



U.S. Department of Justice
United States Attorney
Eastern District of Pennsylvania

ALEXANDER T.H. NGUYEN
Direct Dial (215) 861-8637
Fax (215) 861-8498
Email Address: alexander.nguyen@usdoj.gov

615 Chestnut Street
Suite 1250
Philadelphia, Pennsylvania 19106-4476
(215) 861-8200

February 4, 2009

Via Electronic Mail to mark_wilson@fd.org

Mark T. Wilson
Defender Association of Philadelphia
Suite 540W, The Curtis Center
601 Walnut Street
Philadelphia, PA 19106

Re: United States v. Brown
Criminal No. 07-743

Dear Mr. Wilson:

In follow up to our telephone conversation of today, I am enclosing William Shute's testimony from United States v. Sims, No. 06-674 from this district. His testimony is Bates-labeled CBF431 through CBF460.

Please call me if you have any further requests or additional questions.
Thank you.

Sincerely yours,

LAURIE MAGID
Acting United States Attorney

s/ Alexander T.H. Nguyen
ALEXANDER T.H. NGUYEN
Assistant United States Attorney

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
 :
 vs. : CRIMINAL ACTION
 :
 :
 AESHA SIMS, TONY THOMPSON, : NO. 06-674
 AND SABINA ANDREWS :
 :
 Defendants :
 :

Philadelphia, Pa.
November 13, 2007

BEFORE: HON. STEWART DALZELL, J.
And a Jury

TRIAL - FIRST DAY

TESTIMONY OF WILLIAM SHUTE

APPEARANCES:

For the Government: OFFICE OF THE U.S. ATTORNEY
BY: ANTHONY WZOREK, ESQ.
And ALEX NGUYEN, ESQ.
Assistant U. S. Attorneys
615 Chestnut Street
Suite 1215
Philadelphia, PA 19106

For the Defendant: ROBERT B. MOZENTER, ESQ.
Aesha Sims 121 South Broad Street
Suite 500
Philadelphia, PA 19107

For the Defendant: DAINE A. GREY, JR., ESQ.
Tony Thompson 320 North 18th Street
Philadelphia, PA 19103

1
2 For the Defendant: JOSEPH C. SANTAGUIDA, ESQ.
3 Sabina Andrews 121 South Broad Street
4 Second Floor
5 Philadelphia, PA 19107
6
7
8
9
10
11
12
13
14
15
16
17
18
19

20 SIDNEY S. ROTHSCHILD
21 Official Court Reporters
22 Room 1234 - U.S. Courthouse
23 601 Market Street
24 Philadelphia, Pa. 19106
25 (267) 738-8713

Proceedings recorded by mechanical stenography, transcript
produced by computer.

1 WILLIAM B. SHUTE, SWORN

2 THE DEPUTY CLERK: Would you state and spell
3 your full name for the record?

4 THE WITNESS: William B. Shute, S-H-U-T-E.

5 THE COURT: Agent Shute, pull that microphone
6 close and speak into it.

7 Proceed, Mr. Wzorek.

8 MR. WZOREK: Thank you, your Honor.

9 DIRECT EXAMINATION

10 BY MR. WZOREK:

11 Q. How are you presently employed?

12 A. By the FBI, the Federal Bureau of Investigation,
13 the FBI.

14 Q. How long have you been employed by the FBI?

15 A. Well, 12 years, approximately eight as an agent.

16 Q. In your work, do you use cellular telephone
17 technology in your investigations?

18 A. Yes, I do routinely, probably everyday.

19 Q. About how long has that been going on?

20 A. Since I have been in the FBI.

21 Q. Have you received any special training regarding
22 cell phone technology?

23 A. Yes, I have. I received training from the FBI
24 regarding cellular telephone technology and also have
25 been sent to several courses by a private company

1 known as ETS, Emerging Technology Support is the
2 company. It is a company that is comprised of former
3 military and other Government workers that provide
4 training and cellular technology radio frequency
5 theory, those concepts, they provide that training
6 back to other Government entities.

7 Q. Have you also had training by other cellular
8 telephone companies as well?

9 A. Yes, I have routine interaction with cell phone
10 companies in the Philadelphia metropolitan you know T-
11 Mobile, Cingular, now AT&T, Sprint, Verizon Wireless
12 and particularly a lot with Nextel.

13 Q. Can you summarize as closely as you can what areas
14 of training you have gone into with these companies,
15 what types of training?

16 A. Well, we have talked about radio frequency theory
17 because essentially a cell phone is a two way radio
18 transmitter, we have gone into the various
19 technologies because out of those five cell phone
20 providers that I just mentioned to you, they operate
21 in three different technologies, T-Mobile and AT&T are
22 a GSM network. GSM stands for global standard mobile
23 communications, that's one technology. Sprint and
24 Verizon Wireless is another technology called CDMA,
25 code division multiple access, a fancy name for it,

1 but it is important to note it is a different
2 technology. And, then you have Nextel which is a
3 technology called IDEN, integrated digital enhanced
4 network. All three different technologies pretty much
5 acting in the same fashion.

6 Q. Have you been certified as an FBI instructor in
7 historical cell site analysis?

8 A. Yes, I have been certified as an FBI instructor,
9 yes, particularly, my focus is usually cell site,
10 historic cell site analysis.

11 Q. What exactly does it include?

12 A. It is kind of a concept that hasn't been around
13 all that long. What it is, it is taking the
14 historical records of a person's, what we call the
15 detail records and the cell site information and
16 taking them -- creating an analysis of where that
17 phone was at each particular call and then laying that
18 geographically on to some type of a mapping program.
19 It used to be years ago we had to tape maps together
20 to do it, but now we can do it all with computers.

21 Q. How is it you find out where the phone is located,
22 what are you using?

23 A. I'm sorry?

24 Q. What are you using to find out where the phone is
25 located when a call is made?

1 A. We use in particular the column known as the cell
2 site column, the originating or the terminating cell
3 site.

4 Q. Also called cell towers?

5 A. Cell towers.

6 Q. Do you train other agents in the FBI as part of
7 your expertise?

8 A. Yes, I have been to 25 different cities to train
9 the various agents and various aspects of this type of
10 technology. I have routinely instructed county
11 detective schools in the Philadelphia metropolitan
12 areas and then I was asked by FBI lawyers to create a
13 curriculum, three day course that teaches these
14 concepts to other agents and police officers across
15 the country. So, we have done two of those so far.
16 We are doing another conference in two weeks here in
17 Philly.

18 MR. WZOREK: Your Honor, I'll submit Agent
19 Shute as an expert in historical cell site analysis.

20 THE COURT: Expert in historical?

21 MR. WZOREK: Cell site analysis, your Honor.

22 THE COURT: Cell site.

23 MR. WZOREK: Analysis.

24 THE COURT: Okay. Any voir dire?

25 MR. SANTAGUIDA: I wouldn't know how to

1 cross-examine him. I have to accept him.

2 THE COURT: No objection?

3 MR. GREY: No objection.

4 THE COURT: I will therefore certify that
5 Special Agent Shute is an expert in historical cell
6 cite analysis.

7 BY MR. WZOREK:

8 Q. Tell the ladies and gentlemen of the jury, in as
9 simple terms as possible how a cell network works?

10 A. We will try. A cellular network is kind of a
11 complex matrix of a lot of different parts operating,
12 but in the essence of simplicity we can basically
13 describe it in this fashion:

14 You have a cellular telephone which interacts
15 with cell phone towers, okay. Those cell phone towers
16 are also known in the engineer's world as base
17 stations. So a cell phone tower is the same as a base
18 station.

19 You have cell phone towers or base stations
20 controlled by base station controllers. In a given
21 geographical area there could be numerous base
22 stations all reporting to an area known as a LAC,
23 location area code. So if you want to think of it
24 this way, an area location code could be anywhere from
25 100 to 125 cell phone towers operating in this one

1 area known as a LAC, that's an important term for
2 later on.

3 The LAC then is controlled by something known
4 as the mobile switching center or they call it a
5 switch, it is at this location at the switch, where
6 all of the types of data are recorded, and one of them
7 is normal billing procedure data.

8 Now what is the data and why is it recorded?
9 We will get to that in a second.

10 It's important to know about a cell phone,
11 that a cell phone although it is kind of a cheaply,
12 easily made device is actually a very smart device.
13 The one thing that I want you to take away about cell
14 phones is that cell phones are a lot like children,
15 they won't talk to strangers. At any given time, your
16 cell phone knows the cell site sector it likes the
17 best. If you want to think of a cell phone tower, it
18 has three different sectors, and in the case of
19 Nextel, if you were to look at the face of a clock,
20 they would generally be oriented from 12 to 4, 4 to 8
21 and 8 to 12. Those are the three cell sectors that
22 Nextel orients their towers.

23 And what is happening is that the call, okay,
24 when a phone call comes through, it gets paged through
25 that entire LAC, that location area code. So, if your

1 phone is sitting there idle, your wife or husband
2 calls you, the phone call comes in, it is paged
3 throughout that entire LAC, it could be 25, it could
4 be 100 towers, and the phone is sitting there idle and
5 the phone hears this page, it pages, it is basically a
6 silent scream, screaming where are you? Where are
7 you? When the phone responds, when it hears that, it
8 responds with a paged response. Where does it respond
9 to? The phone responds to the cell site sector that
10 it sees strongest. When it happens, it goes through a
11 series of interactions which happens instantaneously
12 and then that cell phone call is placed up on that
13 cell site sector. What happens is it sees the cell
14 site sector it likes the best. It can also see up to
15 six other tower sectors in the area, okay, it is
16 important to take that into consideration.

17 It stacks and racks them. When your phone is
18 sitting there idle, it sees the cell site sector it
19 likes the best, but it also sees up to six additional
20 sector that it could go to if it needed to.

21 Let's get back to what the data is that is
22 being recorded. The data being recorded at the switch
23 is the global cell site ID. Global cell ID is a fancy
24 term for a cell site, so when that call gets placed up
25 on that particular cell site sector, okay, what

1 happens is it records that as the originating cell
2 site. The phone goes through the series of the
3 conversation. When the call is terminated, it also
4 records that as well.

5 Why does it record that? It records it for
6 three main reasons.

7 One, for maintaining your call quality,
8 really is one of the biggest reasons.

9 For maintaining calls from tower to tower.
10 How else would you be able to drive your car and still
11 stay on the cell phone.

12 Lastly and probably most importantly is for
13 billing purposes. I think if there is one thing that
14 everybody can understand, a cell phone company is in
15 business to make money. Not too long ago there were
16 roaming charges. This is how the phone company would
17 know if you are not in your home area. It keeps track
18 of you down to that, down to the cell site, the LAC of
19 cell phone towers and the cell site sector.

20 What is happening when law enforcement asks
21 for that data via Court order, whatever the legal
22 process we ask it, that's what we are asking, the
23 normal billing procedure, the normal business records
24 that say in this case Nextel uses to keep track of the
25 cell phone in order to provide its service. So that

1 is kind of how the cell phone network works and how
2 the data is then acquired by law enforcement.

3 Q. Let me ask you a few stupid questions.

4 Is it fair to say when you use the cell
5 phone, it bounds of the nearest cell phone tower, is
6 that generally the case?

7 A. Generally the nearest one at that point, the
8 signal strengths from that cell phone tower is so
9 great.

10 Q. As I'm moving, as you say in the car and I am
11 driving down Route 1 or the Schuylkill Expressway,
12 that tower may change with me as I'm still on the
13 phone, going down the road, is that correct?

14 A. That's true. It even changes when you are not on
15 the phone, it continually does that stacking and
16 racking that I am talking about. At any given time,
17 your phone knows the tower that is the strongest, not
18 just the tower but that sector that I'm talking about
19 and then it knows, as I said up to six others. So if
20 it sees the next tower as being the second strongest,
21 it stacks it there, the next one, it stacks it there.
22 It gives it in order in which it could bounce to if
23 needed to. It reports that back to the cellular
24 network, that's how the network knows where to switch
25 the call to.

1 Q. If I understand you correctly, you can use the
2 information you received to basically locate where a
3 cell phone is within a range, when a phone call is
4 made, is that correct?

5 A. Definitely.

6 Q. More specifically related to this case, did you
7 review the records for a cell phone number 267-688-
8 1610?

9 A. Yes, I did.

10 Q. And did that belong to Sprint Nextel?

11 A. Yes, in particular it was the Nextel portion of
12 Sprint Nextel.

13 Q. Did you also obtain from those records, I believe
14 you called them earlier the call detail records, is
15 that correct?

16 A. Yes, it was the call detail records to include
17 cell site information.

18 Q. What exactly is that, does that give you the cell
19 towers that are being struck?

20 A. Yes. In a few minutes we will actually see some
21 of the call records. It gives you the date, the time
22 of the call, the phone number that is being dialed.
23 It will tell you the duration of the call, I think
24 they show it in seconds. Then it will give you
25 originating and terminating cell site, that means it

1 will show you the location of where the phone was at
2 the moment that the call was initiated. When like I
3 said, the network is screaming to where are you, it
4 gets placed up on that call, that is what you are
5 seeing as originating cell site. Where you see
6 terminating cell site, wherever that cell site sector
7 was when it ended.

8 Q. You made up a power point based on the
9 information you received as a result of your analysis,
10 is that correct.

11 A. I thought that was the easiest way to present it.

12 MR. WZOREK: We have it marked as Government
13 Exhibit 16.

14 May we play that for the jury at this point?

15 Q. Agent, you have with you -- I see something in
16 your hand, what's that?

17 A. It is just what we call a remote clicker, it
18 advances the slides.

19 Q. You can do that without further action on our
20 part?

21 A. Yes.

22 Q. Tell the jury what you presented here?

23 A. This is a cover sheet here of what I normally do
24 when I present these things for court purposes, and it
25 then what we will do is I want to show you the typical

1 layout, the way that Nextel describes it. What you
2 see there is if you were looking straight down on to
3 the cell site sector, this is what a tower would look
4 like.

5 What I want to do is read this to you. It
6 says: That this cell site analysis is based on the
7 layout of the Nextel cell phone towers. Most cell
8 towers in Nextel's network are designed to have a
9 three sector layout. Each cell site and cell site
10 sector are unique and the numeric code assigned to
11 each sector is not duplicated anywhere else on the
12 cellular network. Most Nextel towers are oriented in
13 this fashion, with sector one being to the northeast
14 face sector, highlighted in yellow. Sector two being
15 the southern face, highlighted in red and sector three
16 being the northwest face, highlighted in blue.

17 Q. So you have indicated each cell site has a
18 particular code to it that's unique to it, is that
19 correct?

20 A. Correct. If you look down there, I will point
21 with this laser pointer, this is why I said generally
22 12 to 4, 4 to 8 and 8 to 12, that's what you will see
23 on the cell site analysis.

24 The next slide just indicating that all the
25 calls displayed on this particular analysis I have

1 done took place on Friday, June 9, 2006, between the
2 hours of 7 a.m. and 7 p.m.

3 Q. That's based on the records that you reviewed, is
4 that correct?

5 A. That's correct, the only records that I reviewed.

6 What we have here is the call detail records
7 to include cell site information for the particular
8 cell phone 267-688-1610.

9 What you see there is you have columns for
10 customer PTN, customer personal telephone number, the
11 date, you see the call initiation time, the duration
12 in seconds as I said. It tells you the type, is it
13 inbound or outbound call. Whether or not the call was
14 forwarded. Typically the calls are forwarded when
15 they go to voice mail sometimes. If it was a 911
16 call, if it was an international call. Then you get
17 into the initiating cell site and terminating cell
18 site. So that right there what you are seeing if you
19 want to look at the very top cell site, you can see
20 right there the last set of digits is 4108 is the LAC
21 and 14088 is the cell site. So, it is part of the
22 global cell ID I'm talking about. It is the last two
23 parts, that's what Nextel provides you, the LAC and
24 the cell site, so it gives you the region and then the
25 cell site tower, down to the cell site sector is what

1 they are providing you with there.

2 So what I have done here is taken a group of
3 calls. So in this case I have taken from 7:06 a.m.
4 through 7:37 a.m., and take that time frame and took
5 those cell sites and plotted them on the map so you
6 can all see it. Primarily we are seeing the same cell
7 site 14088 and then also in this general vicinity
8 right here is the area, the geographical area
9 represented by that particular cell site.

10 Q. What do you mean by that?

11 A. Well what happens is 14088 is in Nextel's
12 engineer's list, which is their master list that they
13 provide to us.

14 They have cell site, well, LAC 4108 and cell
15 site 14088 cell site sector two. Nextel, what they do
16 is give each sector its own numeric code, that numeric
17 code right there is equivalent to sector two displayed
18 in the highlighted yellow area.

19 Q. I see red dots, about 7 or 8 of them across this
20 map, what are they?

21 A. They are the other Nextel towers in the area.
22 One of the reasons that it is usually very important
23 to display that is to be able to show the Court the
24 approximate range. When I built this analysis, I am
25 always more generous towards the area where the phone

1 could be. In fact, if I was looking for somebody for
2 say fugitive purposes, which is, I have used this well
3 over 100 times, probably close to 150 times to locate
4 people, I wouldn't even be - - I wouldn't span that
5 geographical area that far. I wouldn't look for the
6 person -- I would look for the person closer to the
7 cell site. In the essence of being fair in court
8 purposes, I wanted to show the greatest possible range
9 of where that phone could be in that general area.

10 Q. Why is that in the lower section from the 4 to 8
11 I guess, it is colored in?

12 A. Why is that?

13 Q. Yes.

14 A. That is representative of that cell site sector
15 of which cell site 14088 is facing, where callers
16 would be if they were using that cell site sector.

17 Q. Sort of summarizing, if you went back just having
18 some phone number bounce off that cell tower you see
19 right in the middle of the circle, it could be
20 theoretically in that circle. Once you get the
21 additional information, you can restrict it to a
22 certain area, is that correct?

23 A. That is correct, being fair, it would be somewhere
24 in that area for sure.

25 Q. Again those are the calls that you had

1 highlighted before, the 7:06 all the way through the
2 first four calls we saw, is that correct?

3 A. That is correct.

4 Q. Continue, please.

5 A. Then the next slide just depicts where Sabina
6 Andrews' work location is.

7 In this particular spot, it is Inter-
8 Community Action Incorporated at 6710 Ridge Avenue.

9 Also what plays a part in cell phone towers
10 is geographical area and this particular area, Rox-
11 borough, Manyunk is very hilly. Where you see the
12 cell site down here all the way to the bottom of where
13 that box is, if you are familiar with the area, and I
14 am, that is much lower than the actual cell site that
15 the phone is being used on.

16 So, the actual cell site down at the bottom
17 would have been lower than the location of where the
18 business is.

19 So, it is more likely that the phone would
20 have seen 14088 as the strongest tower at that point.
21 Okay. Then the next sets of calls is right here.

22 Q. Let me stop you before you get too much further.

23 You talked about these different columns,
24 there's a column about two-thirds of the way over
25 called caller and call PTN.

1 A. Correct.

2 Q. What is that?

3 A. Well, depending upon if you look at the column
4 that says type, whether it is inbound or it is
5 outbound, if it is an inbound call, then that's going
6 to show who the person was that was calling. If it is
7 an outbound call, it will show the reverse. That's
8 what that is.

9 Q. Okay.

10 A. So the next calls are both at 7:50 a.m., and it
11 what we are showing here, these two calls and where
12 they are actually at. As you can see there are three
13 separate LACs, and cell site sectors 19284, 37638 and
14 2722. That would be representative of this area right
15 here. Those in that order is the way that those calls
16 were -- cell sites were hit.

17 Q. Let's go to the circle up on top, you have a blue
18 flag outside of the circle at 417 West Olney Avenue,
19 the Wachovia Bank there, is that correct?

20 A. That is correct.

21 Q. The first call was made somewhere in that area
22 near that bank, is that correct?

23 A. Very, very close to the bank, sure.

24 Q. Then how do you interpret the differences of the
25 circles, it means the person is moving or what?

1 A. Yes, it means, I won't speculate because I don't
2 know the route that was taken, but it moved in that
3 kind of south, southeasterly direction, the calls, as
4 the calls were being recorded.

5 Q. There's another little blue flag right above the
6 third circle, down toward the right hand section. Do
7 you know what that is on D Street?

8 A. I believe that is Sabina Andrews' home residence,
9 I believe.

10 Q. Would you continue, please.

11 A. Then we will show this particular call at 8:57
12 a.m., which utilizes cell sites 20926 and 37674. It
13 was -- let me go back, 17 second call. It was
14 initiated on this cell site sector here but then
15 terminated right there.

16 In the case of like this, you know, I don't
17 speculate where the person was. I just show you where
18 the cell site sectors are.

19 However, it is highly possible that Ms.
20 Andrews was at her home, that cell cite is only 60
21 yards from her house, approximately maybe 60, 70 yards
22 and with the strength that close, the cell phone would
23 -- I know this because I do it all the time with my
24 own personal engineering hand set.

25 MR. SANTAGUIDA: Objection to that, Judge.

1 THE COURT: I agree. Just answer the
2 question, sir.

3 THE WITNESS: Sure, it would -- the cell
4 phone would probably seek both sectors equally the
5 same because of the proximity to the tower.

6 Q. Would you continue, Agent.

7 A. Sure. So, it is safe to conclude that Ms.
8 Andrews, if in fact she is in possession of the phone,
9 was in the vicinity of her home during that particular
10 call.

11 Then we have the next two calls, 9:04 a.m.
12 9:06 a.m., and these are the cell sites being
13 utilized. As you can see, one originating then
14 another terminating. On the second call, there's
15 another originating and another terminating.
16 Basically, it is representative of this, these cell
17 sectors here, which again shows me that the phone is
18 on the move, kind of heading in a southwesterly
19 direction.

20 Then we look at this call at 9:28 a.m.,
21 which is a 21 second phone call, initiated on 37032
22 and it terminated on 2747. So, initiated here,
23 terminated here. Because it was only a 21 second
24 call, it is a great possibility that the phone is
25 right in the middle on that overlap area, that happens

1 frequently when a phone call - - a phone initiates on
2 one but terminates on the other, it would be right
3 smack in the middle of the two cell sites because
4 again the phone is continually stacking and racking
5 and one second it may see 3730 as the strongest but 8
6 seconds later it can see 2747 as the strongest signal.
7 Just solely based on movement and where the phone is
8 at that time.

9 Q. That area is somewhere west of Broad Street, west
10 of South Broad Street, is that correct?

11 A. Yes, correct, in South Philadelphia, on the west
12 side of Broad Street.

13 Q. Okay. There's a blue flag over toward the left
14 hand side of that chart, is that the information you
15 had received, Reed Street, Aesha Sims' residence, is
16 that correct?

17 A. That is correct. It was communicated to me that
18 address was a significant location. I just plot that
19 to show that the phone was approximately in a half
20 mile --

21 MR. SANTAGUIDA: I'll object to the term
22 "significant".

23 THE COURT: Okay, the objection is sustained.

24 BY MR. WZOREK:

25 Q. That is the address you were given?

1 A. That is correct.

2 Q. Can we get to the next slide, please.

3 A. Sure. In the next set of calls, it is
4 approximately an hour time frame from 9:54 until 10:56
5 a.m. What you see here is all the same cell sites over
6 and over again throughout that entire hour period,
7 cell site 20946. When you see these types of calls
8 consistently on the same cell site throughout a time
9 frame like this, for example, in an hour time frame,
10 it usually means that the phone is very close to the
11 tower. And in this case, that is representative of
12 that cell site sector and I'm just displaying where
13 Sabina Andrews' residence is.

14 Q. Again you said that was about 60 yards?

15 A. It was approximately 60 to 70 yards from the
16 actual tower, extremely close. The power from that
17 cell phone tower would be so great, it would be
18 difficult to go anywhere else.

19 Q. Go to the next slide, please.

20 A. Then for the next seven hours, Sabina Andrews
21 consistently utilized two Nextel cell towers.

22 MR. SANTAGUIDA: I object to who was
23 utilizing it.

24 THE COURT: It is Sabina Andrews', the
25 telephone that is registered to Sabina Andrews?

1 JUROR: Correct.

2 THE COURT: With that understanding, please
3 proceed.

4 THE WITNESS: It is important to note that it
5 is the phone not - - I cannot say who had the phone
6 in their possession.

7 But, that phone, consistently used two Nextel
8 cell towers which overlap each other.

9 And, as you will see it for the next seven
10 hours, beginning at 12:12 p.m., so, you will then
11 see 14258 and 37884 consistently throughout these
12 records.

13 Again, this set of records here from 1
14 o'clock through 2:37 p.m., you are seeing the same
15 cell site sectors over and over. Sometimes it
16 originates on 14258, sometimes it terminates on 37884.
17 Again all the way through 5 o'clock, you are seeing
18 14258 and 37884.

19 From my experience and utilization of this
20 technology, that is extremely consistent with the
21 phone being somewhere in the middle of the two cell
22 site sectors, when you hit consistently over a seven
23 hour period between two phones. It is not to say that
24 the phone wasn't moving but this is very consistent
25 with the phone being in one location but utilizing two

1 separate towers.

2 And, that is 14258, the general geographical
3 area and then you can see the other cell site sectors
4 in the region. You also see 37884 and, whenever I use
5 this to locate someone, I generally believe that they
6 are in the overlap and what I want to show between the
7 hours of approximately 12 and 7, the Nextel cell phone
8 bounced between those two cell phone towers. As I
9 said, this is consistent with the phone being
10 stationary in the overlap of the two cell site
11 sectors, and what I wanted to show you is within that
12 area is Tony Thompson's residence, 3111 North 9th
13 Street, Philadelphia, Pennsylvania.

14 Q. Where the blue flag is?

15 A. The blue flag location is Tony Thompson's
16 residence.

17 Q. That's the last slide, am I correct?

18 A. That is correct.

19 MR. WZOREK: No further questions, your
20 Honor.

21 THE COURT: Cross-examination.

22 MR. GREY: I have no questions, Judge.

23 CROSS-EXAMINATION

24 BY MR. SANTAGUIDA:

25 Q. Is there anything illegal about any of this that

1 you told us?

2 A. I don't understand.

3 Q. Well, I mean, what you have explained to us you
4 are trying to track where a particular phone is, when
5 a call is about, either being made to that phone or
6 being on - -

7 A. That's not what I am saying.

8 Q. That's not what you are saying?

9 A. I'm not tracking anything, the cellular network
10 has to keep track of the phone to provide the phone
11 with cellular service.

12 Q. I understand. What you are here trying to do is
13 trying to explain somehow I guess the location of the
14 phone in question, is that correct?

15 A. Yes.

16 Q. Is that right?

17 A. Yes.

18 Q. Now, again I have no clue of what you are talking
19 about but it seems to me that you can only, you are
20 not sure where the phone is, you can only guess an
21 approximate area?

22 A. The area highlighted.

23 Q. The area highlighted. How many block area?

24 A. Well, in this, each call is different because it
25 pertains say for example, the cell site you see on the

1 screen right now, 14258, you can't answer whether a
2 phone, what's the particular range of the particular
3 tower. It has to do with each call by call basis,
4 meaning where are the other calls. As you can see
5 that cell site sector is from 12 to 4. It depends on
6 where the other cell sites in that northeast region
7 are in comparison to 12458 so in this --

8 Q. That's a lot of double talking. Where was the
9 phone?

10 A. In the highlighted area.

11 Q. What's the highlighted area, what street?

12 A. Sir, you have eyes, it is right there on the
13 screen.

14 Q. Don't you know?

15 A. Sure I do.

16 Q. Tell me?

17 A. On Lehigh Avenue.

18 Q. Where?

19 A. West of 13th.

20 Q. What hundred?

21 A. It looks like somewhere between 1300 and 1400
22 Lehigh.

23 Q. You don't know where?

24 A. That's where the cell site tower is.

25 Q. Where the tower is. Where is the phone?

1 A. In the Northeast region, approximately three
2 quarters of a mile from that tower.

3 Q. Three-quarters of a mile?

4 A. In the area highlighted.

5 Q. That's about eight blocks?

6 A. Well, yes, it is, except for the fact that the
7 cell phone also utilized 37884.

8 Q. That tells us something. What's that?

9 A. It tells us that it bounced back and forth from
10 tower to tower.

11 Q. Right.

12 A. Therefore, the phone is actually in a very
13 smaller area, in that overlapped area.

14 Q. But, we don't know where?

15 A. I could not tell you where.

16 Q. We don't know who was using the phone, do we?

17 A. I do not know.

18 Q. We don't know what is said on the phone, do we?
19 What was being said, do we know that?

20 A. Why are you yelling?

21 Q. I didn't know if you heard me or not.

22 A. I can hear you.

23 Q. We don't know what is being said, do we?

24 A. I have no idea, sir.

25 MR. SANTAGUIDA: Thank you.

1 THE COURT: Any other cross-examination?

2 MR. MOZENTER: No.

3 MR. GREY: No.

4 THE COURT: Any redirect?

5 MR. WZOREK: No, your Honor.

6 THE COURT: Thank you, Special Agent Shute.

7 (Witness leaves the witness stand)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

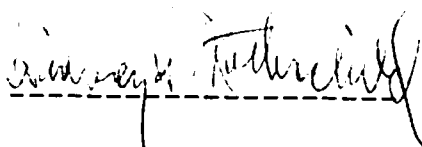
DIRECT CROSS

WILLIAM SHUTE 3 25

C E R T I F I C A T E

SIDNEY S. ROTHSCHILD, being a United States Court Reporter, United States District Court, Eastern District of Pennsylvania, does hereby certify that he was authorized to and did report in shorthand, the above and foregoing proceedings, and that thereafter his shorthand notes were transcribed under his supervision, and that the foregoing pages contain a true and correct transcription of his shorthand notes taken therein.

Done and signed this 3rd day of March, 2008, in the City of Philadelphia, County of Philadelphia, State of Pennsylvania.



SIDNEY S. ROTHSCHILD

U.S. Court Reporters

United States District Court
Eastern District of Pennsylvania