

Ashley Smith's family challenges coroner's decision to ignore videos



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The Ontario Divisional Court will review an Ontario coroner's controversial decision not to obtain or even look at videos that show the mentally ill teenager Ashley Smith being forcibly injected with massive doses of anti-psychotic drugs less than three months before her Oct. 19, 2007, death at an Ontario prison.

As a result, the coroner's inquest slated to begin next Monday has been re-scheduled to May 16.

The videos – they reportedly also show Ms. Smith being threatened by a nurse, left strapped to a metal gurney for almost 12 hours and at least once duct-taped to her seat during a transfer from one federal institution to another – were deemed irrelevant earlier this week in a ruling from Ontario's deputy coroner, Dr. Bonnie Porter.

But Julian Falconer, the lawyer for Ms. Smith's family, supported by lawyers for the Provincial Advocate for Children and Youth and for the Canadian Association of Elizabeth Fry Societies, will argue next month that the coroner's decision should be overturned.

In his motion to quash the ruling, Mr. Falconer says the videos are the best evidence of some of the "extraordinary abuses" perpetrated against the 19-year-old during her brief stint in the federal prison system.

Ms. Smith was transferred no fewer than 17 times in less than a year – each move exacerbating her deteriorating emotional and mental health – and such treatment could be seen as contributing to her death.

A coroner's jury, Mr. Falconer says, might make recommendations that "protect another mentally ill teen from such abuses and thus save lives."

What's more, because he hopes to convince the jury that Ms. Smith's asphyxiation death was an accident, not the suicide it is usually described as, Mr. Falconer wants available evidence about Ms. Smith's state of mind in the weeks and months before her death.

While the young woman from Moncton was notorious for her "self-harming" behaviours within the Correctional Service of Canada – and before it, in the various youth and provincial facilities where she was held – she wasn't necessarily suicidal.

Psychologist Dr. Margo Rivera, for instance, who was hired by the CSC to review Ms. Smith's death, wrote in a report entitled *It's Your Job To Save Me* that, "I consider it highly likely that this was not death by suicide, but rather by accident, and that no one intended Ashley Smith to die, least of all Ms. Smith herself."

Her escalating habit of tying various ligatures around her neck – Ms. Smith used anything she could get her hands on to fashion a noose, once managing to shred a so-called "suicide smock" – was not aimed at killing herself, the psychologist says, but rather at getting the attention of staff.

Dr. Rivera concluded that her long periods in isolation likely left Ms. Smith so lonely and hungry for human contact, even of a rough or professional sort, that her use of ligatures was designed to draw staff into her cell to rescue her.

The nature of the teenager's mental illness is hard to trace through the many reports that have been commissioned into her death.

Born on Jan. 29, 1988, and adopted when just five days old, she appeared to develop normally, and up until Grade 5, there were no real problems.

But when she was about 10 years old, she began having behavioural problems at school, and by the time she was 13, some of the more serious ones were showing themselves.

She was frequently suspended from school, and by the spring of 2002, was first charged criminally, ultimately sentenced to a year's probation, but was first sent to a youth treatment program.

With young people – Ms. Smith was by then 15 – doctors are reluctant to make formal diagnoses, but at the centre, she was assessed as having a learning disorder and borderline personality disorder, the latter a serious and difficult-to-treat mental illness.

By the fall of 2003, while still on probation and back home, she threw apples at a postal worker, was again charged and sent to a youth jail. This is the famous incident often cited as the incident that kick-started Ms. Smith's troubles in the youth justice system.

There, in a period of more than three years, she was involved in more than 800 documented incidents, more than 150 of them times when she hurt herself.

Later, when she turned 18, her various charges were blended together and she found herself facing a sentence of more than two years, and entered the federal adult prison system for the first time.

A report done a year after her death by the Union of Canadian Correctional Officers paints a poignant picture of her last night, with guards, some of whom genuinely liked her and were furious she was in jail and not a hospital, joking with her, trying to keep her calm.

(Several officers were charged criminally after her death, but charges against all were dismissed in December of 2008 at the recommendation of prosecutors, at a preliminary hearing.)

In the wee hours of the day she died, crying, she told one young officer that she felt the need to “tie up,” meaning use a ligature. He tried to discourage her. “I know what I’m doing,” she told him. “You [staff] will always come in.”

But CSC management had instructed the guards *not* to rush in when Ms. Smith was playing her dangerous game, lest she be encouraged by their response to keep doing it. Guards were reportedly under orders to “wait until she stopped breathing” before entering her cell.

By 8:10 that morning, she was pronounced dead at a nearby hospital.