

Introduction To The Second Edition

The first edition of this book ended with Blaise's appeal of her October 2006 convictions pending before the Nevada Supreme Court (NSC).

Blaise was convicted of voluntary manslaughter in the death of Duran Bailey on July 8, 2001, and the sexual penetration of his dead body – which was based on a cut to his rectum. However, the record of Blaise's case reveals a prosecution that lacked any physical, forensic, eyewitness, confession, documentary or video surveillance evidence that she had been anywhere in Clark County (Las Vegas) at anytime on the day of Bailey's death. All testimony and documentary evidence (telephone records) presented by the defense and prosecution witnesses supported that Blaise was in Panaca 170 miles from Las Vegas the entire day of July 8, 2001. Consistent with the evidence she was in Panaca at the time of Bailey's death is the crime scene DNA, fingerprint, bloody shoeprint and tire tread evidence excluding her and her car from the crime scene, and the absence of evidence linking any personal item or her car to the crime. The prosecution did not even present any evidence Blaise knew who Bailey was, knew anyone who knew him, knew where he hung out, or that she had ever at anytime been to where he was murdered.

Consequently, one would expect the Nevada Supreme Court to vacate her convictions and order her acquittal for a lack of evidence. An order for her retrial would have been a surprise because there is no substantive evidence upon which the State's case against her was based.

However, on February 5, 2009, a panel of three NSC justices did not vacate her conviction, or order her retrial. Instead the justices affirmed her convictions and sentence based on what their ruling described as an "admission" by Blaise.¹ The justices also justified denying her a new trial by relying on what they described as a "positive test for blood" in her car.²

Yet, contrary to the NSC's ruling Blaise has not made *any* "admission" to Bailey's murder, and confirmatory scientific tests excluded the finding of blood in her car. Those are incontrovertible facts as certain as that the Earth is not flat and $2+2=4$. Not surprisingly, the content of Blaise's phantom "admission," and when and where she allegedly made it, is nowhere to be found in the NSC's ruling. Her allegedly damning "admission" is simply alluded to by the justices with no explanation.

The NSC's ruling makes it plain that Blaise's conviction would have been overturned if the justice's had relied on the record of her case, and not the justice's flights of fantasy about a non-existent "admission" and a non-existent "positive test for blood." Complementing the NSC's reliance on non-existent evidence to affirm Blaise's convictions, was its disregard of her argument that the prosecution's evidence was insufficient to establish her guilt beyond a reasonable doubt. This updated edition includes a summary of the grounds of Blaise's appeal to the NSC, and a section explaining that the NSC's February 2009 ruling affirming Blaise's convictions based on phantom evidence they conjured out of thin air constitutes a "fraud on the court."

The U.S. Supreme Court denied Blaise's writ of *certiorari* on October 5, 2009. Blaise's writ was based on the single legal question of whether she had been deprived of due process and a fair trial by trial Judge Valorie Vega's ruling that allowed homicide Detective Thomas Thowsen to express his opinion about why her statement of July 20, 2001 does not contain any details matching the beating and stabbing of Bailey that preceded his death; the alleged post-mortem stabbing of his abdomen, cutting of his rectum, and amputation of his penis; or the location of where it occurred.

A significant development included in this updated edition is that several DNA testing techniques were developed after Blaise's October 2006 trial that enables critical evidence to be DNA tested for the first time, or retested with more precision, to possibly identify the DNA profile of Bailey's attacker(s). This edition includes a January 2009 letter the author wrote to Blaise's lawyers while her direct appeal was pending that informed them of those new DNA testing techniques. Her lawyers did not pursue the DNA testing. In early 2010 the Innocence Project in New York accepted Blaise's case to pursue DNA testing of the biological evidence in Blaise's case that includes semen on the swabs of Bailey's penis and rectum. As this is written in early September 2010, no DNA testing has been conducted using the new techniques.

Also included in this edition is a section summarizing Blaise's state *habeas corpus* petition filed on May 5, 2010. (See Chapter IX, Section I.) Among the petition's seventy-nine grounds is important new exculpatory entomology evidence by three of North America's leading forensic entomologists, including *CSI* television show advisor Dr. M. Lee Goff, that to a "reasonable scientific certainty" Bailey died after sunset at 8:01 p.m. on July 8, 2001, and "most probably" after 9:08 p.m. when it became dark. In addition, one of the United States' leading forensic pathologists at analyzing time of death determined Bailey died sometime within two hours of his body's discovery around 10 pm. – which means he died after 8 p.m. The prosecution conceded in their arguments to the jury that Blaise was in Panaca from at least 11:30 a.m. until after Bailey's body was discovered that night. Considering the testimony that the fastest possible driving time from Las Vegas to Panaca is two hours, Blaise could not have been in Las Vegas after 9:30 a.m. So the new scientific and medical evidence establishes Bailey died at least *10-1/2 hours* after the latest time the prosecution concedes Blaise could have been in Las Vegas.

Irrespective of the prosecution's arguments, Blaise's alibi defense was she was not anywhere in Las Vegas at any time on July 8, 2001. Her petition includes four new alibi witnesses who corroborate she was in Panaca the entire weekend of July 6 to 8.

The petition also has new evidence by Dr. Allison Redlich, a psychologist expert at analyzing the statement of a criminal suspect. Dr. Redlich determined Blaise's statement at the time of her arrest is not a confession to Bailey's murder, but describes the attempted rape of her in late May 2001 at the Budget Suites Hotel at 4855 Boulder Highway in east Las Vegas. That was six weeks before Bailey's murder at the Nevada State Bank eight miles west of the Budget Suites Hotel.

Dr. Redlich's new evidence is corroborated in Blaise's petition by nine new alibi witnesses who were told by Blaise from late May to days preceding Bailey's murder about the attempted rape of her at the Budget Suites Hotel.

The petition also has the new forensic science evidence that the killer's shoeprints were imprinted in blood on cardboard covering Bailey's torso, as well as leading away from Bailey's body on the concrete floor. Blaise's shoe size is 2-1/2 to 3 sizes smaller than those shoeprints.

The petition also has new third-party culprit evidence supporting that Bailey was murdered by "Mexican" friends of a woman Bailey brutally beat and raped a week before his murder, and that about the same time Bailey also assaulted the girlfriend of one of the "Mexicans." The Mexicans lived only about 100 yards from where Bailey's body was found and they had the motive, means, and opportunity to inflict grave harm to Bailey. Las Vegas Metropolitan Police Department homicides Detective Thomas Thowsen and James LaRochelle knew about the Mexicans before they arrested Blaise, but they did not bother to even interview them.

This edition also includes an article by Michelle Ravell titled "A Rational Theory of Duran Bailey's Murder." The article explains the reasons why the Mexican friends of Diann Parker are Bailey's likely killers. Ms. Ravell is co-founder of the justice4kirstin.com website and she has extensive knowledge about Blaise's case.

In the fall of 2004 I wrote in my first article about Blaise's case for *Justice:Denied* magazine: "In a masterful frame-up that may be marveled at for decades as a textbook 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."

Everything that I have learned in the intervening six years confirms that was a valid description of Blaise's case. It is proof that in the United States a person can be accused and twice convicted of charges related to the murder of a person and the alleged cutting of their rectum after death, based on nothing more than speculation by the prosecutors that since it might be possible the person committed the crime, then the person must be guilty.

However, the information included in this updated edition demonstrates that the idea Blaise murdered Bailey has entered the realm of the impossible – or at least as close to that as humans can achieve without a time and date stamped videotape of Blaise in Panaca on the entire day of July 8, 2001, or a videotape or pictures of Bailey's killer(s) doing the deed.

Five days after Blaise's arrest, the public defender assigned to her case was quoted in the *Las Vegas Review-Journal* as saying: "I am surprised that they decided that charges would be filed at this point on this case." He would likely say the same thing after the prosecution has had more than nine years to find any evidence connecting Blaise to Bailey's murder.

The Association in Defence of the Wrongly Convicted, a Toronto, Canada based organization, unanimously endorsed Blaise's case on March 24, 2010, as a miscarriage of justice:
"AIDWYC believes after a thorough review and assessment of Ms. Lobato's case that she is innocent."

"She placed her belief in the justice system, and she ended up being convicted of a crime that she did not commit."
U.S. District Court Judge Gloria Navarro
(Stated when she was a Clark County Deputy Public Defender and Ms. Lobato's attorney.)