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A look at local justice, from inside and outside the courtroom.

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Jimenez asks high court to revive appeal in baby's death

By Chuck Lindell | Tuesday, July 24, 2012, 03:16 PM

Lawyers for Rosa Jimenez, convicted in 2005 of killing a year-old boy by stuffing paper towels down his throat, today asked the U.S. Supreme Court to review claims that she is innocent of the crime.

The petition argues that the state's highest criminal court erred last April when it declined to order a new trial for Jimenez, who is serving a 99-year sentence for the death of Bryan Gutierrez, a boy she had been baby-sitting in her North Austin apartment in 2003.

The 8-0 opinion by the Texas Court of Criminal Appeals rejected a lower-court recommendation that Jimenez receive a new trial based on new testimony from pediatric experts who determined that the boy's choking was probably accidental. (Read that story here.)

The Texas court applied the wrong standard of proof when it ruled that Jimenez did not deserve a new trial, defense lawyers Bryce Benjet and Ryan Bates told the Supreme Court.

The Texas court, Benjet and Bates argued, ruled that Jimenez had to prove - by clear and convincing evidence - that a rational juror would not have found her guilty if presented with the new information. Instead, the lawyers wrote, Jimenez had to meet a far looser standard, showing that it was more probable than not that the experts' opinions would introduce reasonable doubt in jurors.

Courts across the country have come down on different sides of the standard-of-proof issue in actual innocence cases, fueling the need for a Supreme Court ruling on the issue, the petition said.

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