

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Euzema Maurice Austin, Sr., Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2025-000055

Appeal From Jasper County
J. Derham Cole, Jr., Circuit Court Judge

Unpublished Opinion No. 2026-UP-445
Submitted September 1, 2026 – Filed October 7, 2026

AFFIRMED

Chief Appellate Defender Wanda H. Carter and
Appellate Defender Jessica M. Saxon, both of Columbia,
for Petitioner.

Senior Assistant Deputy Attorney General D. Russell
Barlow, II, and Assistant Attorney General Travis Cruise
Mitchell, both of Columbia, for Respondent.

PER CURIAM: Petitioner seeks a writ of certiorari from an order partially granting and partially denying his application for post-conviction relief (PCR). The PCR court found Petitioner was entitled to a belated review of his direct

appeal issue pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). However, the PCR court found Petitioner was not entitled to relief on any other ground.

Because there is sufficient evidence to support the PCR court's finding that Petitioner did not knowingly and intelligently waive his right to a direct appeal, we grant certiorari on Petitioner's Question 1 and proceed with a review of the direct appeal issue pursuant to *Davis v. State*, 288 S.C. 290, 342 S.E.2d 60 (1986). We deny certiorari on Petitioner's Question 2.

On appeal, Petitioner argues the trial court erred in permitting cumulative hearsay testimony from a law enforcement officer that served to bolster a victim's testimony. We affirm pursuant to Rule 220(b), SCACR.

We hold the trial court did not abuse its discretion in admitting the officer's testimony regarding the victim's statement because although the testimony was hearsay, it fell within the excited utterance exception. *See State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) ("The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion."); *id.* ("An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law."); Rule 801(c), SCRE ("Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted."); Rule 802, SCRE ("Hearsay is not admissible except as provided by these rules or by other rules prescribed by the [s]upreme [c]ourt of this [s]tate or by statute."); Rule 803(2), SCRE (stating one exception to the hearsay rule is an excited utterance, which is "[a] statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition"). Here, (1) the victim's statement to the officer related to a startling event because the victim indicated to the officer that someone broke into his house, attacked him and his then-girlfriend, and dragged his then-girlfriend away from the house; (2) the victim's statement was made while the victim was under the stress of excitement because the officer testified he arrived to the scene shortly after receiving the burglary call, that the victim appeared upset, and that the officer observed money, clothing, and strands of hair on the ground; and (3) the victim's stress of excitement was caused by the startling event. *See State v. Ladner*, 373 S.C. 103, 116, 644 S.E.2d 684, 691 (2007) ("[T]here are three elements that must be met to find a statement to be an excited utterance: (1) the statement must relate to a startling event or condition; (2) the statement must have been made while the declarant was under the stress of excitement; and (3) the stress of excitement must

be caused by the startling event or condition."); *State v. Burdette*, 335 S.C. 34, 43-44, 515 S.E.2d 525, 530 (1999) (holding a hearsay statement fell within the excited utterance exception when it was made "no more than one hour between the attack on Victim and Victim's Wife and Victim's statement to the testifying police officer"); *State v. Sims*, 304 S.C. 409, 420, 405 S.E.2d 377, 383 (1991) (holding a hearsay statement was admissible under the excited utterance exception when "[t]he officer proceeded directly to the scene upon being dispatched there" and "[t]he officer testified that the woman who approached him and made the statements was upset").

AFFIRMED.¹

THOMAS, KONDUROS, and CURTIS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.