

NEWS RELEASE

The Scottish Criminal Cases Review Commission ('the Commission') has today referred to the High Court the case of Jennifer Ingils Lihne to the High Court of Justiciary.

In accordance with the Commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, Ms Lihne, Ms Lihne's solicitors and Crown Office. The Commission has no power under its founding statute to make copies of its statements of reasons available to the public. Brief summaries of the background of the case, the evidence led at the trial and the Commission's reasons for referral are given below.

These summaries are for information purposes only and the content of this news release should not be treated as forming part of the Commission's statement of reasons.

1. Background

1.1 On 7 April 2006, at the High Court at Edinburgh, Ms. Lihne was convicted of two separate charges relating to the assault and culpable homicide of her infant daughter, Jacqueline Smith in 1982, by a majority verdict of the jury.

1.2 On 11 May 2006, an extended sentence was imposed on Ms Lihne comprising a 10 year custodial term and a 5 year extension period which was reduced on appeal to a sentence of imprisonment for 7 years.

2. Evidence at trial

2.1 The main evidence against Ms Lihne took the form of clinical and post-mortem findings in relation to Jacqueline Smith, as provided by various medical experts. The Crown's position was that the pattern of illness suffered by the child was consistent with deliberate and repeated acts of upper airways obstruction and that the post-mortem findings were best explained by the child having experienced repeated acts of upper airways obstruction culminating in a final, fatal event. The defence position was that the child had died as a result of one of a number of possible natural causes.

3. Reasons for Referral

3.1 Having reviewed all of the evidence led at the trial, the Commission is of the view that the directions given by the judge to the jury were not sufficient in such a complicated case involving expert witnesses and that this was likely to have

affected the jury's understanding of the case to the extent that Ms Liehne did not receive a fair trial. It therefore believes that the charge amounted to a misdirection which amounted to a miscarriage of justice.

3.2 In its review the Commission also instructed a further expert medical report in relation to subsequent research which might have a bearing on the evidence at Ms Liehne's trial. That expert report made reference to a significant further study which was published shortly after Ms Liehne's trial and which might have bolstered the defence position had it been available at the time of trial. That report, although its contents are contested, is new and additional evidence in relation to the forensic interpretation of the post mortem findings in relation to Jacqueline Smith which has, in the Commission's view, a material bearing upon the evidence presented to the jury at trial. As such the Commission believes that it constitutes fresh evidence of such significance that the verdict of the jury, reached in ignorance of its existence, might amount to a miscarriage of justice.

Notes for Editors

The Scottish Criminal Cases Review Commission was established as an independent body on 1 April 1999 to review alleged miscarriages of justice in Scottish convictions and/or sentences. Under section 194 A to L of the Criminal Procedure (Scotland) Act 1995 (as inserted by section 25 of the Crime and Punishment (Scotland) Act 1997) the Commission can refer a case to the High Court if it believes that a miscarriage of justice may have occurred and that it is in the interests of justice that a reference should be made. Once a case is referred to the High Court by the Commission, it will proceed as a normal appeal.

The Commission operates with a Board of eight Members, one of whom is the Chairman, a Chief Executive, a Director of Corporate Services, two Senior Legal Officers, five Legal Officers and administrative support staff.

The Commission has reviewed its policy on disclosure and, from 1 April 2003, will disclose the fact that a case has been referred. However, as the Commission operates under strict statutory non-disclosure provisions, it is not possible for the Commission to disclose any further information about such cases. The Commission will not release any information regarding cases in which no referral has been made or in respect of cases under review.

For any further general information about the Commission please contact Mr Chris Reddick, Director of Corporate Services, SCCRC, 5th Floor, Portland House, 17 Renfield Street, Glasgow, Tel: 0141 270 7030, e-mail: creddick@sccrc.org.uk or visit the Commission's website at www.sccrc.org.uk