



Administrative Office of the Courts

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NM Supreme Court allows use of cell phone records as evidence in murder case

SANTA FE – The state Supreme Court ruled today that a murder suspect’s cell phone records can be used by prosecutors as evidence in the man’s trial.

In a unanimous decision involving privacy protections for digital information, the Court concluded that a police affidavit for a search warrant provided the necessary legal foundation for law enforcement to obtain cell phone records revealing the identity and whereabouts of the defendant, Jaycob Michael Price.

Price is awaiting trial on first-degree felony murder and other charges in the shooting death of Julio Apodaca in an apartment parking lot in 2013.

The victim was found shot in the head in his vehicle about 30 minutes after leaving his sister-in-law’s apartment.

Police obtained a warrant from a judge for records about a number dialed on the victim’s cell phone after Apodaca left the apartment. The number was not listed as a contact in the phone.

In a pretrial motion, the defense sought to block use of the phone records as prosecutorial evidence. The fact that Price’s number was called on the victim’s phone, the defense argued, failed to provide probable cause that the records contained evidence of a crime.

The trial court judge suppressed the cell phone location tracking records, known as cell site location information (CSLI), along with records listing calls and text messages. The judge permitted evidentiary use of cellular service subscriber records showing Price’s identity.

The Supreme Court determined that the police affidavit established probable cause for obtaining all of the cell phone records. The justices overturned the district court’s suppression of the cell phone tracking information and call log records. The Court affirmed the judge’s ruling on the

phone subscriber records. The justices ordered the case back to the Second Judicial District Court for further proceedings.

The justices noted that a U.S. Supreme Court ruling in 2018 required a warrant for cell site location information (CSLI) because of constitutionally protected privacy interests for the digital information showing a person's whereabouts.

“We conclude that the totality of the circumstances described in the Affidavit establishes reasonable grounds for the judge issuing the search warrant to find probable cause that the unknown person talking to Victim was in the vicinity of the parking lot when the conversations took place before Victim was shot,” the Court stated in an opinion written by Chief Justice Michael E. Vigil. “The CSLI included evidence of that person’s location during the relevant time frame. Therefore, while this is a close case, we affirm the issuing judge’s finding of probable cause as to the CSLI.”

The justices also concluded there was probable cause for the phone subscriber records and listings of calls and texts made by the victim’s phone. In making that conclusion, the justices stated that “we assume, but do not decide” the legal question of whether probable cause was required to obtain those cell phone records.

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To read the decision in *State v. Price*, S-1-SC-37373, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/483234/index.do>