

STATE OF NEW YORK
ERIE COUNTY COURT

THE PEOPLE OF THE STATE
OF NEW YORK

v.

NOTICE OF MOTION

IND [REDACTED]

YOUR HONOR:

Please take notice that upon the attached affirmation of [REDACTED], defendant [REDACTED] will move, at a term of Erie County Court, Part 18, at 2:00 p.m. on [REDACTED] 2023 or as soon as counsel can be heard, for an order precluding any evidence "taken from a web mapping service, a global satellite imaging site, or an internet mapping tool" on the ground that the prosecution failed to give timely notice of its intent to use such evidence as required by CPLR 4532-b.

DATED: [REDACTED] 2023
Orchard Park, New York

Respectfully,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

TO:

Hon. Susan M. Eagan

Erie County District Attorney
25 Delaware Ave.
Buffalo, New York 14202

STATE OF NEW YORK
ERIE COUNTY COURT

THE PEOPLE OF THE STATE
OF NEW YORK

v.

NOTICE OF MOTION

IND- [REDACTED]

STATE OF NEW YORK)
COUNTY OF ERIE) ss.

[REDACTED] an attorney licensed to practice in the courts of this State, affirms the truth of the following statements under penalties of perjury.

1. I am the attorney for [REDACTED], who is charged jointly with co-defendant [REDACTED] with burglary in the first degree (Penal Law § 140.30[2]) and robbery in the first degree (Penal Law § 160.15[3]).
2. I make this affirmation in support of my motion for the relief described below.
3. Unless otherwise stated, this affirmation is made upon information and belief, the source of which is my review of the case file, discovery, and motion papers.
4. The prosecution has disclosed their possession of Google location data, and I expect that this information will be offered into evidence at trial.
5. "An image, map, location, distance, calculation, or other information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool, is admissible in evidence if such [information] indicates the date such material was created" (CPLR 4532-b).

6. A party intending to offer such information at a trial or hearing “shall, at least thirty days before the trial or hearing, give notice of such intent, providing a copy or specifying the internet address at which such image or information may be inspected” (*id.*).
7. The Google location data is gathered from the technology described in the statute. But although this case is set for trial on [REDACTED] 2023, twenty-one days from now, the prosecution has not served its notice of intent to offer the evidence.
8. As a remedy, the Google location data should be precluded.

[REDACTED]