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A. [By Ms. Paulette] Yes, I do.
Q. Do you recall your answer?
A. Yes.
Q. What was it?
A. I only tested the pubic hair combing.
Q. Do you also recall testifying that you weren't asked to retest any other items?
A. Yes." [Trans. XVI-52, 10-2-2006]

When asked "Who submitted that request?" Ms. Paulette stated, "Ms. DiGiacomo." [Trans. XVI-37, 10-2-2006]

Ms. Paulette also testified the testing of the cigarette butts began eight days before she had previously testified she had not been asked to do additional testing.

Ms. DiGiacomo objected 16 times during Ms. Paulette's testimony as a defense witness. She even objected to introduction of Ms. Paulette's Report about the DNA testing she had denied being asked to conduct when questioned by Ms. DiGiacomo a week earlier.

It is a matter of public record Ms. Paulette lied when she testified that she hadn't been "asked to test anything else" in response to Ms. DiGiacomo's question, and that Ms. DiGiacomo knew she was lying because she was the person who requested the testing. Yet she remained silent. It wasn't an isolated incident or lapse in character because Ms. Lobato's appeal now before the Nevada Supreme Court documents more than 100 other instances of Ms. DiGiacomo's efforts to mislead the jury. [N.S.C. No. 58913, 9 App. 1825-1835]

Ms. Paulette got her comeuppance when she was fired in May 2011 for lying to a Metro Crime Lab supervisor about DNA testing in a case unrelated to Ms. Lobato's. Ms. DiGiacomo did not experience any negative repercussions for bringing forth Ms. Paulette's false testimony during Ms. Lobato's trial, and then trying to mask it from the jury when it was exposed as false. One can only hope the voters of Henderson don't make the mistake of rewarding Ms. DiGiacomo's apparent lack of integrity by electing her to be a judge, which will allow her to act without fear of being sued by anyone she harms.

* Hans Sherrer is the editor and publisher of *Justice Denied: the magazine for the wrongly convicted* that has reported on the Kirstin Lobato case. [Justice Denied](#) is based in Seattle, Washington.

Woman Exonerated Of Murder Must Reimburse The State For Money Paid To Experts

Monika de Montgazon has been ordered to repay more than \$42,000 that the German government paid to experts who provided new evidence that exonerated her of murdering her 76-year-old father.

In 2003 Montgazon was a 47-year-old nurse caring for her 76-year-old invalid father in the duplex they shared in Buckow, Germany with her partner. Buckow is about 10 miles south of Berlin. In September 2003 her father was killed as the result of a fire that gutted the duplex.

Investigators determined the fire was deliberately set and alcohol was likely used as an accelerant. Montgazon was the beneficiary of an insurance policy and she was arrested weeks after the fire and charged with murder, arson, and insurance fraud. She was jailed without bail while awaiting trial.

She protested her innocence, but she was convicted of all charges in January 2005. Because it was considered a murder for greed the judge showed no mercy and sentenced her to life in prison.

During her appeal her court appointed lawyer retained five fire experts, one of whom was a chemistry professor, to examine the evidence. They all determined that no accelerant was used to fuel the fire, and that it was probably caused by Montgazon's father smoking a cigarette in bed that he dropped either accidentally or after falling asleep.

Based on the new evidence Montgazon's conviction was overturned, and she was acquitted after a retrial in March 2006. She was then released after almost 2-1/2 years (889 days) in custody.

After her release no one would hire her as a nurse, so she found a job operating a disco.

Montgazon filed a lawsuit for compensation, and after years of litigation in February 2012 the Court of Appeal in Berlin ruled she was entitled to compensation of \$14.50* (€11 euros) for each of the 889 days she was



Monika de Montgazon

incarcerated. That compensation totaled \$12,915 (€9,779 euros).

The five experts who provided the new evidence that resulted in Montgazon's exoneration were paid between \$132 and \$165 (€100 and €125 euros) per hour. However, the appeals court ruled her experts should only have been paid \$110 (€84 euros) per hour, and one of the experts shouldn't have been paid for his time related to her retrial because he only testified for one minute. The Court also ruled the five experts spending 65 hours on her retrial was excessive and they should have been reimbursed less for their travel expenses when they testified. Consequently, under the court's ruling Montgazon must repay to the government \$42,263 (€32,000 euros) that was paid to the experts.

When the court's ruling became public Montgazon told reporters, "The verdict is a slap in the face for me."

After deducting the compensation awarded, Montgazon owed the government \$29,348 for her almost 2-1/2 years of wrongful incarceration.

Ulrich Schellenberg, chief of the Berlin Bar Association, criticized the ruling denying Montgazon's appeal costs as being based on academic and abstract reasoning, instead of the specific circumstances of her case that hinged on expert analysis of the evidence. He asked, "How is someone sentenced to life in prison and fighting for their freedom supposed to negotiate a rate in line with market prices with experts?" He also criticized the Court's anemic compensation award, explaining to reporters, "We have in this country no sensible compensation scheme that covers such cases."

Montgazon, now 56, appealed the Court of Appeals' ruling to Germany's Federal Constitutional Court (the equivalent of the U.S. Supreme Court), and that appeal is pending.

* All U.S. dollars are at the exchange rate of 1.3207 euros to the dollar on February 1, 2012.

Sources:

[Woman wrongly jailed for murder](#) faces €32,000 bill, *The Local* (Berlin, Germany), April 12, 2012

[Teurer Irrtum der Justiz](#), *Berliner Zeitung*, April 12, 2012 (translated to English with Foxlingo.com)

[Sie musste für ihren Freispruch zahlen](#), *BZ News*, April 11, 2012 (translated to English with Foxlingo.com)