

# Did Judge Valorie Vega Read Kirstin Blaise Lobato's Habeas Corpus Petition Before Denying It?

By Hans Sherrer

Clark County, Nevada District Court Judge Valorie Vega was assigned to the case of 18-year-old Kirstin Blaise Lobato after she was charged with the murder of Duran Bailey in Las Vegas on July 8, 2001. After Ms. Lobato was convicted in May 2002 of first-degree murder and other charges related to Mr. Bailey's death, her convictions were overturned in 2004 by the Nevada Supreme Court based on errors made by Judge Vega that deprived Ms. Lobato of a fair trial. After a retrial Ms. Lobato was convicted in October 2006 of voluntary manslaughter and other charges related to Mr. Bailey's death. Ms. Lobato's convictions were affirmed by the Nevada Supreme Court in February 2009 and her convictions became final in October 2009.

Ms. Lobato's filed a 770-page petition for a writ of *habeas corpus* on May 5, 2010, in the Clark County District Court that included 79 separate grounds stating a legal reason for her to be granted a new trial, and 101 exhibits were attached in support of those grounds. Ms. Lobato's petition included 24 grounds based on new evidence supporting that she is actually innocent of having anything to do with Mr. Bailey's murder. That new evidence includes 13 alibi witnesses with testimony her jury didn't hear, new forensic entomology and forensic pathology evidence that Mr. Bailey died when it is known Ms. Lobato was 170 miles north of Las Vegas, and new evidence identifying Mr. Bailey's actual murderers.

Judge Valorie Vega summarily denied Ms. Lobato's *habeas corpus* petition during a hearing conducted in her courtroom on March 1, 2011. During that hearing Judge Vega did not provide information that she had read Ms. Lobato's 770-page petition, that she had knowledge and understanding of the details of the petition's 79 grounds for a new trial, and that she had knowledge and understanding of the details of the 101 exhibits supporting a new trial. Neither did Judge Vega provide information that she had read and had knowledge and understanding of the details in Ms. Lobato's [205-page Answer](#) and its attached 5 exhibits that she filed on October 2, 2010 to counter the Clark County District Attorney's 42-page Response to her petition.

Ground one of Ms. Lobato's petition states:

"New forensic entomology evidence of Duran Bailey's time of death conclusively establishes the Petitioner could not have been in Las Vegas at the time Mr. Bailey was murdered, and if the jury had known of this exculpatory evidence, individually or cumulative with other evidence, no reasonable juror could have found the Petitioner guilty beyond a reasonable doubt, under the standards established by the state and federal constitutional rights of the Petitioner to due process of law and a fair trial." (underlining added)

There was no forensic entomology testimony during Ms. Lobato's trial, so *any* forensic entomology evidence in her petition is new evidence in her case that was unavailable for the jury to consider when it voted to convict her. Furthermore, there were reports by three forensic entomologists included as Exhibits 1, 2, 3 to Ms. Lobato's petition. Yet Judge Vega comments during the hearing support that she didn't even read the *first four words* of ground one — "*New forensic entomology evidence*" — much less its entire contents, or any of the other 23 grounds in the petition based on new evidence, because she stated — "there was no new evidence presented" — in describing a summary of the new evidence in Ms. Lobato's petition. It is impossible for Judge Vega to believe there "there was no new evidence presented" if she had read even the *first four words* of ground one ... or the first few words of ground two through ground twenty-four that each begin by stating they are based on "New" evidence: evidence that was not introduced during Ms. Lobato's trial and that the jury did not have available to consider. Furthermore, it is impossible for Judge Vega to believe "there was no new evidence presented" if she had read the 101 exhibits attached to Ms. Lobato's petition that included extensive new expert and witness evidence not introduced during Ms. Lobato's trial.

Judge Vega's own words during the hearing constitute a *de facto* confession to the world that she summarily denied Ms. Lobato's *habeas corpus* petition without reading it and its 101 exhibits, or her Answer and its 5 exhibits, and that Judge Vega didn't have knowledge and understanding of the details of Ms. Lobato's 79 grounds for a new trial..



Judge Valorie Vega on a weekday afternoon after she had adjourned a murder trial to attend her daughter's soccer game. It was during this period of time that she was legally obligated to review Ms. Lobato's habeas corpus petition. (Las Vegas KLAS-TV)

What Judge Vega did do during the hearing on March 1, 2011 was read a pre-printed document that cited one or more legal cases as the reason for denying each ground of Ms. Lobato's *habeas* petition. There was no factual explanation given by Judge Vega — either from reading the document or in an off-the-cuff remark — of how the cases she cited were relevant to denying any of the grounds. A person can know more factual details about the plot of a 30-minute episode of the television comedy "How I Met Your Mother" than Judge Vega exhibited knowing about the details of Ms. Lobato's *habeas corpus*

petition.

Just as it is known when a 3rd grader has cheated by copying answers from a neighbor, it is known that the document Judge Vega read in denying Ms. Lobato's *habeas* petition was largely copied from the Clark County District Attorney's Response to Ms. Lobato's petition — because it relied on cases that the DA's Office cited in their Response that Ms. Lobato's Answer explained are irrelevant to her case.

That Judge Vega did not author the document she read during the hearing to deny Ms. Lobato's petition and that she had not even read it prior to the hearing, is also supported by her unfamiliarity with the document's contents that she had difficulty reading it at times.

After Judge Vega denied Ms. Lobato's *habeas* petition she assigned the writing of the written ruling denying it to the Clark County District Attorney's Office.

So from the hearing on March 1, 2011 it can be deduced:

- Judge Vega did not provide information that she had read and had knowledge and understanding of the details of the 79 grounds for a new trial in Ms. Lobato's *habeas corpus* petition.
- Judge Vega did not provide information that she had read and had knowledge and understanding of the details of the 101 exhibits that were attached to Ms. Lobato's *habeas corpus* petition in support of its 79 grounds for a new trial.
- Judge Vega did not provide information that she had read and had knowledge and

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# Judge Valorie Vega Is A Modern Day Judge Roland Freisler

By Hans Sherrer

Roland Freisler was a judge in Germany from 1942 until his death in 1945. Prior to that he was the Secretary of State for Germany's Ministry of Justice from 1934 to 1942. As a judge Freisler uncritically adopted the prosecution's position about an accused person's culpability, and then after their conviction imposed the sentence sought by the prosecution. Judge Freisler lacked judicial independence and effectively functioned as an arm of the prosecution.

Judge Freisler is most well-known for presiding over the treason trials of a loosely

knit group known as The White Rose that produced and distributed mimeographed flyers that detailed crimes by the German government and encouraged non-violent passive resistance to its policies. After White Rose members Sophie Scholl, her brother Hans Scholl, and Christoph Probst were found guilty in February 1943, Judge Freisler sentenced them to death. Members of The White Rose are now honored in Germany with statutes, and roads and parks named after them, while Judge Freisler is remembered as a black heart.

Judge Freisler unabashedly represented the interests of the government's prosecutors and his conduct sets a benchmark to evaluate the independence of other judges. A judge who mimics Judge Freisler by failing to exhibit independence from the prosecution and rules as if the defense's position on an issue is irrelevant rates a 10. A judge

rating a 10 on the Freisler Scale is a judge in name only, because he or she functions as a prosecutor wearing a robe. In contrast a judge who exhibits independence by regularly ruling in favor of the defense's position on multiple substantive issues and in whose courtroom a defendant is routinely acquitted when it is warranted by the evidence, would have a 0 rating on the Freisler scale.

There are judges in countries around the world who conduct themselves as Judge Freisler did. One of these is Clark County, Nevada District Court Judge Valorie Vega. Judge Vega rates a 10 on the Freisler Scale by her unrelenting prosecution favorable conduct in the case of *Nevada v. Kirstin Blaise Lobato*.

Judge Vega was assigned to the case of 18-year-old Kirstin Blaise Lobato after she was charged with the murder of Duran Bailey in Las Vegas on July 8, 2001. Ms. Lobato's alibi defense is she was 170 miles north of Las Vegas on the entire day of Mr. Bailey's murder. After Ms. Lobato was convicted in May 2002 of first-degree murder and other charges related to Mr. Bailey's death, her convictions were overturned in 2004 by the Nevada Supreme Court based on errors made by Judge Vega that the court ruled deprived Ms. Lobato of a fair trial. After a retrial Ms. Lobato was convicted in October 2006 of voluntary manslaughter and other charges related to Mr. Bailey's death. Ms. Lobato was convicted even though the prosecution did not introduce any evidence she was anywhere in Clark County (Las Vegas) at anytime on the day of Mr. Bailey's death, or that she had ever met Mr. Bailey or ever been to where he was murdered. Judge Vega imposed the sentence requested by the prosecution of up to 35 years in prison and lifetime custody by the Nevada DOC. Ms. Lobato's convictions were affirmed by the Nevada Supreme Court in February 2009, and her convictions became final in October 2009.

Ms. Lobato's filed a petition for a writ of *habeas corpus* on May 5, 2010, in the Clark County, Nevada District Court that includes significant new evidence she is actually innocent of having anything to do with Mr. Bailey's murder. That new evidence includes 13 new alibi witnesses with testimony her jury didn't hear, new forensic entomology and forensic pathology evidence that Mr. Bailey died when it is known Ms. Lobato was 170 miles north of Las Vegas, and new evidence identifying Mr. Bailey's actual murderers. Ms. Lobato's *habeas corpus* petition included 79 separate

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understanding of the details of Ms. Lobato's [205-page Answer](#) and it's attached 5 exhibits that she filed on October 2, 2010 to counter the Clark County District Attorney's Response to her petition.

- Judge Vega read a pre-printed document that denied each of Ms. Lobato's 79 grounds for a new trial and she did not provide an explanation of how the cases she cited were relevant to denying those 79 grounds based on the facts.
- Judge Vega read a pre-printed document that denied each of Ms. Lobato's 79 grounds for a new trial that was largely copied from the Clark County District Attorney's Response to Ms. Lobato's petition.
- Judge Vega was not familiar with the pre-printed document she read in court that denied each of Ms. Lobato's 79 grounds for a new trial.
- Judge Vega read a pre-printed denial of Ms. Lobato's *habeas* petition that was written by a person or persons unknown.
- Judge Vega assigned the writing of the ruling denying Ms. Lobato's *habeas corpus* petition to the Clark County District Attorney's Office – which she could not write without reading the petition and having personal knowledge and understanding of both the petition and its 79 grounds for a new trial, and Ms. Lobato's Answer to the DA's Response.

The totality of Judge Vega's conduct during the hearing was consistent with her denying Ms. Lobato's *habeas corpus* petition without having read it and having knowledge

and understanding of the details of that petition's 79 grounds for a new trial and the 101 exhibits supporting those grounds, and that she did not author the document she read. Although Judge Vega may have read portions of one or several pages in Ms. Lobato's petition, that doesn't suggest she had knowledge and understanding of the details of any of its 79 grounds for a new trial that she summarily denied.

Las Vegas Channel 8 investigative reporter Colleen McCarty reported in a February 7, 2011 broadcast that Judge Vega "heard few afternoon proceedings in the month of January," and that "As of early January, Vega has the lightest caseload among judges who hear both civil and criminal cases." McCarty also reported that Judge Vega attended at least five of her daughter's afternoon soccer games in January 2011. So it is publicly known that Judge Vega was working part-time during the period of time that she was supposed to be reviewing Ms. Lobato's *habeas corpus* petition and Answer that total 975 pages. Judge Vega's extra-curricular family activities during working hours may provide at least some explanation for why she would deny Ms. Lobato's *habeas corpus* petition without reading it and her Answer, and without having knowledge and understanding of the details of her 79 grounds for a new trial supported by the 101 exhibits attached to her petition and the 5 exhibits attached to her Answer.

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