UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS

In re:	§	
	§	
Applications of the	§	Miscellaneous H-11-223
United States of America	§	
for Historical Cell Site Data	§	

Order on Objections

On the government's objections to the magistrate judge's opinion about the use of the Stored Communications Act to compel cellular-telephone services to disclose the locations of a telephone when it was used over a two-month period.

In addition to having the government's objections, the court has been aided by the briefs by the Electronic Frontier Foundation, American Civil Liberties Union, and Professor Susan Freiwald.

When the government requests records from cellular services, data disclosing the location of the telephone at the time of particular calls may be acquired only by a warrant issued on probable cause. U.S. Const., amend. 4. The records would show the date, time, called number, and location of the telephone when the call was made. These data are constitutionally protected from this intrusion. The standard under the Stored Communications Act, 18 U.S.C. § 2703(d), is below that required by the Constitution.

The government's objections are overruled, and the ruling of October 29, 2010, subsists.

Signed on November 11, 2011, at Houston, Texas.

Lynn N. Hughes
United States District Judge