

4280 E. Bridger Street
Pahrump, NV 89061
May 18, 2012

FILED

Supreme Court
Office of the Clerk
201 S. Carson Street
Carson City, NV 89701

0410
ADKT 4476

MAY 29 2012
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CLERK DEPUTY CLERK

Re: Standards of Operation and Best Practices Manual for Making the Record.

I would like to speak in support of the document in its current form. As I live in Pahrump, and work in the courthouse for Nye and Esmeralda Counties, I was not able to be present for the hearing on February 6, 2012, before it concluded to make my comments in person.

I'm aware of Judge Brisebill's remarks in support of Judge Tatro regarding the JAVS system not needing to be monitored. I wholeheartedly disagree. If I may point out, Judge Brisebill, at the time she made that comment, was the only judge in Nye and Esmeralda Counties relying solely on JAVS. Judge Brisebill was using a court reporter until hers moved to Hawaii. Since then she has been sending the JAVS recordings to Hawaii to be transcribed or having me transcribe them. Here are some of the issues I've encountered:

In November of 2010, I informed Judge Brisebill I was not able to make a transcript of the Paul Bent TPO hearing held on July 6, 2010, because far too much of it was inaudible.

In October of 2011 the jury trial of Roland Settimi, Justice Court Case Number 09CR00662, had to be pushed back one month due to Judge Brisebill not having a preliminary hearing from her courtroom transcribed. I personally transcribed it. At one point you hear the defense attorney tell the deputy district attorney to be sure to speak into the mic because there is no court reporter present. Then Judge Brisebill states, "They're a little more sensitive than that." I had 71 instances of inaudible testimony out of 77 pages of transcript.

In the matter of David Johnston, Justice Court Case Number 11CR04256, proceedings were held on December 21, 2011, but when they realized they wanted to hear from the victim, they suspended the proceedings until the next morning so the victim could give a statement. I transcribed both of those hearings. Even though you see an attorney move the microphone directly in front of the victim, one hundred percent of what the victim testified to is inaudible.

On January 11, 2012, I received an email from Kathy Ivey, administrator of the Pahrump Justice Court, informing me that I was needed in justice court that morning because of "JAVS issues this a.m."

I've transcribed numerous cases out of Judge Brisebill's courtroom and the outcome is always the same.

On July 9, 2010, I was working in Pahrump's other justice court which always employs a court reporter. The JAVS is used as a backup. We were barely into day one of a two-day preliminary hearing with three defendants, Jason White, Benjamin Swanson and Joshua Betts, Justice Court Case Number 07CR04809, when the JAVS system malfunctioned not once but twice. It started up and made such a loud buzzing that the judge instructed the clerk to shut the JAVS

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system down and leave it off. The judge then stated, "That's why we have a court reporter," to which one of the defense attorneys replied, "Thank God."

In the Pahrump District Court on August 29, 2011, which also employs a court reporter for all their criminal matters and uses JAVS as a backup, I was taking down a change of plea for Justin Nelson, Case Number CR6392. When the proceedings were over, the clerk informed me that she would need my transcript as soon as possible because the JAVS system failed to save the file.

On February 16, 2012, the jury came back with a verdict in the trial of Melissa Robbins, Case Number CR6369. When the proceedings were concluded, the clerk informed me she forgot to turn the JAVS system on and could I please give her a transcript of that portion of the trial.

Recently I was in the offices for the Pahrump District Court during a break from the trial I was reporting. I noticed the judge's assistant from the other district courtroom monitoring the proceedings of a trial where a defendant, Nicholas Willing, was facing 12 felony counts. As I walked by her desk, I could see the camera fixed on the deputy district attorney but he was not saying anything. I could hear someone speaking faintly. When I asked the judge's assistant about it, she said that tomorrow she would move the microphone on the defense attorney's table so it would pick him up better. Of course that's fine for tomorrow, but it's certainly not picking up anything today. I told her that at least with a court reporter in there they would have a record of all the testimony.

More recently a clerk in Pahrump District Court went to supply a JAVS CD to a defense attorney in the Daniel Robbins bail hearing, Case Number CR6945. He is being held on murder. The attorneys had the court reporter's transcript a week after the hearing but the defense counsel later requested a copy of the JAVS. The CD was bad so the clerk had to go to the courtroom and make a backup copy. The clerk didn't realize that the backup copy never stops recording. When she supplied the CD to the defense attorney, it also included everything for the rest of the day and into the night, including the janitor coming in and cleaning the courtroom. Also on that CD were off-the-record comments by the judge and other court staff. The judge ended up recusing herself from the case.

I feel that if you want to find out just how good or bad these recordings are, you need to be asking the people who transcribe them. I can tell you I have to listen to them over and over and over again to try to discern what is being said. Far too often I have to put "inaudible" in the transcript and move on. I don't think that's the kind of transcript you would want if you were a defendant in a criminal matter. I know I wouldn't.

This letter has been a work in progress. Incidents keep happening at the Pahrump courthouse regarding the JAVS system which has required me to keep adding to this letter over the past several months.

I started out this letter stating that Judge Brisebill was the only judge at the Pahrump courthouse to rely solely on JAVS. That is no longer the case. District court and all the attorneys have been quite vocal about their need for preliminary hearing transcripts. No one has time to watch a preliminary hearing from start to finish, especially when they're of poor audio quality.

Judge Brisebill asked me to arrange to have a court reporter present every day all day for her criminal calendar because she is "underwhelmed with the quality of the JAVS system and that someone should have left it in a box in the closet."

For all these reasons and many more, I urge you to accept the document in its present form and require a properly trained monitor be present in the courtroom if a court reporter is not going to be employed.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Hines". The signature is written in black ink and is positioned above the typed name.

Debbie Hines
Nevada Certified Court Reporter #473
California Certified Shorthand Reporter #11691
Registered Professional Reporter