

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED98051
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court of
)	the City of St. Louis
vs.)	
)	Honorable David L. Dowd
MELVIN PATTON,)	
)	
Defendant/Appellant.)	Filed: October 8, 2013

Defendant Melvin R. Patton appeals from his conviction by jury in the Circuit Court of City of Saint Louis of two counts of murder in the first degree, section 565.020, RSMo 2000, one count of assault in the first degree, section 565.050, RSMo 2000, one count of burglary in the first degree, section 569.160, RSMo 2000, and three counts of armed criminal action, section 575.015, RSMo 2000.

AFFIRMED.

DIVISION FOUR HOLDS: (1) The trial court did not abuse its discretion by declining to require a *Frye* hearing before admitting historical cell site data; (2) the trial court erred by failing to require an expert witness to testify as to the location of Patton's phone in relation to the cell sites to which it connected; (3) this error does not require reversal, because the evidence of Patton's guilt is otherwise overwhelming; and (4) the admission of family photographs was not so prejudicial as to affect the outcome of the trial. We decline to exercise our discretion to review Patton's unpreserved claim of error regarding the State's closing arguments. We affirm the judgment of the trial court.

Opinion by: Lisa S. Van Amburg, J.
Patricia L. Cohen, J., and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: Emmett Queener

Attorney for Respondent: Jennifer Rodewald

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**