

Court challenge could derail start of Ashley Smith inquest



Chris Wattie/Reuters

Coralee Smith, mother of Ashley Smith, pauses during a news conference in response to a federal report detailing the events surrounding her daughter's death, in Ottawa on March 4, 2009

Linda Nguyen, Postmedia News · Mar. 30, 2011 | Last Updated: Mar. 30, 2011 1:02 PM ET

TORONTO— The start of a coroner's inquest into the prison death of 19-year-old Ashley Smith almost four years ago will most likely be delayed so an Ontario court can hear a motion against the exclusion of prison surveillance videos from the proceedings.

Earlier this week, Ontario's deputy chief coroner Dr. Bonita Porter, ruled tapes showing the New Brunswick teenager being forcibly medicated and physically restrained against her will at the Joliette Institution north of Montreal in July 2007, months before her death, were irrelevant to the inquest.

Smith fatally strangled herself in a segregated prison cell at the Grand Valley Institution for Women in Kitchener, Ont., on Oct. 19, 2007.

"This should be cleared up before we do an inquest. It's fundamental," said Smith family lawyer, Julian Falconer on Wednesday. "At the end of the day, the real question (that) needs to be said here is, if deplorable abuse of a mentally ill teen less than 90 days before her death isn't relevant to her state of mind and self-harm, then it begs the question, what is?"

The inquest, scheduled to begin Monday, is expected to take anywhere from six to nine months and hear from more than 100 witnesses.

Its purpose is to prevent similar deaths from occurring in the future.

Mr. Falconer, along with the Canadian Association of Elizabeth Fry Societies, a rights group for inmates, and the Provincial Advocate for Children and Youth, argue that a coroner's jury needs to be shown the videos because they offer a glimpse of Smith's "spiralling state of mind" prior to her death. The motion was dismissed Monday in a 14-page ruling by Dr. Porter.

The groups have now asked the Ontario divisional court to set aside the coroner's decision.

"The mistreatment of Ashley by the staff at Joliette should be explored before the inquest jury," said Irwin Elman, Ontario's advocate for children and youth in a statement. "We need to have a full understanding of the circumstances surrounding the death of Ashley Smith."

Smith's death was initially believed to be a suicide but was recently questioned in a medical expert's report that the disturbed young woman may have died by accident in an attempt to seek attention. It was also later discovered that prison guards at the Grand Valley Institution were instructed to not intervene in her self-injurious behaviours. A video showed the guards who watched the incident did not step in when Smith tied a piece of cloth around her neck.

During this time, Smith was transferred 17 times to prisons in Ontario, the Maritimes, the Prairies and Quebec due to her bad behaviour, staff fatigue and overcrowding. The majority of this time was spent in segregation, wearing a prison gown and shackles.

Coralee Smith, who is still recovering from recent quadruple bypass surgery, was scheduled to fly to Toronto Monday for her daughter's inquest. It's unclear if she'll still be making the trip if the proceedings are delayed.

A spokeswoman for the Ontario coroner's office said it was not prepared to make any comments about the pending legal motion.

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