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SAMPLES:

1. ***Appeals Judge in Ohio remanding due to the inaudible-riddled transcript.***

Opinion of the
Ohio Court of Appeals
State v. Hull, Unpublished Decision (3-30-2005)
<https://www.judyrecords.com/record/vltu1hnbmdbb7>

{ 55 } **I write separately to express my dissatisfaction with the transcript filed in the case before this court.** The trial transcript is 163 pages. In those 163 pages, the transcriber indicated that portions of the recorded testimony were "inaudible" over 500 times. Moreover, it is unclear whether the "inaudible" portion of the transcript was a word, phrase, or an entire sentence.

{ 56 } In this technological day and age, an attorney should reasonably expect that a court of record would have a reliable means of recording the proceedings at a trial. When that expectation is woefully proven to be erroneous, it seems too easy to avoid the merits of an argument on appeal by the utilization of App.R. 9. However, to ignore that appellate rule of procedure would require this court to venture into a world of speculation and that it cannot, nor should not, enter.

{ 57 } Accordingly, although I am greatly tempted to glean the gist of the inaudible portions of the transcript by reference to sidebar discussions, I decline to do so. Therefore, this case is a prime illustration of a practice pointer for members of the bar: ascertain before trial the method and reliability of the recordation of trial proceedings, and when in doubt, obtain your own reporter. Failure to do so, as this case illustrates, may be fatal to your appeal.

2. Reversed and remanded for further proceedings.

Opinion of the
District Court of Appeal of Florida
V.S.J. v. State

[V.S.J. v. State - District Court of Appeal of Florida - judyrecords](#)

Our review of the plea colloquy in this case is further complicated by the fact that much of the discussion was indiscernible and therefore could not be transcribed. We suspect that the proceedings were electronically recorded as authorized by Florida Rule of Juvenile Procedure 8.100(e).

Based on the trial courts failure to advise V.S.J. of her right to counsel and failure to obtain a knowing and intelligent waiver of counsel at every stage of the proceedings, we reverse. On remand, V.S.J. should be allowed to withdraw her plea.

3. Remanded for new hearing.

Opinion of the
Appellate Division of the Supreme Court of the State of New York
Robinson v. Blum

[Robinson v. Blum - Appellate Division of the Supreme Court of the State of New York - judyrecords](#)

The proceedings at the fair hearing were preserved by an electronic tape recorder. It is not denied that the typed transcript of the testimony at the hearing contains numerous omissions of words, phrases and/or sentences indicated by the word "unintelligible." Under these circumstances the transcript was not complete and the State commissioners' determination was not based upon a full record (see Matter of Gutierrez v Blum, 73 AD2d 690). Damiani, J. P., OConnor, Lazer and Rabin, JJ., concur.

4. Matter remitted for new hearing.

Opinion of the
Appellate Division of the Supreme Court of the State of New York
Jordal v. Jordal

[Jordal v. Jordal - Appellate Division of the Supreme Court of the State of New York - judyrecords](#)

At the hearing on the petition for an upward modification of the father's child support obligation, no stenographer was present to record the proceedings. An audio tape recording of the hearing was made, but the tape is inaudible. As a result, the father was unable to include a transcript of the hearing in the record on appeal. The statement in lieu of stenographic transcript (see, CPLR 5525 [d]) is not adequate to permit meaningful review of the support order. It is impossible to determine the basis for the Hearing Examiners calculation of the father's support obligation from the statement in lieu of stenographic transcript and the other documents included in the record.

5. Murder conviction appealed and reversed. Claim was multiple "inaudibles" in trial transcript.

Opinion of the
Supreme Court of Louisiana
State v. Boatner

[State v. Boatner - Supreme Court of Louisiana - judyrecords](#)

...set aside the defendant's conviction and sentence and remanded the matter for a new trial holding that defendant was prejudiced by the amount of dialogue that was unable to be transcribed. Based on the reasoning in State v. Bright, XXXX-XXXX (La.App. 4 Cir. 2/6/02), 809 So. 2d 1112 , 1117, writ denied, 02-0698 (La.11/1/02), 828 So. 2d 563, the court found the cumulative effect of the omissions rendered the record inadequate.

6. Final order is vacated and the cause is remanded for a hearing de novo.

Opinion of the
District Court of Appeal of Florida
Special Disability Trust Fund v. School Board of Manatee County

<https://www.judyrecords.com/record/rdq1vyk5m833a>

Appellant filed a notice of appeal from a final order of the lower tribunal. Appellant then informed this court that the judge of the lower tribunal has advised that the tapes of the hearing are inaudible and cannot be transcribed. The parties have attempted to reconstruct the record pursuant to Rule 9.200(b)(4), Florida Rules of Appellate Procedure.

The parties report they have been unable to reconstruct the record. Therefore, the final order is vacated and the cause is remanded for a hearing de novo. *Arnold Lumber Company v. Harris*, 469 So.2d 786 (Fla.1st DCA 1984).

7. Defendant's conviction and sentence are vacated due to the incomplete record of the voir dire process. The case is remanded for further proceedings.

Opinion of the
Louisiana Court of Appeal
State v. Spears

<https://www.judyrecords.com/record/ck9ucmbm48e2>

In this assignment, Defendant argues the record is so deficient in some areas that it deprives him of his right to appeal. He observes that many portions of the voir dire transcript refer to individual venire members as "prospective juror" rather than by name. Also, a number of the comments and statements made throughout the voir dire are listed as "inaudible." Further, the contents of various bench conferences are not recorded. Defendant also complains that portions

of the victim's testimony and portions of the transcription of his confession are listed as "inaudible."

In the present case, in many record entries, the individual venire member speaking is named only as "Potential Juror." On July 28, Defendant filed a Motion for Supplementation of Record and for Suspension of Briefing Delays, noting the many entries of "inaudible" in the record, and the unrecorded bench conferences. This court granted the motion, and ordered the court reporter to transcribe all bench conferences, attempt to clarify the inaudible responses in the record, and attempt to identify the venire member or members identified as "potential juror" in the original record. On August 22, this court received a supplemental record containing new transcripts of the voir dire and the trial. In an affidavit, the court reporter affirmed her attempts to clarify the "inaudible" responses, but noted there was no way to identify potential jurors who were not named in open court.

8. *Convictions are reversed and this case is remanded for a new trial.*

Opinion of the

District Court of Appeal of Florida

McKenzie v. State

<https://www.judyrecords.com/record/ykmi7fugc2b3>

Furthermore, he argues that is entitled to a new trial because the transcript of his trial, even after a scientific enhancement of the videotape, is inadequate for effective appellate review of his case. We agree.

During the transcription process, numerous portions of the videotape were found inaudible, so the trial judge and counsel met in an effort to reconstruct the record from memory. When this failed, the parties turned to scientific enhancement of the videotape, and the transcript of the enhanced tape became part of the record on appeal. The result, however, was far from satisfactory: the record is riddled with gaps and "inaudible" notations.

9. *Final order is vacated and the cause is remanded for a hearing de novo.*

Opinion of the

District Court of Appeal of Florida

Montgomery Truck Lines v. Southworth

<https://www.judyrecords.com/record/rdq1n25cg35a3>

Appellant filed a notice of appeal from a final order of the lower tribunal. The judge of the lower tribunal entered an order which advised the parties that the tape containing the hearing was inaudible and transcription was not possible. Jurisdiction was relinquished for the parties to attempt to produce a statement of the evidence pursuant to Rule 9.200(b)(4), Florida Rules of Appellate Procedure.

The parties report they have been unable to reconstruct the record and the judge has certified that a statement of the evidence cannot be prepared. Therefore, the final order is vacated and the cause is remanded for a hearing de novo. *Arnold Lumber Company v. Harris*, 469 So.2d 786 (Fla. 1st DCA 1984).

SHIVERS, C.J., and WENTWORTH and WIGGINTON, JJ., concur.

10. Judgment was reversed.

New Mexico Court Record
Oona Gonzalez v. State of New Mexico
<https://www.judyrecords.com/record/vlq2lcb1h86db>

A docket entry in a driver's license suspension case cited that the transcript was so inaudible that the case could not be appealed and the judgment was reversed.

11. Case remanded.

United States Court of Appeals for the Third Circuit
Abdulozoda v. Attorney General of the United States
<https://www.judyrecords.com/record/rp4zngqfcc5d>

"The transcript provided for our review is unfathomably poor; by my count there are 184 instances of indiscernible in only 13 pages of expert testimony alone, and the remainder of the transcript is riddled with other instances. Over 20 years ago we noted that we were appalled by such faulty records, and we do not take petitioners' objection lightly. *Id.* Twenty years later, it seems that the Government has made little progress toward fulfilling its statutory duty to provide a complete record ... of all testimony and evidence produced at the proceeding. 8 U.S.C. 1229a(b)(4)(C); see 8 C.F.R. 1240.9 (The hearing before the immigration judge ... shall be recorded verbatim.)."

"While I pass no judgment on the ultimate conclusion of the IJ or the BIA, I cannot conclude that the BIA discharged its duty in this case. I would grant the petition for review and remand to the BIA with instructions either to obtain a clear copy of the transcript or, if no such copy is obtainable, remand this case to the IJ for a new hearing. I thus respectfully dissent."