

Connecticut case challenges use of cellphone tower evidence

December 11 2016, by Dave Collins

An appeal before the Connecticut Supreme Court is adding to the divided legal landscape nationwide surrounding the validity of cellphone tower evidence used in criminal trials.

Eugene Edwards Jr. is serving a 20-year prison sentence for robbing an 82-year-old woman in her Wethersfield, Connecticut, home in 2012. Part of his appeal says the trial [court](#) judge should not have admitted evidence that his cellphone "pinged," or connected with, a [cell tower](#) near the crime scene around the same time as the robbery.

The state Supreme Court is scheduled to hear his appeal on Monday.

Courts around the country have issued conflicting rulings about whether cellphone tower evidence is reliable. Some experts say the evidence is often misinterpreted, because a cellphone can be more than 20 miles away from a tower it pings.

"It's junk science," said Michael Cherry, chief executive of Cherry Biometrics, in Falls Church, Virginia, who has testified in successful cases to free people who were imprisoned based in part on cell tower evidence.

"People tend to confuse the location of the cellphone with the location of the cell tower," he said. "People like to say that the phone goes to the nearest tower. It goes to the clearest (signal) tower within range, not always the closest tower. You could be sitting on your living room couch

and you could make four phone calls and each call would use a different tower."

Edwards' lawyer, University of Connecticut School of Law Professor Timothy Everett, said in court documents that the trial court judge wrongly admitted the cell tower evidence without any highly qualified experts testifying about its reliability and relevance. Judge Frank D'Addabbo Jr. allowed the evidence based only on the testimony of a police officer with limited expertise, Everett wrote in court documents.

Prosecutor Jonathan Sousa countered the officer was qualified to interpret and explain the cellphone records to the jury. He also wrote in [court documents](#) that several courts around the country have recognized cellphone location data and mapping as reliable evidence.

In the trial last year of former New England Patriots star tight end Aaron Hernandez, the victim's phone pinging cell towers was among the evidence prosecutors used to build a case in which lacked a murder weapon and a witness to the shooting. Hernandez was convicted of first-degree murder.

The evidence has come under scrutiny in recent years in several states.

In June a judge in Maryland granted a new trial for Adnan Syed, whose story was the centerpiece for the first season of the "Serial" podcast, because his attorney failed to cross-examine an expert witness about cell tower data linking Syed to the strangling of his high school girlfriend.

In Portland, Oregon, Lisa Marie Roberts served about 12 years of a 15-year prison sentence in the killing of her girlfriend before being freed in 2014. A judge ruled her trial lawyer didn't evaluate cellphone tower evidence prosecutors used to show she was near the crime scene when the murder happened. Cherry testified in the case.

In Chicago, Antonio Evans was acquitted of kidnapping and conspiracy charges in 2012. Before the jury verdict, a federal judge ruled that an FBI agent could not testify about cellphone tower evidence because it hadn't been generally accepted by the scientific community.

Sousa noted that several courts, including the 10th U.S. Circuit Court of Appeals in Denver and the 11th U.S. Circuit Court of Appeals in Atlanta have upheld the use of police testimony about cellphone tower evidence.

Edwards was charged with home invasion, assault and other crimes in connection with the Wethersfield robbery and a similar robbery three weeks earlier in June 2012 of an 89-year-old woman in her Berlin, Connecticut, home. Police said Edwards targeted both women at grocery stores and followed them to their homes, and Edwards' cellphone pinged towers near both crime scenes.

Edwards was convicted of the Wethersfield robbery, but acquitted of the Berlin crimes. He denied playing any role in either robbery.

Edward's appeal also said there wasn't enough evidence to convict him, which prosecutors deny.

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