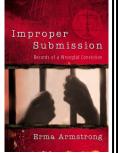
## Improper Submissions: Records of a Wrongful Conviction

By Erma Armstrong

This is the story of Karlyn Eklof, a young woman delivered into the hands of a psychotic killer. She witnessed him commit a murder and she is currently serving two life sentences in Oregon for that



crime. Improper Submissions documents:

- The killer's psychotic bragging was used by the prosecution against Karlyn.
- Exculpatory and witness impeachment evidence was hidden from the defense.
- Erroneous assertions by the prosecution were used by the media, judges reviewing the case, and even by her own lawyers to avoid looking at the record that reveals her innocence.

Paperback, 370 pages, \$10

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## *Justice Denied* Article Was 7th Most Important 2014 News Story In Las Vegas



The Las Vegas Tribune has recognized Lawyer Lied During Kirstin Lobato's Nevada Supreme Court Arguments as the seventh most important 2014 Las Vegas news story. The article was published in the Las Vegas Tribune on November 12, 2014. It was a condensation of the full article published online by Justice Denied on November 7, and which is in Justice Denied Issue 58 begriming on page 16.

The *Tribune's* article listing the top 10 Las Vegas news stories for 2014 can be read <u>by</u> clicking here.

<u>Click here to read</u> Justice Denied's full 2,700 word article: The State Of Nevada's Lawyer Lied And Lied During Kirstin Lobato's Nevada Supreme Court Arguments, that was written by Hans Sherrer, JD's Publisher and Editor.

# An Exoneration Can Be Judicial Or By Executive Or Legislative Clemency

### By Hans Sherrer\*

#### What is an exoneration?

Exoneration is derived from the Latin word *exoneratio*, which means "an unloading, lightening."1 The first known use of exoneration in English was in 1640, and in 1660 it was expressly used to describe relief from a government decree: "An act concerning the exoneration of the Kings subjects from exactions and impositions."<sup>2</sup> The Oxford English Dictionary is the world's most authoritative English dictionary, and it defines "exoneration" as: "2. The action of disburdening or relieving, or the state of being relieved from a duty, office, obligation, payment, etc.; also, from blame or reproach; an instance of this, a formal discharge." The historical and modern definition of exoneration makes it clear that it broadly describes relief or discharge from an imposition by a governmental authority.<sup>3</sup> Consequently, exoneration can refer to an official declaration retrospectively relieving a person of "blame or reproach" for the imposition of being convicted of committing a crime.

As its definition suggests, there is not a single degree of relief or discharge that constitutes an exoneration. That is borne out by the differences in how an exoneration of convicted crimes is achieved by way of judicial, executive, or legislative action.<sup>4</sup> The following are brief explanations of those three processes.

#### Judicial Exonerations

A judicial exoneration that restores a person's presumption of innocence most conclusively absolves that person of "blame or reproach" for a criminal conviction.

The presumption of innocence shielding a person who is suspected or charged with committing a crime, but not convicted of doing so, is recognized by the legal systems of countries around the world – including every country whose legal system is a descendant of the British common law. 'Innocent until proven guilty' is such a universal principle that it was incorporated in 1948 in the United Nations' Declaration of Human Rights (Article eleven, section one); in 1953 in the European Convention

for the Protection of Human Rights (Article 6, section 2); and in the United Nations International Covenant on Civil and Political Rights (Article 14, section 2) that went into force in 1976.<sup>5</sup>

When a defendant in the United States pleads guilty or no contest that public admission/confession to committing the crime is considered sufficient to overcome his presumption of innocence. Consequently, the defendant's plea relieves the prosecution of needing to present testimonial or documentary evidence of his guilt.

However, when a defendant pleads not guilty and asserts his right to a trial the prosecuting authority is faced with overcoming his presumption of innocence by presenting credible evidence that proves beyond a reasonable doubt to the judge or jury the defendant's guilt of every essential element of his charged crime(s).<sup>6</sup> For example, to prove a defendant robbed a bank the prosecution may have to present evidence: 1) The defendant was present at the bank; 2) defendant unlawfully The obtained something of value from the bank; and, 3) The defendant had the intent to unlawfully obtain something of value from the bank. To lawfully convict a defendant the prosecution is required to present admissible evidence proving *each* of those elements of the crime beyond a reasonable doubt.

During several stages of a state or federal case in the U.S. a defendant can typically directly or indirectly raise variants of the issue the prosecution's evidence presented at trial is not sufficient to overcome his presumption of innocence. Those include:

\* A motion for the judge to declare an acquittal prior to deliberations by the judge or jury.

\* A post-verdict/pre-sentence motion to vacate the conviction and acquit the defendant.

\* A direct appeal argument to vacate the conviction and acquit the defendant.

\* A post-conviction ineffective assistance of counsel claim for a new trial.

\* A post-verdict motion for a new trial based on new evidence that undermines the factual or legal basis of the conviction.

\* A post-conviction *habeas corpus* petition for a new trial based on new evidence that undermines the factual or legal basis of the conviction.

\* A post-conviction motion/petition for dismissal of the charges based on new

#### Exoneration cont. on p. 15