

**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**

The State, Respondent,

v.

Terrance Leman Calloway, Appellant.

Appellate Case No. 2016-001958

Appeal From Abbeville County
Alison Renee Lee, Circuit Court Judge

Unpublished Opinion No. 2018-UP-107
Submitted February 1, 2018 – Filed March 14, 2018

AFFIRMED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Senior
Assistant Deputy Attorney General John Benjamin Aplin,
and Assistant Attorney General Susan Rane Saunders,
all of Columbia; and Solicitor David Matthew Stumbo, of
Greenwood, for Respondent.

PER CURIAM: Terrance Calloway appeals his kidnapping conviction, arguing the trial court erred in admitting hearsay-within-hearsay testimony. We affirm.

We find the victim's statement to the 911 operator was admissible as an excited utterance.¹ *See* Rule 802, SCRE ("Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court of this State or by statute."); Rule 803(2), SCRE (providing the excited utterance exception to the rule against hearsay: "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."); *State v. Hendricks*, 408 S.C. 525, 532, 759 S.E.2d 434, 438 (Ct. App. 2014) (finding the excited utterance exception applied to a victim's statement reporting the crime soon after the crime was committed).

We further find Sandy Purdy's testimony about the victim's statement to the 911 operator was admissible under the business records exception to the hearsay rule. *See* Rule 803(6), SCRE (providing the business records exception to the rule against hearsay: "A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness; *provided, however*, that subjective opinions and judgments found in business records are not admissible. The term 'business' as used in this subsection includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.").

AFFIRMED.²

HUFF, GEATHERS, and MCDONALD, JJ., concur.

¹ We note Calloway acknowledges in his brief "that statement may have met an exception to the hearsay rule."

² We decide this case without oral argument pursuant to Rule 215, SCACR.