

Judge Valorie Vega Has Acted Like A Clark County Assistant DA In Kirstin Blaise Lobato's Case Since 2002

By Hans Sherrer

Las Vegas is a city largely built on figuring out the odds for different events, whether it is the odds for what card will be dealt in a poker game or the odds for a basketball game's point spread. Odds are mathematics in action. Mathematics is coldly objective, and like the law of gravity it is not subject to personal whim, preference, or opinion.

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 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'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 grounds stating a legal reason for her to be granted a new trial.

On March 1, 2011 Judge Vega summarily denied Ms. Lobato's *habeas corpus* petition.

On September 1, 2011 Judge Vega summarily denied a Motion to reconsider her denial of post-conviction DNA testing.

From Ms. Lobato's trial in May 2002 to September 2011 in issues raised by Ms. Lobato, Judge Vega's made 273 consecutive significant rulings beneficial to the Clark County District Attorney's Office that were contrary to Ms. Lobato's position or requested relief. The odds against that being by coincidence and not by design is 1 in $6.58887371 \times 10^{83}$ (10 to the 83rd power). That is 1 chance in 6,588,873,710,000 plus an additional 237 zeros.

Those odds are so astronomical that they are difficult to comprehend, but suffice to say it is more likely that a person will buy a single ticket every month for a year (12 months in a row) that is the only winning ticket for a \$100 million Powerball jackpot than that

Judge Vega's rulings coincidentally favored the prosecution in Ms. Lobato's case — in other words it is a practical impossibility.

It is difficult to comprehend such huge numbers, but suffice it to say that the odds are trillions and trillions and trillions times greater that a person will win a \$100 million Powerball jackpot after buying a single ticket than that Judge Vega by chance ruled to the benefit of the Clark County District Attorney and to the detriment of Ms. Lobato from May 2002 to September 2011. Undermining that Judge Vega's rulings were by chance and not design is they are indistinguishable from the rulings that would have been made if a Clark County Assistant District Attorney had presided over Ms. Lobato's trials and her *habeas corpus* petition — since Judge Vega ruled as Clark County's District Attorney wanted her to.

Calculations

Probability it was by chance that Judge Vega ruled against Ms. Lobato and in favor of the prosecution 273 times in a row is $6.58887371 \times 10^{-83}$ (1/2 to the 273rd power = $6.58887371 \times 10^{-83}$).

Odds are 1 in $6.58887371 \times 10^{83}$ it was by chance that Judge Vega ruled against Ms. Lobato and in favor of the prosecution 273 times in a row (2 to the 273rd power = $6.58887371 \times 10^{83}$).

1 The census bureau reports Clark County, Nevada's population as 1,951,269 after the 2010 census, <http://2010.census.gov/2010census/data/>

Rulings Judge Vega made against Kirstin Lobato from her first trial in May 2002 to denying DNA testing in September 2011

When	What	How Many
1st Trial	Trial rulings (Six evidentiary rulings that were pre-trial motions in 2nd trial, limiting George Schiro's exculpatory expert testimony, denying the defense to introduce documents and testimony impeaching the testimony of a key prosecution witness.)	9
1st Trial	Post-verdict <i>habeas corpus</i> petition	1
1st Trial	Sentencing (mirrored prosecution recommendation)	1
2nd Trial	Pre-trial motions about evidentiary matters	8
2nd Trial	Trial rulings (Denied defense motion to strike Det. Thowsens' hearsay testimony and upheld prosecution objection to alibi witness testimony.)	2
2nd Trial	Post-verdict (Revoked bail pending sentencing)	1
2nd Trial	Sentencing (mirrored prosecution recommendation)	1
Habeas corpus	Prior to hearing (appointment of counsel, 3 motions, discovery of Dr. Larkin and discovery of shoeprints)	6
Habeas corpus	Hearing (79 grounds, 79 requests for evidentiary hearing, and 80 requests for appointment of counsel)	238
Habeas corpus	Hearing (Motions (appointment of counsel and civil case no.), and striking affidavits of jurors who support a new trial for Ms. Lobato.	3
Habeas corpus	Findings of Fact and Conclusions of law (written by the CCDA's Office and signed by Vega)	1
DNA testing	Petition for post-conviction DNA testing and Motion For Reconsideration	2
Total		273