

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2022-KK-01314

VS.

MONTRELL LEE

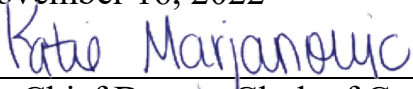
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IN RE: State of Louisiana - Applicant Plaintiff; Applying For Supervisory Writ,  
Parish of East Baton Rouge, 19th Judicial District Court Number(s) 08-17-0871,  
Court of Appeal, First Circuit, Number(s) 2022 KW 0484;  
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November 16, 2022

Writ application granted. See per curiam.

JTG  
SJC  
WJC  
JBM  
PDG

Weimer, C.J., dissents and assigns reasons.  
Hughes, J., dissents for reasons assigned by Chief Justice Weimer.

Supreme Court of Louisiana  
November 16, 2022  
  
\_\_\_\_\_  
Chief Deputy Clerk of Court  
For the Court

**SUPREME COURT OF LOUISIANA**

**No. 2022-KK-01314**

**STATE OF LOUISIANA**

**VS.**

**MONTRELL LEE**

On Writ of Certiorari to the Court of Appeal, First Circuit,  
Parish of East Baton Rouge

**PER CURIAM**

Writ granted. Defendant Montrell Lee is charged with two counts of second degree rape of the victim D.R. After Mr. Lee indicated that he would be objecting to the admissibility of the 911 call recording made by the victim and a friend through a translator, the State filed a motion in limine seeking a pretrial ruling on its admissibility. The district court ruled the portion of the 911 call before the 14 minutes, 18 seconds timestamp was admissible, but thereafter the call became investigatory and contained hearsay within hearsay. The district court found the statements after 14:18 did not qualify as an excited utterance and were too far removed from the incident in question, and thus the court found that portion of the tape to be inadmissible.

The court of appeal denied the State's writ application. *State v. Lee*, 22-0484 (La. App. 1 Cir. 8/17/22) (unpub'd). Judge Whipple, dissenting in the court of appeal, would grant the State's motion in limine, concluding the trial court abused its discretion by ruling that only a portion of the 911 call would be admitted. We agree. As evidenced by the contents of the call, the primary purpose was to handle an ongoing emergency rather than obtain information for prosecution. *See Michigan v. Bryant*, 562 U.S. 344, 358, 131 S.Ct. 1143, 1155, 179 L.Ed.2d 93 (2011). As the crime occurred outside of the victim's apartment in her car by an unidentified

perpetrator, the questions the 911 operator asked of the victim were primarily aimed at obtaining information to identify and locate the assailant who was in possession of a weapon and who had been walking around the area, ascertaining whether the victim needed emergency medical attention, and determining the closest hospital and how the victim would get there. Furthermore, following the 14:18 timestamp, the 911 operator continues to ask if the person who assaulted victim was still in the area where the assault occurred, if the perpetrator got in a vehicle or if he was running, or whether he lived in the area.

The excited utterance exception under the hearsay rules requires that there be an occurrence or event sufficiently startling to render normal reflective thought processes of an observer inoperative. Additionally, the statement must have been a spontaneous reaction to the occurrence or event and not the result of reflective thought. *State v. Henderson*, 362 So.2d 1358 (La. 9/5/78); *see also State v. Williams*, 18-1082, p. 8 (La. App. 1 Cir. 5/9/19), 277 So.3d 337, 343. Following the timestamp at issue, the victim appears to still be distressed, with the operator attempting to calm the victim of a traumatic event. Courts have found instances of excited utterances with similar timespans. *See State v. Reaves*, 569 So.2d 650, 653 (La. App. 2 Cir. 10/31/90), *writ denied*, 576 So.2d 25 (La. 3/1/91).

As a result of the necessity of having to provide translation between the parties, the length of the 911 call is longer than a call that would not need that intermediary. However, the call occurred sufficiently close to the incident while the victim was still under the stress of the event, and the interpreter acted as a language conduit wherein the interpreted statement may be fairly attributed directly to the victim. Furthermore, Mr. Lee has not alleged any bias, lack of proficiency, or inaccuracy on the part of the interpreter.

Accordingly, we reverse the ruling of the trial court to the extent it found that only a portion of the 911 call would be admissible. The admittance of the 911 call

recording in its entirety does not violate the Confrontation Clause, and the statements fall within the excited utterance exception to the hearsay rules. Accordingly, we find that the entire 911 call is admissible. We remand for further proceedings consistent with the views expressed here.

**REVERSED AND REMANDED**