

Prison videos excluded from Ashley Smith death probe

By Linda Nguyen, Postmedia News March 1, 2011

TORONTO — Graphic surveillance videos showing 19-year-old Ashley Smith being forcibly constrained and given anti-psychotic drugs against her will at a Quebec prison three months before she fatally strangled herself in an Ontario prison cell will not be entered into evidence during a coroner's inquest starting next month.

Motions submitted Tuesday by lawyers for the Smith family and the provincial advocate for children and youth questioned why Ontario deputy chief coroner Dr. Bonita Porter, who is leading the inquest, has yet to even obtain the videos from the Joliette Institution. Full written submissions are due March 3.

"The whole (Smith) family is upset," said their lawyer, Julian Falconer. "What appeared to be an important stride forward into a full public airing of abuse has taken a whole different turn. It's frankly, a most regrettable turn."

Smith died in October 2007 after she choked herself with a piece of cloth at the Grand Valley Institution for Women in Kitchener, Ont. It was later discovered that prison guards who watched the incident had been ordered not to intervene with the New Brunswick teen's self-injurious behaviours. An expert report following her death also found that the teen may also not have committed suicide but had died by accident.

Smith had been incarcerated since the age of 15, when she was sent to prison for throwing crab apples at a postal worker in her hometown of Moncton, N.B. Her continued imprisonment was the result of racking up multiple charges while incarcerated.

The lengthy coroner's inquest, slated to begin on April 4, is expected take six to nine months and will hear from 100 witnesses and experts.

Following days of hearings last fall, Porter had agreed to expand the scope of the inquest from the 13-week period Smith spent in Ontario to include the 11 months she spent in federal custody prior to her death.

During those months in federal prisons, Smith was transferred 17 times across the country due to bad behaviour, staff fatigue and overcrowding.

The videos taken over a three-day period in July 2007 at Quebec's Joliette Institution document how Smith was heavily medicated with drugs against her will to prepare her for an upcoming prison transfer. Over the course of two hours, she was given four high-level injections despite showing no signs of delusions or psychotic behaviours.

Falconer said jurors will not get a clear understanding of Smith's state of mind prior to her death if they are not shown the videos.

"Obviously videos are the best evidence of an incident. We don't have to worry about the frailty of memory or the bias of witnesses," said Richard Macklin, a lawyer who also submitted a motion on behalf of the Ontario child and youth advocate. "We should be allowed to look at the stark videos which will assist the jury in doing their functions."

He cautioned that the exclusion of the videos was detrimental to jurors whose mandate is to possibly prevent similar deaths from occurring. At this point, it is unclear if witnesses from Joliette were even expected to testify about Smith's incarceration.

"The inquest, on agreement of all parties, is about exploring incidences that may have impacted Ms. Smith's state of mind on the day she died," said Macklin. "And these events at Joliette . . . (include) videos that show severe ethical, clinical shortcomings in the way Ashley Smith was handled."

Eric Siebenmorgen, a lawyer for the coroner, would not comment specifically Tuesday on why the videos have not been obtained.

In a statement, he said the coroner will take into account the written submissions once they are in later this week. A deadline has not been given on when Porter will make a decision on the videos.

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