No. 25-7182

IN THE SUPREME COURT OF THE UNITED STATES

DAVID JOHNSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the district court abused its discretion in admitting into evidence a government expert’s PowerPoint presentation that summarized geolocational data associated with petitioner’s cellphone and Google account.

PARTIES TO THE PROCEEDING

Petitioner (defendant-appellant below) is David Johnson.

Respondent (plaintiff-appellee below) is the United States of America.

ADDITIONAL RELATED PROCEEDING

United States Court of Appeals (6th Cir.):

United States v. David Johnson, No. 24-3886 (Jan. 2, 2026)

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OPINION BELOW

The opinion of the court of appeals (Pet. App. 2a-30a) is available at 2026 WL 18830.

JURISDICTION

The judgment of the court of appeals was entered on January 2, 2026. The petition for a writ of certiorari was filed on March 31, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Northern District of Ohio, petitioner was convicted on four counts of Hobbs Act robbery, in violation of 18 U.S.C. 1951(a); four counts of using, carrying, and brandishing a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. 924(c)(1)(A)(ii); and one count of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1) and 924(a)(2). Judgment 1. He was sentenced to 446 months of imprisonment, to be followed by three years of supervised release. Judgment 2-3. The court of appeals affirmed. Pet. App. 2a-30a.

1. a. Between late 2019 and early 2020, petitioner robbed four small businesses in Northeast Ohio. Pet. App. 3a. In the first robbery, on November 27, 2019, he entered a Sunoco gas station in Euclid, Ohio, pointed a semiautomatic gun at the store clerk, and demanded money. Ibid. After receiving the money, he fled on foot. Ibid.

The second robbery, on January 18, 2020, took place at a BP gas station store in Parkman, Ohio. Pet. App. 3a. Petitioner grabbed a store employee who was taking out the trash and dragged him into the gas station while pointing a gun at him. Ibid. He then demanded money from the register while pointing the gun at two employees and a customer in the store. Ibid. After receiving the money, he ordered all three to lie on the ground, pushed the customer to the ground, and left. Ibid.

Petitioner committed the third robbery later that same day. Pet. App. 3a. Wearing a mask and gloves, he walked into a Dollar General store in Chardon Township, Ohio, and pointed a silvercolored gun at a clerk. Ibid. He directed the clerk to take money from the cash register and safe, then fled the scene after receiving the money. Ibid.

The fourth robbery occurred a few days later, on January 25, 2020. Pet. App. 3a. Petitioner entered a Gas Mart in Euclid, Ohio, pointed a gun at two employees, and demanded money. Id. at 3a-4a. He grabbed one of the employees, held him at gunpoint, and forced him to hand over the money in the register and the safe. Id. at 4a. After receiving the money, he fled the store. Ibid.

Law enforcement identified petitioner as the suspect in all four robberies, and arrested him at his residence. Pet. App. 4a. During the arrest, officers seized two cellphones, as well as clothing that matched the robber's attire in surveillance-camera footage of the robberies. Ibid. Officers also obtained search warrants for information saved to petitioner's Google account, which he had logged into on his cellphone. Ibid. Location data associated with that account and data for his phone number tied his phone to approximately the time and place of the second, third, and fourth robberies. Ibid.; see 9/13/2023 Tr. 577-589, 594-602.

2. A grand jury in the Northern District of Ohio returned an indictment charging petitioner with four counts of Hobbs Act robbery, in violation of 18 U.S.C. 1951(a); four counts of using, carrying, and brandishing a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. 924(c)(1)(A)(ii); and one count of possessing a firearm following a felony conviction,

in violation of 18 U.S.C. 922(g)(1) and 924(a)(2). Pet. App. 4a-5a.

a. Petitioner's case proceeded to trial in September 2023. During the trial, the government introduced as an expert witness FBI Special Agent Jacob Kunkle. Pet. App. 11a, 13a. Agent Kunkle testified as to his analysis of petitioner's telephone records and Google location data, comparing that data to the time and location of the robberies. See 9/13/2023 Tr. 588-589, 594-602. During his testimony, Agent Kunkle referred to a PowerPoint presentation he had prepared as part of his expert report, which included several maps presenting the location data. Id. at 587-602; see Pet. App. 40a-51a. The district court, however, did not allow the government to enter Agent Kunkle's report into evidence because of its "general policy * * * not to admit expert's reports." 9/13/2023 Tr. 622.

During deliberations, the jury requested Agent Kunkle's PowerPoint containing the maps. See Pet. App. 13a. The court informed the jury that the presentation was not admitted into evidence and that the jurors should rely on their recollection of Agent Kunkle's testimony. Ibid.; see 9/14/2023 Tr. 762-763. Ultimately, the jury was unable to agree on a verdict for any count, and the court declared a mistrial. 9/18/2023 Tr. 789-792.

b. Before petitioner's retrial, Agent Kunkle amended his expert report by extracting the PowerPoint presentation with the maps as a separate document, and the government moved to admit that extracted portion of Agent Kunkle's PowerPoint presentation as evidence under Federal Rule of Evidence 1006. See D. Ct. Doc. 94, at 2-5 (Jan. 10, 2024). At the time, Rule 1006 provided that parties "may use a summary, chart or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court." Fed. R. Evid. 1006 (2023). The government's motion explained that the PowerPoint summarized "voluminous cell tower and Google/Gmail location data," which contained "technical information not readily understandable to the lay reader." D. Ct. Doc. 94, at 2-3.

The district court "conditionally grant[ed]" the government's motion to introduce the PowerPoint as a summary exhibit under Rule 1006, subject to a limiting instruction. 1/18/2024 Tr. 11. The court noted there was no dispute about the underlying data's authenticity, and that without the summary that data would be unintelligible for the jury. Ibid. Petitioner's counsel disputed that the PowerPoint constituted a summary, but the court explained that the exhibit constituted a "secondary evidence summary." Id. at 12.

Petitioner's second trial began in January 2024. At trial, Agent Kunkle again testified about his analysis of location data obtained from petitioner's cellphone records and his Google account. See 2/1/2024 Tr. 606-628. Neither petitioner's cellphone provider nor Google recorded any location data during the time of the Sunoco robbery, which took place within walking distance of petitioner's home. See id. at 620, 644. But Agent Kunkle explained that the location data placed petitioner's cellphone near the locations of the other three robberies at the time when they took place. Id. at 622, 644.

Agent Kunkle relied on his PowerPoint presentation as a visual guide during his testimony. See Pet. App. 13a. Consistent with its pretrial ruling, the district court admitted several slides of the PowerPoint presentation, with certain redactions, as a summary exhibit under Rule 1006. 2/1/2024 Tr. 635-637; 2/5/2024 Tr. 661; see Pet. App. 40a-51a. The court also admitted, without objection, the underlying records whose data Agent Kunkle had used to make the maps in his PowerPoint. 2/1/2024 Tr. 630-631.

The district court explained that without Agent Kunkle's PowerPoint there was "no way a jury could, quite frankly, do much with" the "thousands of pages" of data and that there was no dispute about the authenticity of the underlying records, which were admitted without objection. 2/1/2024 Tr. 635. And the court instructed the jury that the exhibit was admitted as a summary that may assist in understanding the presented evidence, "but the summary itself is not evidence of the material it summarizes, and it is only as valid and reliable as the underlying material it summarizes." 2/5/2024 Tr. 685.

The jury found petitioner guilty on all nine counts. Judgment 1.

3. The court of appeals affirmed. Pet. App. 1a-30a. The court first observed that Rule 1006 permits the introduction of summaries "'to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court,'" id. at 18a (quoting Fed. R. Evid. 1006 (2023)), and cited precedent allowing for admission of such summaries under Rule 1006 subject to "five necessary conditions," Ibid. (citing United States v. Bray, 139 F.3d 1104, 1109-1110 (6th Cir. 1998)). The court then observed that separate and apart from Rule 1006, "secondary-evidence summaries," which "'are more than mere pedagogical devices designed to simplify and clarify other evidence in the case,'" "are always admitted in addition to the evidence they summarize" because the trial court has found that they "so accurately and reliably summarize complex or difficult evidence that is received in the case as to materially assist the jurors in better understanding the evidence.'" Ibid. (quoting Bray, 139 F.3d at 1112).

Here, the court of appeals determined that "Agent Kunkle's excerpted presentation was properly admitted as a secondary-evidence summary." Pet. App. 18a. The court noted that the excerpted presentation contained "some pedagogical information that is outside the scope of the underlying telephone and Google account records," such as "the location and labeling of the robberies," "the location and labeling of a transaction by a credit card that was stolen in a prior robbery" "an arrow detailing the chronological direction of telephone record data," and "the Google Maps backdrop against which all of the visualized location data was superimposed." Id. at 18a-19a. But the court found that the district court did not abuse its discretion in admitting the PowerPoint slides because they "accurately and reliably represent the underlying telephone and Google Account records," and because the district court instructed the jury "that the slides were not independent evidence of the records it summarized and that the slides were only as valid and reliable as those records." Ibid. The court noted that because it had determined that the exhibit was properly admitted as a secondary-evidence summary, it did not need to decide if the exhibit also could have been admitted under Rule 1006. Id. at 20a.

ARGUMENT

Petitioner contends (Pet. 12-17) that the district court erred in admitting Agent Kunkle's PowerPoint presentation. But the district court did not abuse its discretion in finding that the PowerPoint was a permissible summary that would help the jury understand the voluminous raw location data that the government had introduced. The court of appeals' decision does not conflict with any decision of this Court or another court of appeals, and any disagreement in the circuits would in any event have diminishing prospective importance in light of recent amendments to the Federal Rules of Evidence. This case would be a poor vehicle to address admissibility under Federal Rule of Evidence

611(a), because the PowerPoint was alternatively admissible under Rule 1006, and because its admission was in all events harmless. The petition for a writ of certiorari should be denied.

1. Federal Rule of Evidence 611(a) authorizes district courts to "exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to * * * make those procedures effective for determining the truth" and "avoid wasting time." Fed. R. Evid. 611(a)(1) and (2). As a function of that authority, a district court may, with proper limiting instructions, admit testimony that summarizes the evidence that has been introduced in order to aid the jury's understanding. E.g., United States v. Griffin, 324 F.3d 330, 349 (5th Cir. 2003) (noting the "established tradition" of permitting admission of a summary of evidence). This case involved thousands of pages of raw location data that jurors would struggle to interpret unaided. See 2/1/2024 Tr. 635. The court thus correctly recognized that the exhibit would help translate that data for the jury, see id. at 606-628, and it would thereby aid the jury in "determining the truth," Fed. R. Evid. 611(a)(1).

Petitioner nonetheless asserts (Pet. 12) that in looking to Rule 611(a), the court of appeals engaged in an "end-run" around a different Rule of Evidence, Rule 1006. At the time of the trials in this case, Rule 1006 stated that parties could "use a summary" or "chart" to "prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court." Fed. R. Evid. 1006 (2023).* Rule 1006 also contained several requirements concerning the introduction of such materials, including that the documents be "available for examination or copying" by "other parties." Ibid. But even if the domains of those Rules may sometimes overlap, they are distinctly different.

Rule 1006 permits the admission of a summary as a substitute for the underlying documents being summarized, in what amounts to a narrow exception to the best-evidence rule (which generally requires the introduction of the original materials or a duplicate, if available). See Fed. R. Evid. 1006; United States v. Milkiewicz, 470 F.3d 390, 396-397 (1st Cir. 2006); see also 5 Christopher B. Mueller & Laird C. Kirkpatrick, Federal Evidence § 10:18 (4th ed. July 2025 update) (discussing best-evidence rule). Rule 611(a), which vests trial courts with broad discretion to manage the mode of presenting evidence, allows courts to admit demonstrative summaries in addition to the underlying materials being summarized. See Fed. R. Evid. 611 advisory committee note (2022 Amendment) (noting that subdivision (a) "restates in broad

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* Rule 1006 was amended in late 2024. The Rule now states that "[t]he court may admit as evidence a summary, chart, or calculation offered to prove the content of voluminous admissible writings, recordings, or photographs that cannot be conveniently examined in court, whether or not they have been introduced into evidence." Fed. R. Evid. 1006(a) (2025). It further states that "[a] summary, chart, or calculation that functions only as an illustrative aid is governed by Rule 107." Fed. R. Evid. 1006(c) (2025). Unless otherwise indicated, citations to Rule 1006 are to the version in effect at the time of petitioner's trials.

terms the power and obligation of the judge" regarding, among other things, "the use of demonstrative evidence").

Nothing in Rule 1006 prohibited courts from admitting demonstrative aids that summarize other admitted evidence under Rule 611(a), so long as those aids are accurate, not prejudicial, and appropriately limited. Because such exhibits neither replace the underlying evidence nor purport to prove its contents, their admission does not evade Rule 1006's safeguards. See United States v. Bray, 139 F.3d 1104, 1112 (6th Cir. 1998) (explaining that such "summaries are admitted in evidence not in lieu of the evidence they summarize but in addition thereto," because the district court has deemed them to "so accurately and reliably summarize complex or difficult evidence that is received in the case as to materially assist the jurors in better understanding the evidence"). Although Rule 1006 might also have been used to admit summaries of other admitted evidence, nothing made it the exclusive -- or even principal -- mechanism for doing so.

2. Petitioner contends (Pet. 10-12) that the courts of appeals are divided on whether summary exhibits presented to the jury under Rule 611(a) may be admitted into evidence or taken to the jury room. But petitioner overstates any disagreement in the courts of appeals, which have treated summaries on a case-by-case basis. And even if there were significant disagreement relating to the version of Rule 1006 in force during petitioner's trials,

the recent amendments to that rule would undermine its prospective significance.

a. Petitioner errs in claiming that the decision below conflicts with the approach of the Fifth Circuit. Pet. 10-11 (citing United States v. Buck, 324 F.3d 786, 790–791 (5th Cir. 2003); United States v. Harms, 442 F.3d 367, 375–376 (5th Cir. 2006), cert. denied, 550 U.S. 968 (2007)). To the contrary, rather than adopting a categorical rule prohibiting admission of summaries like the ones here, the Fifth Circuit has recognized that "even if [particular] charts are not proper under Rule 1006, summary charts are, in the trial court's discretion, ordinarily admissible when: (1) the charts are based on competent evidence before the jury; (2) the primary evidence used to construct the charts is available to the other side for comparison in order that the correctness of the summary may be tested; (3) the person who prepared the charts is available for cross-examination; and (4) the jury is properly instructed concerning their consideration of the charts." United States v. Winn, 948 F.2d 145, 159 (5th Cir. 1991), cert. denied, 503 U.S. 976 (1992); see id. at 159 n.35. All of that was true for the summaries here.

Petitioner similarly errs in asserting (Pet. 11-12) a conflict between the decision below and the Seventh Circuit's decisions in Baugh ex rel. Baugh v. Cuprum S.A. de C.V., 730 F.3d 701 (2013), and United States v. White, 737 F.3d 1121 (2013). Both Baugh and White principally discuss the separate principle that materials not admitted into evidence, including summary exhibits that are not admitted into evidence, may not be provided to the jury during deliberations. Baugh, 730 F.3d at 705-709; White, 737 F.3d at 1136. Although White suggested that a pedagogical or illustrative chart admitted solely under Rule 611(a) could not be treated as substantive evidence, see White, 737 F.3d at 1136, the Seventh Circuit has elsewhere recognized that "demonstrative aids," including "maps," may themselves be admitted into evidence and may accompany the jury into the jury room during deliberations. United States v. Burt, 495 F.3d 733, 740 (7th Cir.), cert. denied, 552 U.S. 1063 (2007); see United States v. Salerno, 108 F.3d 730, 745 (7th Cir.), cert. denied, 521 U.S. 1122 (1997).

Nor does the Eighth Circuit's decision in United States v. Hawkins, 796 F.3d 843 (2015), cert. denied, 577 U.S. 1111 (2016) conflict with the decision below. Contrary to petitioner's suggestion (Pet. 11), Hawkins did not adopt a categorical rule barring the admission of explanatory summaries. To the contrary, it expressly recognized that Eighth Circuit precedent "suggests," albeit "does not establish," that "pedagogic devices may be admitted into evidence." 796 F.3d at 865 (citing cases). The exhibit in Hawkins was inadmissible only because it repeatedly recast witness testimony in argumentative terms and thus could not be justified under either Rule 611(a) or Rule 1006. Id. at 866.

Petitioner's assertion (Pet. 11) of a conflict with the Ninth Circuit is also incorrect. That court has made clear that it has "not 'articulat[ed] a bright-line rule against admission of summary charts as evidence,'" and it has expressly recognized that a district court "under Rule 611(a), * * * could exercise its discretion to admit summary charts * * * for the purpose of assisting the jury in evaluating voluminous evidence." United States v. Anekwu, 695 F.3d 967, 981-982 (9th Cir. 2012) (citation omitted; brackets in original), cert. denied, 569 U.S. 989 (2013).

b. In any event, any disagreement among the circuits does not warrant this Court's review at this time in light of recent changes to the Federal Rules of Evidence adopted in December 2024 (after petitioner's trials) that diminish the importance of the question presented. In particular, Rule 1006 now expressly applies to a "summary * * * offered to prove the content of voluminous admissible writings, recordings, or photographs that cannot be conveniently examined in court, whether or not they have been introduced into evidence." Fed. R. Evid. 1006(a). "A summary * * * that functions only as an illustrative aid is governed by Rule 107." Fed. R. Evid. 1006(c).

The newly adopted Rule 107, in turn, specifies that "[t]he court may allow a party to present an illustrative aid to help the trier of fact understand the evidence or argument if the aid's utility in assisting comprehension is not substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, or wasting time." Fed. R. Evid. 107(a). Rule 107 further states that "[a]n illustrative aid is not evidence and must not be provided to the jury during deliberations unless: (1) all parties consent; or (2) the court, for good cause, orders otherwise." Fed. R. Evid. 107(b).

The advisory committee notes to the new Rule 107 explain that before the amendments, "the courts ha[d] previously regulated" such illustrative aids "pursuant to the broad standards of Rule 611(a)." Fed. R. Evid. 107 advisory committee note (2024). But because such aids are "now to be regulated by the more particularized requirements of this Rule 107," ibid., any consideration of whether the court of appeals was correct in its application of Rule 611(a) under the former version of the Rules would have importance only for cases involving trials that occurred more than 20 months ago. There is no reason to believe that any significant number of those cases involve the question presented, let alone that a significant number are still at a stage in which resolution of the question presented might have an outcome-determinative effect.

3. Indeed, the question presented did not have an outcome-determinative effect in this case. Accordingly, even assuming arguendo that the question presented would otherwise warrant this Court's review, this would be a poor vehicle for considering it.

a. As an initial matter, the slides were independently admissible under Rule 1006, and indeed the district court admitted them under that Rule. 2/1/2024 Tr. 635-637; 2/5/2024 Tr. 661; see 1/18/2024 Tr. 10-11. As noted above, although Rule 1006 permitted admission of summaries that prove the content of unadmitted materials, nothing prohibited its use to admit summaries that accurately reflected voluminous records that were, in fact, admitted into evidence. And here, the district court found that the slides faithfully summarized the thousands of pages of location data that could not "be conveniently examined in court." Fed. R. Evid. 1006; see 1/18/2024 Tr. 10-11; see United States v. Mazkouri, 945 F.3d 293, 301 (5th Cir. 2019) ("[F]or Rule 1006, the 'essential requirement is not that the charts be free from reliance on any assumptions, but rather that these assumptions be supported by evidence in the record.'") (citation omitted).

That decision accords with other courts of appeals, that have likewise have allowed Rule 1006 summaries under similar circumstances. For example, in United States v. Hill, 604 Fed. Appx. 759, cert. denied, 577 U.S. 909 (2015), the Tenth Circuit affirmed the admission of diagrams of maps showing cell towers, sectors, and locations of relevant events, noting that admission was proper as Rule 1006 summaries because they distilled extensive phone-record data into a usable visual format. Id. at 783-784. And in United States v. Moore, 843 Fed. Appx. 498, cert. denied, 142 S. Ct. 252 (2021), the Fourth Circuit upheld charts and maps that plotted tower locations, displayed directional arrows, and depicted travel patterns derived from voluminous phone records—concluding that such maps "accurately summarized the voluminous cell phone data" and were properly admitted under Rule 1006. Id. at 504.

Likewise here, the PowerPoint slides distilled voluminous phone and Google-location data that could not feasibly be examined point-by-point in raw form. Every point plotted on a map in the PowerPoint was tied to an (admitted) record, necessarily satisfying Rule 1006's requirement that the proponent of a summary "make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place." Fed. R. Evid. 1006. And the other prerequisites referred to by the court below were also satisfied. See Pet. App. 18a (citing Bray, 139 F.3d at 1109-1110). For example, the government established that "the underlying documents are admissible in evidence." Bray, 139 F.3d at 1109. In addition, the agent who prepared the slides testified in detail and was fully available for cross-examination. And although petitioner describes (Pet. 10) the PowerPoint as "argumentative," the slides were "accurate and nonprejudicial." Bray, 139 F.3d at 1110. For example, the slides depicted the robberies' locations, but that information was admitted into evidence through other witnesses' testimony. See, e.g., 1/29/2024 Tr. 57-65. The key disputed question was who committed those crimes, not where they were committed.

Although the court of appeals found it unnecessary to reach the admissibility of the PowerPoint under Rule 1006, the government may "defend its judgment on any ground properly raised below whether or not that ground was relied upon, rejected, or even considered by the District Court or the Court of Appeals." Granfinanciera, S. A. v. Nordberg, 492 U.S. 33, 38 (1989) (citation omitted). That alternative ground for affirming the court of appeals' judgment underscores the unsuitability of this case for this Court's review.

b. In addition, the question presented is not outcome-determinative in this case because any error by the district court in admitting the exhibit as evidence was harmless.

For one thing, petitioner does not dispute that the jury was properly shown the PowerPoint during Agent Kunkle's testimony. Pet. 7. Instead, his concern is that the jury was permitted to consult the PowerPoint's maps as visual aids during deliberations. But petitioner does not explain why having the maps in the jury room would prejudice him, particularly after "[t]he majority of Agent Kunkle's testimony consisted of his page-by-page explanation" of the PowerPoint. Ibid. While petitioner attributes (Pet. 5) the difference between the results of his first and second trials to the admission (rather than just the use) of the PowerPoint, the fact that the PowerPoint located petitioner's phone near only three of the four robberies for which he was found guilty, see 2/1/2024 Tr. 607, undercuts his argument. The PowerPoint was an undisputedly accurate summary of the underlying data, and the jury was expressly instructed that the slides "were not independent evidence" and were only as reliable as the underlying data. Pet. App. 19a; see 1/30/2024 Tr. 685. Petitioner thus fails to establish any prejudice caused by introducing the PowerPoint into evidence.

Moreover, the evidence of petitioner's guilt was overwhelming with or without the PowerPoint. Among other things, clothing seized from petitioner's residence matched the robber's attire in several of the robberies. See 1/30/2024 Tr. 200-201, 235, 260-261, 266-273, 274; 1/31/2024 Tr. 418-419, 454, 538, 543-544. A photograph on petitioner's phone showed him wearing the same outfit as the BP robber less than 12 hours before that robbery. See 1/31/2024 Tr. 489. A Sunoco clerk testified that petitioner frequented the store several times a week before the robbery and lived nearby, yet stopped appearing after the robbery. 1/29/2024 Tr. 71-74; see 1/30/2024 Tr. 263, 266-267. A BP robbery victim testified that the gun seized from petitioner's residence resembled the robber's gun. 1/30/2024 Tr. 171, 238. And a Dollar General employee identified petitioner by his voice as the robber of that store. Id. at 209.

That evidence, as well as the extensive location data introduced by the government, provides a fair assurance that the challenged summaries did not have a substantial and injurious effect or influence in determining the jury's verdict. Kotteakos v. United States, 328 U.S. 750, 765, 776 (1946). Petitioner thus would not be entitled to relief even if he prevailed on the question presented.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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JULY 2026