

JUSTICE

DENIED

The Magazine for the
Wrongly Convicted

82% OF INDIA'S DEATH ROW PRISONERS ARE ACQUITTED OR SENTENCE REDUCED ON APPEAL


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Invented human hair protein ID technique more precise than DNA testing.
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Kirstin Blaise Lobato



Convictions overturned and released after more than 15 years in custody. Justice Denied investigation discovered new evidence that resulted in her exoneration.
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Sentenced to 10 years in prison after falsely accusing 15 men of rape and sexual assault.
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Message From The Publisher

This issue marks the beginning of Justice Denied’s 20th year! The first issue was in February 1999. Since its founding Justice Denied has been independent and not beholden to pushing the agenda of any group or special interest. In 1999 JD was the only magazine in the world devoted to reporting issues related to wrongful convictions, and it remains so today. One significant change is that unlike JD’s first years when it focused on the U.S., it now reflects that wrongful convictions are a world-wide problem. This issue includes articles about England, Austria, Barbados, Vanuatu, Vietnam, India, Bangladesh, Argentina, and Russia ... and the U.S.

Unfortunately, during the past two decades there have been no substantive changes in the U.S. legal system that produces wrongful convictions at a dizzying pace, and there are none on the horizon. That is reflected by there being more innocent people convicted today than in 1999. Superficial occurrences, such as an increase in the number of innocence related organizations, and changes in some types of expert evidence presented in court, have had a zero effect on the number of innocent people convicted.

In the fall of 2004 Justice Denied was the first publication to report Kirstin Blaise Lobato was an innocent woman framed by Las Vegas prosecutors and police for a 2001 homicide. In 2009-2010 JD conducted a post-conviction investigation that discovered new evidence from more than 20 people supporting Lobato’s innocence. That evidence included new forensic pathology and forensic entomology evidence the homicide victim died at a time when the prosecution conceded during her 2006 trial she was 170 miles from Las Vegas. Kirstin Lobato’s charges were dismissed in Dec. 2017 and she was released on Jan. 3, 2018 after more than 15 years in custody. See pgs. 3 and 5.

Hans Sherrer, Editor and Publisher
www.justicedenied.org – email: hsherrer@justicedenied.org

Information About Justice:Denied

Justice:Denied promotes awareness of wrongful convictions and their causes. It provides information about convicted people claiming innocence, exonerated people, and compensation awards, and provides book and movie reviews, and reports about court decisions, and law review and journal articles related to wrongful convictions.

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If you have an account of a wrongful conviction that you want to share, send a first-class stamp or a pre-stamped envelope with a request for an information packet to, Justice Denied, PO Box 66291, Seattle, WA 98166. Cases of wrongful conviction submitted in accordance with *Justice:Denied’s* guidelines will be reviewed for their suitability to be published. *Justice:Denied* reserves the right to edit all submitted accounts for any reason.

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Justice: Denied’s logo represents the snake of evil and injustice climbing up on the scales of justice.



Kirstin Blaise Lobato Released After Convictions Vacated And Charges Dismissed In 2001 Homicide Case

By Hans Sherrer

On December 29, 2017 all charges were dismissed against Kirstin Blaise Lobato related to Duran Bailey's 2001 homicide in Las Vegas. After a hearing Clark County, Nevada District Court Chief Judge Elizabeth Gonzalez signed an order stating:

"Having come before the court on December 29, 2017, for the State's Motion to Dismiss with Prejudice, the Court finding good cause has been shown, hereby Orders that the above entitled case is dismissed with prejudice. The Defendant shall be released from the custody of the Nevada Department of Corrections forthwith."

Judge Gonzalez' one-page order ended the 35-year-old Lobato's saga that began with her arrest on July 20, 2001 for the homicide of homeless Duran Bailey in Las Vegas on July 8, 2001.

The dismissal of the charges was based on new forensic evidence proving Bailey died at a time when it is known Lobato was at her home in Panaca 165 miles from Las Vegas.

The dismissal with prejudice means that Kirstin Lobato can never be charged again,



Kirstin Blaise Lobato hugging her close-friend Michelle Ravell after her release on January 3, 2018

and it is a tacit admission by the Clark County District Attorney's Office that they arrested and prosecuted the wrong person for Bailey's homicide.

The following is a brief synopsis of Kirstin Lobato's 16 years, 5 months, and nine day ordeal.

At 10:36 p.m. on July 8, 2001, 911 was notified a body had been found in the trash enclosure for a Nevada State Bank branch across the street from the Palms Casino in Las Vegas. That person was 44-year-old Duran Bailey. Among Bailey's many wounds was his penis had been severed.

Las Vegas Metro Homicide Detectives Thomas Thowsen and James LaRochelle had several leads for possible suspects, but they didn't pursue them.

On July 20 Thowsen received a call from a juvenile probation officer in Lincoln County, Nevada that she had been told by a friend that 18-year-old Kirstin Lobato said she used a knife to defend herself against an attempted rape in Las Vegas, and may have cut the man's penis off. Thowsen was told Lobato lived in Panaca, 165 miles north of Las Vegas.

Thowsen decided Lobato committed Bailey's homicide, and within hours of the call he drove to Panaca to arrest her and seize her car. LaRochelle and a crime scene analyst also drove to Panaca.

After they arrived at Lobato's home she was questioned by Thowsen and LaRochelle. She told them that before mid-June

Justice Denied Worked On Kirstin Blaise Lobato's Case For Almost 15 Years

Justice Denied began investigating Kirstin Blaise Lobato's case in early 2003, after receiving an email from Helen Caddes. Caddes claimed Kirstin Lobato was innocent of a 2001 Las Vegas murder for which she had been convicted in 2002 and sentenced to 45 years to life in prison.

More than a year later, in the fall of 2004, *Justice Denied* published its first article about Lobato's case: "Las Vegas Police and Prosecutors Frame Woman 170 Miles From Murder Scene — Kirstin Lobato's "Very Peculiar Story"", by Hans Sherrer. *Justice Denied* Issue 26 (Fall 2004). The article pulled no punches in stating that not only was she innocent, but the Clark County District Attorney's Office and Las Vegas Metro PD knew she was innocent.

During the next more than 13 years Justice Denied published more than a dozen articles about Lobato's case. In addition, the *Las Vegas Tribune* newspaper published many articles about her case written by Justice Denied's editor and publisher, Hans Sherrer.

2001 she was sexually assaulted by a huge black man in the parking lot of a Budget Suites Hotel in east Las Vegas. She fended him off by trying to cut his penis. Even though she stated this event occurred weeks before Bailey's homicide, Thowsen arrested her and she was charged with murdering him.

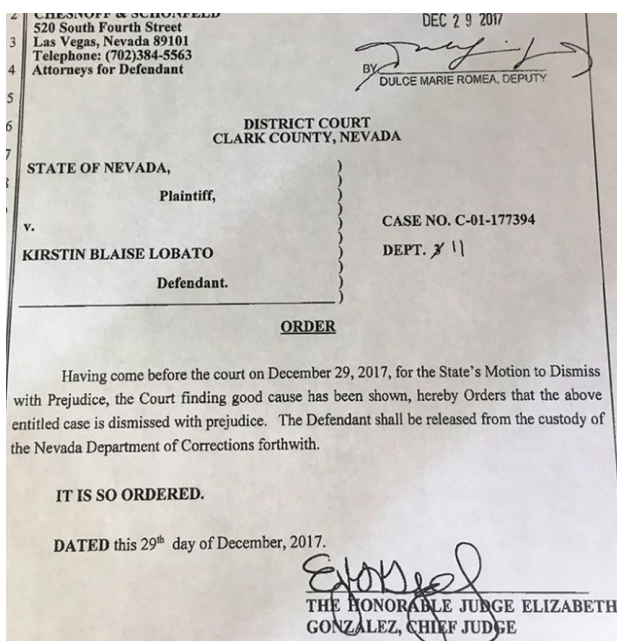
The prosecution's case was based on its assumption her statement about being assaulted at a Las Vegas hotel before mid-June 2001 was the same event as Bailey's homicide on July 8, because she said she defended herself by trying to cut her assailant's penis, and Bailey's penis had been amputated.

Lobato's alibi defense, supported by several witnesses, was that on July 8 she was home in Panaca 165 miles north of Las Vegas.

Lobato was convicted by a jury in 2002 of first-degree murder and other charges related to Bailey's homicide.

Before her trial she insisted she was innocent and rejected the prosecution's deal to plead guilty to involuntary manslaughter and a three year prison sentence.

Lobato released cont. on p. 4



Judge Gonzalez' Order dismissing the charges against Kirstin Lobato.

Lobato cont. from p. 3

After her conviction she was sentenced to 45 years to life in prison.

In 2004 the Nevada Supreme Court granted her a new trial based on errors by the trial judge.

She was retried in 2006.

During her retrial the prosecution again presumed her police statement and Bailey's homicide were about the same event. The prosecution also argued that Bailey's death occurred in the early morning of July 8.

Ms. Lobato's alibi defense of being in Panaca on July 8 was supported by many more alibi witnesses than in 2002. The prosecution conceded during its closing argument that her credible alibi witnesses established she was in Panaca from late morning until after Bailey's body was found that night. However, they argued it didn't matter because Bailey died in the early morning.

She was convicted by the jury of voluntary manslaughter and other charges. She was sentenced to 13 to 35 years in prison.

The Nevada Supreme Court affirmed her convictions and sentence in 2009.

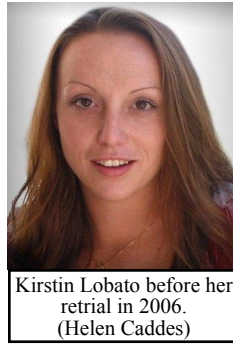
In May 2010 Lobato filed a habeas corpus petition that asserted 79 grounds for a new trial. Her petition included grounds based on new forensic entomology evidence discovered after her trial that established Bailey's time of death was after sunset at 8 p.m. on July 8, 2001, and new forensic pathology evidence he died about or after 8 p.m. She asserted her jurors would not have convicted her if they had known that new evidence proving Bailey died in the evening when the prosecution admitted she was in Panaca.

Lobato appealed after her petition after it was denied in August 2011 by Judge Valerie Vega.

More than five years later, in November 2016 the Nevada Supreme Court remanded her case back to the district court to consider 27 of her petition's grounds -- 25 related to her claim of actual innocence, and two related to her trial lawyers providing ineffective assistance of counsel.

Vega had retired, so Judge Stefany Miley was assigned to Lobato's case.

Miley presided over a five day evidentiary hearing in October 2017.



Kirstin Lobato before her retrial in 2006. (Helen Caddes)

During the hearing Ms. Lobato presented the testimony of three forensic entomologists who testified that in their expert opinion Bailey died after sunset at 8 p.m., because of the absence of blow fly eggs in his orifices and numerous open wounds. A forensic pathologist testified that in his expert opinion Bailey died at 8 p.m., give or take a couple of hours, based on the rigor mortis of Bailey's body at the crime scene and during his autopsy.

In rebuttal the State, represented by the Clark County District Attorney's Office, presented the testimony of a forensic entomologist and a forensic pathologist. The entomologist testified that no study had been conducted regarding the behavior of blow flies in the Las Vegas area, so he couldn't provide an expert opinion of Bailey's time of death. The pathologist testified that primarily based on her reliance on formulas regarding the development of rigor mortis, in her opinion Bailey died sometime between mid-to-early morning of July 8.

On December 19, 2017 Judge Stefany Miley granted Kirstin Lobato's habeas corpus petition and ordered a new trial. Judge Miley ruled that Lobato's trial lawyers provided ineffective assistance of counsel for failing to investigate and present forensic evidence that Duran Bailey was killed on July 8, 2001 in Las Vegas at a time when credible alibi evidence established she was 165 miles away at her home in Panaca.

The Clark County District Attorney's Office decided not to retry Lobato, and on December 28, 2017 requested a hearing.

The hearing on the morning of the 29th resulted in the vacating of Lobato's convictions and the dismissal of the charges by Judge Gonzalez, who also ordered that she be released forthwith from DOC custody.

During the hearing the DA's Office was represented by ADA Sandra DiGiacomo and Deputy DA Christopher Lalli. Lobato was represented by David Chesnoff. DiGiacomo was one of Lobato's prosecutors in her trial in 2002, her retrial in 2006, and she had represented the State during the evidentiary hearing in October 2017.

Judge Gonzalez' Order did not result in Lobato being immediately freed. She had a

DOC detainer for an unrelated misdemeanor or conviction in April 2007 for "Conspiracy To Commit Voluntary Sexual Conduct" with another female inmate at the Florence McClure Women's Correctional Center in North Las Vegas. (The conspiracy was the two woman voluntarily agreed to have sex with each other.) In that case Lobato was sentenced to serve 365 days in the Clark County Detention Center. That sentence was to begin with expiration of her 13 to 35 year prison sentence for her convictions that were vacated on Friday, December 19.

On January 2, 2018 Lobato was transported from the Florence McClure Women's Correctional Center in North Las Vegas to the Detention Center.

Due to the special circumstance of Lobato having served more than 15 years in custody for crimes she didn't commit, the Nevada Attorney General's Office agreed to modification of her 365 day misdemeanor sentence to run concurrently with her sentences for her vacated felony convictions.

On January 3 Judge Gonzalez signed an Order modifying Lobato's sentence, and ordered her immediate release from the Detention Center for time served.

Michelle Ravell was the first person to greet Lobato after she was released. Ravell is the mother of the young man who was dating Lobato at the time of her arrest in July 2001, and she has steadfastly supported her for the last 16-1/2 years.

Lobato also greeted a number of well-wishers, and made comments to the media thanking her supporters, before saying that she wanted to get a "coffee" and go "shopping."

That night Ravell had a belated Christmas celebration for Lobato. She opened years of presents that Ravell had stored for her to open when she was released.

Author note: Hans Sherrer is President of the Justice Institute aka Justice Denied that conducted the post-conviction investigation of Kirstin Lobato's case. That investigation discovered the new forensic evidence proving Bailey died in Las Vegas when Lobato was in Panaca, which resulted in the dismissal of her charges and her release. The Justice Institute based in Seattle, Washington, investigates cases of possible wrongful conviction, and maintains the world's largest database of exonerated persons. Its website is, www.justicedenied.org.



Thank You Deborah Norville For Kirstin Blaise Lobato's Freedom!

By Hans Sherrer

Deborah Norville should be at the front of the line of people Kirstin Blaise Lobato thanks for her release from custody on January 3, 2018. Without Ms. Norville, Ms. Lobato would likely have been imprisoned until her mandatory release from prison in June 2021.* It is debatable if her convictions would have ever been overturned and her charges dismissed without Ms. Norville. But even if so, it would have likely been years in the future, and after her mandatory release.

When an innocent person is released from prison the news media almost never gets it right about who is actually responsible for the person being freed. The grossly inaccurate reporting by the media after Ms. Lobato's release is no exception. Ms. Norville's irreplaceable contribution to the dismissal of Ms. Lobato's charges was predictably ignored.

Ms. Norville is the host of *Inside Edition*: a nationally syndicated television newsentertainment program based in New York City. What she did for Ms. Lobato was provide invaluable national exposure to the bizarre behavior of Clark County District Court Judge Valorie Vega that culminated in her leaving office on January 5, 2015.

Judge Vega was Kirstin Lobato's nemesis -- she left no stone unturned to torment her. She was her Inspector Javert. Ms. Lobato could never get justice in her courtroom. So the day Vega left office was one of the most important days of Ms. Lobato's life.

Judge Vega presided over Ms. Lobato's trial in 2002 and her retrial in 2006 that both resulted in her conviction of charges related to Duran Bailey's July 2001 homicide in Las Vegas. In addition, Vega in August 2011 denied Ms. Lobato's habeas corpus petition filed in May 2010. Vega also summarily denied in July 2011 her petition for post-conviction DNA testing of crime scene evidence -- including evidence that was likely handled by Bailey's assailant!

Judge Vega's openly pro-prosecution cheerleading in Ms. Lobato's case is legendary. From May 2002 to August 2011 she made more than 270 consecutive significant rulings beneficial to the Clark County District Attorney's Office that were contrary



Deborah Norville, host of Inside Edition (2007)

Justice Denied published over more than ten years documenting Judge Vega's conduct.)

On September 7, 2010 Ms. Lobato filed a motion for Vega's recusal/disqualification from presiding over her habeas proceeding. The motion stated: "Judge Vega is a material witness in that petition's Grounds fifty-two; she has a conflict-of-interest and prejudgment in Grounds forty-six, sixty, sixty-one and seventy-five; during the hearing she conducted on July 15, 2010, she demonstrated manifest bias against the Petitioner and a complete lack of impartiality and fairness required of a judge, and she has publicly expressed her opinion the Petitioner is guilty of murdering Duran Bailey." On October 1, 2010 Ms. Lobato filed a Supplement to her recusal/disqualification motion that added five additional grounds for Vega's removal.

The DA's Office responded by not just wanting Ms. Lobato's recusal motion denied, they wanted it stricken from the record. Determination of the motion was assigned to Judge Douglas Smith. He summarily denied it on October 20, 2010 without addressing a single one of the legal reasons for Vega's recusal, instead he stated Vega "is a fine judge."

Ms. Lobato's attempt to use the legal system for Vega's removal from her case was unsuccessful.

After orally denying Ms. Lobato's petition by reading the DA's opposition to her petition, Vega had the DA's Office write the "Findings of Fact, Conclusions of Law and Order" that she signed denying the petition. In August 2011 Ms. Lobato appealed Vega's ruling to the Nevada Supreme Court.

Vega's January 2015 retirement wasn't what she wanted. However, she was facing certain defeat if she ran for re-election in the November 2014 election. Rather than face the humiliation of being an incumbent voted out of office, she chose to "retire." She would have been defeated because of negative consequences from her conduct during the murder retrial of Victor Fakoya in No-

to Ms. Lobato's position or requested relief. Justice Denied reported that Vega didn't even read Ms. Lobato's habeas petition before denying it in 2011. (At the bottom of this article is a list of articles Justice Denied published over more than ten years documenting Judge Vega's conduct.)

vember and December 2010.

During Fakoya's trial on at least six occasions she adjourned court early so she could attend her daughter's soccer games -- the last time on December 15. She lied to the prosecutors and Fakoya's lawyers about why she recessed court early on those days. That was only a prelude for what Vega did on December 16 and December 17. Vega didn't adjourn the court at 5 p.m., or 6 p.m., or at anytime on the 16th. She kept court in session continuously after 1 p.m. for 18 hours. The trial concluded after midnight on the 17th. Fakoya's public defender and the prosecution then made their closing arguments. After which Vega read the jury their instructions. She then had the jury begin deliberations at 2:46 a.m.!

Fakoya's public defenders didn't object to Vega's behavior, only raising their concern the jurors could be too exhausted to fairly deliberate. Judge Vega exploded in responding: "I told counsel that this case had to be done by Thursday because I'm packin' up and leaving town and going on vacation for two weeks!" After being forced by Vega to deliberate all night, the jury acquitted Fakoya about 7 a.m., and court was finally adjourned.

On December 22, 2010 KLAS-TV in Las Vegas ran a segment about Fakoya's jurors deliberating all night.

Deborah Norville and *Inside Edition* picked up and greatly expanded on the story that Vega conducted Fakoya's trial to fit her personal schedule -- when he was facing a maximum sentence of life in prison without parole if convicted. For *Inside Edition's* story Fakoya's public defenders and jurors were interviewed on camera about their reactions to Vega's behavior. Norville's report broadcast on January 11, 2011 resulted in Vega being a laughing stock across the country (and internationally via the Internet). Norville's reporting made Vega's weird behavior during Fakoya's trial a national story that couldn't be covered-up or ignored.

After Vega's unjudicious conduct during Fakoya's trial was reported nationally by Ms. Norville, a complaint was filed with the Nevada Commission on Judicial Discipline. Charges were filed against Vega. The Commission accused her of violating the Nevada Code of Judicial Conduct by keeping court in session continuously for 18 hours from 1:12 p.m. on December 16 until after 7 a.m. on December 17 (Count 1); and for recess-

Norville cont. on p. 6

Norville cont. from p. 5

ing court in the early afternoon on six days from Nov. 29 to Dec. 15 so she could watch her daughter's soccer games (Count 2). A Count 3 related to the testimony of an expert witness was later dismissed.

On February 5, 2013 Vega [agreed to a stipulated agreement](#) with the Commission and admitted to committing Counts 1 and 2. She also admitted she did so to fit her "personal schedule" and her behavior was "not courteous to the individuals involved at trial."

Knowing that the Commission's Order finding her guilty was soon to be publicly released, and that an opponent would be expected to run ads of her being made a laughing-stock by Ms. Norville on national television, Vega announced in July 2013 that she would not run for re-election.

Vega was "publicly reprimanded" on August 29, 2013 when the Commission issued its unanimous Findings of Fact, Conclusions of Law and Order Imposing Discipline.

When Vega left office in January 2015 the Nevada Supreme Court had not yet ruled on Ms. Lobato's appeal of Vega's summary denial of her habeas petition.

In November 2016 the NSC issued its ruling. Ms. Lobato's case was remanded to the district court to resolve two issues: 1) Hold an evidentiary hearing to determine if Ms. Lobato's trial lawyers provided ineffective assistance of counsel for failing to investigate and present forensic evidence establishing Bailey died in Las Vegas at a time that the prosecution admitted she was 170 miles away in Panaca; and, 2) Determine if Ms. Lobato could raise her claim of actual innocence in a habeas petition, and if so, what proof and evidence standards would apply to evaluating it?

With Vega gone, Ms. Lobato's case was assigned to District Court Judge Stefany Miley. On December 19, 2017 Judge Miley granted her petition based on ineffective assistance of counsel by her trial lawyers and ordered a new trial, after holding an evidentiary hearing in October 2017.

On December 29, 2017 Judge Elizabeth Gonzalez granted the DA's motion to dismiss the charges against her with prejudice. On January 3, 2018 Ms. Lobato was released after spending a total of more than 15 years in custody after her arrest on July 20,



Inside Edition host Deborah Norville.

2001.

It is 100% certain from Vega's history in Ms. Lobato's case that if she had still been a judge she would have ruled against Ms. Lobato when her case was remanded by the NSC. Lobato would have then had to appeal again to the NSC. If they ruled against her she would have had to proceed to federal court where a habeas case can take years to resolve, and very few are granted each year.

Kirstin Lobato owes her freedom today to Vega being "forced" to retire, which paved the way for Judge Miley to be assigned the case.

Nothing anyone did when Lobato's case was remanded by the NSC would not have made any difference if Vega had still been a judge, and she would have been if it hadn't been for Deborah Norville.

Deborah Norville's *Inside Edition* report about Judge Vega that was first broadcast on January 11, 2011 is online at, <https://www.youtube.com/watch?v=nO14th9f7hE>. *Inside Edition* rebroadcast the report, but it isn't known how many times it did so.

Justice Denied published the following articles over more than ten years documenting Judge Vega's unconscionable conduct:

- Las Vegas Police and Prosecutors Frame Woman 170 Miles From Murder Scene - Kirstin Lobato's "Very Peculiar Story", October 1, 2004

http://justicedenied.org/issue/issue_26/kl/kirstin_lobato_jd_issue26.html ("In a masterful frame-up that may be marveled at for decades as a text book case of how the three branches of the legal system interact to ensure a wrongful conviction, prosecutors worked hand-in-glove with the police to orchestrate, in the courtroom of an overtly compliant judge, the conviction of a plainly innocent young woman.")

- Kirstin Blaise Lobato Has Twice Been Wrongly Convicted Because Of 'Tragic Choices', January 29, 2007. Online at, <http://justicedenied.org/wordpress/archi>

[ves/3125](#). ("Judge Vega made the tragic choice early on in Blaise's case to function as an arm of the prosecution. That is not surprising given that she went directly from being a 33-year-old Clark County felony prosecutor to being a Clark County judge thanks to a political appointment that allowed her to initially bypass the election process. Two of her rulings in Blaise's first trial were so prejudicially favorable to the prosecution that they caused the Nevada Supreme Court to overturn Blaise's conviction and order a new trial.")

- Possibility Of Guilt Replaces Proof Beyond A Reasonable Doubt: Las Vegas Detectives, Prosecutors And Judge Orchestrate Kirstin Blaise Lobato's Serial Rape By The Legal System, February 1, 2007. Online at, http://justicedenied.org/issue/issue_34/lobato_jd34.htm. ("It was evident from Vega's pre-trial rulings that she was going to allow the prosecutors free-reign to run a replay of Blaise's first trial.")

- Is Valorie Vega The Most Corrupt Judge In The United States?, December 21, 2010. Online at,

<http://justicedenied.org/wordpress/archives/242>. ("The ultimate corruption of a judge is to elevate their desired outcome for a case above the outcome dictated by the actual facts and the applicable law(s). Judge Vega's conduct during the entirety of Ms. Lobato's case can be interpreted that she used her position as a judge to ensure Ms. Lobato was convicted, and her enmity against Ms. Lobato is further suggested by her unusually harsh sentence.")

- Judge Valorie Vega Publicly Lied About The Jurors Who Support A New Trial For Kirstin Blaise Lobato, March 7, 2011. Online at,

<http://justicedenied.org/wordpress/archives/824>. ("It is not known why Judge Vega resorted to blatantly lying in an effort to denigrate the juror's determination that "it is in the interest of justice that Ms. Lobato be granted a new trial" based on her new evidence she had nothing to do with Mr. Bailey's murder and was 170 miles from Las Vegas when the crime occurred.")

- Judge Valorie Vega's Rulings Have Overwhelmingly Benefited The Clark County District Attorney In Kirstin Blaise Lobato's Case: -- and the odds Judge Vega's rulings have benefited the CCDA by chance are 1 in 4.74284398 x 1080, March 17, 2011. Online at,

<http://justicedenied.org/wordpress/archives/875>. ("From Ms. Lobato's trial in May

Norville cont. on p. 7

Norville cont. from p. 6

2002 to March 1, 2011 Judge Vega's made 270 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 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 March 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.”)

- Judge Valorie Vega Didn't Read Kirstin Blaise Lobato's Habeas Corpus Petition Before Denying It, March 26, 2011. Online at,

<http://justicedenied.org/wordpress/archives/919> . (“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.”)

- Judge Valorie Vega Is A Modern Day Judge Roland Freisler, June 28, 2011. Online at,

<http://justicedenied.org/wordpress/archives/1267> . (“Roland Freisler was a judge in Germany from 1942 until his death in 1945. ... Judge Freisler unabashedly represented the interests of the government's prosecutors and his conduct sets a benchmark to evaluate the independence of other judges. ... 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 Valorie Vega Charged With Ethics Violations, August 11, 2012. Online at, <http://justicedenied.org/wordpress/archives/2275> . (“Justice Denied is following the NCJD's case against Judge Vega's because she was the judge in the Kirstin Blaise Lobato case. Before her conduct during Fa-

koya's trial was reported, Justice Denied's editor and publisher Hans Sherrer wrote the article “Is Judge Valorie Vega the Most Corrupt Judge in the United States?” which can be read at,

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- Nevada Supreme Court Rules Judge Vega's Denial Of Post-conviction DNA Testing Can't Be Appealed, January 14, 2012

<http://justicedenied.org/wordpress/archives/1693> (“In February 2011 Ms. Lobato filed a Petition Requesting Post-Conviction DNA Testing Pursuant To NRS §176.0918. ... Judge Vega denied the petition. Her written Order denying the petition was filed on July 27, 2011 ... Ms. Lobato filed a Notice of Appeal ... The Nevada Supreme Court ruled on January 12, 2012 that a district court's denial of post-conviction DNA testing cannot be appealed.”)

- Kirstin Lobato Is Fortunate The Nevada Supreme Court Is Taking Its Time Reviewing Her Case, October 5, 2015. Online at,

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Endnote 1. The NDOC website on January 2, 2018 listed Kirstin Blaise Lobato's mandatory release date as June 19, 2021.

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In The Matter of the Honorable Valorie Vega, No. 1203-324 (Nevada Commission On Judicial Discipline, 6-5-2012) (FORMAL STATEMENT OF CHARGES)

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Valorie Vega, BallotPedia.org (last viewed 1-5-2018) at, www.ballotpedia.org/Valorie_Vega .

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www.reviewjournal.com/crime/courts/judge-vega-wont-look-for-re-election/ .

Usha Tanpure Acquitted Of 2001 Conviction For Arguing With Man

Usha Tanpure has [been acquitted](#) by the Bombay High Court of her 2001 conviction for humiliating a man during an argument in public.

In the fall of 2000 Tanpure was living in Pune, India. Pune is about 90 miles east of Mumbai. She celebrated a holiday by wearing a nightgown to her work. A man ridiculed her attire, and they got into an argument.

The man was a “peon” -- a member of a lower caste in Indian society than Tanpure.

Even though he started the disagreement by criticizing her clothing, the man complained about Tanpure to the police. She was charged with mistreating him under India's Scheduled Castes and Scheduled Tribes (SCST) Act. The SCST was enacted in 1989 to make India a bias free society by forbidding humiliation and harassments meted to the Dalits (peons or “untouchables”).

After her conviction following a bench (judge only) trial, Tanpure was sentenced to six months imprisonment and payment of a 500 rupee fine (US\$10.75).

Tanpure appealed.

In late-March 2017 the Bombay High Court set-aside Tanpure's conviction on the basis there was reasonable doubt of her guilt. In his ruling Justice A. M. Badar harshly criticized the trial judge for “not holding the scale of justice quite evenly.” Badar explained the judge interfered in the case by assuming the role of the prosecutor, and influencing witness testimony favorable to the prosecution. [Badar stated](#): “For these reasons the accused is certainly entitled to the benefit of doubt and allowed the appeal by quashing the order of conviction.”

Sources:

[HC sets aside 16-year-old conviction](#), By Special Correspondent (Mumbai), *The Hindu*, April 4, 2017

[Scheduled Caste and Scheduled Tribe](#) (Prevention of Atrocities) Act, 1989, Wikipedia.org

[Historical Currency](#) Exchange Rates, [Fxtop.com](#)



Menace To The Innocent: Insubstantial Expert Evidence Endangers Innocent People Accused Of A Crime

By Hans Sherrer

Menace To The Innocent: Insubstantial Expert Evidence Endangers Innocent People Accused Of A Crime [is now available on Amazon.com](http://www.amazon.com) at, www.tinyurl.com/yc5u3kqn.

Menace To The Innocent was written by Hans Sherrer, [Justice Denied's](http://www.justicedenied.com) editor and publisher. It is published by [The Justice Institute](http://www.thejusticeinstitute.com).

The following is an excerpt from the book's INTRODUCTION:

We live in an age of magic as a way of life. At least that is how a person who lived 200 years ago could be expected to think of the modern world. In actuality, we live in an age of science that to the uninitiated certainly can seem magical. Almost every man-made process we have today that wasn't available 200 years ago is the result of applying scientific principles to varying degrees to achieve the end result.

The quest to solve crimes has not been immune to the application of science. However, this book demonstrates it is not unusual for science to be misapplied, disregarded, or relied on in name only to "solve" a crime and close a case by identifying a person as the culprit. The result is a crime solved by the magical masquerading as science. This situation exists because there is no reliable mechanism to ensure the system isn't gamed by the prosecution's reliance on expert "scientific" evidence that in reality is no more reliable than a confession to being a witch by a person who simply wants to stop being dunked into a pond.

There is generally no scrutiny of crimes "solved" through expert evidence because of the resources necessary to do so, and over 95% of convictions in the U.S. are by a guilty plea that precludes any critical examination of the prosecution's supposedly expert evidence. The overwhelming majority of defendants in this country have limited – if non-existent – financial resources, and public defenders who handle the overwhelming majority of criminal cases have limited budgets, and case load pressure to

take the path of least resistance and plead out every case possible.

Consequently, the legal system is structured so that the overwhelming majority of convictions that rely on the soggy foundation of suspect expert evidence – which may in fact be no more stable than quicksand – fall through the cracks into the black hole of a case closed by a plea bargain.

There is relatively little will-power by those within the system to correct this state of affairs. The four primary actors in the legal system's operation – judges, prosecutors, police, and defense lawyers – are integral parts of the assembly line that generates the steady flow of convictions the system depends on for its smooth functioning. The increasing reliance on expert evidence to secure convictions assists to grease the wheels of that system.

The depth of that reliance is demonstrated by how those primary actors exhibit a quasi form of Stockholm Syndrome by their psychological alliance with the use of expert evidence that often is insubstantial and undermines the credibility of the system they are a part of. That psychological state can be called "Expert Syndrome." The way experts are viewed and uncritically relied on masks that their contribution to a case is often no more reliable than the incantation of a witch doctor is to cure an illness or end a drought.

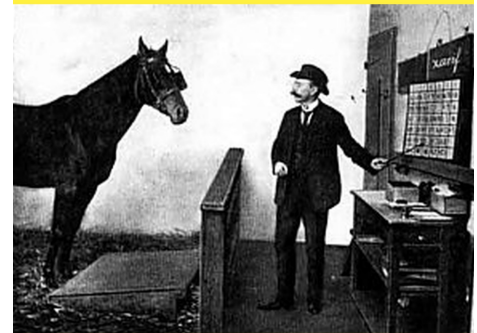
"Menace To the Innocent" goes far beyond identifying the magnitude of the problem: In its last chapters it proscribes no-nonsense solutions to rectify the problem of innocent people being ravaged by prosecutors who rely on bogus expert evidence to secure their conviction. One of those solutions is to close the FBI crime lab and all local, county, and state crime labs because they are inherently, and irredeemably biased toward the prosecution. Not incidentally, those crime labs operate in a manner that would be unacceptable for a university science lab ... much less a privately operated commercial laboratory.

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Menace To The Innocent can be ordered from Amazon.com at, www.tinyurl.com/yc5u3kqn.



Death Row Prisoners Vincent Edwards And Richard Haynes Acquitted By Caribbean Court of Justice

Vincent Leroy Edwards and Ricardo Orlando Haynes (aka Richard Haynes) [have been acquitted](#) of a 2006 murder in Barbados by the Caribbean Court of Justice. On July 25, 2017 the CCJ ruled their uncorroborated alleged confessions to police were insufficient evidence to prove they committed the crime, and ordered their release from Barbados' death row.

Damien Alleyne was shot to death while walking alone in Deacons, Barbados on the night of August 11, 2006. The police found no witnesses to the shooting.

Sometime after the shooting Vincent Edwards was questioned by police, but he denied knowing anything about the shooting and he wasn't taken into custody.

Almost a year later, on July 19, 2007 Edwards and Richard Haynes were separately interrogated by the police about Alleyne's death without a lawyer being present. The interrogations were not audio or video recorded. The police arrested both men, claiming they made oral admissions of guilt. However, there was no evidence they had done so apart from the claim of the police officers present: they didn't sign anything admitting guilt, and they both denied saying anything incriminating.

Two days later, on July 21, 2007, Edwards and Haynes were charged with murder -- which in Barbados carries a mandatory death sentence.

The two men were jailed for almost six years while awaiting trial.

During their jury trial in June 2013 the prosecution didn't introduce any physical, forensic or eyewitness evidence linking either Edwards or Haynes to the crime. Their case was solely based on the police officers testimony that both men admitted their involvement in Alleyne's murder. The trial judge allowed the officers to refresh their memories by reviewing what they said they wrote in their notebooks about the interrogations.

Andrew Pilgrim, the lawyer for Edwards and Haynes, presented no evidence in their



Barbados Attorney Andrew Pilgrim (Barbados Today)

defense. Instead he [argued to the judge that the](#) prosecution's "case was too weak to be left to the jury as it was based solely on the alleged oral statements of the defendants which were uncorroborated and unacknowledged. He lamented the fact that the

Government of Barbados had been slow to proclaim section 72 of the Evidence Act (sometimes referred to as, "the Act") which requires the use of video or sound-recordings whenever an accused gave a confession. He submitted that in the face of such a weak statutory framework, it was the duty of the trial judge to guard against unreliable evidence and to withdraw a case from the jury where the only evidence was an unacknowledged, uncorroborated and disputed confession."

After the judge ruled against dismissing the charges, Edwards and Haynes each made a statement in the presence of the jury that they did not confess to the police.

The judge told the jury that in the absence of independent corroboration, it was possible the police witnesses fabricated the confessions.

After the jury convicted Edwards and Haynes, the judge imposed the mandatory death sentences.

The Barbados Court of Appeal affirmed their convictions on July 9, 2015.

They then appealed to the Caribbean Court of Justice (CCJ). In November 2015 the CCJ remanded their case back to the Barbados COA to consider the issue of the unconstitutionality of the mandatory death penalty in Barbados for murder, which they raised for the first time in their appeal to the CCJ.

The Barbados COA appeal decided the death penalty was constitutional, and Edwards and Haynes again appealed to the CCJ. Their appeal was based on the insufficiency of the prosecution's evidence to prove their guilt.

On July 25, 2017 the CCJ quashed the convictions of Edwards and Haynes. The Court ruled their "unacknowledged and uncorroborated" confessions were insufficient evi-

dence to sustain their convictions. The Court's ruling also established the precedent that in Barbados the sole evidence of an uncorroborated confession to police would no longer be sufficient to support a conviction. The Court [stated in its ruling](#):

"In the present case, because there was no electronic verification of the alleged confessions by the accused and there was no independent corroborating evidence of their guilt, we have concluded, with some reluctance, that the convictions of the appellants cannot stand; that on its entirety, the evidence was such that the case ought not to have gone to the jury.

... For all of the foregoing reasons, we conclude that under the criminal justice system of Barbados, it is not permissible for a person charged with an offence to be convicted of that offence in circumstances where the only evidence against him is an unsigned and otherwise unacknowledged and uncorroborated confession which the prosecution allege was made to investigating police officers whilst in police custody but which he denies making. Something more is required either in the way independent verification that the admission was actually and voluntarily made, or in the way of other evidence that independently corroborates or otherwise points to the guilt of the accused.

.... We agree that the no-case submission ought to have been accepted and the case withdrawn from the jury. The convictions must therefore be quashed.

The Caribbean Court of Justice's ruling in *Vincent Leroy Edwards and Ricardo Orlando Haynes*, [2017] CCJ 10 (AJ) (Carib. Ct. of Justice, 7-25-2017) can be read at, www.monroepacourts.us/MDJAdministrator/Pages/MDJ1.aspx.

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University Student's Sexual Misconduct Conviction Based On Hearsay Tossed

On April 6, 2017 Benjamin Haug's sexual misconduct guilty finding and expulsion from the State University of New York at Potsdam was [overturned on appeal](#).

Haug was a freshman at SUNY Potsdam when in the early morning hours of September 7, 2014 he encountered a woman student he had been friends with for several years. Both had been drinking that night. They went to her dormitory room and had sex.

The woman later reported to the campus police she had been raped, but she refused to submit to a medical examination or name her alleged assailant. The campus police were later given an anonymous tip that identified Haug as the man she was accusing. The police were not notified about the alleged incident.

SUNY Potsdam charged Haug with sexual misconduct that violated the campus "code of student rights, responsibilities and conduct."

During the administrative hearing the woman did not testify. Haug's prosecution was based on the hearsay evidence of two people: the testimony of the campus police officer who took the woman's initial rape complaint; and written notes of the woman's interview by the campus director of student conduct and community standards.

The officer testified the woman [told him that](#) "while she had not declined to engage in sex and gave no "gesture saying that [the sexual encounter] wasn't welcome," she had been sexually assaulted."

The campus director's notes indicated that when Haug and the woman arrived at her dorm room they started making out on her bed. Haug suggested they have sex. She took off her shirt, and Haug helped her take off her pants. She didn't reject Haug's advances or tell him she didn't want to have sex, but she didn't verbally tell him she wanted to have sex.

Haug testified in his defense and admitted having sex with the woman, saying it was consensual. His testimony largely matched the evidence by the officer and the campus



SUNY Potsdam President
Kristin Esterberg
(www.potsdam.edu)

director, except he added that he told the woman he didn't have any condoms and asked her if she did. She said she didn't, but it was "fine" not to use one. He also testified she initiated the sex, and afterwards asked him if he "had fun."

The hearing board found Haug "guilty" based on their finding the woman didn't affirmatively consent to sex. The board decision was based on the preponderance of the evidence standard approved by the U.S. Department of Education. As punishment the board recommended Haug's suspension for the remainder of the semester; that he be directed to complete an alcohol evaluation and treatment program; and that he write a reflective paper on appropriate sexual conduct and consent.

Haug appealed to SUNY Potsdam's Appellate Board. The finding of Haug's guilt was upheld, but the recommendation for his punishment was rejected and increased to expulsion.

SUNY Potsdam President Kristin Esterberg followed the recommendation and ordered Haug's expulsion.

Haug appealed to the courts.

On April 6, 2017 the New York Supreme Court's Appellate Division in a majority decision reversed the finding of Haug's guilt and sentence on the basis [it wasn't supported](#) by substantial evidence.

The [court's ruling stated](#): "To begin, after considering the significant impacts that the determination could have upon petitioner's reputation as well as his educational and job prospects, many of the procedures employed by the Hearing Board give us pause." One of those suspect procedures was that Haug's prosecution was based solely on hearsay evidence.

Regarding the [prosecution's evidence](#) the court ruled, "It is not clear to us that a reasonable person could find from these hearsay accounts an absence of "behavior that indicate[d], without doubt to either party, a mutual agreement to participate in sexual intercourse," as to do so would require overlooking the complainant's admission that she removed her shirt when sex

was suggested. ... The complainant's subsequent report of a sexual assault – in which she declined to give any details of the incident or identify the male involved and stated her lack of interest in getting the alleged perpetrator in trouble – does nothing to remedy the dearth of proof as to a lack of affirmative consent."

After the appeals court issued its ruling, Haug's attorney Lloyd Grandy II, [said in an interview](#) it was doubtful Haug would return to SUNY Potsdam, and that the damage to his reputation had already been done: "If you are going to label someone a sexual predator or a sexual aggressor, you have branded that person in a way that there is no coming back from. For the university to decide that based on very little or no evidence—you just can't do that without facts to back it up."

Grandy also said he thought the university increased his penalty to expulsion because Haug had the "audacity" to appeal the guilty finding and the punishment recommended by the disciplinary panel.

Read the ruling in *Haug v. State University of New York at Potsdam*, No. 522632 (NYS Appellate Div. 3rd Dept., 4-6-17), at, www.decisions.courts.state.ny.us/ad3/Decisions/2017/522632.pdf.

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Four Prosecutors Who Repeatedly Violate Constitution Identified In Fair Punishment Project Report

A [new report](#) by the Fair Punishment Project identifies four prosecutors in four different states who repeatedly violated the constitution to obtain a conviction. “*The Recidivists: Four Prosecutors Who Repeatedly Violate The Constitution*,” was released on July 13, 2017.

Those four prosecutors are Leon Cannizzaro, Jennifer Joyce, Amy Weirich, and Tony Rackauckas.

Fair Punishment Project (FPP) researchers reviewed every available state appellate court opinion dealing with allegations of prosecutorial misconduct published in California, Louisiana, Missouri, and Tennessee from January 1, 2010 to December 31, 2015. The review was to find cases where the appeals court determined there had been prosecutorial misconduct, and then to find whether the court found the misconduct had been harmful to the defendant, and whether the court reversed the conviction or provided some other form of relief.

All elected county or parish prosecutors in those four states who served during 2010 to 2015 were ranked based on four criteria:

- Misconduct Rank (Total cases where misconduct had been found.)
- Reversal Rank (Total convictions reversed.)
- Misconduct Rank Per Capita (of county or parish)
- Reversal Rank Per Capita (of county or parish)

The report identified Cannizzaro, Joyce, Weirich, and Rackauckas as the prosecutors who aggregately ranked highest in each state. Summaries of the findings regarding each of them follows.

Leon Cannizzaro, Orleans Parish, Louisiana District Attorney (2008 – Current), ranked higher in more categories than any other prosecutor:

Misconduct Rank -- #1 out of 64 parishes
Reversal Rank -- #1 out of 64 parishes
Misconduct Rank Per Capita -- #1 out of 64 parishes
Reversal Rank Per Capita -- #2 out of 64 parishes



The other three prosecutors were:

Jennifer Joyce, City of St. Louis, Missouri Circuit Attorney (2000 – 2016)*

Misconduct Rank -- #1 out of 115 jurisdictions
Reversal Rank -- #1 out of 115 jurisdictions
Misconduct Rank Per Capita -- #2 out of 115 jurisdictions
Reversal Rank Per Capita -- #4 out of 115 jurisdictions

Amy Weirich, Shelby County, Tennessee District Attorney (2011 – Current)

Misconduct Rank -- #1 out of 95 counties
Reversal Rank -- #1 out of 95 counties
Misconduct Rank Per Capita -- #10 out of 95 counties
Reversal Rank Per Capita -- #6 out of 95 counties

Tony Rackauckas, Orange County, California District Attorney (1998 – Current)

Misconduct Rank -- #3 out of 58 counties
Reversal Rank -- #2 out of 58 counties
Misconduct Rank Per Capita -- #5 out of 58 counties
Reversal Rank Per Capita -- #1 out of 58 counties

The report’s [Conclusion states](#):

“The prosecutors in these jurisdictions, all of whom are elected officials, are imbued with the public’s trust. And each and every one of them has violated it, not just on one or two occasions, but repeatedly. They have illegally concealed important evidence from the defense, made highly unethical statements and arguments, and committed other types of misconduct that undermines the integrity of criminal convictions in serious cases, and of the justice system itself. Prosecutors are tasked not just with seeking convictions, but also with seeing justice done. Our research shows that these prosecutors are failing in this task in very serious ways. They have some of highest rates of misconduct and reversals in their respec-

tive states. It is clear that the mechanisms for accountability are currently insufficient when a prosecutor breaks the law. A robust discussion about how to improve accountability and to address these injustices is sorely needed.”

Read the report *The Recidivists: Four Prosecutors Who Repeatedly Violate The Constitution*, Online at, www.fairpunishment.org/new-report-on-rates-of-prosecutorial-misconduct/.

A prior FPP report about prosecutor’s [was published in](#) June 2016: “*America’s Top Five Deadliest Prosecutors: How Overzealous Personalities Drive The Death Penalty*.” That report is online at, www.fairpunishment.org/wp-content/uploads/2016/06/FPP_Top5Report_FINAL.pdf.

The Fair Punishment Project’s website is, www.fairpunishment.org.

The Fair Punishment Project is a joint initiative of Harvard Law School’s Criminal Justice Institute and its Charles Hamilton Houston Institute for Race & Justice, The Accountable Justice Collaborative (at The Advocacy Fund), and The Bronx Defenders.

Endnote:

* Kim Gardner became the Circuit Attorney in 2017. She defeated Joyce in the 2016 election, in part by running on a platform that pledged to pursue significant reforms. Gardner had worked as a prosecutor under Joyce from 2005 to 2010.

Sources:

“The Recidivists: Four Prosecutors Who Repeatedly Violate The Constitution,” *Fair Punishment Project*, July 2017. Online at, www.fairpunishment.org/new-report-on-rates-of-prosecutorial-misconduct/.

“America’s Top Five Deadliest Prosecutors: How Overzealous Personalities Drive The Death Penalty,” *Fair Punishment Project*, June 2016. Online at, www.fairpunishment.org/wp-content/uploads/2016/06/FPP_Top5Report_FINAL.pdf.



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Jemma Beale Sentenced To 10 Years In Prison For Perjury And Obstruction Of Justice Convictions After Falsely Accusing 15 Men Of Rape Or Sexual Assault

Jemma Beale [was convicted](#) on July 6, 2017 of perjury and obstruction of justice after falsely alleging between 2010 and 2013 that 15 men in southeast England had raped or sexually assaulted her.

Beale, 25, lives in the London suburb of Addlestone. She was arrested in June 2014, and in March 2016 she was charged with four counts of perjury and four counts of obstruction of justice for allegedly making false accusations that a total of 15 men were involved in five different incidents of her being raped or sexually assaulted from November 2010 to November 2013.

An investigation of all of Beale's rape/sexual assault allegations began after police noticed inconsistencies in her allegation she was gang raped by a group of eight men in November 2013.

The five incidents Beale reported to police and the number of men involved in each were:

- Nov. 26, 2010. One man. Beale accused Mahad Cassim of raping her the previous night. Cassim's trial in December 2011 ended in a mistrial, and after a retrial he was convicted in January 2012 of rape and sentenced to 7 years imprisonment. In her victim impact statement [Beale said](#) the rape had a "devastating" effect on her, and "I feel that any sentence he receives will never reflect the life sentence that he gave me." Beale was awarded £11,000 victim compensation by the British government. Cassim was released in January 2014 after two years in prison when the investigation of Beale discovered new evidence no rape occurred.

- July 7, 2012. One man. Beale accused Noam Shazad of grabbing her crotch in The Windsor Castle Pub in the London suburb of Hounslow.



Jemma Beale arrest booking photo (Metropolitan Police)

- July 7, 2012. Four men. Beale accused Shazad and three other men of gang raping her in an alley after she left The Windsor Castle Pub. She claimed barbed wire had been used on her by the men. Shazad was arrested on August 17, 2012 and charged with assault by penetration

and sexual assault. Shazad was released on bail and fled England for Pakistan prior to his trial. The charges against Shazad were dismissed after the investigation of Beale discovered new evidence he didn't rape her.

- September 2, 2013. Two men. Beale reported to police that two strangers sexually assaulted her outside her home in Addlestone. The men weren't identified and no one was charged.

- November 17, 2013. Eight men. Beale reported to police that four men in a group of eight, including two men she knew, gang raped her in the street in Feltham. She said the men were armed with a machete. Investigation of that allegation resulted in evidence she fabricated the incident and no one was charged.

During Beale's trial that began in June 2017 the prosecution presented a combination of medical records, eyewitness testimony, and surveillance video evidence that undermined Beale's claim about each of the alleged crimes.



Jemma Beale outside the Southwark Crown Court (Image News Group Newspapers Ltd.)

Regarding the alleged July 7, 2012 gang rape after she left the Windsor Castle Pub, the prosecution introduced expert evidence that Beale self-inflicted the barbed wire wound she claimed was inflicted by her assailants. Evidence was also presented that the small wire basket Beale claimed the men used only contained her DNA -- which Beale tried to explain away by saying she urinated on it after the assault. Surveillance video from the Windsor Castle Pub showed she had been abusive to Shazad without any provocation, and surveillance video also showed she walked home alone after leaving the pub.

Beale testified in her defense that she was a lesbian who had never had sex with a man, [saying](#), "I ain't bisexual at all." However, evidence was presented that she had a long-term sexual relationship with a male. At one point during her cross-examination Beale stormed out of the courtroom.

The prosecution argued to the jury that [the evidence showed](#): "Jemma Beale was a determined liar who repeatedly went to great lengths to fabricate evidence in an attempt to see innocent men convicted, including telling deliberate lies under oath." After her five-week trial, the jury accepted the prosecution's evidence that Beale was a fantasist and convicted her of all charges.



The Windsor Castle Pub, in the London suburb of Hounslow (Flickr.com)

The judge ordered that Beale be immediately taken into custody. Her sentencing is scheduled for August 24, 2017.

Detective Sergeant Kevin Lynott said after Beale's convictions that [she had been](#) exposed as a "serial liar." Lynott, who led the investigation into Beale's false allegations, also said: "Her manipulation of the criminal justice system has caused police to direct significant amounts of resource into investigating her bogus complaints as well as her own offending. She has also significantly impacted on the NHS as a result of her complaints and used up many other limited resources that are relied upon by genuine survivors. Not only that, but she then went on to give false testimony at court, which resulted in the wrongful conviction and imprisonment of a completely innocent man."

Beale sentenced

Jemma Beale [was sentenced](#) on August 24, 2017 to ten years in prison.

Before sentencing Beale, Judge Nicholas Loraine-Smith described her as "manipulative," and [told her](#): "This trial has revealed, what was then not obvious, that you are a very, very convincing liar and you enjoy being seen as a victim. The prosecution

Beale cont. on p. 13

62% Of Criminal Appeals In Vanuatu Result In Ruling For Defendant

Sixty-two percent of all criminal appeals in Vanuatu from 1997 to 2016 resulted in a ruling favorable to the defendant by the Court of Appeal.

Vanuatu is a Pacific island nation, about 1,100 miles northeast of Australia. It has a population of less than 300,000 on its 82 islands. Vanuatu was a co-British/French colony known as New Hebrides until its independence in 1980. Its legal system, largely based on the English common law, is similar to that in the United States.

Legal opinions of the Court of Appeal are published in English, one of Vanuatu's three official languages.

From 1997 to 2016, 53% of the appeals of a conviction resulted in an outright acquittal or an order for a new trial. An additional 12% of those appeals resulted in an order for a sentence reduction, although the conviction was affirmed.

Beale cont. from p. 12

described your life as a "construct of bogus victimhood".

Crown prosecutor Madeleine Wolfe [had argued](#) for a serious prison sentence. She told Judge Loraine-Smith that Beale not only caused severe harm to the life of the men she falsely accused, but she caused a considerable waste of police and prosecutor resources. Wolfe said the police spent 6,400 hours investigating Beale's claims at a cost of at least \$320,00 (£250,000), and her trial cost at least \$145,000 (£109,000). Beale's fantasizes also resulted in the government bearing the cost of Cassim's trial and wrongful incarceration ... plus the victim compensation she was paid.

It isn't known if the government will seek return of the \$14,000 (£11,000) victim compensation paid to Beale after Cassim was falsely convicted of raping her.

Sources:

'[Attention-seeking liar](#)', 25, who falsely accused 15 men of rape and sexual assault causing one innocent man to spend two years in prison is jailed for 10 years, *Daily Mail* (London, UK), August 24, 2017

[Jemma Beale Convicted Of Perjury](#). And Obstruction Of Justice After Falsely Accusing 15 Men Of Rape Or Sexual Assault, By Hans Sherrer, Justice Denied magazine, July 14, 2017



Court of Appeal of Vanuatu in Port Vila.

The appeal of only the sentence (the conviction was accepted as valid), resulted in a reduced sentence in 57% of cases, and a remand for resentencing in an additional 4% of cases. The sentence in Vanuatu for a crime is by and large much more lenient than the U.S., so those successful appeals were of sentences that to begin with were very charitable by U.S. standards.

Overall, during the 20 years from 1997 to 2016, more than 62% of all criminal appeals of a conviction or a sentence resulted in a ruling favoring the defendant. That is more than ten times the rate of successful criminal appeals in state and federal courts in the United States.

The following lists summarize the criminal appeals decided by the Court of Appeal of Vanuatu from 1997 to 2016.

Conviction & Sentence appealed:

- * 32% -- Conviction reversed (Acquittal)
- * 21% -- Conviction reversed (New trial)
- * 12% -- Conviction affirmed (Sentence reduced)
- * 65% -- Total
- * 35% -- Conviction affirmed

Sentence only appealed:

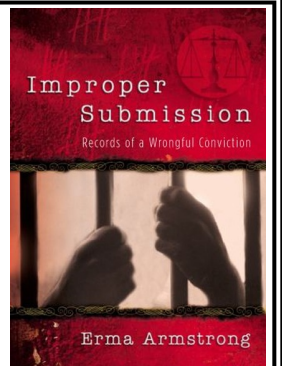
- * 57% -- Sentence reduced
- * 4% -- Remanded for resentencing
- * 61% -- Total
- * 12% -- Sentence affirmed
- * 27% -- Sentence increased (Prosecution appealed sentence)

Decisions by year of the Court of Appeal of Vanuatu are available online at www.pacii.org/you/cases/VUCA/.

Sources:

Court of Appeal of Vanuatu, Pacific Islands Legal Information Institute website online at www.pacii.org/you/cases/VUCA/.

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 Submission* by Erma Armstrong documents:



- The way the killer's psychotic bragging was used by the prosecution against Karlyn.
- The way exculpatory and witness impeachment evidence was hidden from the defense.
- The way 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, Send \$15 (postage pd) (check or money order) to:

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www.justicedenied.org

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Back issues of *Justice: Denied* can be read, there are links to wrongful conviction websites, and other information related to wrongful convictions is available. JD's online Bookshop includes more than 70 wrongful conviction books, and JD's Videoshop includes many dozens of wrongful conviction movies and documentaries.

Visit Justice Denied's Facebook Page

Justice Denied's Facebook page is regularly updated with information related to wrongful convictions. Justice Denied's homepage has a link to the Facebook page, www.justicedenied.org

Human Hair Protein Identification Developed That Is More Precise Than DNA Testing

A groundbreaking technique of biological identification that relies on information encoded in proteins of human hair [has been developed](#) by scientists from Lawrence Livermore National Laboratory (LLNL), a Utah startup company, and collaborators from seven universities in the United States and England.

The hair protein testing technique was invented in 2013 by Biochemist Glendon Parker, who at the time was an Assistant



Glendon Parker, examines 250 year-old hair sample. (Julie Russell, LLNL)

Professor of Biology at Utah Valley University in Orem, Utah. Parker is currently a consultant with the LLNL, and is found-



Glendon Parker

er and CEO of Protein-Based Identification Technologies LLC.

Investigation of the use of protein as an identification technique was spurred by a 2009 report from the National Research Council that argued for the development of new forensic testing methods to overcome the scientific shortcomings of DNA testing.

The hair protein technique provides a scientific, statistically validated method of identifying people and linking an individual to evidence. However, it can be much more precise than DNA profiling as an identification tool. The hair protein technique is such a precise identification method because there are about 1,000 genetic markers in hair protein mutations. Theoretically, every single person on earth could be individually identified through their hair protein markers, which isn't possible with DNA testing.

The testing technique also has the advantage that hair protein is chemically hardy and robust. , while [the DNA molecule](#) "is

quite fragile," and "When the DNA molecule degrades from light, heat exposure or other environmental conditions, it becomes useless for identification." A positive identification can result from the protein testing of hair that is too degraded or otherwise unsuitable for DNA testing.

The hair protein discoveries have inspired research into the use of protein in bones, skin follicles and teeth as an identification technique.

A research paper authored by Parker and others explaining the use of human hair protein as an identification technique has been published on PLOS.org. "Demonstration of Protein-Based Human Identification Using the Hair Shaft Proteome," can be read at www.journals.plos.org .

Sources:

[Say goodbye to DNA testing](#): US researchers tout revolutionary hair-protein identification method, *RT.com*, Sep. 8, 2016.

[Demonstration of Protein-Based Human Identification Using the Hair Shaft Proteome](#), By Glendon J. Parker, Tami Leppert, et al., *PLOS.org*, Sept 7, 2016.

[LLNL-led team develops forensic method](#) to identify people using human hair proteins, By Stephen Wampler, Lawrence Livermore National Laboratory, September 7, 2016.

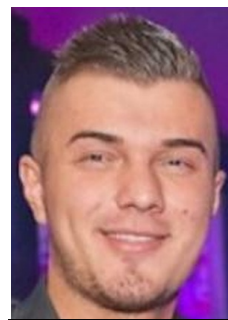
Edin Mehic's Public Belching Conviction Overturned On Appeal

Edin Mehic's public indecency conviction for belching in Vienna's Prater Park [was overturned](#) on April 18, 2017.

Mehic, 27, was living in Vienna, Austria and working as a bartender, when he took a walk in Prater Park on Sunday, February 7, 2016. He bought a Turkish Kebabkette (kebab) from a vendor and had it prepared the way he likes it: spicy with a lot of onion.

After Mehic ate his kebab he belched while standing near a policeman.

The policeman confronted Mehic about breaching the peace with his belch. Mehic [told the](#) policeman he had just eaten a kebab, and asked why he wasn't "picking up real criminals" in the park who were obviously consuming and selling illegal drugs. The officer disregarded Mehic's com-



Edin Mehic at work in Vienna (Edin Mehic Fa-

ments and cited him for public indecency.

Mehic was found guilty and sentenced to pay a fine of €70 (Euros) (US\$75).

Mehic posted information about his case on [his Facebook page](#). He wrote about his burb: "Quite honestly, this

was a normal burglar, not the mating cry of an elk."

Mehic's case received much publicity in Europe.

The international kebab chain Kasap Doner based in Turkey paid Mehic's fine, and invited him to visit Istanbul with all-expenses paid.

To protest Mehic's case, in April 2016 a 'flash mob' of several hundred people congregated in Prater Park, and they burped in unison while

standing next to police officers.

Mehic appealed his conviction, arguing that he involuntarily burped after he quickly ate his kebab that was spicy with a lot onion.

On April 18, 2017 Mehic's conviction was overturned by a court in Vienna on the basis his unintentional belch didn't constitute a breach of the peace under the public decency law.

Mehic's lawyer, Heinz Robathin, [told a reporter](#) for the *Daily Mail* (London) that "It's all a question of perspective. If my client had done it in the opera or theatre, I could probably understand somebody complaining. But not in the Praterstern, where there are drug dealers and other people of a dubious character on a daily basis. People burping a hardly rare there. This is such an abuse of police authority that it borders on misconduct."

Sources:

[Court overturns Austrian's conviction](#) for belching near police officer, *The Guardian* (London), April 21, 2017

[Vienna police fine man](#) €70 for 'loud belch', *The Guardian* (London), February 22, 2016

Edin Mehic (Vienna, Austria), [Facebook page](#) [Man is fined by police for belching](#) loudly while he ate a kebab in Vienna — and blames it on 'too many onions', *Daily Mail* (London), February 23, 2016

Kasap Doner, website, at www.kasapdoner.com/#Main/5



Vienna bartender appeals fine for public belching - and wins

In 2016 82% Of Death Row Prisoners In India Were Acquitted Or Had Sentence Commuted On Appeal

82% of prisoners sentenced to death in India whose appeal was decided in 2016 were either acquitted or had their death sentence commuted to a lesser sentence by an appeals court.

“Death Penalty In India: Annual Statistics 2016,” a report by the Centre on the Death Penalty at the National Law University in Delhi, India, documents that 21% of death row prisoners were acquitted on appeal, while 61% had their sentence reduced to life in prison or a lesser sentence. The conviction and sentence of death was affirmed for only 15 of the 83 death row prisoners who had their appeal decided in 2016.

In 2016 there were 73 death penalty appeals decided By India’s High Court, and India’s Supreme Court decided 10 appeals of the High Court’s confirmation of the conviction and sentence in a death penalty case. While the High Court confirmed the conviction and death sentence in 15 of the 73 cases it decided, the Supreme Court did not confirm the death sentence in any of the 10 cases it decided: acquitting three defendants and commuting the sentence of seven defendants.

The following are the results of the High Court and Supreme Court decisions in 2016 of death penalty cases.

High Court death penalty case appeals decided in 2016

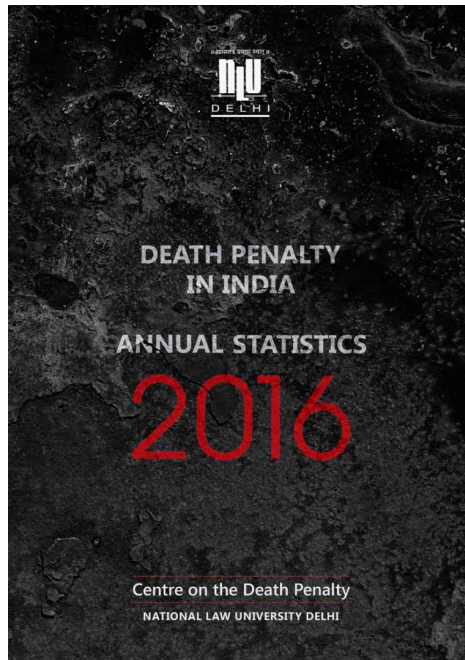
No. of cases: 73
No. of defendants acquitted: 14 (19%)
No. of death sentences commuted: 44 (60%)
No. of convictions and death sentences confirmed: 15 (21%)

Supreme Court death penalty case appeals decided in 2016

No. of cases: 10
No. of defendants acquitted: 3 (30%)
No. of death sentences commuted: 7 (70%)
No. of convictions and death sentences confirmed: 0 (0%)

Total cases decided

No. of cases: 83
No. of defendants acquitted: 17 (21%)
No. of death sentences commuted: 51 (61%)
No. of convictions and death sentences confirmed: 15 (18%)



The report noted the Supreme Court commuted one prisoners death sentence to 25 years in prison. However, the norm is for a commutation to mandate imprisonment for the remainder of the person’s natural life, or to impose a life sentence with the possibility of release.

Prisoners whose death sentence is upheld on appeal can submit a petition for mercy to the Governor of the state in which they were convicted, or the President of India. In 2016 India’s President Pranab Mukherjee granted the mercy petition of death row prisoner Jeetendra Nainsingh Gehlot, and commuted his sentence to life in prison. Gehlot had been on death row for more than 18 years before his sentence was commuted. Mukherjee rejected the mercy petitions of six other death row prisoners. The “Death Penalty In India” report for 2016 also noted that in January 2017 President Mukherjee granted the mercy request of four men who were codefendants, and commuted their sentences to life in prison. The men had spent 15-1/2 years on death row since their convictions in June 2001.

In India virtually all death sentences are related to a murder conviction. In 2016 only one of 136 death sentences issued by a trial court wasn’t related to a conviction involving murder, and that exception was a drug trafficking case.

India’s legal system -- as does the U.S. legal system -- has many similarities to the English legal system, an inheritance of more than 150 years of British Colonial rule. Article 22 of India’s Constitution guarantees the right of every arrested person to

consult or be defended by a legal practitioner of her choice. However, as in the U.S., the substandard quality of the legal representation often provided to indigent defendants at the trial court level in India is a major problem. That deficiency in India contributes to a defendant’s conviction of a crime he or she didn’t commit -- as evidenced by the 21% acquittal rate on appeal in 2016 -- and the imposition of the death penalty in cases where it is inappropriate under the law -- as evidenced by the 61% commutation rate to life in prison or a lesser sentence on appeal.

However, a major difference between legal system in India and the U.S. is that appellate courts in India are far more likely to correct the error of a person’s wrongful conviction by ordering an acquittal, or correcting the improvident imposition of a death sentence.

The “Death Penalty In India: Annual Statistics 2016” can be read online at, www.deathpenaltyindia.com/wp-content/uploads/2016/12/Annual-StatisticsReport-2016.pdf.

“The Death Penalty In India: Annual Statistics 2016” report is a follow-up to the “Death Penalty India Report” that was published in 2016 by the Centre on the Death Penalty at the National Law University in Delhi, India. The Report can be read online at, www.deathpenaltyindia.com/wp-content/uploads/2016/05/Death-Penalty-India-Report-Summary.pdf.

That report included information related to every death penalty case in India from 2000 to January 2015. You can read a detailed summary of that report in Justice Denied’s July 2016 article, “Thirty Percent Of Death Row Prisoners In India Are Acquitted On Appeal,” online at, <http://justicedenied.org/wordpress/archives/3254>.

Sources:

“Death Penalty In India: Annual Statistics 2016,” Centre on the Death Penalty at the National Law University in Delhi, India, 2016. Online at, www.deathpenaltyindia.com/wp-content/uploads/2016/12/Annual-Statistics-Report-2016.pdf

Death Penalty India Report (Summary) – 2016, by Dr. Anup Surendranath (Author, Preface), Shreya Rastogi (Author), Lina Mathias (Editor) www.deathpenaltyindia.com/wp-content/uploads/2016/05/Death-Penalty-India-ReportSummary.pdf

Thirty Percent Of Death Row Prisoners In India Are Acquitted On Appeal, By Hans Sherrer, Justice Denied, July 26, 2016. Online at, www.justicedenied.org/wordpress/archives/3254



Vietnam Revising Wrongful Imprisonment Compensation Law

Vietnam is [considering revisions](#) to its 2009 Law on State Compensation Liability. The law, which took effect in 2010, provides for the payment of compensation to a person who had been imprisoned as the result of a wrongful conviction. Prior to the 2009 law compensation was on an ad hoc basis.

Among the proposed changes are:

- A wrongly convicted person must be automatically compensated after documentation of their overturned conviction has been filed. Under the current law an exonerated person has to file a lawsuit for compensation. Proponents for the change argue that not all people understand their legal rights, especially those with low levels of education and those in remote and isolated areas.
- The closest heirs/next of kin of a wrongfully convicted person who has passed away before being compensated, receive the equivalent of 360 months (30 years) of basic salary in Vietnam.
- State agencies involved in a person's wrongful conviction must publicly apologize to the person. Under the current law an exonerated person has to file a petition to receive a public apology from the State agencies involved in their case. Proponents for the change argue the requirement to file a petition is not a "rational regulation" because restoring the person's honor is a public duty of the State.
- Compensation must be awarded for mental damage suffered by the relatives of a wrongly convicted person. Proponents argue that relatives of a wrongly convicted person suffer serious mental losses regardless of whether the wrongly convicted person is alive or dead.

Deputy Luu Binh Nhuong from Ben Tre Province, is one of the most vocal advocates for the State's acceptance of responsibility for a wrongful conviction, and the automatic award of compensation and an official apology. Nhuong [said about the proposals](#): "We are building a service State which does not require the people to request services but in which the State must actively serve the people. I agree that the State needs to carry out this obligation more actively than requiring people to request it themselves." Nhuong [also said](#): "We're building a State that works for the people, we have to



Huynh Van Nen in Dec 2015 after his release from 17-1/2 years wrongful imprisonment. (Tuoi Tre)

be fair with the people. We can't do something right only when the people ask for it."

Vietnam's current compensation law has some very progressive provisions. The law provides for the award of compensation on a case by case basis for lost income, mental anguish, diminished health, and other losses related to a person's wrongful conviction and imprisonment.

The current law is the only known compensation scheme in the world that provides for financial accountability by officials responsible for a person's wrongful conviction. Under a document known as Inter-Circular 4 filed in the People's Supreme Court in 2016, public officials held responsible for a person's wrongful conviction would be required to reimburse the State for compensation paid to the person under the following formula:

- 3 to 12 months salary for compensation less than VND100 million (US\$4,394).
- 12 to 24 months salary for compensation from VND100 to VND 500 million (US\$4,394 to US\$21,970).
- 24 to 36 months salary for compensation above VND500 million (US\$21,970 plus).

While the amount reimbursed by the officials is relatively small compared to the compensation paid by the State in a given case, it is a significant amount for those officials. Thus it could result in caution by law enforcement officials before proceeding with a case involving considerable doubt about a person's guilt.

At least five people in Vietnam have been paid wrongful conviction compensation:

- Luong Ngoc Phi, \$2,013,541 for 3 years imprisonment. Convicted of fraud. (Includes compensation for damage to business.)
- Huynh Van Nen, \$440,000 for 17-1/2 years imprisonment. Convicted of murder in two separate and unrelated cases. (Only person in Vietnam known to have been wrongly convicted in multiple cases.)
- Nguyen Thanh Chan, \$360,000 for 10 years imprisonment. Convicted of murder and robbery.
- Tran Hong Nguyen, \$29,957 for 3 years imprisonment. Convicted of child sexual assault.

- Tran Van Chien, \$11,300 for 16 years imprisonment. Convicted of murder and robbery.

The Innocents Database includes 21 people wrongly convicted in Vietnam. It is online at, www.forejustice.org/idbinternational.html.

Sources:

[Compensation for wrongful convictions](#) tops NA concerns, Nhandan.org, June 1, 2017

[State asked to apologise](#) to wrongfully convicted, By Staff, VietNamNews.vn, June 1, 2017

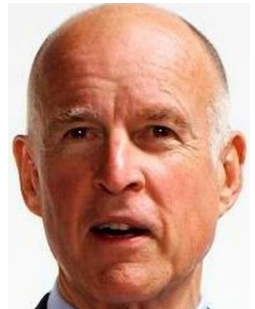
[Individual financial liability](#) for state compensation payouts confused, TalkVietnam.com, May 7, 2017



23 Appointees For Calif. Judgeships Include Corporate Lawyers And Prosecutors

California Governor Jerry Brown [appointed](#)

23 Superior Court judges on May 22, 2017. Nineteen of the 23 were working for a government related agency at the time of their appointment. Of the four who weren't, three worked for corporate law firms that could be expected to have political connections. One was a sole practitioner in Redding, California.



California Governor Jerry Brown (State of Calif.)

A judicial appointment is often a form of political patronage. Gov. Brown is a Democrat, and 17 of the appointees are Democrats.

Superior Court judges have a base salary of \$191,612 annually.

The 23 appointees were working as:

- One was an assistant district attorney.
- One was a city attorney.
- Four were an assistant U.S. Attorney.
- Six were a Superior Court commissioner.
- Six were a county public defender.
- One was a low-income legal services attorney.
- Three were a corporate lawyer.
- One was a sole practitioner.

Source:

Brown's 23 New Trial Judges Include Ex-Big Law, Prosecutors, By Cheryl Miller, The Recorder, 5-22 2017. Online at, www.tinyurl.com/yd3nymen.



Attorney Kevin Wray Suspended For Failing To Properly Represent Seven Clients In Pennsylvania

Attorney Kevin Mark Wray [has been](#) suspended from practicing law for one year and one day by the Pennsylvania Supreme Court's Disciplinary Board for failing to properly represent seven clients in criminal cases.

Kevin Wray lives in Frazer, but his office is in Media, in Chester County. Wray's Facebook page [states he is a](#) "Pennsylvania Criminal Defense Lawyer," and he has "been serving the criminally accused in Pennsylvania since 2006." Wray is in private practice.

On February 3, 2017 the Pennsylvania Supreme Court's Office of Disciplinary Counsel [filed a Petition for Discipline](#) that named Wray as the Respondent. The Petition was based on Wray's alleged unprofessional conduct in representing seven clients. Wray's conduct included: he missed filing deadlines; he failed to appear for trial; he did not tell clients that the appeal in their case had been dismissed; he accepted and spent payment from clients without performing the work he agreed to do; and, he continued accepting payments from a client whose appeal had been dismissed.

Summaries of Wray's alleged conduct in the seven cases follows:

- "Charge One: Criminal Contempt — The James M. Walters Matter." Wray failed to appear on March 29, 2016 for the jury trial of a client charged with DUI, without informing his client, the judge, or the prosecution that he would not attend jury selection and the trial. After waiting for hours the judge appointed stand-by counsel to assist Wray's client, who was found guilty by the jury on March 30. The trial judge initiated a criminal contempt action against Wray. On April 1, 2016 Wray appeared for the contempt hearing and was found guilty of Criminal Contempt. He was sentenced to pay a fine of \$1,000 and to reimburse Berks County the \$1,500 legal fee incurred to pay the stand-by counsel provided to Wray's client. He had 30 days to pay the \$2,500. Wray filed an appeal but it was dismissed because of his failure to file a brief. (It isn't known if he paid the \$2,500.) Wray didn't report his criminal contempt conviction to the Pennsylvania Supreme Court's Office of Disciplinary Counsel as he was required to do.



ed another attorney to represent his client.

- "Charge Three: The Anthony A. Williams Matter." Wray represented a client in 2010 who pled guilty to one count of indecent assault. In 2012 Wray agreed to file an appeal seeking removal of his former client's classification as a sexual predator that required him to report as a sex offender. Wray accepted \$400 for the appeal. Wray filed the notice of appeal in January 2013, but it was dismissed in August 2013 because Wray didn't file a brief. Wray didn't communicate with Williams his appeal had been dismissed.

- "Charge Four: The Bruce Scott Mano Matter." In September 2014 Wray agreed for a flat fee of \$3,000 to represent Bruce Mano in appealing his conviction for writing bad checks. Wray filed a notice of appeal. In May 2015, the appeal was dismissed because Wray didn't file a brief. Wray didn't tell his client until a year later, in May 2016, that his appeal had been dismissed.

- "Charge Five: The Ideem A. Sales Matter." In April 2014 a client who paid Wray \$3,500 was found guilty after a trial of possession of a controlled substance and illegal possession of a firearm. Wray then agreed to represent Ideem Sales on appeal. Wray filed a notice of appeal in August 2014. The appeal was dismissed in April 2015 because Wray didn't file a brief. Wray didn't communicate with Sales his appeal had been dismissed.

- "Charge Six: The Edward J. Sturges Matter." In December 2013 a client who paid Wray \$1,500 was found guilty of DUI: Controlled Substance. After sentencing Wray agreed to represent Edward Sturges on appeal if he paid the \$220 filing fee, which he did. In January 2014 Wray filed a notice of appeal. The appeal was dismissed in March 2015 because Wray didn't file a brief. Wray didn't communicate with Sturges his appeal had been dismissed.

- "Charge Seven: The Deneen McClelland Matter." In February 2016 Wray agreed to

- "Charge Two: The Tiffanie Hardy Matter." Wray failed to appear on September 2, 2015 for the status conference in a child endangerment case in Delaware County, without informing his client, the judge, or the prosecution that he would not attend. The judge ordered Wray removed from the case and appoint-

file an appeal of Deneen McClelland's theft conviction. Wray filed a notice of appeal. In November 2016 the appeal was dismissed because Wray didn't file a brief. Wray continued accepting \$500 monthly payments from McClelland after her appeal was dismissed, and he didn't inform her about the dismissal of her appeal.

Wray filed his Answer to the petition on February 24, 2017, in which he admitted to relevant factual allegations.

On April 4, 2017 a prehearing conference was held.

On May 3, 2017 a three-member panel of the Disciplinary Board [issued its](#) "Joint Petition In Support Of Discipline On Consent." The "Joint Petition" stated in part:

113. ODC and Respondent [Wray] jointly recommend that the appropriate discipline for Respondent is a suspension of one year and one day.

115. Respondent hereby consents to the discipline being imposed upon him by the Supreme Court of Pennsylvania.

On July 6, 2017 the Supreme Court of Pennsylvania accepted the recommendation of the Disciplinary Board, [and ordered](#): "Kevin Mark Wray is suspended on consent from the Bar of this Commonwealth for a period of one year and one day."

The "Order" and the "Joint Petition In Support Of Discipline On Consent" in *Office of Disciplinary Counsel v. Kevin Mark Wray*, No 19 DB 2017 (Sup. Ct. Disciplinary Bd., July 6, 2017) can be read online at, www.pacourts.us/assets/opinions/DisciplinaryBoard/out/19DB2017-Wray.pdf.

The Pennsylvania Supreme Court Disciplinary Board's website shows the current status of the law license for Kevin Wray, ID No. 93860. The weblink is: www.padisciplinaryboard.org/lookup/pa-attorney-search.php.

Sources:
The Disciplinary Board of the Supreme Court of Pennsylvania, online at, www.padisciplinaryboard.org.

Office of Disciplinary Counsel v. Kevin Mark Wray, No 19 DB 2017 (Sup. Ct. Disciplinary Bd., July 6, 2017) (Order). Online at, www.pacourts.us/assets/opinions/DisciplinaryBoard/out/19DB2017-Wray.pdf.

Office of Disciplinary Counsel v. Kevin Mark Wray, No 19 DB 2017 (Sup. Ct. Disciplinary Bd., May 3, 2017). Online at, www.pacourts.us/assets/opinions/DisciplinaryBoard/out/19db2017-wray.pdf#search=%22wray%22.

[Attorney in Chester County kidnapping case suspended](#), *Daily Local News*, July 10, 2017. Online at, www.dailylocal.com.

Law office of Kevin Mark Wray, Facebook.com (last viewed 7-12-2017). Online at, <https://www.facebook.com/Law-Office-of-Kevin-Mark-Wray-342910062482446/>



Lady Justice Statue Removed From Entrance To Bangladesh's Supreme Court Building

A statue of a blindfolded lady holding the scales of justice [has been removed](#) from the entrance to Bangladesh's Supreme Court Building. The removal was in response to massive protests by Muslims that public display of the statue is prohibited by Islam.

During the almost 200 year British rule of India, what is today known as the country of Bangladesh was the Indian province of East Bengal. When India became independent in 1947, it was partitioned into two countries: the Hindu majority areas remained in India, and the Muslim majority areas became the new country of Pakistan. With a Muslim majority, East Bengal became a part of Pakistan, and in 1955 it was renamed East Pakistan. Pakistan and East Pakistan were not contiguous, with India separating them by almost 1,000 miles. In early 1971 East Pakistan declared its independence from Pakistan. A short but bloody war for independence ended in December 1971 with victory by the insurgents.

The new country was called Bangladesh. As a former British colony, it became a member of the (British) Commonwealth of Nations.

As a result of its long history of British governance, Bangladesh's legal system is based on the English Common Law, and English is the primary language of the legal system. The website of the Supreme Court of Bangladesh is in English, and decisions are published in English.

Bangladesh's Constitution adopted in 1972 declares it is a secular country, even though for centuries it has had a Muslim majority. They were a majority when the British took control of East Bengal in 1757, and today over 90% of Bangladesh's population is Mus-



Statue of a blindfolded lady holding the scales of justice in front of Bangladesh's Supreme Court Building in Dhaka. (supremecourt.gov.bd)

lim. Less than 1/2 of 1% of its population is Christian.



Protesters demanding removal of lady justice statue from the front of Bangladesh's Supreme Court Building on Feb 24, 2017. (Dhaka Tribune)

In December 2016 the dichotomy of Bangladesh having an overwhelmingly Muslim population living under a system of laws that originated in predominately Christian England was publicly exposed when a statue of a blindfolded lady holding the scales of

justice was erected at the entrance to Bangladesh's Supreme Court Building in the capital of Dhaka. The 2-1/2 ton stainless-steel statute was created by well-known Bangladeshi sculptor Mrinal Haque. The sculpture was commissioned by the Supreme Court and cost about \$22,000.

In Dhaka there were mass protests of the statue as a "sin" against Islam, and the angry protesters demanded its removal. The protests were coordinated by the Islamic organization Hefazat, which believes Islam bars the public display of art depicting living beings. Hefazat claimed the statue defiled Islam by representing Themis, the Greek goddess of justice. Police in riot gear were unable to prevent the mass protests from blocking major streets in Dhaka.

Hefazat ascribes to a strict interpretation of the Koran and enforcement of Islam by Sharia law. Its leaders [demand a](#) "ban on foreign culture, including free mixing of men and women," which includes separation of boys and girls in public schools. They also demand imposition of the death penalty for anyone found guilty of blaspheming Islam or Muhammad.

In a capitulation to the protests, in the middle of the night at 2 am on May



Statue of lady holding scales of justice removed at 2am on May 26, 2017.

26, 2017 the statue was removed under heavy police security. Hefazat responded by demanding the removal of all public statutes of a person in Bangladesh.

Supporters of a secular Bangladesh condemned the Supreme Court's capitulation to Hefazat. In what was viewed as a compromise between the secularists and the Islamists, two days after the statue was removed the Supreme Court ordered its re-erection in a location not visible to the public from the street.

Sculptor Haque denies the statue is of Themis. He reacted to the moving of the statue [by telling reporters](#) it had been "sent to isolation" 300 yards from where it had been originally erected. He said: "I am still disappointed. People won't be able to see it. I am also worried because the fundamentalists are still protesting against the sculpture's relocation."

The Innocents Database [includes four people](#) exonerated in Bangladesh. It is online at www.forejustice.org/idbinternational.html.



Statue of a blindfolded lady holding the scales of justice in front of Bangladesh Supreme Court annex building where it was installed on May 28, 2017 (Abir Abdullah/European Pressphoto Agency)

Sources:

[Bangladesh Orders Statue of Woman](#) at Supreme Court Put Back Up, By Julfikar Ali Manikmay (Asia Pacific), *The New York Times*, May 28, 2017

[Statue of Woman Removed](#) From Bangladesh's Supreme Court, By Julfikar Ali Manikmay and Ellen Barrymay (Asia Pacific), *The New York Times*, May 26, 2017

Visit Justice Denied's Website

www.justicedenied.org

Back issues of *Justice: Denied* can be read, there are links to wrongful conviction websites, and other information related to wrongful convictions is available. JD's online Bookshop includes more than 70 wrongful conviction books, and JD's Videoeshop includes many dozens of wrongful conviction movies and documentaries.

Ildar Dadin Has Three Strikes Illegal Protesting Conviction Overturned

Russia's Supreme Court [has overturned](#) Ildar Dadin's conviction for illegal protesting. On February 22, 2017 the Court ruled the prosecution introduced insufficient evidence to prove he violated illegal protesting law Article 212.1.

In the summer of 2014 Russia's Parliament passed Criminal Code Article 212.1 that concerned crimes related to unsanctioned public protests. The law included a "three-strikes" provision: anyone convicted three times of 'violating the regulations governing public rallies' within a six-month period is subject to felony prosecution. Upon conviction a defendant can be sentenced to up to five years in prison and a maximum fine of one million rubles (About \$17,200).

Article 212.1 went into effect in January 2015.

Ildar Dadin was the first person prosecuted for violating Article 212.1. His prosecution was based on his three convictions for illegally protesting in Moscow within a six month period of time, after Article 212.1 went into effect. Dadin was not involved in any violent protests.

In December 2015 Dadin was convicted in the Moscow City Court. He was sentenced to 3 years in prison, and sent to a Siberian prison.

Peaceful protests were held in St. Petersburg and Moscow by Dadin's supporters. In Moscow they released balloons with Dadin's picture on them.

Dadin appealed. On March 31, 2016, with about 100 supporters in the courtroom, his [conviction was affirmed](#), but his sentence



Supporters of Ildar Dadin protest his imprisonment by releasing balloons with his picture on them in Moscow, Russia.



Ildar Dadin protesting in Moscow (BBC News)

was reduced to 2 years 6 months in prison.

Dadin appealed that ruling, arguing that Article 212.1 was unconstitutional.

On February 10, 2017 Russia's Constitutional Court upheld the constitutionality of Article 212.1, but [ruled it had to be](#) applied proportionately, by consideration of "the real scale of public danger" presented by a protester's actions.

Based on the Constitutional Court's ruling, the prosecution withdrew its opposition to Dadin's appeal. The prosecution acknowledged there was a lack of evidence Dadin's protests had presented any "public danger."

Twelve days later, on February 22, 2017, Russia's Supreme Court vacated Dadin's conviction on the basis of the prosecution's admission there was insufficient evidence he had violated Article 212.1. Dadin's case was ordered closed, and he was ordered to be released by the prison upon its receipt of the Supreme Court's order.

Dadin was expected to be released on Monday, February 27, when his lawyer is allowed to visit him.

Dadin is believed to be the only person prosecuted under Article 212.1.

Sources:

[Russian High Court Vacates Dadin Conviction](#), Orders His Release, RadioFreeEurope, Radio Liberty, Feb. 22, 2017

Ildar Dadin: [Russian activist jail term quashed](#), BBC News, February 22, 2017

[Russia's Criminalization of Protest](#): Ildar Dadin's Appeal and Article 212.1, By Paula Chertok, East West Blog, [paulachertok.com](#), April 1, 2016

[Russia court questions jailing of peaceful activist](#) Ildar Dadin, By Sarah Rainsford, BBC News, February 10, 2017

The Next Three Days

Review by [Hans Sherrer](#) of the movie *The Next Three Days*

What does a person do if he or she believes their spouse has been convicted of a murder they didn't commit and they are facing a life sentence with their appeals exhausted? That is the premise of *The Next Three Days* starring



Russell Crowe as community college teacher John Brennan and Elizabeth Banks as his wife and convicted murderer Lara.

Lara's boss is found dead in a parking lot after the two of them had an intense argument at work. Lara is arrested for the murder after her fingerprints are found on the murder weapon, a small fire extinguisher. When Lara is arrested hours after the murder, the dead woman's blood is found on her blouse she is still wearing because she and her husband went out to dinner after she left work.

The prosecution's case is airtight. Her fingerprints are on the murder weapon, the murdered woman's blood is on her blouse, and the person who found the body saw Lara drive out of the parking lot where the murder occurred. Yet, Lara insists she didn't see her boss after leaving work. She said that as she was walking into the parking lot a woman running out of the parking lot bumped into her, and that she saw the fire extinguisher lying on its side in front of a tire so she picked it up and set it out of the way. Lara said the blood must have gotten on her blouse from bumping into the woman running from the parking lot – who she insists must be the murderer.

With no eyewitness corroborating her account about the running woman, Lara is convicted of first-degree murder and sentenced to life in prison.

When Lara's appeals are exhausted, no new evidence is discovered supporting her account of what happened, and her lawyer says her legal case is over, John is faced with accepting that his wife's fate is sealed. But he doesn't meekly accept that his wife who he believes is innocent is going to die in prison and that their young son will grow up without his mom. Since the system has

Next cont. on p. 20

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Next cont. from p. 19

failed to find the truth his wife isn't a murderer, John decides to look outside the system for an answer to freeing his wife.

John contacts an ex-convict who has written about his experiences that include successful escapes from prison. The ex-con, played by Liam Neeson, meets with John and tells him what is needed to first figure out how to escape, then how to not get caught, and having the guts to do whatever it takes to carry out the plan.

The bulk of the movie is about how John goes about figuring out how to spring his wife and then get away so they won't be captured. Somewhat remarkably the portrayal of John's quest is believable. He approaches freeing his wife exactly the way one would expect a college teacher to do it – with brains and finesse. His biggest challenge is rising above his middle class mindset to tap the resourcefulness and inner strength necessary to do what needs to be done. And John's challenge is compounded when he has to accelerate his plan after learning Lara is going to be moved to a new prison in the next three days.

The Next Three Days is a thoughtful movie that mainly relies on suspense, but in the action scenes neither John nor Lara do anything that an ordinary person couldn't do. There are no obvious special effects, which helps to make the storyline and the action believable.

The Next Three Days is a terrific movie whether it is viewed as a suspense movie, an action movie, or a movie about the undying love of a husband for his wife and son. And yes at the end you do find out if Lara is guilty or the innocent victim of an inadequate police investigation – but you'll have to see the movie to find out.

The plot of The Next Three Days' plot is as relevant as today's news, because family members of untold thousands of innocent people in this country are faced with the terrible reality that John has to face – he simply chooses a different and more proactive way to deal with it.

The Next Three Days is available on DVD and Blu-ray. [Click here to see the movie's trailer.](#)

Information about *The Next Three Days* is on the [Internet Movie Database](#) website.

Starring Russell Crowe, Elizabeth Banks, Liam Neeson and Brian Dennehy
Directed and written by Paul Haggis

Justice Denied's Mobile Device Homepage Is Online!

Justice Denied's [mobile device homepage](#) is online. The mobile friendly homepage has the narrow width recommended for smartphones and other mobile devices.

Justice Denied's homepage detects when it is accessed by a mobile device, and the user is automatically redirected to the mobile homepage. There is also a link to the mobile homepage in the upper right-hand corner of [Justice Denied's homepage](#).

The mobile friendly homepage was created because half of all visitors to Justice Denied's website now use a hand-held device. The following shows the growth of hand-held devices used to access [justicedenied.org](#).

Year	Desktop	Mobile	Tablet
2008	100%		
2009	99.7%	0.3%	
2010	97%	3%	
2011	92%	8%	
2012	82%	13%	5%
2013	72%	19%	9%
2014	61%	28%	11%
2015	51%	37%	12%
2016	50%	39%	11%
2017	49%	43%	8%

Justice Denied's mobile device homepage is [www.m.justicedenied.org](#).

Visit the Innocents Database

Includes details about more than 121,000 wrongly convicted people from the U.S. and other countries.

www.forejustice.org/exonerations.htm

Visit the Wrongly Convicted Bibliography

Database of hundreds of books, law review articles, movies and documentaries related to wrongful convictions.

www.forejustice.org/biblio/bibliography.htm

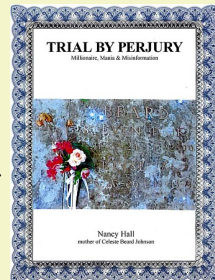
"The federal court safety-value was abruptly dismantled in 1996 when Congress passed ... the Antiterrorism and Effective Death Penalty Act. ... We now regularly have to stand by in impotent silence, even though it may appear to us that an innocent person has been convicted.

Federal 9th Circuit Judge Alex Kozinski "Criminal Law 2.0," 44 *Geo. L.J. Ann. Rev. Crim. Proc.* (2015) (Preface, iii)

Trial by Perjury: Millionaire, Mania & Misinformation

by Nancy Hall

This \$3.99 [Amazon Kindle e-book](#) book is about how Celeste Beard Johnson was convicted in 2003 of capital murder in the death of her then husband Steven F. Beard,



who died of natural causes in 2000. She was sentenced to life in prison.

While in bed at home in Oct. 1999, Steven was shot in his stomach with a shotgun. Tracey Tarlton, a woman who became infatuated with Celeste after they met in February 1999, admitted the shooting and she was charged with Injury to an Elderly Person. Steven recovered and was discharged from the hospital on January 18, 2000. The next day he was readmitted with a yeast infection and he complained of chest pains. Exams showed he had severe heart disease and other medical problems. He died four days later. Tarlton and Celeste were charged with murdering Steven. Tarlton pled guilty and agreed to testify against Celeste in exchange for a 10-20 year prison sentence. Celeste was convicted even though medical evidence showed Steven died of natural causes – not murder. Order for the Amazon Kindle for only \$3.99 from [Amazon.com](#). (252 pgs)

Database of Japanese Cases

The Japan Innocence & Death Penalty Information Center has a database of wrongful Japanese convictions online at,

<http://www.jiadep.org>

Visit Justice Denied's WordPress Page

Justice Denied's Wordpress page has the latest articles and information. See,

www.justicedenied.org/wordpress

Justice Denied's Website Has Had Visitors From 225 Countries

Justice Denied's website has had visitors from 228 countries through 2017. Those visitors were from more than 21,850 cities and towns. Six of the 20 cities where the most visitors were from are outside the U.S.

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Cecilia Becomes First Non-Human Person Freed By Habeas Corpus From Illegal Imprisonment

Cecilia, a chimpanzee in Argentina, has become the first non-human person in the world [freed from](#) illegal imprisonment by the granting of a writ of habeas corpus. On April 5, 2017 Cecilia [arrived at the](#) Sanctuary of Large Apes in Sorocaba, Brazil. She was transported from the zoo in Mendoza, Argentina where a judge ruled she had been illegally imprisoned for 20 years.

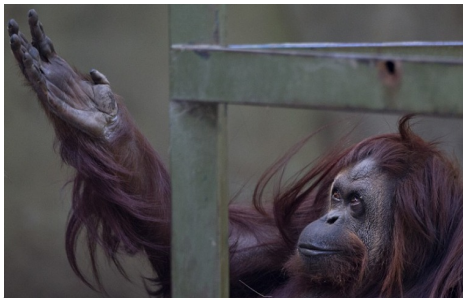
Chimpanzees, orangutans, gorillas, and humans are hominid primates, and they are the four members of the Hominidae family known as “great apes.”

In 2012 a zoologist at the Buenos Aires Zoo considered sending Sandra, a 28-year-old orangutan, to a sanctuary. Sandra was born in Germany, but she had been in the Buenos Aires Zoo for about 20 years. No action was taken to relocate Sandra.

In November 2013 lawyers for Argentina’s Association of Professional Lawyers for Animal Rights (AFADA) filed a writ of habeas corpus on behalf of Sandra. The petition asserted she was a non-human person who should be freed and sent to a sanctuary because she was “suffering an unwarranted confinement.” The AFADA lawyers argued Sandra was not an object, and deserved the basic rights of a non-human person because she was intelligent, aware of the passage of time, and self-aware enough to understand and be negatively affected by her confinement.

Sandra’s petition was denied, and her lawyer’s appealed.

On December 18, 2014 the appeal court judges [unanimously granted](#) Sandra’s writ of habeas corpus. Sandra was wrongfully imprisoned was based on their historic deci-



Sandra the orangutan, in December 2014 after court ruled she is a non-human person entitled to habeas corpus relief. (AP)



Cecilia, the Argentine female chimpanzee freed after having her habeas corpus petition granted.

sion she was a non-human person who had the right to life, liberty and freedom from harm. It was the first time a non-human was granted those legal rights previously reserved for “human persons.”

However, after the ruling Sandra remained at the zoo, so she wasn’t freed from her confinement.

The 99.4% genetic identity chimpanzees share with humans is more than other hominids, and they are very social, rational, and emotional beings. Their proximity with man is so close that a chimpanzee could be a blood donor to humans and vice versa.

Cecilia had been confined for about 20 years at the zoo in Mendoza, Argentina, where she was born, when her two chimpanzee companions died: Charly in July 2014; and Xuxa in January 2015. During those two decades Cecilia and her companions had been confined to an approximately 60’ square concrete cage with steel bars that was not exposed to sunlight.

In June 2015 AFADA filed a writ of habeas corpus on Cecilia’s behalf [that alleged](#), “Cecilia has been illegally and arbitrarily deprived from her freedom of movement and a decent life by the authorities of the zoo of Ciudad de Mendoza, Argentina.” The petition asserted that because of the conditions of Cecilia’s incarceration and the death of her companions, “her health, physical, and emotional state is extremely deteriorated and worsens each day with an evident risk of death.”

Furthermore, the [petition asserted](#) Cecilia “is treated as a slave, unfairly and illegally deprived of her liberty of movement, like many other non humans. Cecilia has not committed any crime in order to be enduring an unnecessary suffering of this nature in an extreme confinement situation that is nothing more than a sine die illegal and unjustified confinement of a sentient being, who is not a thing and should not be treated as one, and without an order for such confinement from a competent authority, a judge.” Consequently, it is “the duty of the State to urgently order to free this non human person, who is not a thing, therefore cannot be subjected to the legal status of property that anyone has the power to dispose of.”

The [petition requested](#) that the court order “the liberation of Cecilia the chimpanzee, who has been illegally and arbitrarily deprived from her liberty of movement at the Mendoza Zoo and her immediate transfer and final relocation to the Chimpanzee Sanctuary of Sorocaba located on the Estado de Sao Paulo, Brazil...”

On November 3, 2016 Judge Maria Alejan-



Cecilia in her cage at the Mendoza Zoo (Projeto GAP)

dra Mauritius granted Cecilia’s petition. Judge Mauritius’ [ruling stated](#):

“Since neither the procedure regulation of the province, nor any national law specifically contemplates a procedure to evaluate the situation of animals in captivity in zoos or any captivity situation contrary to the basic needs and natural habitat of the animal in question, I consider that the habeas corpus action is the applicable procedure, adjusting the interpretation and decision to the specific situation of an animal deprived of his essential rights while these are represented by the essential needs and conditions of the existence of the animal in whose favor the action is presented.

Under these circumstances, the habeas corpus action, in the present case, has to adjust strictly to preserve Cecilia’s right to live in an environment and conditions appropriate for her species.”

JUDGMENT:

I.- GRANT THE HABEAS CORPUS ACTION presented by Dr. Pablo Buompadre, President of the Association of Officials and Lawyers for Animal Rights, A.F.A.D.A., represented by attorney Dr. Santiago Rauek.

II.- Declare chimpanzee Cecilia, who lives in the Province of Mendoza zoo, a non-human legal person.

III.- Order the transfer of chimpanzee Cecilia to the Sorocaba Sanctuary in the Republic of Brazil, which must be done before the start of fall, as agreed by the parties.” (Presented By A.F.A.D.A About

Cecilia cont. on p. 22

Chimps Kiko And Tommy Denied Habeas Corpus Relief In New York

A New York appeals court has unambiguously affirmed a lower court's denials of habeas corpus petitions that sought the relocation of two chimpanzees, Kiko and Tommy, by their forcible removal from their current owners. Kiko and Tommy are represented by The Nonhuman Rights Project (NhRP) based in Coral Springs, Florida, which argues that chimps have the legal rights of human beings.

Tommy's habeas petitions

NhRP filed a habeas petition on behalf of Tommy on December 4, 2015. The petition alleged he was unlawfully detained in Gloversville, New York. The petition alleged he was owned by Circle L Trailer Sales, Inc. and its officers, who were named as the respondents. The petition [requested the following](#) relief:

a) require Respondents to justify their detention of a chimpanzee named Tommy,



Kiko at the nonprofit Primate Sanctuary in Niagara Falls, NY in July 2013 (AP)

- b) order Tommy's immediate discharge, and
- c) order Tommy's transfer to an appropriate primate sanctuary, which the NhRP suggests is Save the Chimps.

The [petition asserts](#) that Tommy's status as a "person" was not an issue for the court to determine, because "Common law courts whose decisions are a part of New York

common law, and a New York County Supreme Court Justice, have issued writs of habeas corpus or orders to show cause pursuant to a habeas corpus statute, for petitioners not hitherto recognized as legal persons without making the initial determination of personhood ..."

The petition also asserted: "3. The term legal "person" has never been a synonym for "human being" and may designate an entity broader or qualitatively different."

On December 23, 2015 New York County Supreme Court Justice Barbara Jaffe denied Tommy's petition — which was his second petition — [on the basis](#) its allegations were not "sufficiently distinct from those set forth in the first petition."

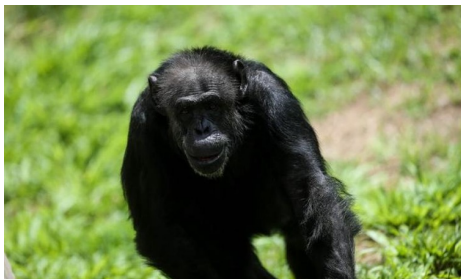
In December 2014 Tommy's first petition was [denied on appeal because](#), Tommy "is not a 'person' entitled to the rights and protections afforded by the writ of habeas corpus" since, "unlike human beings, chimpanzees can't bear any legal duties, submit to societal responsibilities, or be held legally accountable for their actions."

Kiko cont. on p. 23

Cecilia cont. from p. 21

The Chimpanzee "Cecilia" — Non Human Individual, File No. P-72.254/15 (Tercer Juzgado de Garantías, Judicial Power, Mendoza), November 3, 2016.)

There was much opposition in Mendoza to the ruling, including the filing of a legal action that sought to prevent execution of the judgment by alleging: "Cecilia was a property of the Province of Mendoza, which would be forbidden to dispose of her." In early March 2017 Judge Mauritius' [reiterated her ruling](#) and issued a deadline of 30 days for the legal documents of Cecilia's donation to the sanctuary to be finalized, so that her transfer to Brazil could begin.



Cecilia at her new home in the sanctuary of large apes in sorocaba, brazil on 4-12-2017 (EFE - Fernando Bizerra Jr)

After a 48-hour trip, Cecilia [arrived at her](#) new home in the Sanctuary of Large Apes in Sorocaba, Brazil on April 5, 2017. The sanctuary shelters about 50 chimpanzees along with other animals, all from a circus or zoo. Sorocaba is about 60 miles west of São Paulo, Brazil's largest city.

A week after Cecilia arrived, the owner of the sanctuary, Cuban Pedro Alejandro Ynterian, [told a reporter](#) with Agencia EFE, "She's still very distrustful. She has a great ability to adapt and she really wants to, but she's still really afraid of returning to the hell where she was living. When she hears an engine or some truck, she hides because she thinks they're going to take her back."

Judge Mauritius' 33-page ruling in, *Presented By A.F.A.D.A About The Chimpanzee "Cecilia" — Non Human Individual*, File No. P-72.254/15 (Tercer Juzgado de Garantías, Judicial Power, Mendoza), November 3, 2016, can be read online at, [www.nonhumanrightsproject.org/content/uploads/Chimpanzee-Cecilia_translation_FINAL-for-website-2.pdf](#).

The website for the Sanctuary of Large Apes in Sorocaba, Brazil (Santuário de Grandes Primatas) is at: [www.projeto GAP.org.br](#).

There have been several unsuccessful court cases in the U.S. that sought to have animals granted legal rights comparable to those granted in Argentina.

Sources:

[Argentina Grants an Orangutan Human-Like Rights](#): An appeals court sets a precedent by giving an ape legal rights to life, liberty and freedom from harm, By Valeria Román, *Scientific American*, January 9, 2015

[Argentine Chimpanzee Receives Habeas Corpus and Moves to Sanctuary in São Paulo](#), By Phillippe Watanabe (Special Envoy To Sorocaba), *Folha De S.Paulo*, April 6, 2017

"[PRESENTED BY A.F.A.D.A ABOUT THE CHIMPANZEE "CECILIA"- NON HUMAN INDIVIDUAL](#)", FILE NO. P-72.254/15 (Tercer Juzgado de Garantías, Judicial Power, Mendoza), November 3, 2016 (Granting writ of habeas corpus by chimpanzee Cecilia.). Ruling online at, [www.nonhumanrightsproject.org/content/uploads/Chimpanzee-Cecilia_translation_FINAL-for-website-2.pdf](#).

[Lawyers want chimpanzee](#) be declared 'non-human person', *Buenos Aires Herald*, June 12, 2015

[Judge of Mendoza, Argentina](#), decides to send Cecilia to Brazil, [www.projeto GAP.org.br](#), March 2, 2017

[Chimpanzee Cecilia back to nature in Brazil](#) after misery of a jail-like zoo, By Carlos Meneses Sanchez, Agencia EFE (Sao Paulo), April 14, 2017

Santuário de Grandes Primatas. Website at, [www.projeto GAP.org.br/santuarios afiliados/sorocaba/](#).

Kiko’s habeas petitions

Kiko has some notoriety because he appeared in the 1989 made-for-TV movie Tarzan in Manhattan and he performed at state fairs. In 1994 he was rescued from being forced to publicly perform by Carmen Presti and his wife, who run the nonprofit Primate Sanctuary in Niagara Falls, New York. Kiko has medical problems requiring constant attention.

NhRP filed a habeas petition on behalf of Kiko on January 7, 2016. The petition alleged he was unlawfully detained by the Primate Sanctuary, Inc. and its officers and directors, who were named as the respondents. The petition requested the following relief:

- A. Upon a determination that Kiko is being unlawfully detained, ordering his immediate release and transfer forthwith to an appropriate primate sanctuary;
- B. Awarding the NhRP the costs and disbursements of this action; and
- C. Such other and further relief as this Court deems just and proper.

On January 29, 2016 New York County Supreme Court Justice Barbara Jaffe denied Kiko’s petition -- which was his fifth petition — on the basis it was a successive petition whose allegations and offers of proof were indistinguishable from the previous petitions that had been denied. Jaffe also stated that even if Kiko’s petition “passed muster” to be considered on its merits, it would have to be denied based on the December 2014 New York appeals court ruling denying Tommy’s first habeas petition. That court ruled chimpanzees lack legal standing as a “person” to bring a habeas petition under New York law, and stated, “animals have never been considered persons for the purposes of habeas corpus relief, nor have they been explicitly considered as persons or entities capable of asserting rights for the purpose of state or federal law.” (People Ex rel. v. Lavery, 124 AD 3d 148, 150 (NY Appellate Div., 3rd Dept. 2014))

Jaffe’s ruling also cited her July 2015 decision -- which was based on the December 2014 appeals court ruling -- denying the habeas corpus petition filed on behalf of chimpanzees Hercules and Leo, who were in the custody of the State University of New York at Stony Brook. (See, Nonhuman Rights v. Stanley, 49 Misc. 3d 746 (NY: Supreme Court 2015)) Hercules and Leo were also represented by the Nonhuman

Rights Project.

Presti is adamantly opposed to what he thinks is the unjustified action by NhRP. He says about Kiko, “If he’s taken away, he could die without his family to give him the special care he needs, and to bring him into the house to play.”

Joint appeal for Kiko and Tommy

Jaffe’s rulings denying the petitions of Kiko and Tommy were jointly appealed.

On June 8, 2017 the New York Supreme Court, Appellate Division First Judicial Department unanimously affirmed Jaffe’s ruling denying the petitions of Kiko and Tommy on the basis they were successive petitions that didn’t raise a new issue or new evidence to prove chimpanzees were “persons” entitled to habeas relief. The court ruled in Nonhuman Rights v Lavery, 2017 NY Slip Op 04574 (NY Appellate Div., 1st Dept., 6-8-2017):

Without even addressing the merits of petitioner’s arguments, we find that the motion court properly declined to sign the orders to show cause since these were successive habeas proceedings which were not warranted or supported by any changed circumstances.

However, the court went further and stated that even if habeas corpus relief was available to a chimpanzee the same as a human being, the petitions of Tommy or Kiko would not be granted: “Since petitioner does not challenge the legality of the chimpanzees’ detention, but merely seeks their transfer to a different facility, habeas relief was properly denied by the motion court.”

The appeals court also stated: “according of any fundamental legal rights to animals, including entitlement to habeas relief, is an issue better suited to the legislative process.”

The Nonhuman Rights Project reacted to the ruling by issuing a press release on June 8 that announced they would seek permission to appeal the ruling to New York’s highest court, the Court of Appeals. The press release quoted the response of NhRP’s founder, Steven M. Wise’s, to the decision: “For 2000 years all nonhuman animals have been legal things who lack the capacity for any legal rights. This is not going to change without a struggle. That fight has begun and we remain confident that Tommy’s and Kiko’s fundamental right to bodily liberty will be recognized as a matter of justice so that they too may experience the freedom they so desperately deserve.”

In a telephone interview Presti expressed his view of the NhRP continuing to repeatedly make the same legal arguments in their so far unsuccessful efforts in New York state courts: “Albert Einstein said insanity is doing the same thing over and over again and expecting different results.”

Read the court’s ruling in Nonhuman Rights v Lavery, 2017 NY Slip Op 04574 (NY Appellate Div., 1st Dept., 6-8-2017) at, www.nycourts.gov/reporter/3dseries/2017/2017_04574.htm .

Read the NhRP’s webpage for Tommy at, https://www.nonhumanrights.org/client-tommy/ .

Read the NhRP’s webpage for Kiko at, https://www.nonhumanrights.org/client-kiko/ .

Justice Denied reported in April 2017 that Cecilia, a chimpanzee in Argentina, became the first non-human person in the world freed from illegal imprisonment by the granting of a writ of habeas corpus.

Picture: Kiko at the nonprofit Primate Sanctuary in Niagara Falls, NY in July 2013 (AP)

Sources: Matter of Nonhuman Rights Project, Inc. v Lavery, 2017 NY Slip Op 04574 (NY Supreme Ct., Appellate Division, First Department, 6-8-2017). Online at www.nycourts.gov/reporter/3dseries/2017/2017_04574.htm . (Unanimous 5-0 decision affirming trial court’s denial of habeas petitions for Kiko and Tommy on the basis they were successive petitions that didn’t present new claims.)

The Nonhuman Rights Project (NhRP) (Coral Springs, Florida) website at, www.nonhumanrights.org .

A former TV animal actor, partially deaf from physical abuse, Client, Kiko (Chimpanzee), www.nonhumanrights.org/client-kiko/ .

Client, Tommy (Chimpanzee), website at, www.nonhumanrights.org/client-tommy/ .

Monkev Trial: Chimpanzees aren’t people, New York court says, RT.com, June 9, 2017

Chimps are not people, cannot be freed from custody: New York court, Reuters.com, June 8, 2017

In the Matter of a Proceeding under Article 70 of the CPLR for a Writ of Habeas Corpus, The Nonhuman Rights Project, Inc., on behalf of Tommy (New York Supreme Court, County of New York, 12-4-2015) — Verified Petition. Online at, www.nonhumanrights.org/content/uploads/00.1-Verified-Petition-Oral-Argument-Requested.pdf .

In the Matter of a Proceeding under Article 70 of the CPLR for a Writ of Habeas Corpus, The Nonhuman Rights Project, Inc., on behalf of Kiko (New York Supreme Court, County of New York, 1-7-2016) — Order To Show Cause & Writ of Habeas Corpus. Online at, www.nonhumanrights.org/content/uploads/OrderoshowcauseKikoNYCountv.pdf .



Guilty of “Natural and Probable Consequences” — The Kiesha Johnson Story

By Michael H. Fox

Felony murder may be America’s cruellest law. Simply put, under a felony murder statute, if a crime occurs and someone dies, all participants are equally culpable. For example, if four people participate in a robbery, and one inadvertently pulls the trigger, all can be sentenced to life, even death.[1] The getaway driver waiting outside in the car, thinking he was participating in a robbery, is as guilty as the shooter.

Because of the severity of the law, felony murder statutes have been abolished in many locales. These include England, Canada and most Australian states.[2]

Nobody understands this better than Kiesha Johnson. On February 19, 2003, the thirty year old black, single mother of two children was living in Salem, Oregon. Kiesha accompanied her acquaintance Andre Johnson (of no relation) to the house of a local drug dealer. Kiesha insists that the purpose was to meet and greet a new supplier. Andre would testify that she knew ahead of the impending robbery.

Upon seeing Kiesha, the female drug dealer became angry. She did not want strangers entering her home without prior notice. Andre and the dealer entered the kitchen to complete the purchase. Kiesha waited in the living room. Some seconds later, three gun shots rang out. Kiesha, in a panic, fled the scene. The dealer lay dead on the floor. Andre took the drugs, and then robbed two other houseguests at gunpoint.

Andre was soon apprehended. He accepted a plea bargain of 30 years, and agreed to testify against Kiesha. Kiesha cannot believe that she is being charged with murder. Yes, she was a drug user; yes, she aided and abetted a robbery; but no she did not anticipate a shooting. And she most certainly did not kill anyone.

The prosecutor offered a plea bargain: 20 years. Kiesha was stunned by the severity of the offer. She decided to go to court and take her chance in front of a jury.

Trial Opens

The main evidence against Kiesha was testimony by Andre Johnson—the actual shooter—and two other acquaintances who were sharing drugs just before the crime oc-



Kiesha Johnson

curred. All three insisted that Kiesha knew of the robbery. Andre later testified that Kiesha had no foreknowledge of the the murder.[3]

All defendants should have the right to be defended by competent, legal counsel in a fair and

impartial court. As we shall see, her attorney was less than competent. And even worse, she drew a biased, racist judge.

Judge as Prosecutor

The case was assigned to the Hon. Joseph V. Ochoa. From the outset, Ochoa was incensed that this black, drug using, mother of two children opted for a jury trial. A companion to criminals, a plea bargain would be good enough.

Ochoa’s contempt of Kiesha is glaringly visible throughout the trial transcripts. He sustained every prosecution objection, and often made off-the-cuff remarks in front of the jury accusing the defense of drawing out the trial and wasting time.[4]

Midway through the trial, the exasperated judge called both the prosecution, the defense lawyer, and Kiesha into chambers. The trial was taking too long, and a plea bargain was in order. The judge suggested a term of twenty years. When Kiesha showed reluctance Ochoa became furious. “If you don’t take the plea, I’m gonna run the train up your ass.”[5]

Ochoa’s offer was a blatant violation of Oregon’s code of criminal procedure. Judges are forbidden from brokering plea bargains[6]. The defense attorney apparently did not object. The prosecution remonstrated with the judge, but did not press forward with any objection. At the very least the defense attorney should have asked that the meeting be mentioned in the court record, and preserved for future appeals, but did not.[7]

Some years later, in a federal habeas appeal, public defender Kristine Hellman criticized the defense counsel on many grounds. One was the above mentioned failure to preserve the in-chambers demand for a plea bargain in the record. Another was for not demanding recusal in light of the judge’s blatant bias.[8]

Requesting a judge to step down in mid trial is a bold and volatile move. Repercussions

for the defendant are a distinct possibility. Yet, if the attorney had prepared better, and researched court records, a demand for recusal might well have succeeded. Ochoa had already been censured for outrageous behavior in a 2000 trial.[9]

Jury Instructions

Jury instructions are an important and often contentious issue in many criminal trials. Nowhere is this more obvious than when the charge is felony murder. The judge instructed the jury as follows:

A person who aids or abets another in committing a crime, in addition to being criminally responsible for the crime that is committed, is also criminally responsible for any acts or other crimes that were committed as a natural or probable consequence of the planning, preparation or commission of the intended crime.

Strictly speaking, Kiesha should only be culpable for the initial robbery. She did not anticipate the murder, did not handle or point the gun, and was not present during the robbery of the two houseguests.

In other words, if Kiesha knew beforehand that Andre intended to kill, she could be guilty of aiding and abetting, and face murder charges as a natural or probable consequence of this action. But since the actual shooter testified that she quite clearly did not know, the charge of murder is specious and far-fetched.

The prosecution saw it differently. It argued that Kiesha was guilty of aiding and abetting, and, and, of the natural and probable consequences of the crime.

We are not saying that Ms Johnson physically handled that weapon. But the law says that she is an aider or abettor if she has participated in the planning and the execution of these crimes, then she is as guilty of those crimes as the person who actually committed them. The law is very clear about that.[10]

Just because Kiesha doesn’t know that those crimes were going to happen doesn’t mean that she isn’t guilty for them . . . she is responsible for any acts or other crimes that were committed as a natural and probable consequence of the planning and preparation or commission of the intended crime.[11]

After Kiesha was found guilty, Ochoa made good on his “train threat”. At sentencing, he castigated attorney and defendant, “Since you did not accept my offer of the minimum sentence, what is to keep me from imposing

Kiesha cont. on p. 25

Kiesha cont. from p. 24

the maximum?[12]”

No Mens Rea, No Problem?

On the first day of Criminal Law 101, students learn the important doctrine of ‘mens rea’ – criminal intent. Criminal intent is usually necessary to prove guilt. In regard to Kiesha Johnson, it was absolutely unnecessary.

At the sentencing hearing, the judge stated “Ms. Johnson had no idea that Ms. Burton was going to be killed.”[13]. However, the judge also stated that “when you agreed to commit a robbery and a weapon is involved, that is one of the probable consequences of the act.”[14]

Andre was sentenced to life with a 30 year mandatory minimum before parole eligibility. Kiesha received life imprisonment, with eligibility for parole after serving a 25-year minimum sentence for felony murder. In addition, by means of utterly twisted logic, the judge imposed an additional 90 months for the armed robbery of the two visitors at the drug house--despite the fact that Kiesha was not present when they occurred! The two robbery counts were to run concurrently, but consecutive to 270 months of the felony murder sentence.[15] The result: Kiesha was given the same amount of time in prison as Andre, the man who pulled the trigger!

Kristina Hellman also took measure with this sentence. She vigorously stated that the jury instructions were over-simplified, excessively broad, and incorrect. “Oregon law requires proof of a specific intent to assist in the target felony before the defendant can be found to have aided or abetted the principle actor.”[16]

A Question of Why?

Research into wrongful convictions often focus on the question of ‘how?’ We know that false confessions, junk science, eye witness misidentifications, non-disclosure of evidence, and suborned perjury (i.e jail house snitches) have put many innocent people behind bars. We do not always understand ‘why’ criminal justice authorities choose to frame innocents.

In the case of women, the answer to the question of ‘why’ is often visible. Criminal justice authorities see themselves as more than a force for preserving public safety and prosecuting law breakers. They often take on the duty of upholding social order and enforcing societal norms.

Motherhood is one of the most sacrosanct of social institutions. Kiesha Johnson falls

well outside the social stereotype of a good mother. Never married, she had two children with two different men. She was using drugs. And she is black.

Kiesha is just one example of how criminal justice authorities target ‘bad girls’ and ‘unfit mothers.’ At the Coffee Creek Correctional Center, Oregon’s sole women’s prison, she has plenty of company.

Still the stigma of being black in a very white state is obvious. Both Karlyn Eklof and Tammy Traxtle were offered plea bargains of significantly less time. And for challenging the state and going to trial, all three of these insubordinate, arrogant females were given life sentences.

(Not) Punishing the Crimes of Power

A favorite expression of the anti-death penalty movement is “those with the capital do not get the punishment.” Likewise, the crimes of power often go unpunished, or end up with a slap on the hand.

A little more than a year after Kiesha’s conviction, Judge Joseph Ochoa oversaw a criminal case in which he continued to play the role of a second prosecutor. As in Kiesha’s case, he “belittled the defense attorney in and out of the presence of the jury.”[17] The Oregon Supreme Court took measure and suspended Ochoa “for a period of 30 days, during which he shall not receive the salary of his public office.”[18]

Still, this was hardly a long term blot on his post-judicial career. Now retired, Ochoa is currently listed as a “senior judge” and is “eligible for temporary assignment by the Supreme Court to any state court.”[19] He can even be assigned to criminal trials.

Kiesha Johnson-Hope on the horizon?

Kiesha’s chances for a retrial may be fairly good. In August, 2011, the Oregon supreme court issued a decision that has changed the protocols for the charge of felony murder. In *State v. Lopez-Minjarez*[20], the *en banc* court declared that the “natural and probable consequence” instruction is an “incorrect statement” of Oregon law. Future defendants will not be subject to this draconian provision. In hindsight, Kiesha’s conviction was clearly unfair and unjust. A new appeal might stand a great chance for success!

Author information: Michael H. Fox is webmaster of the Womens Criminal Justice Network (www.wcjin.org) and two other websites devoted to wrongful and unfair convictions. He lives and teaches in Japan.

Endnotes:

[1] This law is oft used in shootings of police officers, particularly against female defendants. See Sonia Jacobs, *Stolen Time: One Woman’s Inspiring Story as an Innocent Condemned to Death*. Transworld Publishers: 2008. See also, Michael Fox, *The State of North Carolina v. Faye Brown*. Retrieved from http://www.wcjin.org/Faye_Brown.html.

[2] https://en.wikipedia.org/wiki/Felony_murder_rule

[3] Tr. a 339.

[4] Tr. at 453-4, 477, 509.

[5] Personal Communication, Kiesha Johnson, May 11, 2013. “Counsel ... candidly told the the attorneys that he thought Ms. Johnson was “liar,” and she should “end the trial.” Resp. Ex. 115 at 7.

[6] Or. Rev. Stat. § 135.432(1)(b).

[7] The existence of the meeting became clear during a later PCR hearing when the prosecution submitted documentation of its existence. Resp. Ex. 115 at 7.

[8] Hellman, Kristina. Brief in Support of Second Amended Petition for Writ of Habeas Corpus Under 28 USA. §2254. 2013, May 13.

[9] While Ochoa was away from the courthouse for few days, an attorney requested a continuance in a criminal case. A senior judge granted the request. Ochoa later became furious, and ordered the defendant to appear in court without counsel, and berated the absent attorney in the presence of the defendant – *In re Ochoa*, 157 P.3d 183, Supreme Court of Oregon.(2002).

[10] Tr. a 608-9.

[11] Tr. a 609.

[12] Tr at 685.

[13] Tr. at 703.

[14] Id.

[15] Tr. at 704.

[16] Hellman, op. cit. p.19.

[17] Inquiry Concerning a Judge re: The Honorable Joseph V. Ochoa, Accused. (2017: April 12.) SC S054152 retrieved from <http://www.publications.oid.state.or.us/docs/S54152.htm>.

[18] Id. see also Douglas R. Richmond, Bullies on the Bench, 72 La. L. Rev. (2012), retrieved from <http://digitalcommons.law.lsu.edu/lalrev/vol72/iss2/1>.

[19] <http://bluebook.state.or.us/state/judicial/judicial29.htm>.

[20] *State v. Lopez-Minjarez*, 260 P.3d 439 (Or. 2011)

Motherhood is perhaps the most sacrosanct social institution. Mothers who raise children outside the conventional nuclear family stereotype, and have tangential contact with men who commit crimes, often suffer the wrath of criminal justice authorities. Some Oregon cases:

Karlyn Eklof. In 1993, Eklof’s acquaintance shot her housemate. Eklof, a single mother of three children, should have called the police. Instead, she and her kids left the state with the acquaintance. Guilty of aiding and abetting after the fact, she was offered a ten year plea bargain. She took her chances with a jury. The prosecution then demanded death and she was sentenced to two consecutive life terms. (See: www.wcjin.org/Karlyn_Eklof.html)

Tammy Traxtle. In 1996, Traxtle’s brother shot her ex-husband in a drug deal. Traxtle transported her brother to the scene. Offered an 18 month plea bargain, the mother of three children also took her chances in court. She was sentenced to 25 years to life. (See: www.wcjin.org/Tammy_Traxtle.html)



129,610 Cases Now In Innocents Database

The Innocents Database now includes 129,610 cases: 27,303 from the U.S., and 102,307 from 119 other countries. The database includes 26,389 U.S. cases from 2018 to 1989, when the first DNA exoneration occurred.

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- 2,068 innocent people had 1 or more co-defendants. The most innocent co-defendants in any one case was 36, and 25 cases had 10 or more co-defendants.
- 12% of wrongly convicted persons are women.
- The average for all exonerated persons is 7-1/8 years imprisonment before their release.
- 31 is the average age when a person is wrongly imprisoned.
- Cases of innocent people convicted in 120 countries are in the database.
- 27,303 cases involve a person convicted in the United States.
- 102,307 cases involve a person convicted in a country other than the U.S.

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pensation column to find such information as: the compensation awarded to persons for any year or state, or the compensation awarded in a particular type of case, such as those involving DNA or a false confession, etc.

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The third revised and updated edition of [Kirstin Blaise Lobato's Unreasonable Conviction](#) — *Possibility of Guilt Replaces Proof Beyond A Reasonable Doubt* is available in PDF format to be read or downloaded at no charge for personal use from [Justice Denied's](#) website.*

The book details how Kirstin Lobato has twice been convicted of a July 8, 2001 Las Vegas homicide when the prosecution doesn't deny it has no physical, forensic, eyewitness, confession, informant, surveillance video or documentary evidence she was in Las Vegas at any time on the day of the crime. The prosecution also concedes she was at her home 165 miles from Las Vegas at the time new forensic entomology and forensic pathology evidence conclusively proves the man died between 8 p.m. and 10 p.m. The book also details that in 2001 the 18-year-old Ms. Lobato was prosecuted

even though the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office obtained evidence three days after her arrest she is innocent.

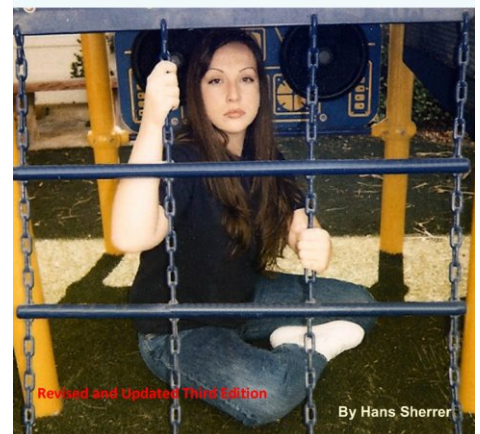
The 3rd revised edition has 57 pages of new information, that includes:

- * An updated Timeline of Ms. Lobato's case from 2001 to the present, that begins on p. 10.
- * Six new sub-chapters in the Appendix that begin on page 150. Those include a Power Point presentation of Ms. Lobato's case and the new evidence in her habeas corpus petition currently under review by the Nevada Supreme Court. Ms. Lobato's petition includes new evidence her jury didn't hear by more than two dozen expert, alibi, and third-party culprit witnesses that supports her actual innocence.

The 232-page book written by *Justice Denied's* editor and publisher Hans Sherrer is supported by 427 source endnotes. In documents filed in the Nevada Supreme Court, the Clark County District Attorney's Office and the State of Nevada don't assert there is a single factual error in the book.

KIRSTIN BLAISE LOBATO'S UNREASONABLE CONVICTION

Possibility Of Guilt Replaces Proof Beyond A Reasonable Doubt



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High Fence Foodie Cookbook Now Available!

High Fence Foodie is [a new cookbook](#) by Texas prisoner Celeste Johnson that was recently published by The Justice Institute.

High Fence Foodie has more than two hundred easy to prepare recipes for meals, soups, snacks, desserts, and beverages. These recipes can be made from basic items a prisoner can purchase from their unit's commissary, or people on the outside can purchase from a convenience or grocery store. They are written by Celeste Johnson, a woman imprisoned in Texas who loves to cook and try out new combinations of the simple food ingredients available to her.

High Fence Foodie's all new recipes are a follow-up to the more than 200 recipes in *From The Big House To Your House* that was written by Celeste Johnson and five fellow prisoners at the Mountain View Unit, a woman's prison in Gatesville, Texas.

From The Big House To Your House received

rave reviews on Amazon.com, with 75% of reviewers giving it 4 or 5 stars! Some of the comments are:

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"I am a college student making a limited income and these recipes are great and fulfilling for people like me who don't have a ton of \$ to spend on groceries." Alicia

"I sent this to my daughter. She absolutely loves this little cookbook!" D. G.

High Fence Foodie continues the high standard of *From The Big House To Your House!* Celeste hopes her recipes will ignite a read-



er's taste buds as well as spark their imagination to explore unlimited creations of their own! She encourages substitutions to a reader's individual tastes or availability of ingredients. She is confident users of her recipes will enjoy creating a home-felt comfort whether behind the High Fence, or at Your House!

Celeste Johnson does not financially profit from sales of *High Fence Foodie*. All profits from the book's sale are

donated to [The Justice Institute](#) Justice Denied to contribute to its work on behalf of wrongly convicted persons.

[Click here for more information](#) about the book's contents and to [order it from Justice Denied](#) with no shipping charge.

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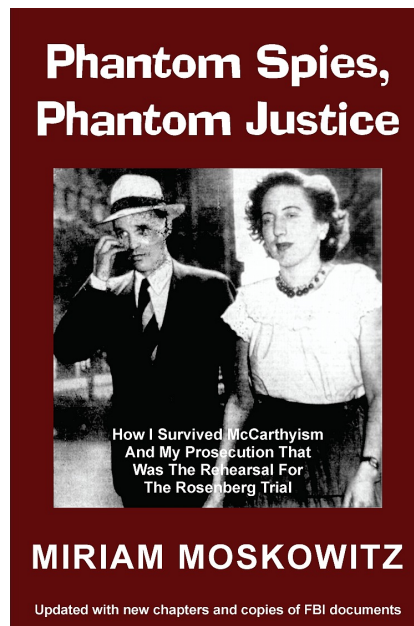
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Phantom Spies, Phantom Justice

Phantom Spies, Phantom Justice by Miriam Moskowitz was published in July 2012 by Justice Denied/The Justice Institute. The book is Ms. Moskowitz' autobiography that explains how it came to be that in 1950 she was falsely accused, indicted and convicted of obstruction of justice in a grand jury that was investigating Soviet espionage. The books subtitle is *How I Survived McCarthyism And My Prosecution That Was the Rehearsal For The Rosenberg Trial*. The Afterword written by *Justice Denied's* editor and publisher Hans Sherrer states in part:

Miriam Moskowitz is an innocent person who was caught up in the whirlwind of anti-communist hysteria that prevailed in this country at the time of her trial in 1950. We know that because of FBI documents she obtained through the Freedom of Information Act decades after her conviction for conspiring to obstruct justice during a grand jury investigation.

The prosecution's case depended on the trial testimony of FBI informant Harry Gold. He testified that in 1947 *she observed* a conversation during which he and her business



partner, Abraham Brothman, allegedly discussed providing false testimony to a grand jury investigating possible Soviet espionage. She did not testify before that grand jury.

The FBI documents Ms. Moskowitz obtained are proof that prior to her trial Mr. Gold told the FBI *she was not present* during that alleged conversation. Furthermore, Mr. Gold told the FBI he didn't speak candidly in front of Ms. Moskowitz because of

her possible negative reaction if he said something incriminating in her presence, and he didn't like her.

Although Ms. Moskowitz's case had nothing directly to do with the Rosenberg trial that took place four months after her trial, they were tied together because Mr. Gold was a key witness against the Rosenbergs and the same prosecutors and judge were involved in both trials.

Phantom Spies, Phantom Justice is a compelling story of how an innocent 34-year-old woman found herself being publicly branded as an enemy of the United States. Ms. Moskowitz is now 96 and still seeking the justice of having her conviction overturned, although she can't get back the time she spent incarcerated because of her two-year prison sentence.

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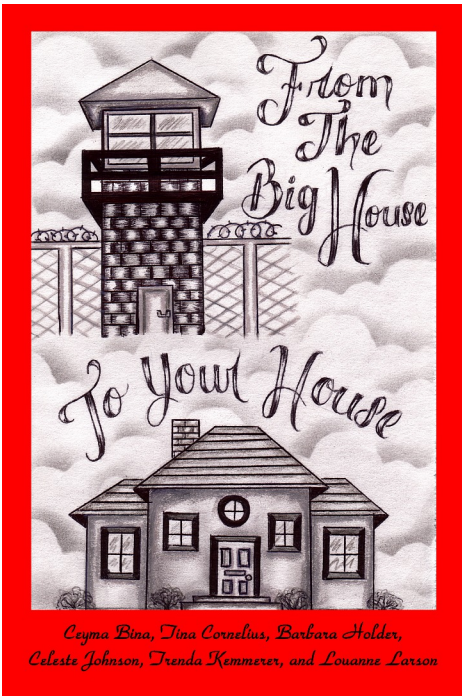
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Edwin M. Borchard – Convicting The Innocent

Edwin M. Borchard – *Convicting The Innocent and State Indemnity For Errors Of Criminal Justice* has [been published](#) by The Justice Institute/Justice Denied.

Yale University Law School Professor Edwin Borchard was an early pioneer in exposing the causes of wrongful convictions and the inadequacy of compensation for exonerated persons in the United States. So it is important that it be remembered his works laid the foundation for today's advocates for wrongly convicted persons, and the encouragement of public policies that may prevent wrongful convictions and ensure adequate indemnification when they occur.

This 358-page book includes Borchard's key works *European Systems Of State Indemnity For Errors of Criminal Justice*, and *Convicting The Innocent: Sixty-Five Actual Errors of Criminal Justice*. The Table of Contents is:

Introduction

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Chapter 2. Edwin Borchard, Law Expert, Dead

Chapter 3. European Systems Of State Indemnity For Errors Of Criminal Justice

Chapter 4. Convicting The Innocent: Sixty-Five Actual Errors Of Criminal Justice

Convicting the Innocent (Chapter 4) has not lost its luster as one of the most insightful books published on the topic of wrongful convictions. Seventy-one years after its publication the multitude of causes underlying the cases of injustice it details not only continue to plague the legal system in the United States, but they are arguably more prevalent today than when the book was published, with the exception of confessions extracted by physical violence.

Compensating exonerated persons is as topical a subject as it was one hundred years after Borchard's article about indemnifying wrongly convicted persons. Borchard article (Chapter 3) makes it clear that many European countries were more advanced in providing indemnification 100 years and more ago, than is the norm in the United States in 2015.

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Dehumanization Is Not An Option

An Inquiry Into Law Enforcement and Prison Behavior

By Hans Sherrer

This compilation of essays and reviews explains that the dehumanization characteristic of institutionalized law enforcement processes is as predictable as it is inevitable. The beginning point of thinking about alternatives to the dehumanizing aspects of law enforcement systems is understanding their causes. The essays include:

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KIRSTIN BLAISE LOBATO'S UNREASONABLE CONVICTION

Possibility of Guilt Replaces Proof Beyond A Reasonable Doubt



By Hans Sherrer

This is the story of Kirstin Lobato, who was 18 when charged in 2001 with the murder of a homeless man in Las Vegas. She was convicted of voluntary manslaughter and other charges in 2006 and she is currently serving a sentence of 13-35 years in Nevada. *Kirstin Blaise Lobato's Unreasonable Conviction* documents:

- She had never met the homeless man and had never been to where he was killed.
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“The legal system is structured so that the overwhelming majority of convictions that rely on the soggy foundation of suspect expert evidence – which may in fact be no more stable than quicksand – fall through the cracks into the black hole of a case closed by a plea bargain.”

Menace To The Innocent: Insubstantial Expert Evidence Endangers Innocent People Accused Of A Crime
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Kirstin Lobato Released After More Than 15 Years In Custody

Kirstin Lobato was released on January 3, 2018 after more than 15 years in custody. Lobato had twice been convicted of a 2001 Las Vegas homicide. Justice Denied conducted a post-conviction investigation that discovered new evidence from more than 20 people supporting Lobato's innocence: including new forensic evidence the homicide victim died at a time it is known she was 170 miles from Las Vegas.

See pgs. 3 & 5

The Magazine for the Wrongly Convicted

The scales of justice are tipped against innocent people all across the country - from Maine to Hawaii and from Alaska to Florida.

Justice Denied provides a public voice for innocent people victimized by that tragic reality.