STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WAIL S. AL-IBRAHIMI,

Defendant-Appellant.

UNPUBLISHED
June 20, 2024

No. 363991
Wayne Circuit Court
LC No. 22-001869-01-FH

Before: BOONSTRA, P.J., and CAVANAGH and PATEL, JJ.

PER CURIAM.

Defendant appeals by right his bench trial convictions of unarmed robbery, MCL 750.530, and engaging the services of another person for the purpose of prostitution, MCL 750.449a(1). The trial court sentenced defendant to two years' probation. We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

The complainant in this case, CH, worked as an escort through an online platform titled Eros, generally charging $350 per hour. On September 10, 2021, CH received a message from an individual named "Will," who was subsequently identified as defendant, seeking to engage her services; the two decided to meet the following day at CH's apartment in Canton, Michigan. On September 11, 2021, defendant and CH met at approximately 8:00 p.m. in CH's apartment; the understanding was that CH would be compensated for sexual intercourse. Defendant gave CH $350 "up front," and she placed the money in the pocket of her silk kimono. Defendant and CH then had a sexual encounter.

Afterwards, defendant went into the bathroom to "clean up." Defendant's pants, which contained his wallet, remained on the floor of the bedroom. At this point, CH's and defendant's testimony diverge significantly. Defendant testified that he observed CH in the bathroom mirror taking his wallet from his pants. Defendant testified that he subsequently confronted CH regarding approximately $800 in stolen cash and that CH "went berserk" after defendant threatened to contact law enforcement, striking him, scratching him, and threatening him with physical harm. Defendant testified that he left the apartment and fled in his vehicle before driving home. Defendant denied taking CH's cellphone or even seeing CH with a cellphone that evening.

Defendant testified that he subsequently attempted to contact CH through phone calls and text messages, making reference to the allegedly stolen funds. CH never responded.

CH, by contrast, denied taking any cash from defendant's wallet. Rather, she testified that as defendant was leaving, he turned to her and stated, "Oh, one more thing. I don't pay for sex[,]" and then lunged for CH's kimono pocket to recover the $350 he originally paid her. CH further testified that she prevented defendant from obtaining the money, but that defendant instead grabbed her cellphone and ran away with it. CH stated that she attempted to chase defendant and grabbed onto the door handle of defendant's car when defendant was driving away. CH testified that she fell and "got scraped up" as defendant sped away. CH returned to her apartment and messaged her sister using an iPad, asking her to contact emergency services. Law enforcement arrived minutes later and CH provided a statement regarding what had transpired.

During the bench trial, the prosecution presented the testimony of Megan Stevenson, a crime analyst with the Canton Police Department. Stevenson testified regarding the location of the parties' cell phones before, during, and after the underlying incident. Stevenson had prepared a preliminary report analyzing the cell-site location data of the parties' cell phones, leading to defendant's arrest. Defense counsel objected to Stevenson's testimony on several grounds, contending that the prosecution had failed to timely file its witness list, had neglected to designate Stevenson as an expert witness, and had omitted Stevenson's curriculum vitae and final report from discovery materials. Following the parties' arguments, the trial court permitted the testimony of Stevenson, opining that because Stevenson was mentioned during the preliminary examination via her report, there was an indication that the prosecution may call Stevenson as a witness. During his case-in-chief, defendant attempted to introduce a print-out of text messages he had sent CH after the parties' altercation; however, the trial court determined that defendant's text messages were inadmissible hearsay.

Defendant was convicted and sentenced as described. Defendant subsequently filed a motion for a new trial and request for a *Ginther*[1] hearing contending that (1) defendant's trial counsel was ineffective for failing to investigate the cell-site location data and neglecting to present any expert witnesses, and (2) the trial court abused its discretion, or otherwise erred, when it denied defendant the opportunity to present his text messages to CH. In support of his motion, defendant provided the report of a cell tower data analyst, Anthony Milone, to challenge Stevenson's testimony and findings regarding the cell-site location data. Following a motion hearing, the trial court denied defendant's motion for a new trial and request for a *Ginther* hearing. This appeal followed.

II. INEFFECTIVE ASSISTANCE OF COUNSEL

Defendant argues that his trial counsel was ineffective for failing to investigate the cell-site location data presented by the prosecution and failing to consult or present any defense witnesses to rebut that evidence. We disagree.

[1] *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).

"Generally, an ineffective-assistance-of-counsel claim presents a 'mixed question of fact and constitutional law.' " *People v Hieu Van Hoang*, 328 Mich App 45, 63; 935 NW2d 396 (2019), quoting *People v Matuszak*, 263 Mich App 42, 48; 687 NW2d 342 (2004). "Constitutional questions are reviewed de novo, while findings of fact are reviewed for clear error." *Hieu Van Hoang*, 328 Mich App at 63. Because no *Ginther* hearing was held, this Court's review is limited to errors apparent on the record. *People v Head*, 323 Mich App 526, 538-539; 917 NW2d 752 (2018). We review for an abuse of discretion a trial court's decision to grant or deny a new trial. *People v Abraham*, 256 Mich App 265, 269; 662 NW2d 836 (2003) (citation omitted). "An abuse of discretion occurs when the court's decision falls outside the range of reasonable and principled outcomes." *People v Bowden*, 344 Mich App 171, 185; 999 NW2d 80 (2022).

The United States and Michigan Constitutions guarantee a defendant the right to effective assistance of counsel. US Const, Am VI; Const 1963, art 1, § 20. For a defendant to succeed on an ineffective-assistance-of-counsel claim, the defendant must show that "(1) counsel's performance fell below an objective standard of reasonableness and (2) but for counsel's deficient performance, there is a reasonable probability that the outcome would have been different." *People v Trakhtenberg*, 493 Mich 38, 51; 826 NW2d 136 (2012). "In examining whether defense counsel's performance fell below an objective standard of reasonableness, a defendant must overcome the strong presumption that counsel's performance was born from a sound trial strategy." *Id*. at 52. "A sound trial strategy is one that is developed in concert with an investigation that is adequately supported by reasonable professional judgments." *People v Grant*, 470 Mich 477, 486; 684 NW2d 686 (2004). "Initially, a court must determine whether the 'strategic choices [were] made after less than complete investigation,' and any choice is 'reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation.' " *Trakhtenberg*, 493 Mich at 52 (citation omitted).

"The [e]ffective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise." *People v Muniz*, 343 Mich App 437, 448; 997 NW2d 325 (2022) (quotation marks and citation omitted). "The inquiry into whether counsel's performance was reasonable is an objective one and requires the reviewing court to determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance." *People v Vaughn*, 491 Mich 642, 670; 821 NW2d 288 (2012) (quotation marks and citation omitted). "This standard requires a reviewing court to affirmatively entertain the range of possible reasons . . . counsel may have had for proceeding as they did." *Id*. (quotation marks and citation omitted). This Court will not substitute its own judgment for that of counsel or use the benefit of hindsight in assessing the defense counsel's competence. *People v Unger*, 278 Mich App 210, 242-243; 749 NW2d 272 (2008).

"An attorney's decision whether to retain witnesses, including expert witnesses, is a matter of trial strategy." *People v Payne*, 285 Mich App 181, 190; 774 NW2d 714 (2009). However, "[d]efense counsel's failure to investigate and attempt to secure a suitable expert witness to assist in preparing the defense may constitute ineffective assistance." *People v Carll*, 322 Mich App 690, 703; 915 NW2d 387 (2018). Defense counsel has a "duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland v Washington*, 466 US 668, 690-691; 104 S Ct 2052; 80 L Ed 2d 674 (1984). After investigation, counsel "need not always provide 'an equal and opposite expert' " in order to provide effective assistance. *Carll*, 322 Mich App at 702, quoting *Harrington v Richter*, 562 US 86, 111; 131 S Ct

770; 178 L Ed 2d 624 (2011). Regarding prejudice, "[w]ithout some indication that a witness would have testified favorably, a defendant cannot establish that counsel's failure to call the witness would have affected the outcome of his or her trial." *Carll*, 322 Mich App at 703.

In this case, defense counsel's performance did not fall below an objective standard of reasonableness. *Trakhtenberg*, 493 Mich at 51. The record shows that defense counsel did not seek a rebuttal witness regarding the cell-site location data because the prosecution failed to provide adequate notice regarding its intent to present Stevenson as an expert witness during trial. The prosecution neglected to provide an endorsed witness list until one business day before the bench trial, and the prosecution neglected to provide defense counsel with Stevenson's curriculum vitae and final report; the aforementioned conduct violated MCL 767.40a(3), MCR 6.201(A)(1), and MCR 6.201(A)(3). During the bench trial, defense counsel voiced numerous objections to the prosecution's presentation of Stevenson as an expert witness, particularly in light of the lack of notice from the prosecution.

Additionally, during the preliminary examination, a Canton Police Department detective attempted to discuss the cell-site location data gathered during the police investigation; however, defense counsel objected on several grounds, including *Daubert v Merrell Dow Pharm, Inc*, 509 US 579; 113 S Ct 2786; 125 L Ed 2d 469 (1993), which examines the reliability of expert scientific opinions. The district court ultimately concluded that the detective failed to qualify as an expert witness and declined to admit his testimony. The prosecution made no mention at the preliminary examination about obtaining an expert witness for trial to discuss the cell-site data. And, as stated, the prosecution neglected to provide Stevenson's curriculum vitae or final report during discovery, and prosecution filed its witness list (for the first time indicating that the prosecution intended to call Stevenson as an expert witness) one business day before trial. Although, as we will discuss, the prosecution's discovery violations do not require reversal, considering the aforementioned circumstances, defense counsel was not objectively unreasonable for neglecting to further investigate the cell-site location data presented by the prosecution, consult any defense witnesses to rebut the aforementioned evidence, or seek potential funding for the acquisition of an expert witness. See *People v Davis*, 250 Mich App 357, 368; 649 NW2d 94 (2002) (providing, "Decisions regarding what evidence to present and whether to call or question witnesses are presumed to be matters of trial strategy, and this Court will not substitute its judgment for that of counsel regarding matters of trial strategy.").

In any event, regardless of the adequacy of trial counsel's performance, defendant has failed to establish that he was prejudiced by his counsel's decisions. *Carll*, 322 Mich App at 703. "Without some indication that a witness would have testified favorably, a defendant cannot establish that counsel's failure to call the witness would have affected the outcome of his or her trial." *Id.* In his motion for a new trial, defendant presented a report from Milone, a purported cell-tower data expert, which examined Stevenson's testimony and findings regarding the cell-site location data. Milone's report stated in relevant part:

> Based on the limited number of cellphone transactions in the 10 minutes after the robbery, all that can be said is that the cell phones pinged within 1 mile of each other with a 3-minute time difference between the transactions. There are no other cellphone transactions to establish a pattern or trend in the movement between the victim's cellphone and suspect's cellphone.

While Milone questioned Stevenson's conclusions regarding the contemporaneous movement of the parties' cell phones, Milone did not question Stevenson's methodology regarding the cell-site location data, and he did not refute Stevenson's testimony regarding the location of CH's cell phone 10 minutes after the underlying incident, which corroborated her testimony regarding her missing cell phone. Furthermore, an officer testified that he remained at CH's apartment for approximately 1½ hours to investigate the matter, and that he did not see CH with a cell phone at any time. Additionally, the trial court recognized the limitations of cell-site location mapping and expressed that it was aware that "this is not a G.P.S. indication of exactly where the phone was[,]" and that the cell phones did not necessarily "ping" the closest cell tower to provide its location. The court additionally stated, "[C]ommon sense and reason dictate that the complaining witness would run out, not because she stole money from [defendant], but because [defendant] had her phone." The court noted that CH had contacted law enforcement in an effort to recover her stolen cell phone, and "usually people do not call the Police if they're the thief."

Accordingly, even if defendant had presented an expert witness at trial regarding the cell-site location information, there was no reasonable probability of a different outcome, because the undisputed data corroborated CH's testimony concerning her stolen cell phone, and the trial court recognized the limitations of cell-site location mapping. See *Trakhtenberg*, 493 Mich at 51. Because defendant neglected to establish the requisite prejudice to support an ineffective assistance of counsel claim, the trial court also did not abuse its discretion when it denied defendant's motion for a new trial on these grounds. *Abraham*, 256 Mich App at 269.

III. EXCLUSION OF TEXT MESSAGES

Defendant also argues that the trial court abused its discretion when it declined defendant's request to enter his text messages to CH into evidence. We disagree and conclude in any event that reversal is not required.

This Court reviews for an abuse of discretion a trial court's decision to admit or exclude evidence. *People v Thorpe*, 504 Mich 230, 251; 934 NW2d 693 (2019). "The decision to admit evidence is within the trial court's discretion and will not be disturbed unless that decision falls outside the range of principled outcomes." *Id*. at 251-252 (quotation marks and citation omitted). "A decision on a close evidentiary question ordinarily cannot be an abuse of discretion." *Id*. A preserved error in the admission of evidence does not warrant reversal unless after an examination of the entire cause, it shall affirmatively appear that it is more probable than not that the error was outcome determinative." *People v Burns*, 494 Mich 104, 110; 832 NW2d 738 (2013) (quotation marks and citation omitted). "To the extent a constitutional error has occurred, "[w]e review preserved issues of constitutional error to determine whether they are harmless beyond a reasonable doubt." *People v Dendel (On Second Remand)*, 289 Mich App 445, 475; 797 NW2d 645 (2010). "A constitutional error is harmless if [it is] clear beyond a reasonable doubt that a rational jury would have found the defendant guilty absent the error." *Id*. (quotation marks and citation omitted). When a decision regarding the admission of evidence involves a preliminary question of law, such as whether a rule of evidence permits admission of the evidence, we review that issue de novo. *People v Mann*, 288 Mich App 114, 117; 792 NW2d 53 (2010).

Hearsay is a "statement, other than the one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." MRE 801(c); see

also *People v Stamper*, 480 Mich 1, 3; 742 NW2d 607 (2007). A "statement" is defined, in pertinent part, as "an oral or written assertion," MRE 801(a), which must be capable of being true or false. *People v Propp*, 340 Mich App 652, 666; 987 NW2d 888 (2022). "Questions are not assertions of fact, and Michigan does not recognize the 'implied assertion' theory that has been adopted in some other jurisdictions." *Id*. Commands generally are not assertions and cannot constitute hearsay. *People v Bennett*, 290 Mich App 465, 483; 802 NW2d 627 (2010). Hearsay is generally inadmissible, unless an enumerated exception applies.

There were two out-of-court statements made by defendant via text message that the trial court deemed to be inadmissible hearsay: (1) "I really don't appreciate you stealing my money when I'm in the f***ing bathroom and assaulting me wtf is wrong with you??? You scratched me all over the f***ing place," and (2) "I want all the f***ing money you stole from me." Defendant argues that these statements are questions or commands rather than assertions. See *Bennett*, 290 Mich App at 483 (holding that a statement to "tell the truth" was "not hearsay because it did not contain an assertion; it was a command"). Moreover, defendant argues that he did not offer the text messages to prove the truth of the matter asserted; rather, defendant offered the messages to establish that he attempted to contact CH following their altercation, supporting his testimony that he had not stolen her cell phone. See *Martin v Martin*, 331 Mich App 224; 952 NW2d 530 (2020).

However, although aspects of these statements may not have been hearsay, other aspects at least arguably were, in that they contained the direct assertion that CT had stolen defendant's money. Those aspects are not questions, commands, or implied assertions that might fall outside the hearsay rule. Moreover, it appears that defendant did offer those aspects of the statements for the truth of the matter asserted, as defendant states in his brief on appeal that "[a]llowing the text messages to be admissible would have corroborated [defendant's] account of the incident, that [CT] had robbed him." We conclude that the trial court's exclusion of the text messages was not an abuse of discretion.

In any event, any error by the trial court in this regard does not warrant reversal of defendant's convictions, because it was not outcome-determinative. *Burns*, 494 Mich at 110; see also *People v Gursky*, 486 Mich 596, 619-620; 786 NW2d 579 (2010). While the trial court did not permit the admission of the contested text messages, the court explicitly considered defendant's testimony regarding his attempts to contact CH following their encounter. The court further noted that defendant's text messages held minimal weight in its deliberations because CH did not respond, and the fundamental issue before the trial court was the credibility of the parties. The trial court additionally noted that the text messages did not exculpate defendant from having taken the victim's cell phone, which underlay defendant's unarmed robbery conviction. Under these circumstances, it is unlikely that the admission of defendant's text messages would have resulted in a different outcome of the proceedings.

Defendant further argues that the trial court deprived him of his right to present a defense. We disagree. "Few rights are more fundamental than that of an accused to present evidence in his or her own defense." *Unger*, 278 Mich App at 249. In this case, the exclusion of the text messages did not deprive defendant of "a meaningful opportunity to present a complete defense," especially in light of the fact that defendant was permitted to testify that he had attempted to contact CH after the incident. *People v Aspy*, 292 Mich App 36, 49; 808 NW2d 569 (2011) (quotation marks and citation omitted); *People v King*, 297 Mich App 465, 474; 824 NW2d 258 (2012) ("[I]t is patent

from a review of the trial record that defendant was allowed to present evidence . . . which, if the [fact-finder] believed, would have provided defendant a complete defense to the charges brought against him.").

IV. DISCOVERY RULE VIOLATIONS

Defendant also argues that the trial court abused its discretion when it allowed Stevenson to testify, because the prosecution failed to provide an endorsed witness list until three days (one business day) before trial, and neglected to provide defense counsel with Stevenson's curriculum vitae and final report, in violation of MCL 767.40a(3), MCR 6.201(A)(1), and MCR 6.201(A)(3). We disagree.

"We review a trial court's decision regarding the appropriate remedy for a discovery violation for an abuse of discretion." *People v Dickinson*, 321 Mich App 1, 17; 909 NW2d 24 (2017). "To obtain relief for a discovery violation, the defendant must establish that the violation prejudiced him or her." *Id*.

MCL 767.40a provides the procedures that prosecuting attorneys must follow when informing defendants about what witnesses the prosecution intends to present at trial. *People v Koonce*, 466 Mich 515, 520-521; 648 NW2d 153 (2002). Under MCL 767.40a(1), the prosecuting attorney is required to attach to the "information a list of all witnesses known to the prosecuting attorney who might be called at trial and all res gestae witnesses known to the prosecuting attorney or investigating law enforcement officers." At least 30 days before trial, the prosecuting attorney "shall send to the defendant or his or her attorney a list of the witnesses the prosecuting attorney intends to produce at trial." MCL 767.40a(3). "The prosecution's duty under the statute is to provide notice of known witnesses and reasonable assistance to locate witnesses on a defendant's request." *People v Callon*, 256 Mich App 312, 326; 662 NW2d 501 (2003), quoting *People v Gadomski*, 232 Mich App 24, 35; 592 NW2d 75 (1998). "Mere negligence of the prosecutor is not the type of egregious case for which the extreme sanction of precluding relevant evidence is reserved." *Callon*, 256 Mich App at 328.

It is undisputed that the prosecution failed to abide by the 30-day filing requirement iterated in MCL 767.40a(3), as the prosecution provided its witness list on September 9, 2022, three days before trial. Accordingly, the relevant inquiry is whether defendant was prejudiced by the prosecution's conduct such that reversal is warranted. See *People v Everett*, 318 Mich App 511, 523; 899 NW2d 94 (2017) (stating that the "defendant must show that he was prejudiced by noncompliance with the statute" to warrant reversal for a violation of MCL 767.40a). While we do not condone the prosecution's violation of MCL 767.40a and the Michigan Court Rules, on this record we cannot conclude that it was more probable than not the outcome of the proceedings would have differed had the violation not occurred.

The record shows that Stevenson's preliminary report was provided during discovery, and defense counsel was able to voir dire and cross-examine Stevenson during the bench trial. Furthermore, defendant did not request an adjournment to obtain his own expert, or a continuance to prepare for cross-examination, as permitted by MCR 6.201(J). Moreover, as discussed, Milone's proposed expert report does not substantially refute Stevenson's findings, methodology, or testimony. Additionally, defendant was provided with a copy of Stevenson's report and

curriculum vitae, albeit during trial rather than beforehand. While the prosecution's delayed filing of its witness list and delayed provision of Stevenson's curriculum vitae undoubtedly affected the manner in which defendant presented his defense, it is not likely that the outcome of the proceedings would have differed had the prosecution provided timely notice of its intent to call Stevenson as an expert witness.

"When determining the appropriate remedy for discovery violations, the trial court must balance the interests of the courts, the public, and the parties in light of all the relevant circumstances, including the reasons for noncompliance." *People v Banks*, 249 Mich App 247, 252; 642 NW2d 351 (2002). In this case, despite the prosecution's discovery violations, it does not appear defendant was prejudiced by Stevenson's testimony, for the reasons previously stated. Furthermore, the trial court noted that the fundamental matter in the instant case was the corroboration of the parties' respective testimonies, and the cell-site location data was of limited use in that regard. The trial court deemed CH's testimony credible because "common sense and reason dictate that the complaining witness would run out, not because she stole money from [defendant], but because [defendant] had her phone[,]" and the photographs taken by law enforcement of CH's injuries matched her narrative. Ultimately, defendant has failed to establish that the trial court's decision to admit Stevenson's testimony despite the prosecution's discovery violations was outcome-determinative. *Callon*, 256 Mich App at 328; *Dickinson*, 321 Mich App at 17.

V. STEVENSON'S TESTIMONY

Defendant also argues that the trial court abused its discretion when it qualified Stevenson as an expert and permitted Stevenson to testify as an expert witness in cell-site location data under MRE 702. We disagree.

"MRE 702 establishes prerequisites for the admission of expert witness testimony." *People v Kowalski*, 492 Mich 106, 119; 821 NW2d 14 (2012). Experts may not testify under MRE 702 "unless the trial court first determines that 'scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue' and the expert witness is 'qualified as an expert by knowledge, skill, experience, training, or education . . . .' " *People v Yost*, 278 Mich App 341, 393; 749 NW2d 753 (2008), quoting MRE 702. Furthermore, the testimony must be based on sufficient facts or data, the product of reliable principles and methods, and the witness must apply the principles and methods reliably to the facts of the case. MRE 702. Accordingly, "expert testimony must be limited to opinions falling within the scope of the witness's knowledge, skill, experience, training, or education." *Unger*, 278 Mich App at 251.

Under MRE 702, "[t]he party proffering the expert's testimony must persuade the court that the expert possesses specialized knowledge which will aid the trier of fact in understanding the evidence or determining a fact in issue." The proposed expert testimony must concern a matter not commonly understood by the average person. *Kowalski*, 492 Mich at 123. In this case, the substance of Stevenson's testimony was not common knowledge to the average person. The average person would not know how cell phones interacted with cell towers and cell phone networks, how to evaluate cell phone records provided by cellular companies, and how to manually map the individual cell-site data points. Stevenson's testimony would have aided the trier of fact

in understanding the cell phone evidence submitted and argued at trial, and to determine a contested fact: the location of the victim's cell phone after the parties' altercation.

Regarding qualification as an expert, an expert may be qualified by "knowledge, skill, experience, training, or education." MRE 702. In this case, Stevenson testified that she was a crime analyst for the Canton Police Department, and that she traditionally examined crime patterns and trends. Stevenson maintained a master's degree in law enforcement and analysis from Michigan State University, in addition to certification through California State University, and Stevenson had participated in several cell phone analysis mapping training sessions, including a week-long certification in the use of "Cell Hawk" software in the fall of 2019. While defendant is correct that Stevenson had never testified as an expert in cell-site location data before, Stevenson expressed that she had two years of experience in the subject area as a crime analyst, with additional training and experience related to Cell Hawk.

Regarding the reliability of the expert testimony, "MRE 702 requires the trial court to ensure that each aspect of an expert witness's proffered testimony—including the data underlying the expert's theories and the methodology by which the expert draws conclusions from that data—is reliable." *Gilbert v DaimlerChrysler Corp*, 470 Mich 749, 779; 685 NW2d 391 (2004). "[T]he trial court's role as gatekeeper does not require it to search for absolute truth, to admit only uncontested evidence, or to resolve genuine scientific disputes." *Unger*, 278 Mich App at 217 (quotation marks and citation omitted). Rather, the trial court's proper role is

> to filter out expert evidence that is unreliable, not to admit only evidence that is unassailable. The inquiry is not into whether an expert's opinion is necessarily correct or universally accepted. The inquiry is into whether the opinion is rationally derived from a sound foundation. [*Id*. (quotation marks and citation omitted).]

Stevenson extensively testified regarding the procedures used to arrive at her cell-site location data findings, which were not challenged by defendant's proposed expert witness, Milone. Stevenson explained that she used Cell Hawk, a web-based platform, to examine the call detail records, providing:

> It takes the information that you input into it, and it can map out, and show you all the tower hits that the phone hit off of. It will tell you what time. If it was incoming or outgoing. What phone number it called, or received it from. It can show you the data that you put into it, the, the data that phone uses. So, the time that the phone uses data, the tower that the data hit off of. It's not just phone calls and text messages. Also, all the apps running behind the phone. Any time it hits off of a tower, it goes in.

Stevenson checked the program's results manually by individually mapping each of the cell-site data points to verify the location of the cell tower, in addition to its sectors, to determine the time and location of the cell phone. Stevenson explained that she initially received data from the parties' cell phone providers, analyzed that data, and entered the information into the Cell Hawk program.

Following defense counsel's objections to Stevenson's methodology and expertise, the trial court held that Stevenson's qualifications and testimony satisfied MRE 702. We agree with the trial court. Again, we note that defendant's own proposed expert does not disagree with Stevenson's methods or challenge her qualifications; to the extent that defendant disagreed with Stevenson's conclusions, that disagreement would go to the weight of her testimony rather than its admissibility. See *Lenawee Co v Wagley*, 301 Mich App 134, 166; 836 NW2d 193 (2013) (noting, "[d]isagreements pertaining to an expert witness's interpretation of the facts are relevant to the weight of that testimony and not its admissibility"); see also *Surman v Surman*, 277 Mich App 287, 309; 745 NW2d 802 (2007) ("[A] trial court's doubts pertaining to credibility, or an opposing party's disagreement with an expert's opinion or interpretation of facts, present issues regarding the weight to be given the testimony, and not its admissibility"). Stevenson's testimony did not exceed the scope of her expertise, and her occupation, education, and training dealt with the contested subject matter. *Gilbert*, 470 Mich at 789. The trial court accordingly did not abuse its discretion by allowing Stevenson to testify as an expert witness pursuant to MRE 702.

Affirmed.

/s/ Mark T. Boonstra
/s/ Mark J. Cavanagh
/s/ Sima G. Patel