

Lindsey Lowe, who killed newborn twins, seeks new trial

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A Hendersonville woman who smothered her newborn twins to death in 2011 is seeking a new trial, arguing that key evidence should not have been used against her.

That evidence was 25-year-old Lindsey Lowe's confession to police just a day after she gave birth to two boys in a toilet of her home in September 2011. Lowe told police, according to court documents, that she put her hand over one baby's mouth until the infant stopped crying, and then did the same to the second child.

Attorney David Raybin speaks with Lindsey Lowe's mother, Paula Lowe, at the Court of Criminal Appeals on Tuesday, Aug. 10, 2015.

In front of three judges of the Tennessee Court of Criminal Appeals on Tuesday, Lowe's appellate attorney, David Raybin, argued that statement never should have been used at the first trial. Sumner County Judge Dee David Gay allowed the statement to be used, ruling that Lowe gave it voluntarily.

But Raybin said Hendersonville police used "coercion and trickery" to get Lowe to make the statement.

He said officers did not properly read Lowe her Miranda rights, including the right to an attorney and to remain silent, and steamrolled through her questions about whether she should have an attorney present. He said Lowe never waived those rights, and said when officers did not get answers they wanted, they asked questions another way.



Lindsey Lowe's life sentences in twins' murders to run concurrently

Assistant Attorney General Leslie Price said Lowe's convictions should stand. She said the officers twice read Lowe her rights, and according to case law, Lowe waived those rights when she continued to talk. She said Lowe was not in custody, agreed to go to the police station and was free to leave at any time.

Paula Lowe hugs her daughter Lindsey Lowe before the jury returned a verdict of guilty during Lindsey's murder trial March 19, 2013, in Gallatin. (Photo: George Walker IV / File / The Tennessean)

"The Supreme Court held that when a defendant is advised of their rights, and it's clear they understood their rights — and she did, she said that she did — when that defendant agrees to talk, that's an implicit waiver," Price said.

Appeals judges John Everett Williams, Norma McGee Ogle and Robert W. Wedemeyer will review hundreds of pages of court records and decide whether to grant Lowe a new trial. Among the things they will consider are recordings of how police read Lowe her rights and Lowe's response.

Lowe, now 28, is serving a more than 50-year sentence at the Tennessee Prison for Women in Nashville. A jury found her guilty of two counts each of first-degree murder and aggravated child abuse in March 2013.

At the sentencing hearing a month later, Lowe's father, Mark, was among those who spoke on her behalf, saying he would trust his life to Lowe. Several members of Lowe's family, including her father, attended Tuesday's hearing but did not speak to the media.



Lindsey Lowe's father, grandfather, mother and sister listen to lawyers testify during an appeal Tuesday, Aug. 11, 2015, in the Court of Criminal Appeals. (Photo: Samuel M. Simpkins / The Tennessean)

Lowe's father alerted Hendersonville police in September 2011 after the babies' bodies and bloody towels were found in Lowe's laundry basket at the family's home.

Lowe told police that no one knew she was pregnant, and even she thought she was having a bowel movement when she gave birth to two boys, according to court documents. The 6-and-a-half-pound boys lived for only five minutes. During trial, it was alleged Lowe killed the babies to conceal her pregnancy from her family and her fiancé, who was not the father.

Here are other main issues raised in the appeal:

- **Trial environment:** Raybin said every juror had heard about the twins' deaths before trial. He said it was one of the first trials to receive intense social media coverage. Price noted that none of the jurors said prior knowledge of the case influenced their decision making at trial.

- **Judicial bias:** Raybin said the Sumner County judge was biased against Lowe by reprimanding her not to show emotion when she put her head on the table while the babies' father testified. The babies' father was not Lowe's fiance at the time, but a man she cheated with and who she claimed forced himself on her, according to appellate court records. Price said Lowe also was “sobbing uncontrollably” and that falls within the judge’s discretion to keep decorum.
- **Expert testimony:** Dr. William Kenner, a psychiatrist who was treating Lowe, testified that Lowe suffered from as many as four mental health conditions, and those could have impacted her ability to know what she was doing to the twins. The judge did not allow Kenner to testify about how Lowe’s mental state could have influenced her ability to understand and consent to the police interview. Raybin argued that Kenner's testimony would have shown Lowe's statement to police was not reliable and should not have been allowed at trial. Price said the defense did not properly notify prosecutors that Kenner would testify on that issue, saying Kenner was not qualified to do so.



Attorney David Raybin addresses the Court of Criminal Appeals about the Lindsey Lowe case Tuesday, Aug. 11, 2015, at the Tennessee Supreme Court chambers in downtown Nashville. Raybin said Hendersonville police used “coercion and trickery” to get Lowe to confess to smothering her newborn twins. (Photo: Samuel M. Simpkins / The Tennessean)