

EIGHTH JUDICIAL DISTRICT COURT  
CIVIL/CRIMINAL DIVISION  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C177394
	)	
vs.	)	
	)	DEPT. NO. II
KIRSTIN BLAISE LOBATO,	)	
	)	
Defendant.	)	Transcripts of
	)	Proceedings

BEFORE THE HONORABLE VALORIE J. VEGA, DISTRICT COURT JUDGE

**"ROUGH DRAFT"**

JURY TRIAL - DAY 20  
VOLUME XX

FRIDAY, OCTOBER 6, 2006

COURT RECORDER:

LISA LIZOTTE  
District Court

TRANSCRIPTION BY:

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APPEARANCES:

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 San Francisco, California 94133

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1 THE COURT: The jury deliberated until  
 2 approximately midnight. They then elected to go home and  
 3 return this morning at 8:30 to resume deliberations. They  
 4 were given dinner last night after they went out to deliberate a  
 5 little after 7:00 p.m. and they were given lunch this afternoon  
 6 around 1:00 p.m. And since we got that scheduling note early  
 7 this morning, they have not sent out any further notes.

8 (Pause in the proceedings)

9 THE BAILIFF: The jury is now present.

10 (Jurors reconvened at 3:00:53 p.m.)

11 THE COURT: The record shall reflect that the ladies  
 12 and gentlemen of the jury have been returned to the  
 13 courtroom and reseated in the jury box by the bailiff.

14 Ladies and gentlemen, please answer out loud, yes  
 15 or no, have you selected a foreperson?

16 JURORS: Yes.

17 THE COURT: Would the foreperson please raise  
 18 their hand and state their name for the record.

19 JUROR DOBYNE: Douglas Dobyne.

20 THE COURT: Thank you. Mr. Dobyne, have you  
 21 returned to Court at this time with the form of verdict?

22 JUROR DOBYNE: Yes, we have.

23 THE COURT: The Bailiff will approach you, please  
 24 turn it over to him.

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1 LAS VEGAS, NEVADA FRIDAY, OCTOBER 6, 2006

2 **PROCEEDINGS**

3 (THE PROCEEDINGS BEGAN AT 2:57:53 P.M.)

4 (Jurors are not present)

5 THE COURT: The record shall reflect that we're  
 6 convened outside the presence in State versus Kirstin Blaise  
 7 Lobato, under Case Number C177394, in the presence of the  
 8 defendant, together with all three of her counsel. The two  
 9 Prosecuting Attorneys are present.

10 And the Court's been advised that the bailiff will  
 11 shortly be returning the jury to the courtroom. The record  
 12 shall reflect that we've received various notes from the ladies  
 13 and gentlemen of the jury since they went out to deliberate  
 14 and with each note the Court was able to conference call  
 15 counsel for both sides and counsel was able to agree upon a  
 16 response to go into the jury. We had four notes that came out  
 17 last night, which will be marked collectively as the Court's next  
 18 in number.

19 THE CLERK: 89, 90, 91, 92.

20 THE COURT: And then this morning we had one  
 21 note that was just apprising us of a scheduling issue with one  
 22 of the jurors and that will be marked as the Court's next in  
 23 number thereafter.

24 THE CLERK: 93.

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1 THE BAILIFF: Thank you.  
 2 THE COURT: Thank you, Mr. Bailiff.  
 3 Would the defendant and her counsel please stand.  
 4 The Clerk will read the verdict aloud.

5 THE CLERK: District Court, Clark County Nevada,  
 6 The State of Nevada, Plaintiff, versus Kirstin Blaise Lobato,  
 7 Defendant. Case Number C177394. Department II. Verdict.

8 We, the jury, in the above entitled case find the  
 9 defendant, Kirstin Blaise Lobato as follows:

10 Count One, Murder with use of a deadly weapon.  
 11 Guilty of voluntary manslaughter with use of a deadly weapon.

12 Count Two, Sexual Penetration of a dead human  
 13 body. Guilty of Sexual Penetration of a dead human body.

14 Dated this 6<sup>th</sup> day of October, 2006. Signed by  
 15 foreperson Doug Dobyne.

16 Ladies and gentlemen of the jury, are these your  
 17 verdicts as read, so say you one, so say you all?

18 JURORS: Yes.

19 THE CLERK: Thank you.

20 THE COURT: Thank you, Ms. Clerk.

21 Does the State desire to have the jury polled?

22 MR. KEPHART: No, Your Honor.

23 THE COURT: Does the defense desire to have the  
 24 jury polled?

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1 MR. SCHIECK: Yes, Your Honor.  
 2 THE COURT: Ladies and gentlemen of the jury, the  
 3 Clerk is now going to make inquiry of you individually as to  
 4 your verdict.  
 5 THE CLERK: Frank Arieno, is this your verdict as  
 6 read?  
 7 JUROR ARIENO: Yes.  
 8 THE CLERK: Tai Anderson, is this your verdict as  
 9 read?  
 10 JUROR ANDERSON: Yes.  
 11 THE CLERK: Paul LaChance, is this your verdict as  
 12 read?  
 13 JUROR LaCHANCE: Yes.  
 14 THE CLERK: Robert Sharpe, is this your verdict as  
 15 read?  
 16 JUROR SHARPE: Yes.  
 17 THE CLERK: Randall Froschheuser, is this your  
 18 verdict as read?  
 19 JUROR FROSCHEUSER: Yes.  
 20 THE CLERK: Thomas Ciciliano, is this your verdict as  
 21 read?  
 22 JUROR CICILIANO: Yes.  
 23 THE CLERK: Michelle Moir, is this your verdict as  
 24 read?

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1 that you had in life to continue through with this process and  
 2 we're most appreciative of you for all of those efforts. I know  
 3 too that this was a very difficult trial sometimes, in terms of  
 4 the nature of the testimony and the volume of the evidence  
 5 and you have done above and beyond the call of duty coming  
 6 in from the community to provide this essential service. As  
 7 you know without individuals such as yourselves coming into  
 8 the courtroom to provide this service our criminal justice would  
 9 grind to a halt and could not function.  
 10 I get a little upset sometimes when I hear people  
 11 criticize our system, for while it may not be 100 percent free of  
 12 error, I do far and way believe that it is the best system that  
 13 exist on the face of the planet and that's why so many people  
 14 from countries all around the globe come here to learn from  
 15 our system to incorporate a lot of the positive aspects of it into  
 16 their own systems back in their home countries.  
 17 As you are concluding your jury service, the question  
 18 may arise as to whether or not you can discuss the case, the  
 19 court advises you that yes, you may. But it is entirely up to  
 20 you. You're under no obligation to discuss it with anyone. I  
 21 know that frequently at the conclusion of the case the  
 22 attorneys for each side like to speak with the ladies and  
 23 gentlemen of the jury to glean some insights and you may be  
 24 approached for that reason. But as I said it's up to you

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1 JUROR MOIR: Yes.  
 2 THE CLERK: Janel Torgerson, is this your verdict as  
 3 read?  
 4 JUROR TORGERSON: Yes.  
 5 THE CLERK: Doug Dobyne, is this your verdict as  
 6 read?  
 7 JUROR DOBYNE: Yes.  
 8 THE CLERK: Lloyd Taylor, is this your verdict as  
 9 read?  
 10 JUROR TAYLOR: Yes.  
 11 THE CLERK: Anthony Vergot, is this your verdict as  
 12 read?  
 13 JUROR VERGOT: Yes.  
 14 THE CLERK: Anush Benham, is this your verdict as  
 15 read?  
 16 JUROR BENHAM: Yes.  
 17 THE COURT: Thank you, Ms. Clerk. The Clerk will  
 18 now record that verdict in the official minutes of the court  
 19 record to be maintained in the office of the clerk.  
 20 Ladies and gentlemen, those of us involved in this  
 21 trail wish to wholeheartedly commend you on your efforts.  
 22 This has been a much longer process than you were originally  
 23 advised of and I know you have had to undertake significant  
 24 efforts to rearrange your schedules and other commitments

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1 whether you wish to talk about the case or not. Should  
 2 somebody approach you to talk to you about the case and you  
 3 indicate to them that you don't want to talk about it and they  
 4 persist, please contact my chambers so that I can address that  
 5 on your behalf.  
 6 I believe that the bailiff will have -- would have  
 7 given you instructions, as he generally does, with regard to  
 8 jury services and what you need to do there to finalize your  
 9 service. The Court's gonna ask that you please remove your  
 10 blue badges and leave them behind in your chairs, as those  
 11 will be recycled for the group coming in on Monday. The  
 12 notes which you have taken and your copy of the jury  
 13 instructions you may take with you if you wish. If you prefer,  
 14 you may leave them behind in your seat in which case the  
 15 bailiff will shred them on your behalf.  
 16 As you are concluding your jury services at this time,  
 17 the Court does not need to read you the admonishment. Once  
 18 again we thank you wholeheartedly for all your efforts and  
 19 your service. You may exit at this time. Good luck to all of  
 20 you.  
 21 (Jurors are Excused at 3:07:52 p.m.)  
 22 THE COURT: The record shall reflect that the jury  
 23 has exited the courtroom.  
 24 With the decision of the jury the matter will now be

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1 referred to the Division of Parole & Probation for presentence  
 2 investigation and report and set over for sentencing.  
 3 THE CLERK: November 28, 9:00 a.m.  
 4 MR. KEPHART: Your Honor, I'd ask the court to  
 5 remand the defendant to custody based on this conviction --  
 6 based on the fact that the Count Two is a non-probationable  
 7 offense.  
 8 MR. SCHIECK: Your Honor, she is currently out on  
 9 bail and has made all court appearances and has made all  
 10 appearances throughout the course of these proceedings. She  
 11 has already served over four years -- or right at four years for  
 12 credit for time served. And she was convicted previously.  
 13 Given the fact that the jury found a reduced verdict, we would  
 14 ask -- and given the fact that she has been doing everything  
 15 that she needed to do while she was out of custody and  
 16 complied with all requirements the Court asked, that she be  
 17 allowed to remain on bond pending her sentencing date.  
 18 If the Court has any inquiries concerning her living  
 19 situation or anything else we can provide that, if the Court  
 20 requires.  
 21 THE COURT: She has diligently made all of her  
 22 court appearances since she's been out on bond.  
 23 MR. SCHIECK: She's also stayed in constant contact  
 24 with her attorneys.

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1 the State's request.  
 2 MR. SCHIECK: Would the Court consider a house  
 3 arrest type situation to assure that nothing does happen?  
 4 She's been on house arrest before, in fact she was on house  
 5 arrest before the first trial when she was still facing murder  
 6 charges she was on house arrest and complied with all the  
 7 conditions at that time, at the time she was into custody and  
 8 so would the court consider house arrest as an additional  
 9 condition of probation or whatever other conditions the court  
 10 would wish to impose upon her. But, again, she's not flight  
 11 risk. She hasn't gone anywhere over all this period of time.  
 12 THE COURT: That house arrest was a pre-  
 13 adjudication back in 2002 and we're now in a different set of  
 14 circumstances so the Court declines that request. The  
 15 sentencing date that had been set ordinary course will be  
 16 vacated and the Clerk will set a new sentencing date.  
 17 THE CLERK: November 21, 9:00 a.m.  
 18 (Off-record colloquy)  
 19 THE COURT: That concludes these proceedings and  
 20 we'll go off the record.  
 21 PROCEEDINGS CONCLUDED AT 3:12:40 P.M.  
 22 \* \* \* \* \*  
 23  
 24

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1 THE COURT: What's the range of punishment on  
 2 Count Two?  
 3 MR. KEPHART: It's a 5 to 15 or 5 to life.  
 4 THE COURT: So she hasn't even served the  
 5 minimum and it's a mandatory.  
 6 MR. KEPHART: Correct.  
 7 MR. SCHIECK: However, Your Honor, it's a -- it's a  
 8 short additional period of time on the mandatory five. Clearly  
 9 it would be very foolish on her part to even consider not  
 10 continuing to come to court and stay in touch with her  
 11 attorneys while she's waiting for sentencing. I mean it's not  
 12 like she's as she was before, convicted of First Degree Murder.  
 13 And the bond is quite high. It's \$500,000 bond, Your Honor,  
 14 that's been posted.  
 15 MR. KEPHART: Judge, that's -- it's my  
 16 understanding that's not her money that's posted anyhow, so I  
 17 mean --  
 18 MR. SCHIECK: That is not relevant, the fact is --  
 19 MR. KEPHART: Well, it's certainly relevant.  
 20 MR. SCHIECK: -- bond has been posted and she has  
 21 abided by all conditions of that bond.  
 22 THE COURT: Well, it appears that some additional  
 23 time is gonna be required on Count Two and that that  
 24 increases a potential for flight risk, so the Court's gonna grant

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**AFFIRMATION**  
 Pursuant to NRS 239B.030

The undersigned does hereby affirm that the  
 preceding Transcript filed in District Court, Case No. C177394  
 does not contain the social security number of any person.

Gayle Lutz  
 Transcriber

4/29/07  
 Date

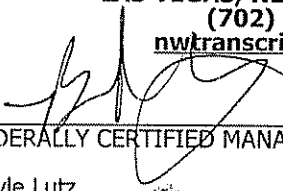
\* \* \* \* \*

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**CERTIFICATION**

I (WE) CERTIFY THAT THE FOREGOING IS A "**ROUGH DRAFT**" TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

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Gayle Lutz  
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