

2000

# State of Utah v. Jordan Vance Calliham : Reply Brief

Utah Court of Appeals

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## Recommended Citation

Reply Brief, *Utah v. Calliham*, No. 20000391 (Utah Court of Appeals, 2000).

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IN THE UTAH COURT OF APPEALS

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STATE OF UTAH,  
Plaintiff/ Appellee,

vs.

JORDAN VANCE CALLIHAM,  
Defendant/ Appellant.

Appeal No. 20000391

District No. 9917-00142

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REPLY BRIEF OF APPELLANT

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Appeal from the decision of the Honorable Lyle R.  
Anderson, Seventh Judicial District Court, Grand  
County.

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**FILED**  
Utah Court of Appeals

JAN 13 2001

Paulette Stagg  
Clerk of the Court

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**ARGUMENT**

**A. OMISSIONS IN THE TRIAL TRANSCRIPT MAKE IT IMPOSSIBLE TO DETERMINE WHETHER THE DISTRICT COURT ERRED IN DENYING JORDAN'S CHALLENGES FOR CAUSE AND WHETHER HE WAS PREJUDICED.**

The State argues the trial court did not err in failing to dismiss jurors Whitehat, Bradford, Lee and Black for cause, and that Jordan has not established prejudice. Br. Aple. at 10. The argument cannot be assessed because of omissions in the transcript (Transcript, 16-21). The State contends that no statements of bias were expressed. Br. Aple at 20. Again, this cannot be determined because of inaudible gaps in the record. Jurors' relationships with law enforcement officers and reading local newspapers may not alone establish bias, but they certainly raise an issue requiring further questioning. The extent of such questioning, if any, cannot be determined

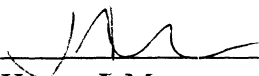
from the record. Potential jurors could have expressed bias at any time during the voir dire which was recorded simply as "inaudible."

The State admits that jurors' answers were inaudible, but argues that their answers are clear in the context. Br. Aple. at 19. The answers are not clear in context. In any event, the Court in *State v. Taylor*, 664 P.2d 439 (Utah 1983), did not try to guess what the answers were based on context. Rather the Court stated that it "is not at liberty on appeal to assume what [omitted] answers showed when they are totally absent from the record." *Id.* at 447.

### CONCLUSION

Jordan's right to have a meaningful appellate review has been denied in this case. To rectify this situation and other errors as previously briefed, Jordan respectfully requests this Court reverse his conviction.

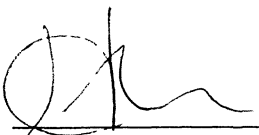
DATED this 19th day of January, 2001.

  
\_\_\_\_\_  
Happy J. Morgan  
Grand County Public Defender  
Attorney for Defendant, Appellant

### CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January, 2001, I sent by first-class mail, postage prepaid, two true and correct copies of the above REPLY BRIEF OF APPELLANT to the following:

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