

COMMISSION ON JUDICIAL SELECTION
APPLICATION
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT 11

By

Agnes M. Botelho
(Insert applicant name)



**SECTION I: PUBLIC INFORMATION
(QUESTIONS 1 THROUGH 47)**

Personal Information

1. Full Name:

Agnes M. Botelho

2. Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.

My birthname is Agnes M. Perez, which I used until I was adopted in 1987. I used the name Agnes M. Botelho from 1987 to 2002. My name changed to Agnes M. Oana due to marriage in December 2002, only to change my name back to Agnes M. Botelho when I was divorced in January 2005. I was known as Agnes M. Botelho from 2005-2013. My name changed to Agnes M. Lexis due to marriage in 2013 until I changed my name back to Agnes M. Botelho in 2018, approximately three (3) years after my divorce.

3. Work Address:

200 Lewis Avenue, Las Vegas, NV 89101

4. How long have you been a continuous resident of Nevada?

23 years

5. Age:

(NRS 3.060 states that a district judge must be at least 25 years old.)

41 years old

Employment History

6. Using the format provided in Attachment "A" please start with your current employment or most recent employment, self-employment, and periods of unemployment for the 20 years immediately preceding the filing of this Application.

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

School: Kauai High School
Address: 3577 Lala Road
Lihue, HI 96766
Dates of Attendance: August 1994- June 1998
Awarded: High School Diploma

College: Baylor University
Address: 1311 South 5th Street
Waco, TX 76706
Dates of Attendance: August 1998-December 1998
Reason for Leaving: Moved to Las Vegas

College: University of Nevada Las Vegas
Address: 4505 South Maryland Parkway
Las Vegas, NV 89154
Dates of Attendance: August 1999-May 2005
Awarded: Bachelor of Arts

College: Community College of Southern Nevada
Address: 6375 West Charleston Boulevard
Las Vegas, NV 89146
Dates of Attendance: August 2001-December 2001
Reason for Leaving: Attended one class, credits transferred to UNLV

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

Kauai High Mock Trial Team, 1994-1998

I was captain of my high school mock trial team all four years that I participated in the program. During my sophomore year, our team won the Kauai Island District Championship. The following year, our team won the Kauai Island District Championship and the Hawaii State Mock Trial Championship. We represented the State of Hawaii at the 1997 National Mock Trial Competition

in Nashville, Tennessee. During my senior year, we won the Kauai Island District Championship and the Hawaii State Mock Trial Championship. We represented the State of Hawaii at the 1998 National Mock Trial Competition in Albuquerque, New Mexico. Our team ranked 13th in the nation out of fifty-two (52) teams and I was awarded the Outstanding Litigator Award, an individual honor for obtaining the highest number of nominations from the scoring judges in all four (4) rounds of the competition.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

Law School: University of Nevada
Boyd School of Law
4505 South Maryland Parkway
Las Vegas, NV 89154

Degree Awarded: Juris Doctorate

Date Awarded: May 2008

Rank: I was not in the top third of my class. Therefore, I did not receive a ranking.

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

Out of necessity, I was employed during a majority of law school. My first year of law school (August 2005-May 2006), I worked part-time on the weekends as a tutor for elementary, junior high, and high school students. The summer after my first year (June 2006-August 2006), I worked full time as a show reservations agent for MGM-Mirage and continued to tutor students on the weekends. During my second year of law school (August 2006-June 2007), I continued to tutor students, part-time, on Saturdays and Sundays. During the week, I worked part time for Delanoy, Schuetze and McGaha, a local insurance defense firm. The summer following my second year of law school (June 2007-August 2007), I accepted an externship position at the Maricopa County Attorney's Office, Sex Crimes Bureau. I earned my externship hours so quickly that they converted the remaining half of the externship into a paid position. During my final year of law school (August 2007-May 2008), I worked as a law clerk for the late Robert Lucherini, Esq., who specialized in criminal defense.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

During law school, I was a participant, member, or officer in the following student organizations:

Asian Pacific American Law Student Association, Vice President, 2006-2007
Asian Pacific American Law Student Association, Community Service Chair, 2006-2007
Asian Pacific American Law Student Association, Member, 2005-2008
Public Interest Law Association, Vice President of Auction Event Planning, 2007-2008
Thomas and Mack Juvenile Justice Clinic, Student, Fall 2007
Partners in Pro Bono, Participant, 2006
Nevada Immigrant Resource Project, 2006
Boyd School of Law Client Counseling Competition, 2nd Place, 2006
CALI Award Recipient, Trial Advocacy, Professor Thomas Pitaro, Esq., Spring 2007

Law Practice

12. State the year you were admitted to the Nevada Bar.

I was admitted to the Nevada State bar in October of 2008.

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

I am not licensed or admitted to practice law in any other states.

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No, I have never been suspended, disbarred, nor voluntarily resigned from the practice of law in Nevada or any other state.

15. Estimate what percentage of your work over the last 5 years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the 5 years directly preceding your appointment or election to the bench.

100% of my work has involved litigation matters, 95% of which are / were in the trial courts and 5% of which are / were in the appellate courts.

2017	C-15-310554	Gabrial Williams Myra Sepulveda
Charges:	Conspiracy to Commit Murder Attempt Murder with Use of a Deadly Weapon Battery With Use of a Deadly Weapon Resulting in Substantial Bodily Harm Destroying Evidence Destroying Evidence Destroying Evidence Discharging a Firearm From Within a Structure Discharging a Firearm From Within a Structure Aggravated Stalking Performance of An Act or Neglect of Duty in Willful or Wanton Disregard of Safety of Persons Resulting in Substantial Bodily Harm Possession of Firearm by a Prohibited Person Battery Domestic Violence Strangulation Coercion Second Degree Kidnapping	
2017	C-16-317879	Corey Henderson
Charges:	Conspiracy to Commit Robbery Robbery Battery Resulting in Substantial Bodily Harm Possession of Controlled Substance Battery With Intent to Commit a Crime (Robbery)	
2017	C-16-316081	Keandre Valentine
Charges:	Robbery With Use of a Deadly Weapon Burglary While In Possession of a Deadly Weapon Robbery With Use of a Deadly Weapon Robbery With Use of a Deadly Weapon Burglary While In Possession of a Deadly Weapon Robbery With Use of a Deadly Weapon Robbery With Use of a Deadly Weapon Attempt Robbery With Use of a Deadly Weapon Robbery With Use of Deadly Weapon Burglary While In Possession of a Firearm Robbery With Use of a Deadly Weapon Possession of Document or Personal Identifying Information Possession of Credit Card Without Cardholder's Consent Possession of Credit Card Without Cardholder's Consent	

19. List courts and counties in any state where you have practiced in the past 5 years.

Las Vegas Justice Court, Clark County, Nevada
Eighth Judicial District Court, Clark County, Nevada

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), and list or describe:

Case Name and Date: State v. Victor Villalta, June 2014
Court: Eighth Judicial District Court
Presiding Judge: Honorable Judge Valerie Adair
Defense Counsel: Martin Hart, Esq.
Co-Counsel: Former Chief Deputy District Attorney / Justice of the Peace
Elana Lee Graham

A senior deputy asked me to try this case shortly before the September 13th, 2013, trial date, which was approximately seven (7) years after charges were formally brought against Mr. Villalta. The trial did not go forward in September and was reset to June of 2014.

During our pretrial with Las Vegas Metropolitan Police Detective Tracy Smith the Friday before the June 24th trial date, we uncovered exculpatory information in the form of notes that Detective Smith had in her possession and was referring to during our meeting. We had pretried Detective Smith multiple times prior to the September 2013 trial date and had already combed through and organized the file prior to this meeting. We had never seen these notes before. We copied the notes and immediately disclosed the notes to Mr. Villalta's attorney, Martin Hart. We advised Mr. Hart that we would dismiss the case if Mr. Villalta passed a polygraph examination. I reached out to the Las Vegas Metropolitan Police Department and scheduled an emergency polygraph test for the morning of Monday, June 24th, which was when Mr. Villalta's trial was officially set to begin. We advised Judge Adair of the circumstances and she ordered the parties to appear in court the following morning. We observed the polygraph examination and the examiner personally advised us that Mr. Villalta had passed the polygraph examination.

I remember feeling very conflicted as I stood in court on June 25, 2014. I knew in my heart and in my gut that I needed to dismiss the case against Mr. Villalta. And that is what I was going to do. However, I feared the backlash that I would receive from the other deputies in my office. Specifically, I had only been a Deputy District Attorney for less than five years and was up for the Chief Deputy District Attorney promotion the following month. I knew the dismissal of a multiple count, serious Sexual Assault on a Minor case with two victims would not be received well. I knew my judgment and preparation was going to be called into question by the more senior deputies in the Special Victims Unit who believed I should have presented the case to a jury to decide Mr. Villalta's guilt or innocence rather than dismissing the case.

My voice shook as I said something to the effect of, “Your Honor, as a prosecutor, I have an ethical obligation not to present a case to a jury unless I believe I can prove the case beyond the reasonable doubt. I don’t believe I can prove this case beyond a reasonable doubt. The State moves to dismiss this case.” Judge Adair addressed Mr. Villalta and commended us for the dismissal. So did Mr. Hart and so did Mr. Villalta.

Just as I feared, we did receive backlash for my decision to dismiss the case. I was called into meetings where my judgment was called into question and we were accused of being unprepared or scared to go to trial. But I stood firm and held my head high because I knew I did not “feel an abiding conviction as to the truth of the charge” and therefore, I could not get in front of a jury and ask that jury to find Mr. Villalta guilty.

I had never entertained the idea of leaving the Clark County District Attorney’s Office until then. I felt I was being chastised for doing the right thing. However, while I faced criticism from some in my office, defense attorney after defense attorney called, texted, and approached me to thank me for turning over the exculpatory material and dismissing the case. I promised myself that I would leave the office if the backlash continued because I

did not want to work for an organization where I feared being punished for doing the right thing. This case taught me that no case, no amount of backlash, or personal turmoil is worth compromising my integrity, particularly as a prosecutor.

The Review Journal ran a story on Mr. Villalta’s case (attached) and it was through that article that I learned of his eight year long ordeal. I knew the victims were extremely tired of receiving the same yellow subpoena every few months to notify them that the case was set for trial again, only to be continued again. Mr. Villalta and the victims deserved better. Our system needed to do better in the areas of timely disclosure of evidence and the timely disposition of cases. This case taught me that “Justice delayed is justice denied.” Since this case, I have pushed myself to take additional steps to ensure that relevant discovery is disclosed early and to get my cases resolved or tried quickly.

I have seen Mr. Villalta around the courthouse a few times in the years following the dismissal. He had taken a job as a legal runner. He thanked me every time I saw him and I smiled each time, assured in the decision I made years ago, knowing I would make that same decision today.

Case Name and Date:	State v. Gabriel Williams and Myra Sepulveda March 2017
Court:	Eighth Judicial District Court
Presiding Judge:	Honorable Judge Douglas Smith – Trial Honorable Douglas Herndon – Sentencing and Post Trial Litigation
Defense Counsel:	Dean Kajioka & Roy Nelson for Williams – Trial Kristina Wildeveld & Dayvid Figler – Sentencing and Post Trial Litigation
Co-Counsel:	Carl Arnold for Sepulveda Deputy District Attorney Chad Lexis

This case is important to me because it showcased and exemplified the qualities that make me an excellent prosecutor and lawyer. I worked tirelessly to put this case together in the beginning and despite the evidentiary obstacles I faced, (for instance, the victim not being able to remember what happened because she was shot in the head and missing part of her skull), I managed to put the pieces together, present a strong case at trial, and obtain convictions on all the charges against Williams and Sepulveda. This case is by far the best example of my trial skills - from opening statements, direct examinations, cross examination of the testifying Defendant, rebuttal and evidentiary arguments. In addition, I displayed my ability to research and write when I responded to multiple motions on a variety of issues after trial. Lastly, it was during this trial that I realized the importance of preparing for sentencing by gathering reports and as much information as possible to present the most complete picture of the Defendant to the sentencing judge.

The Davis, Matthews and Solid cases (as discussed below) are important to me because I developed a strong relationship with the victims' families in these cases and in each of these cases, an error committed during jury selection, trial, or jury instructions

unnecessarily caused and prolonged their suffering. These cases have impacted me because every time I am selecting a jury or arguing jury instructions, I think of the families in these cases. I am more careful now than I have ever been when conducting a jury trial because I have seen firsthand on multiple occasions just how serious the repercussions are.

Case Name and Date:	Keonis Davis April 2018
Court:	Eighth Judicial District Court
Presiding Judge:	Honorable Judge Eric Johnson
Defense Counsel:	Andrea Leum & Jess Marchese
Co-Counsel:	Deputy District Attorney Thomas Moskal

I handled two of Mr. Davis' cases. I tried his first case, an Attempt Murder With Use of a Deadly Weapon, in 2010 with Chief Deputy District Attorney Victoria Villegas, the then team chief of the Gang Unit. It was my third trial in the office. Mr. Davis was convicted of Battery With Use of a Deadly Weapon Resulting in Substantial Bodily Harm and sentenced to 6-15 years in the Nevada Department of Corrections by the Honorable Judge Valerie Adair. On October 18, 2013, I argued the case before the Nevada Supreme Court, Southern Panel. It was the first time I argued before the Nevada Supreme Court. I was devastated when I read the published opinion reversing the conviction and remanding the case for a new trial. The case was reversed due to a self defense instruction that was not given to the jury. After assessing the likelihood that we would locate the uncooperative victim and witnesses and retry the case and learning that Mr. Davis had almost served the maximum end of his sentence, we offered Mr. Davis a sentence of credit for time served in exchange for a guilty plea. He entered his plea and was released from custody.

Twenty-eight days after he was released from custody, Mr. Davis shot and killed Robert Matthews during a robbery. When the murder case was filed, I asked for the case, and I handled it from grand jury to sentencing. Mr. Davis was convicted of all the charges, including First Degree Murder with Use of a Deadly Weapon, and sentenced to an aggregate term of life with the possibility of parole after forty-four years. In the three years that I had the case, I became familiar with Mr. Matthews' family. His mother was a regular sight during the status checks and calendar calls. Unfortunately, she passed away before the trial. While preparing for trial, I met Mr. Matthews' girlfriend, Secoya and their then five-year-old son, Noah. As Noah, Secoya and I walked out of court one day after trial, Noah asked me, "Why did that man shoot my daddy?" I do not remember my response. I do remember the sharp pain that went through my chest as I tried to explain to him and perhaps even to Secoya and myself, why Mr. Davis committed this crime and so soon after being released from prison.

Secoya regularly sends me text updates and pictures of Noah. To this day, I wonder if Mr. Matthews would still be alive today if we had prevented the jury instruction error in the first trial.

Case Name and Date:	Jemar Matthews	September 2018
Court:	Eighth Judicial District Court	
Presiding Judge:	Honorable Judge Michelle Leavitt	
Defense Counsel:	Todd Leventhal & Rich Tanasi	
Co-Counsel:	Chief Deputy District Attorney John Giordani	

Mr. Giordani and I tried Mr. Matthews in September 2018. It was a retrial of a murder that occurred in 2006. In 2017, U.S. District Court Judge Gloria Navarro ordered a new trial, finding that the prosecution committed misconduct during rebuttal arguments in the 2007 trial. Mr. Matthews was convicted again of all of the charges, including Murder With Use of a Deadly Weapon. In December 2018, Mr. Matthews was sentenced to Life with the possibility of parole after forty years.

In July 2020, Mr. Matthews' case was reversed for the second time. In the published decision, the Nevada Supreme Court found that the lack of support in the record to support the State's reason's for striking a juror and the trial court's failure to state reasons for summary overruling of Batson challenge amounted to structural error warranting reversal.

I dreaded making the call to Mercy Williams' mom, sister, and brother to explain the second reversal. Even harder was explaining to them that there would likely be a third trial if the parties could not reach a reasonable resolution. To this day, I wish I could go back in time and correct the mistakes made so I could spare this family the agony and pain of going through another trial.

Case Name and Date: Michael Solid August 2016
Court: Eighth Judicial District Court
Presiding Judge: Honorable Judge Valerie Adair
Defense Counsel: Randall Pike and Robert Arroyo
Co-Counsel: Chief Deputy District Attorney Jacqueline Bluth

On August 31, 2016, Michael Solid was convicted of Murder With Use of a Deadly Weapon after nine days of emotionally charged testimony during the trial and penalty phase. He was sentenced to an aggregate term of life with the possibility of parole after thirty years. In July of 2018, the Nevada Supreme Court reversed the judgment of conviction and ordered a new trial, holding that the district court committed error when it dismissed venire members before resolving Mr. Solid's objections pursuant to Batson.

The reversal was an especially devastating blow because I handled this case from the very beginning. I met 15-year-old Marcos Arenas' family less than a month after his May 2013 murder. At that time, their sense of loss was still so heavy that I struggled to breathe in the ante room as I introduced myself and explained the process. To have to call them three years later to explain that the wounds they thought had started to heal would have to be ripped open again because of an error during jury selection was shattering.

21. Do you now serve or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

No.

22. Describe any pro bono or public interest work as an attorney.

As a full time Chief Deputy District Attorney and full time mother to a toddler, I have not had the spare time to complete pro bono or public interest work.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

Nevada Supreme Court Bench Bar Committee Member, appointed in October 2020 by Nevada Supreme Court Chief Justice James Hardesty
Term: 2020-2022
Chair of Criminal Subcommittee Reviewing NRAPs and Nevada Judicial Code, appointed in April 2021 by Nevada Supreme Court Justice Abbi Silver

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past 5 years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Using Expert
Mindfulness For Attorneys
Department Of Parole & Probation – The PSI Report
Top Ten Things Defense Attorneys Wish We Understood
Risks of Doing Business? Prosecutor Awareness & Safety
Project Safe Neighborhood
The Nitty Gritty of Justice Drug Court: Ethics Treatment & The Role of Prosecution
Vicarious Trauma
Bundy, Brady & Blind Spots In Ethics
Update of Cell Phone Technology In Criminal Case
How To Effectively Work With Metro's Forensic Lab
Domestic Violence Gun Dispossession Update
Facial Recognition Technology Used at Metro
Compassion Fatigue
Metro Use Of Force Investigations
Str Mix DNA Lab Training
Search Warrant Duty & Other Interactions With Law 2.0 Ethics Enforcement & Prosecutorial Immunity
Facial Recognition - Update from LVMPD
Prison Math
Updates from CCDC House Arrest & Electronic Monitoring
National Black Prosecutors Association: Rebutting the Rhetoric: A Virtual Implicit Bias Training
Introduction to the Hope for Prisoners Program
Charging & Prosecuting Child Abuse Cases
Child Abuse - Injuries, Mechanisms, & Defenses
Legislative Changes Going Into Effect
Considerations When Using Informants
Pharmacology, Symptoms, & Complications of Commonly Abused Substance
Firearms Trafficking, IEDs, & Crime Gun Intelligence

I am compliant with the continuing legal education requirements applicable to me as a lawyer.

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

I work for a governmental agency.

Business and Occupational Experience

- 26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.**

No, I have not ever engaged in any occupation, business, or profession other than the practice of law.

- 27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:**

- a. the nature of the business,
- b. the nature of your duties,
- c. the extent of your involvement in the administration or management of the business,
- c. the terms of your service,
- d. the percentage of your ownership.

I have never served as a manager, officer, or director of any business enterprise, including a law practice.

- 28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.**

I have never served as an executor, trustee, or in any other fiduciary capacity.

Civic, Professional and Community Involvement

- 29. Have you ever held an elective or appointive public office in this or any other state? Have you been a candidate for such an office? If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.**

I have never held an elected or appointive public office in Nevada or any other state. I have also never been a candidate for such an office.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

I coached the Bonanza High School Mock Trial Team for two seasons, 2009-2010 and 2010-2011. The team consisted of underprivileged, immigrant, minority students who never dreamed of learning law and rules of evidence, let alone presenting a case in an actual courtroom with real life judges and attorneys in attendance. Coaching these students to speak confidently in public and showing them that they could excel in an otherwise intimidating and unfamiliar environment was one of the most rewarding experiences of my career, to date.

I saw myself in my mock trial students, as I too, was an underprivileged, immigrant minority student who, in high school, dreamed of becoming a lawyer. I chose to coach at Bonanza High School because I wanted their students to see that they too, could be an attorney, doctor, or engineer. I wanted to give them the opportunity that I wish all students in our similar situations were given – a chance to see themselves succeeding in an area, like law, that at the time, was unimaginable.

Eleven years later, I am still in touch with many of my former mock trial students. They are thankful for the training they received in the mock trial program and often tell me that the skills they learned, particularly oral advocacy and public speaking, helped them excel in job interviews and earn good grades in college. They continue to make me proud, and I hope one day, they pay it forward.

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

On November 14, 2018, I presented an office wide continuing legal education class discussing co-defendant prosecutions.

In 2017, 2018, and 2019, I taught a “Probable Cause” class for Nevada Highway Patrol, Parole and Probation, and Gaming Control recruits.

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

I have participated in activities and events involving Bamboo Bridges, a non-profit organization whose mission is to bridge the multi-ethnic, multilingual, and multi-generational Asian Pacific American community by developing collaborations and building awareness of the issues that Asian Pacific American women confront in their lives, families, and communities.

33. List honors, prizes, awards, or other forms of recognition.

N/A.

- 34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.**

I do not currently belong to and have never belonged to any club or organization that in practice or policy restricts its membership on the basis of race, religion, creed, national origin or sex.

- 35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.**

N/A.

- 36. During the past 10 years, have you been registered to vote? Have you voted in the general elections held in those years?**

I have been registered to vote in the last ten (10) years and have voted in the general elections held in those years.

- 37. List avocational interests and hobbies.**

I love to travel and cook.

Conduct

- 38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?**

I have read and are able to comply with the Nevada Code of Judicial Conduct if appointed to the District Court XI Bench.

- 39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.**

No, I have never been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation.

- 40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to question 73.**

No, I have never been sanctioned, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal.

- 41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.**

No, I have never been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason, including scholastic, criminal, or moral.

- 42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.**

No, I have never been refused admission to or released from any of the armed services for reasons other than honorable discharge.

- 43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.**

No, a lien has never been asserted against me or any property of yours that was not discharged within 30 years.

- 44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?**

No, a bankruptcy court has never entered an order in a case where I was or were the debtor providing a creditor automatic relief from the bankruptcy stay in any present or future bankruptcy case, related to property in which I have an interest.

- 45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.**

If I am appointed to serve as a member of the judiciary, I would have to recuse or disqualify myself from criminal cases I prosecuted while in the Clark County District Attorney's

Office and from all cases involving my son's father, Thomas Moskal, who is also a licensed member of the Nevada State Bar.

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

I have not previously submitted a questionnaire or application to this or any other judicial nominating commission.

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good district court judge. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.)

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

49. Attach a sample of no more than 10 pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past 5 years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

Attachment A Employment History
--

Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current Employer: Clark County District Attorney's Office

Phone Number: 702-671-2500

Address: 200 Lewis Avenue, Las Vegas, NV 89101

From: August 4, 2008

To: Present

Supervisor's Name: Robert Turner

Supervisor's Job Title: General Litigation Track Team Chief

Your Title: Chief Deputy District Attorney

Specific Duties:

- Prepare and handle criminal cases from inception (filing of charges) through appeals
- Represent the State of Nevada in preliminary hearings, jury trials, non-jury trials, evidentiary hearings, and arguments before the Nevada Court of Appeals and Nevada Supreme Court

Reason for Leaving:

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Law Office of Robert Lucherini, Chtd.

Phone Number: ***Law Firm Closed***

Address: 518 South Ninth Street, Las Vegas, NV 89101

From: August 2007

To: May 2008

Supervisor's Name: Robert Lucherini, Esq.

Supervisor's Job Title: Attorney

Your Title: Law Clerk

Specific Duties:

- Wrote and responded to motions
- Completed research projects
- Conducted witness interviews
- Assisted attorney with trial preparation

Reason for Leaving: Needed May 2008 – July 2008 to study for the July 2008 Nevada Bar Exam

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Maricopa County Attorney's Office, Sex Crimes Unit

Phone Number: 602-506-3411

Address: 225 West Madison Street, Phoenix, AZ 85003

From: July 2007_____

To: August 2007

Supervisor's Name: Paul Kittridge, Esq.

Supervisor's Job Title: Sex Crimes Unit, Senior Attorney

Your Title: Law Clerk

Specific Duties:

- Conducted three (3) felony trials utilizing the Arizona Supreme Court's Student Practice Rule; presented opening statements and closing arguments and conducted direct examinations
- Wrote and responded to motions, completed research projects / papers
- Conducted witness interviews
- Presented oral arguments in district courts
- Assisted attorneys with trial preparation

Reason for Leaving: Summer clerkship / externship ended. Returned to Las Vegas to resume law school.

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Delanoy, Schuetze and McGaha

Phone Number: 702-369-3225

Address: 601 South Rancho Drive, Suite C20, Las Vegas, NV 89106

From: January 2007
To: June 2007

Supervisor's Name: Jessica

Supervisor's Job Title: Officer Manager

Your Title: Law Clerk

Specific Duties:

- Assisted with legal research in the areas of insurance defense, family, and personal injury law
- Wrote and responded to motions, production requests, interrogatories, and other pleadings

Reason for Leaving: Accepted summer law clerk / externship position at the Maricopa County Attorney's Office.

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Full Time Law Student, Boyd School of Law

Phone Number:

Address:

From: August 2006

To: December 2006

Supervisor's Name:

Supervisor's Job Title:

Your Title:

Specific Duties:

Reason for Leaving:

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: MGM - Mirage

Phone Number: 1-877-880-0880

Address: 3799 South Las Vegas Blvd., Las Vegas, NV 89109

From: June 2006
To: August 2006

Supervisor's Name: N/A

Supervisor's Job Title: N/A

Your Title: Call Center – Show Reservations

Specific Duties: Booked show reservations for all MGM-Mirage properties

Reason for Leaving: Summer Job. Returned to Boyd School of Law.

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Full Time Law Student

Phone Number:

Address:

From: September 2005

To: June 2006

Supervisor's Name:

Supervisor's Job Title:

Your Title:

Specific Duties:

Reason for Leaving:

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Self-Employed

Phone Number: 702-575-2802

Address: N/A

From: August 2005

To: June 2007

Supervisor's Name: Self

Supervisor's Job Title:

Your Title: Elementary / Junior / High School Tutor

Specific Duties:

On Saturdays and Sundays, I instructed students K-12 in all core subjects and helped them develop reading, math, test taking, and problem-solving skills.

Reason for Leaving: Left Las Vegas during the summer of 2007 to extern and work at the Maricopa County Attorney's Office.

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Mandalay Bay Hotel and Casino

Phone Number: 3950 Las Vegas Boulevard South, Las Vegas, NV 89119

Address: 702-632-7777

From: January 2003
To: October 2005

Supervisor's Name: Jamie Pimentel

Supervisor's Job Title: Room & Group Reservations Supervisor

Your Title: Room & Group Reservations Agent

Specific Duties: Assisted guests, large groups, and conventions with booking room reservations.

Reason for Leaving: To attend Boyd School of Law.

<p style="text-align: center;">Attachment A Employment History (continuation sheet)</p>

Previous Employer: Summerhill Pointe Apartments

Phone Number: 9501 West Sahara Avenue, Las Vegas, NV 89117

Address: 702-254-7777

From: January 2001
To: December 2002

Supervisor's Name: Maggie Roberts

Supervisor's Job Title: Apartment Office Manager

Your Title: Apartment Leasing Agent

Specific Duties: Showed and leased apartments to potential residents.

Reason for Leaving: Accepted better paying position at Mandalay Bay Hotel & Casino.

I am the best choice to fill the vacancy in the Eighth Judicial District Court, Department XI, because I am a highly trained and experienced trial attorney who can immediately step into the role of trial judge in both criminal and civil matters. My experience is unmatched, as I have handled thousands of criminal cases and spent nearly every day of my thirteen (13) year career as a prosecutor in the Clark County District Attorney's Office in court, handling preliminary and evidentiary hearings, litigating motions, trying complex cases and arguing sentencings. To date, I have tried forty-three felony cases and argued multiple times before the Nevada Court of Appeals and the Nevada Supreme Court. My knowledge and command of the rules of evidence and criminal procedure will assist me in properly conducting trials and ruling on objections, as I will be aware of the issues that could threaten a judgment on appeal. The unique experience I gained as a prosecutor who has felt the devastating blow of a reversal will make me a deliberate and decisive trial judge.

My extensive experience handling every type of case for my office, from misdemeanors to capital cases, has given me the perspective to appropriately and fairly evaluate a case that would come before me for sentencing. My experience making thousands of offers to resolve a wide variety of cases committed by defendants with different backgrounds and histories, has prepared me to take into consideration all relevant factors when considering the appropriate and just sentence, while also giving due weight and regard to the interests of the victims and our community as a whole. The frustration I have felt as a prosecutor as I watched my cases lag for months and even years will motivate me to run an efficient courtroom, with the goal that resolutions are reached, or trials are held in a timely manner.

My background also sets me apart from the other candidates. I was born in the Philippines and my family immigrated to Hawaii when I was eight years old. My mom cleaned rooms and

worked in restaurants, often two to three jobs at any given point to provide for me and my sister. She was a single mother until she married my stepfather in 1997. He is a locksmith by trade but currently works for Appex Linen with the Local 501 Union. My only sister is a massage therapist at the Cosmopolitan Hotel and Casino and up until a year or so ago, my mother also worked at the Cosmopolitan as a housekeeper. My three nieces were all born in Las Vegas. My baby cousin is a patrol officer at the Las Vegas Metropolitan Police Department and has held that position for approximately five years. My upbringing and background will allow me to provide a different perspective to the cases I preside over if I am appointed to fill the vacancy in Department 11. Having been a poor immigrant minority myself, and currently a single mother, places me in the best position to understand the struggles of a majority of those who would appear in my courtroom. My perspective, while not necessarily better than the other candidates, will be different and unique and diversity in perspective and representation can only improve our criminal justice system.

Lastly, I possess the character traits that a good jurist should have – the strength and fortitude to do the right thing, a strong work ethic, a deliberate and thoughtful mind, and the drive to ensure that justice is served. While I may not be familiar with civil or family law, I am intelligent and hardworking and look forward to learning different areas of law. I welcome the challenge and will dedicate myself to learning and excelling in the new position if I am given the opportunity.

Las Vegas man found innocent 8 years later



Victor Villalta as seen during an interview on Thursday, July 10, 2014. Villalta was accused of sexually assaulting two girls eight years ago. He lost his union job at Caesars Palace and police denied visiting his grandmother on her death bed. On the eve of his trial, the Clark County District Attorney's office handed over a Las Vegas police detective's notes from 2006 that questioned the validity of the accusations made by the girls. (Jeff Scheid/Las Vegas Review-Journal)

By FRANCIS McCABE LAS VEGAS REVIEW-JOURNAL



July 12, 2014 - 7:56 pm

Don't miss the big stories. Like us on Facebook.

Like 288K

Victor Villalta waited eight years to prove in court he was innocent of sexually assaulting two girls, 6- and 9-year-old sisters.

He never got the chance. He never had to.

On the eve of his trial, the Clark County district attorney's office handed over a Las Vegas police detective's notes from 2006 that questioned the validity of the accusations made by the girls.

Soon after, Villalta passed a polygraph exam "with flying colors." And on June 24 prosecutors dropped the case that has haunted the 29-year-old for

nearly his entire adult life.

It remains unclear why the key piece of evidence was not revealed to Villalta for nearly a decade. And while Villalta might never learn why it happened, both police and prosecutors agree there was a breakdown in getting information to the defense.

What is known is that Villalta — who steadfastly denied the charges — has been vindicated, and a district judge has dismissed the case with prejudice, meaning he never again can be charged for the same crime.

It has been three weeks since the threat of a life prison term was lifted off Villalta's shoulders, but he still is grappling with how eight years of his life were squandered by those charged with protecting the innocent.

The case cost him his union job at Caesars Palace, his credit was destroyed, and he was denied visiting his grandmother on her deathbed.

And he suffered a toll he still can't quantify.

He held off on marrying his high school sweetheart, who stuck with him throughout. He delayed starting a family, fearing his child would be left fatherless. He couldn't sleep at night, and gained weight from the stress.

What he remembers are the stares from people at each court appearance as authorities hurled pedophile allegations at him.

That yoke has been lifted, yet Villalta still doesn't know how he feels.

"Mentally, emotionally ... I've been tainted," he said. "It feels like I don't have a feeling. I'm relieved, but I can't feel it. I'm happy, but I can't feel it. It's like you're emotionally just destroyed."

THE ORIGINAL COMPLAINT

The sexual molestation of the girls did not begin with Victor Villalta, court records and documents show.

It began with the girls' 17-year-old brother.

In 2005, the brother was ordered as a juvenile to Briarwood Group Home for molesting his younger brother and sister.

On Dec. 31, 2005, during therapy sessions, the 17-year-old said Villalta had at some point — it's unclear when — molested his 6- and 9-year-old sisters.

Villalta was a neighbor in a central valley neighborhood near Decatur Boulevard and Sahara Avenue and a friend of another brother of the girls.

In March 2006, Detective Tracy Smith began interviewing the two girls based on the brother's claims.

The younger girl said Villalta had molested her, and she had seen him do the same to her 9-year-old sister.

The older sister "did not disclose any sexual abuse but did state that Victor was one of her brother's friends that comes over to her house," a police report said. But Smith believed she was molested, too.

Initially, Smith said, Villalta wanted to talk about the accusations and was offered a chance to take a polygraph exam. But he retained a lawyer, Phil Singer, who told him not to talk to police.

By May, the case was dormant.

In September, Smith picked up the investigation hoping that after months of therapy the traumatized girls would be ready to give "more consistent details of suspect Victor Villalta."

They did. “It was quite a bit different than their first disclosures,” Smith noted.

JAIL AND HOUSE ARREST

The district attorney’s office authorized an arrest warrant for Villalta on Nov. 9, 2006.

A month and \$8,000 later, the then 22-year-old Villalta bailed out of the Clark County Detention Center. He faced a dozen sexual assault-related charges, some carrying life prison sentences.

In a month’s time he lost his Culinary union job at Caesars Palace, although the resort promised to hold his job for two years if he was cleared. His credit fell apart, and he no longer could buy a home with his high school sweetheart, Vanessa.

Prosecutors had Villalta put on house arrest.

For the next three years and 10 months, he remained confined to his home. House arrest, he said, is “not like being incarcerated, but they are basically taking away your freedom anyway.”

Villalta couldn’t hold down a steady job. He was rejected repeatedly because of the pending criminal case.

He felt anguish.

“I stressed a lot. I couldn’t sleep at night,” he said. He would stay awake at night going over every detail of the case in his head. He fell out of shape and gained weight.

Villalta held off marrying Vanessa and starting a family, fearing he might be sent to prison for a crime he didn’t commit.

“It’s hard when you’re locked in a room by yourself and you feel like the walls are getting smaller every day. It tests your sanity,” he said.

DELAYS AND DEALS

Villalta’s case began to crawl through the justice system.

The first trial date was in August 2007. It was delayed, which became routine over the next eight years, although three significant events contributed to those delays.

In November 2008, Villalta’s lawyer, Singer, was suspended from practicing law and eventually disbarred. Next, the lead prosecutor in the case, Mary Kay Holthus, became ill with cancer. Following that, the wife of Villalta’s new defense lawyer, Martin Hart, was diagnosed with cancer.

District Attorney Steve Wolfson, who did not take office until 2012, noted the defense asked for twice as many delays as the prosecution during the length of the case.

Defense lawyer Hart recalled entertaining a dozen plea offers from prosecutors throughout the delays. There were too many to count for Villalta.

“After the first three or four offers, I told Marty (Hart) I don’t want to hear about them anymore because there was no point,” he said. “I didn’t do anything, and I’m not going to plead that I did anything. So either we do this at trial or they drop the charges. I don’t have anything to hide.”

One deal, Villalta said, was for him to plead guilty to a felony, register as a sex offender and face at minimum five years of probation, if not prison. For Villalta, it was an absurd offer.

“You can’t get a job,” he said. “You can’t take your son to school. You can’t throw your son a birthday party. How can you live like that?”

Villalta became frustrated and felt prosecutors were playing games.

He wanted to be cleared of any wrongdoing not only for his own sanity, but for his future wife, Vanessa, his parents and his siblings who kept faith in him.

“I thank God for them. They have been my backbone through all of this,” Villalta said.

NEW PROSECUTORS

In the fall of 2013, two new prosecutors, Agnes Lexis and Elana Graham, took over the case. Wolfson said Holthus had a conflict with another criminal case she was handling, which is common for prosecutors.

District Judge Valerie Adair would delay the trial three more times between September and June.

As the June 24 trial date neared, Lexis and Graham began prepping their case.

Wolfson said the two prosecutors were combing through evidence when they discovered case notes from Detective Smith that questioned the validity of the allegations against Villalta.

Dated May 15, 2006, the notes said she called the girls' therapist: “She advised me ... (The girls) never disclosed sexual abuse from Victor until I brought it to her attention. (The therapist) is uncertain if Victor actually molested them ... Both girls stories change all the time with suspect Victor. (The therapist) believes that the girls will be or will disclose sexual abuse ... to get further emotional support/love from their mother.”

Detective Smith had suspended the case until September 2006 as the girls underwent four months of counseling. The girls then changed what they said Villalta did, and their statements became consistent, the notes said.

Prosecutors Lexis and Graham immediately contacted Hart and offered Villalta a new deal: If he passed a polygraph exam, they would move to dismiss the case.

He passed the test with ease on June 23.

“When my office learned of the new information, we acted quickly and we acted consistent with what is justice,” Wolfson said.

Instead of picking a jury June 24, Judge Adair dismissed the case.

Villalta thanked Lexis and Graham for “doing the right thing and giving me the opportunity to clear my name.”

“There’s no doubt in my mind he didn’t do it,” Hart said. “He’s not just not guilty, he was an innocent person.”

BREAKDOWN

Al Salinas, Metro deputy chief of investigative services, and Assistant District Attorney Christopher Lalli agreed there was a breakdown in getting the notes to the defense, but it’s unclear when or how it occurred.

“We’ve already started to take a look at the process,” Salinas said. “Should the defense have gotten that information from the get-go? Of course, it’s exculpatory.”

Lalli said discovery issues have long existed because of the archaic, paper-driven case submittal process between police and the district attorney’s office.

Lalli is hoping to remedy the problems by developing an electronic case management system, which would ease the exchange of files between police and prosecutors.

“The hope is that it is going to eliminate the vast majority of discrepancies in getting discovery to the defendant,” he said.

Hart said he knows the notes were not part of any discovery he received in the case and firmly believes prosecutors Lexis and Graham never saw them before they alerted him.

“Whether (the notes) were in the file earlier, I can’t say. I don’t know. They should have been,” he said.

MOVING ON

When Villalta was released from house arrest in October 2010 he decided he no longer could ignore his life.

He first hiked a mountain at Red Rock Canyon. A month later, he married Vanessa. In March 2012, their son, Alonzo, was born.

Since the birth, his wife has worked while he has cared for their son.

He said he doesn’t hold ill feelings toward the girls.

“I don’t because they’re kids. You can easily manipulate a kid to say what you want them to say at their age,” Villalta said. “They (authorities) know they didn’t have anything to go by, but because they kept pressing and pressing and pressing the story on to them, of course a kid is going to jump and say ‘OK maybe something happened.’ ”

Still, Villalta understands why authorities pursued the case. “It’s in all of us. We want to protect kids,” he said. But to what extent, he asked.

“It’s eight years of someone’s freedom you’ve played with,” he said. “You can’t just forgive and forget.”

Meanwhile, Villalta and Hart would later learn that the 17-year-old brother of the girls, who was charged with molesting his siblings and first leveled

the accusations against Villalta, was allowed to move back home.

“It’s funny how the person who didn’t do anything had to go through all this and the person that did everything got put at (Briarwood) for a couple of years and then got released back with the family,” Villalta said.

Since the dismissal, Villalta has worked to have his records sealed so he can try and get a job.

Villalta knows he has put his life on hold for long enough.

“I’m ready to move on. This was a big rock in my road, and I was happy to pull it aside and clear my name from this. There is even more of a reason for me to live now.”

Contact Francis McCabe at fmccabe@reviewjournal.com or 702-224-5512. Find him on Twitter: [@fjmccabe](https://twitter.com/fjmccabe).