

Dixie Chicks Sued For Libel

Damien Echols, Jessie Misskelley Jr. and Jason Baldwin were teenagers when charged with the 1993 murders of three 8-year-old boys in West Memphis, Arkansas. There was no incriminating physical evidence, murder weapon, or connection of the three teenagers to the victims. The prosecution's theory was the teenagers killed the children as part of a satanic ritual. Key evidence was a "confession" by the mentally handicapped 17-year-old Misskelley after 12 hours of interrogation without having access to a lawyer or his parents. Misskelley's statement was grossly inconsistent with the facts of the crime that would have been known to a participant, and false confession expert Richard Ofshe testified during Misskelley's trial that his confession, was a "classic example" of police coercion.

Convicted of the murders, Echols was sentenced to death, Baldwin received life without parole, and Misskelley got life plus 40 years. Dubbed by the media the "West Memphis Three" (WM3), their case became a *cause célèbre*, with arguments for their innocence set-out in several books and two HBO documentaries, *Paradise Lost* and *Paradise Lost 2*.

Post-conviction DNA testing of crime scene evidence the WM3 had sought for years was performed in 2007. The three were excluded. In October 2007 Echols filed an amended federal writ of habeas corpus based in part on the new DNA evidence. However, the DNA did match Terry Hobbs, the step-father of one of the victims. The petition included that information plus evidence from Hobbs' former wife that could implicate him in the murders.

Dixie Chicks lead singer Natalie Maines saw *Paradise Lost* in the summer of 2007. After further looking into the case she was inspired to write on the Dixie Chicks' Myspace.com blog on November 21, 2007: "The evidence is so strong that at the very least the judge will grant a new trial, but hopefully he will overturn the verdict and these guys will finally be sent home to their lives and families. I know that this is a hard thing to just take my word on, so please look at the case and the evidence for yourself. ... The system hasn't only failed Damien, Jesse, and Jason, but it has failed the three little boys that were murdered. Their killer(s) is still out there, and justice has yet to be served."

Movie stars Johnny Depp and Jack Black, and rock musician Eddie Vedder of Pearl Jam are other celebrities who have publicly

expressed support for the WM3.

On December 19, 2007 at a rally for the WM3 in Little Rock, Arkansas, Maines told the crowd that DNA evidence and the behavior of Hobbs suggested he played a role in the murders. Maines also posted a letter on the Dixie Chicks' website expressing a similar opinion about Hobbs. Maines' comments and writing was consistent with what was in the 200-page habeas petition prepared by Echols' lawyers.

On November 25, 2008 Hobbs filed a lawsuit in Pulaski County, Arkansas Circuit Court naming each of the Dixie Chicks as a defendant. Based on Maines' comments and information on the Dixie Chicks' website, Hobbs is alleging defamation, libel, intentional infliction of emotional distress by outrageous conduct and false-light invasion of privacy. He is seeking an unspecified amount of compensatory and punitive damages.

As of late November 2008 the West Memphis Three remain imprisoned while they pursue overturning their convictions.

Sources:

Natalie Maines Sued Over Defense Of 'West Memphis Three', *The Post Chronicle* (Denville, NJ), December 5, 2008. Dixie Chicks, WM3 - CALL TO ACTION, November 21, 2007, <http://blog.myspace.com>

Kirstin Blaise Lobato's Unreasonable Conviction

Possibility Of Guilt Replaces Proof Beyond A Reasonable Doubt

By Hans Sherrer

The Justice Institute, 2008, 106 pages
8-1/2x11 softcover, \$10

Review by Michael H. Fox

KIRSTIN BLAISE LOBATO'S UNREASONABLE CONVICTION

Possibility Of Guilt Replaces Proof Beyond A Reasonable Doubt



Imagine you are a prosecutor. A murder occurs in your jurisdiction and you want the case cleared as easily as possible. An autopsy of the gruesomely murdered victim indicates an act carried out with extreme vengeance and strong male homosexual overtones.

Although several men are known by the police to have the motive, means and opportunity to have committed the crime, they aren't investigated. A bit of vague hearsay leads to an 18-year-old female, hardly the description of a twisted male homosexual. You charge her with the crime, and then discover she was 170 miles

away from the scene at the time of the incident. When it is time to go to trial, you have no physical or forensic evidence, eyewitnesses, or confession. Can you win the case? The answer, quite shockingly, is yes. This what to do:

1) Inflame the jury. Human beings, first and foremost, are emotional creatures. Appealing to passion will usually override logic and facts.

2) Make deals with witnesses and rely on hearsay. Suspects charged with crimes will be happy to lie in return for leniency. Use a jail house snitch. Our nation's jails are full of innocents who allegedly confessed their crimes to com-

plete strangers while in custody. Among the many wrongful convictions based on snitch testimony are those of Kerry Max Cook and Ron Williamson.

3) Try the case in front of a former prosecutor. They all know the criminal element deserves punishment, to hell with the facts. And if the judge is a former colleague from the same office, a sweet result is nearly guaranteed.

4) Create the possibility of guilt. Of course, guilt is supposed to be proven beyond a reasonable doubt, but so what? When the jury is inflamed, jail house snitches sing, incredible witnesses testify, and the judge is a former chum, the high standard of reasonable doubt can be decreased to "it's possible she did it."

The above scenario is the unexaggerated and sorrowful story of the conviction of Kirstin Blaise Lobato. Lobato was convicted in May 2002 of murdering a homeless man and sexually assaulting his corpse in Las Vegas. The Nevada Supreme Court overturned her

conviction because of errors by her ex-prosecutor judge. She was then reconvicted in October 2006 after a near carbon copy retrial before the same judge. While CSI and many other TV dramas focus on the scientific methods used for capturing criminals, much less is said about the emotional and inflammatory *modus operandi* utilized for convicting the innocent.

This book is an easily readable yet shocking introduction into the realm of prosecutorial malfeasance. It should be mandatory reading for introductory criminology courses, and anybody with a budding interest in wrongful arrest and miscarriages of justice.

About the reviewer. Michael H. Fox is an associate professor at Hyogo College in Kakogawa City, Japan, and director of the Japan Institute for the Study of Wrongful Convictions, www.jiswac.org

KBL's Unreasonable Conviction can be purchased from JD's Book-Shop (See. P. 21), or send \$10 (stamps OK) to: Justice Denied; PO Box 68911; Seattle, WA