Table of Contents

Preface............................................................................................................................................................................. 1
Introduction To The First Edition ......................................................................................................................................... 2
Introduction To The Second Edition .................................................................................................................................... 4
Key People in Kirstin Blaise Lobato’s Case ....................................................................................................................... 7
Key Locations In Kirstin Blaise Lobato’s Case .................................................................................................................. 8
Summary Of Key Events In Kirstin Blaise Lobato’s Case .................................................................................................. 9
Persons And Organizations Involved In The Effort To Free Kirstin Blaise Lobato ............................................................ 18
I — Homeless Man Murdered Near The Las Vegas Strip .................................................................................................. 16
   Autopsy determines Duran Bailey’s cause of death was “blunt head trauma” ................................................................. 17
   Medical Examiner Simms estimates Bailey’s time of death .......................................................................................... 17
   Non-investigation of prime suspects ........................................................................................................................ 17
II — Third-hand Information Relyed On To Arrest And Charge Kirstin Blaise Lobato With Duran Bailey’s Murder ...... 20
   Laura Johnson provides detective with “third-hand” tip about a Las Vegas stabbing .................................................... 20
   Detectives Thowsen and LaRochelle travel to Lincoln County to arrest Blaise .......................................................... 20
   Johnson’s statement to Thowsen and LaRochelle ........................................................................................................ 20
   Thowsen and LaRochelle were unaware the incident Dixie told Johnson about wasn’t Bailey’s murder .................... 21
   Blaise’s July 20, 2001 interrogation .......................................................................................................................... 21
   No matching points between Bailey’s murder and Blaise’s statement ..................................................................... 22
   Blaise’s arrest .................................................................................................................................................................. 23
   Thowsen and LaRochelle conduct superficial investigation after Blaise’s arrest ......................................................... 23
   People in Lincoln County learn Bailey was killed when Blaise was in Panaca ........................................................... 25
   Crime lab tests exclude Blaise ........................................................................................................................................ 25
   Botched Investigation of Duran Bailey’s Murder by the Las Vegas Metro Police Department .................................... 26
   Location of Bailey’s murder in west Las Vegas and Blaise’s assault in east Las Vegas ............................................ 27
   Table 1 — 27 Significant Differences Between Bailey’s Death and Blaise’s Statement Known to the LVMPD at the Time of Her Arrest on July 20, 2001 ............................................................................................ 28
   Physical landmarks identified by Blaise in her statement as being near the Budget Suites attack on her .................... 31
   Physical landmarks near the scene of Duran Bailey’s murder .................................................................................... 31
   Table 2 — 13 Significant Differences Between Bailey’s Death and Blaise’s Statement Learned by the LVMPD and the Clark County D.A.’s Office After July 20, 2001 ............................................................................. 32
III — Blaise Charged With Violating Nevada’s Necrophilia Law Without Any Evidence Bailey’s Murderer Had Sex With His Corpse ............................................................................................................. 34
   Necrophilia law introduced ........................................................................................................................................... 34
   Legislative intent of the necrophilia law ......................................................................................................................... 34
   No evidence Bailey was sexually assaulted after he died ........................................................................................... 35
   Prosecution alleged the injury to Bailey’s corpse violated the necrophilia law .......................................................... 35
IV — Blaise’s May 2002 Trial ............................................................................................................................................. 37
   Prosecution’s lack of evidence solved by jailhouse informant .................................................................................... 37
   Blaise’s May 2002 trial .................................................................................................................................................... 37
   First prosecution prong .................................................................................................................................................... 37
      Response ................................................................................................................................................................. 37
   Second prosecution prong .............................................................................................................................................. 38
      Response ................................................................................................................................................................. 38
   Third prosecution prong .................................................................................................................................................. 38
      Response ................................................................................................................................................................. 39
   Fourth prosecution prong ............................................................................................................................................... 39
      Response ................................................................................................................................................................. 39
   Fifth prosecution prong ................................................................................................................................................... 40
      Response ................................................................................................................................................................. 40
   Sixth prosecution prong .................................................................................................................................................. 40
      Response ................................................................................................................................................................. 40
   Seventh prosecution prong ............................................................................................................................................ 42
Blaise’s jury wasn’t informed that Bailey’s “possible” time of death excludes her .................................................... 92
Probability and evidence analysis supports reasonable doubt that Blaise murdered Bailey ........................................ 89
Reasonable doubt and probability of guilt ................................................................................................................ 88
Bell curve analysis of Simms’ estimate of Bailey’s “possible” time of death supports that Bailey died during daylight hours .. 88
Bell curve analysis of Simms’ estimate of Bailey’s “possible” time of death excludes Blaise .................................... 86
Simms’ estimate of Bailey’s time of death to a “medical certainty” excludes Blaise ................................................. 85
Driving time from Las Vegas to Panaca................................................................................................................... 83
Simms’ two estimated times of Bailey’s death ......................................................................................................... 83
Simms’ estimate of Bailey’s “possible” time of death excludes Blaise ................................................................. 84
Simms’ estimate of Bailey’s time of death to a “medical certainty” excludes Blaise .............................................. 85
A bell curve is a visualization of an event’s mathematical probability................................................................. 86
Bell curve analysis of Simms’ estimate of Bailey’s “possible” time of death excludes Blaise ................................. 86
Bell curve analysis of Simms’ estimate of Bailey’s time of death to a “medical certainty” excludes Blaise ............. 87
Bell curve analysis of Simms’ estimate of Bailey’s “possible” time of death supports that Bailey died during daylight hours ... 88
Reasonable doubt and probability of guilt.............................................................................................................. 88
Probability and evidence analysis supports reasonable doubt that Blaise murdered Bailey .................................. 89
Blaise’s jury wasn’t informed that Bailey’s “possible” time of death excludes her ............................................. 92

V — Blaise’s Conviction Reversed And Retrial Ordered .................................................................................. 46
Blaise’s conviction reversed by Nevada Supreme Court on September 3, 2004 .................................................... 46
New lawyers for Blaise’s retrial ............................................................................................................................. 46
Pretrial motions favor prosecution ....................................................................................................................... 46
Pubic hair DNA tests excluded Blaise in September 2006 ............................................................................... 50
Retrial begins September 11, 2006....................................................................................................................... 50
Prosecution surprise – No Korinda Martin testimony during retrial ................................................................. 50
Prosecution’s strategy: “It is possible Blaise did it.” ......................................................................................... 50
Medical examiner Simms testifies ....................................................................................................................... 50
LVMPD crime lab technician Thomas Wahl testifies ......................................................................................... 51
LVMPD Crime Lab Technician Joel Geller Testifies .......................................................................................... 52
Dixie Tienken testifies ....................................................................................................................................... 52
Laura Johnson testifies ....................................................................................................................................... 53
Detective Thowsen testifies ............................................................................................................................... 53
Did Detective Thowsen go to the Budget Suites Hotel? .................................................................................... 55
Kristina Paulette ............................................................................................................................................... 56
Prosecution’s case lacked evidence implicating Blaise ...................................................................................... 57
Two defense experts ......................................................................................................................................... 58
Dr. Michael Laufer testifies Bailey was likely murdered with scissors .............................................................. 58
Brent Turvey testifies there is no physical evidence implicating Blaise in Bailey’s murder ............................ 59
Three witnesses not allowed to testify about attack on Blaise before Bailey’s death ........................................ 61
Stephen Pyszkowski ........................................................................................................................................ 61
Heather McBride ............................................................................................................................................. 63
Larry Lobato ....................................................................................................................................................... 65
Michelle Austria ................................................................................................................................................ 67
Alibi witnesses ................................................................................................................................................. 69
Inconsistencies in the prosecution’s case ............................................................................................................ 69
Table 3 — Alibi Timeline Of Blaise’s Continuous Presence In Panaca From July 2 to July 9 ................................... 70
Table 4 — 14 Inconsistencies Between Facts of Bailey’s Murder and his Behavior and Blaise ....................... 73

VI — Closing Arguments and Verdict ........................................................................................................... 75
DiGiacomo’s closing argument ......................................................................................................................... 75
Schiek’s closing argument ................................................................................................................................. 76
Kephart’s rebuttal closing argument .................................................................................................................. 77
Jury’s verdict ..................................................................................................................................................... 80
Possible juror misconduct exposed after the verdict .......................................................................................... 81

VII — The Jury Didn’t Know That Bailey’s Estimated Time of Death Excludes Blaise ...................................... 83
Simms’ two estimated times of Bailey’s death ................................................................................................... 83
Simms’ estimate of Bailey’s “possible” time of death excludes Blaise ............................................................ 84
Simms’ estimate of Bailey’s time of death to a “medical certainty” excludes Blaise ........................................ 85
A bell curve is a visualization of an event’s mathematical probability ............................................................ 86
Bell curve analysis of Simms’ estimate of Bailey’s “possible” time of death excludes Blaise ............................ 86
Bell curve analysis of Simms’ estimate of Bailey’s time of death to a “medical certainty” excludes Blaise ........ 87
Bell curve analysis of Simms’ estimate of Bailey’s “possible” time of death supports that Bailey died during daylight hours ... 88
Reasonable doubt and probability of guilt ......................................................................................................... 88
Probability and evidence analysis supports reasonable doubt that Blaise murdered Bailey .......................... 89
Blaise’s jury wasn’t informed that Bailey’s “possible” time of death excludes her ......................................... 92
Figure 1 — It is “possible” that Duran Bailey died between 3:50 am and 7:50 pm, July 8, 2001 ........................................ 93
Figure 2 — “Medical certainty” that Duran Bailey died between 9:50 am and 3:50 pm, July 8, 2001 ........................................ 93

VIII — Bailey’s Death On The Evening Of July 8 Is Supported By Medical Research And Dr. Simms’ Testimony .......... 94
Crime scene and medical factors that can identify Bailey’s likely time of death ................................................................. 94
Simms’ testimony supports Bailey’s death on the evening of July 8 ........................................................................ 95
Rigor mortis research supports Bailey’s death on the evening of July 8 ........................................................................ 96
Decomposition research supports Bailey’s death on the evening of July 8 .................................................................... 96
Lividity research supports Bailey’s death on the evening of July 8 ........................................................................ 97
Bailey’s body cooling is unavailable as a means of determining his time of death ......................................................... 98
Bailey’s death on the evening of July 8 is supported by Simms’ testimony, and Bailey’s rigor mortis, decomposition and lividity ......................................................................................................................... 98

IX — Blaise’s Conviction Affirmed ........................................................................................................................................... 99
Nevada Supreme Court Justices “wished” Kirstin Blaise Lobato guilty by fabricating evidence and perpetrating a fraud on the Court in affirming her convictions ........................................................................ 99
The justices fabricated Ms. Lobato’s non-existent “admission” of guilt for Duran Bailey’s murder ................................. 100
The justices falsified the presumptive test results on Ms. Lobato’s car ........................................................................ 101
The justices relied on evidence they fabricated and falsified to deny Ms. Lobato a new trial ............................................. 102
Nevada Supreme Court justices committed “fraud on the court” affirming Ms. Lobato’s 2006 convictions ...................... 102
Consequences of the three justices’ fraud on the court ........................................................................................................ 106

X — Post-conviction ................................................................................................................................................................. 107
I — Blaise’s 770 Page Habeas Corpus Petition Filed on May 5, 2010 ................................................................. 107
II — New Forensic Entomology and Forensic Pathology Evidence Establishes Bailey Died after 8 p.m. on July 8, 2001 . 115
Figure 3 – Timeline of new evidence concerning Duran Bailey’s time of death and Kirstin Blaise Lobato’s alibi ........ 119

XI — Postscript ......................................................................................................................................................... 120
Post-conviction habeas corpus petition .............................................................................................................................. 122

XII — Appendix of additional information about Blaise’s case ......................................................................................... 123
I — Analysis Of The State’s Case For Alleging Blaise’s Guilt ......................................................................................... 123
II — Kirsten Blaise Lobato’s Phantom Confession to Duran Bailey’s Murder ................................................................. 126
III — Diann Parker’s Mexican Friends Murdered Duran Bailey? ................................................................................. 132
IV — A Rational Theory Of Duran Bailey’s Murder ........................................................................................................ 141
V — Exonerated People Convicted Of A Crime When They Were In Another City, State Or Country ......................... 143
Figure 4 – Persons exonerated of a crime committed when they were in another city, state or country ...................... 144
VI — Photos Of Blood At Crime Scene Proves Bailey Was Alive After His Rectum Wound Was Inflicted ................ 145

Afterword .............................................................................................................................................................................. 146
Index .................................................................................................................................................................................. 149
Endnotes ............................................................................................................................................................................. 152
Sources Of Information About Kirstin Blaise Lobato’s Case ............................................................................................. 170
Highlight Boxes

Public defender was surprised charges were so quickly filed against Blaise.............................................................. 6
U.S. District Court Judge Gloria Navarro states Blaise is innocent ................................................................. 6
AIDWYC endorses Blaise’s case on the basis “she is innocent.” ................................................................. 6
No confession by Blaise is alleged by police................................................. 22
Blaise’s arrest is “a very peculiar story”........................................................... 25
New scientific technique can obtain DNA profile from semen lacking sperm .......................................................... 51
Did Detective Thowsen go to the Budget Suites Hotel? ................................................................. 54
Kephart keyed on tapping into the juror’s emotions ............................................ 78
The jury was unaware that coincidences are the norm in life ................................. 79
Probability of when Bailey died based on his “possible” time of death on the morning of July 8, 2001 .......................... 86
Probability Bailey died prior to dawn contrasted with the certainty of guilt necessary to support a conviction .... 91

Maps

Nevada State Bank and parking lot trash enclosure (Microsoft® Virtual Earth) .......................................................... 17
Nevada State Bank and Grand View Apartments (Microsoft® Virtual Earth) ............................................................. 18
Las Vegas to Panaca is 170 miles driving (Yahoo® maps) .............................................................................. 20
Budget Suites Hotel, Jeremy Davis’ House and the Holy Family Catholic Church (Google® Maps) ......................... 21
Location of Bailey’s murder in west Las Vegas and Blaise’s assault in east Las Vegas (Google® Earth) ............... 27
Physical landmarks near the Budget Suites identified by Blaise in her statement (Google® Earth) ................. 31
Physical landmarks near the scene of Duran Bailey’s murder (Las Vegas Metro Police Dept) ......................... 31
Panaca, Nevada neighborhood where Blaise’s parents and alibi witnesses lived (Microsoft® Virtual Earth) ........ 64

Photos

Kirstin Blaise Lobato in the Summer of 2007 in the children’s play area at the Southern Nevada Women’s Correctional Facility in Las Vegas, Nevada (Michelle Ravell) ................................................................. Front cover
Duran Bailey’s body as found covered with trash (LVMPD crime scene photo) ...................................................... 16
Duran Bailey’s body with trash removed (LVMPD crime scene photo) ...................................................... 17
Duran Bailey’s mugshot on October 18, 1999, for his arrest for battery and domestic assault (LVMPD ) .................. 17
Diann Parker’s facial and neck injuries from Duran Bailey’s assault and attempted rape (LVMPD ) .................. 18
Diann Parker’s back, shoulder and arm bruises from Duran Bailey’s assault and attempted rape (LVMPD) .......... 19
Kirstin Blaise Lobato as high school senior in 2000 (Lobato family) ................................................................. 23
Budget Suites Hotel where Blaise was assaulted in May 2001. (Lobato defense) ............................................. 30
Holy Family Catholic Church were Blaise went after being assaulted in May 2001. (Lobato defense) ................. 30
Blood splatter on block wall next to where Bailey’s body was found (LVMPD crime scene photo) ....................... 41
Kirstin Blaise Lobato poster on injusticebusters.com (injusticebusters.com) ...................................................... 45
Kirstin Blaise Lobato in December 2005 after her release on bail pending her retrial (Michelle Ravell) ................ 46
7-1/2” barber scissors (Google® search) .............................................................................................................. 59
Butterfly knife with 3-1/2” blade (Google® search) .................................................................................................. 59
Looking toward the desert from the Lobato’s Panaca house (Lobato defense) ...................................................... 74
Blaise’s car parked in front of the Lobato’s Panaca house from July 2 to July 20, 2001 (LVMPD) ......................... 74
Kirstin Blaise Lobato in 2006 by fountain in San Francisco while on bail awaiting retrial (Michelle Ravell) ............ 122
Diann Parker’s back, shoulder and arm bruises from Duran Bailey’s assault and attempted rape (LVMPD) .... 133
Diann Parker’s neck injuries from Duran Bailey’s assault and attempted rape (LVMPD) ................................. 134
Diann Parker and Steven King’s Apt., and the Mexican’s Apt. at the Grand View Apartments (Michelle Ravell) .... 138
Bailey’s body superimposed over blood at scene (LVMPD) ............................................................................... 145
Kirstin Blaise Lobato as high school senior in 2000 (Lobato family) (Color photo) ................................................ Back cover

Credits

Steve Foreman and Michelle Ravell proof-read this Revised and Updated Second Edition. Other than the chapter “A Rational Theory of Duran Bailey’s Murder” by Michelle Ravell, Hans Sherrer is solely responsible for the content of this book.