

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MIRACLE HAWKINS,)
) No. 382, 2010
 Defendant Below,)
 Appellant,) Court Below: Superior Court
) of the State of Delaware in
 v.) and for New Castle County
)
 STATE OF DELAWARE,) Cr. ID No. 0908017910032
)
 Plaintiff Below,)
 Appellee.)

Submitted: December 15, 2010

Decided: December 29, 2010

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 29th day of December, 2010, it appears to the Court that:

(1) On March 10, 2010, a jury found Miracle Hawkins guilty of Assault Second Degree and Possession of a Deadly Weapon During the Commission of a Felony for stabbing William Mitchell at his residence. A significant piece of evidence against Hawkins was a contemporaneous exclamation made by a four-year old that lived in the residence. On appeal, Hawkins challenges the admission of the exclamation as an abuse of the trial judge's discretion. We **AFFIRM**.

(2) In 2009, Miracle Hawkins lived in the house her cousin, Vanisha Carson, rented. William Mitchell, Hawkins' boyfriend, Dion Williams, Carson's boyfriend, and Jah-Zara Jones, Carson's four year old daughter, also lived in the

house. On August 12, 2009, citing family problems, Hawkins moved out of the house.

(3) Carson testified that on August 19, 2009, Carson and Jah-Zara returned to the house after running an errand and found the front door of the house uncharacteristically open. Jah-Zara jumped out of the car and ran inside, while Carson remained outside talking to her friend. Shortly thereafter, Jah-Zara came “bust[ing] out [of] the house . . . stumbling down the steps running right toward [Carson], eyes big,”¹ and she announced to Carson, “Mommy, Miracle stabbed Will.”² Almost immediately, Hawkins emerged holding a steak knife upright, and she truculently told Carson, “You better call the fucking ambulance because I stabbed him, I’m tired of his shit.”³ After finding Mitchell upstairs bleeding from the chest, Carson called 911. The knife blade had pierced his heart, and he required emergency surgery. He survived.

(4) At trial, Hawkins testified that she did not stab Mitchell, but found him in the house after he had already been stabbed. Mitchell testified that an unknown man had stabbed him. Jah-Zara did not testify because she was undergoing therapy. Carson testified, and after the judge heard *voir dire* testimony

¹ Appendix to Op. Br. at A1.

² *Id.*

³ *Id.* at A11.

from Carson regarding the circumstances of Jah-Zara’s statement—“Mommy, Miracle stabbed Will”—he allowed her to testify about it. Specifically, he ruled that it qualified under the excited utterance exception to the general ban on hearsay evidence. Hawkins appeals this ruling. We generally review Superior Court rulings admitting or excluding evidence for abuse of discretion.⁴

(5) Delaware Rule of Evidence 803(2) designates “excited utterance[s]” as excepted from the general ban on hearsay evidence at trial.⁵ We have explained:

To establish the admissibility of an excited utterance under D.R.E. 803(2), the proponent must show that: (1) the excitement of the declarant was triggered by a startling event; (2) the proffered statement was made while the excitement of the event was continuing; and (3) the statement was related to the event.⁶

In this case, the judge heard testimony from Carson and decided that walking in on the alleged stabbing was a startling event and that Jah-Zara was under the stress of

⁴ *Howard v. State*, 549 A.2d 692, 693 (Del. 1988).

⁵ D.R.E. 803. Hearsay exceptions; availability of declarant immaterial.

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

...

(2) Excited Utterance. 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.

⁶ *Bruce v. State*, 781 A.2d 544, 552 (Del. 2001).

the event when she made the statement to her mother.⁷ Also, the statement clearly related to the event. On this record, the trial judge did not abuse his discretion by allowing Carson to testify about the statement at trial.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁷ Appendix to Op. Br. at A4.