 902(11) (eff. Jan. 1, 2011).

¶ 12 Because defendant was tried in the exact same proceeding as Ramos, our finding in

*Ramos* that Detective Lazansky's testimony was inadmissible hearsay governs us here. And, for the reasons we articulated in *Ramos*, the court's error in admitting this evidence was not harmless. See *Ramos*, 2018 IL App (1st) 151888, ¶¶ 24-25. Detective Lazansky's testimony allowed the State to close an important gap in one of its more crucial pieces of evidence. At trial, a detective testified that surveillance footage from the Swap-O-Rama and the Berwyn Fruit Market showed a silver SUV following Vivas. That SUV was linked to one of defendant's and Ramos's associates. In fact, they were arrested near the SUV and robbery proceeds were discovered inside. Yet, the State could not identify from the surveillance footage who was inside the SUV. Detective Lazansky's testimony allowed the State to close that gap: the jury knew the SUV was following Vivas, and now it knew that defendant's phone was also following him. A rational juror could have easily put two and two together and concluded that defendant's phone was following the same path of travel as Vivas because he was inside the silver SUV that was stalking Vivas. And, given that the scientific nature of this evidence, the jury likely afforded it great weight. See *id.* ¶ 25 (citing *People v. Wright*, 2012 IL App (1st) 073106, ¶ 96). Thus understood, it is clear that this evidence was powerful, and we thus cannot exclude the possibility that it significantly contributed to the jury's verdict.

¶ 13 We find that the remainder of the properly admitted evidence was sufficient to sustain a conviction. There is thus no double jeopardy bar to retrial. *People v. Piatkowski*, 225 Ill. 2d 551, 567 (2007). We therefore reverse defendant's conviction and remand for a new trial.

¶ 14 CONCLUSION

¶ 15 We reverse defendant's conviction and remand for a new trial.

¶ 16 Reversed and remanded.