NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

ROGER PETER MORRISON, Appellant, v. STATE OF FLORIDA, Appellee.	)	Case No. 2D13-1709

Opinion filed October 29, 2014.

Appeal from the Circuit Court for Hillsborough County; Lisa D. Campbell, Judge.

Howard L. Dimmig, II, Public Defender, and Carol J.Y. Wilson, Assistant Public Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Elba Caridad Martin-Schomaker, Assistant Attorney General, Tampa, for Appellee.

ALTENBERND, Judge.

Roger Peter Morrison appeals his judgments and sentences for battery of a law enforcement officer and obstructing or opposing an officer with violence. The only issue raised on appeal is the trial court's decision to admit, as an excited utterance, a digital recording of a 911 telephone call from an alleged victim of domestic violence.

See § 90.803(2), Fla. Stat. (2012). Mr. Morrison is correct that the trial court erroneously failed to conduct the hearing or make the required predicate findings described in Tucker v. State, 884 So. 2d 168, 173 (Fla. 2d DCA 2004), before admitting this evidence as an excited utterance. Nevertheless, the 911 recording was relevant only to a charge of domestic violence for which the jury found Mr. Morrison not guilty. The 911 call was the event that prompted law enforcement to come to the location where Mr. Morrison subsequently committed the offenses on the officers. As a result, the improperly admitted evidence was not relevant to the charges for which he was convicted. We have reviewed the record and conclude that this error was harmless beyond a reasonable doubt. See State v. DiGuilio, 491 So. 2d 1129, 1138 (Fla. 1986).

Affirmed.

NORTHCUTT and CRENSHAW, JJ., Concur.