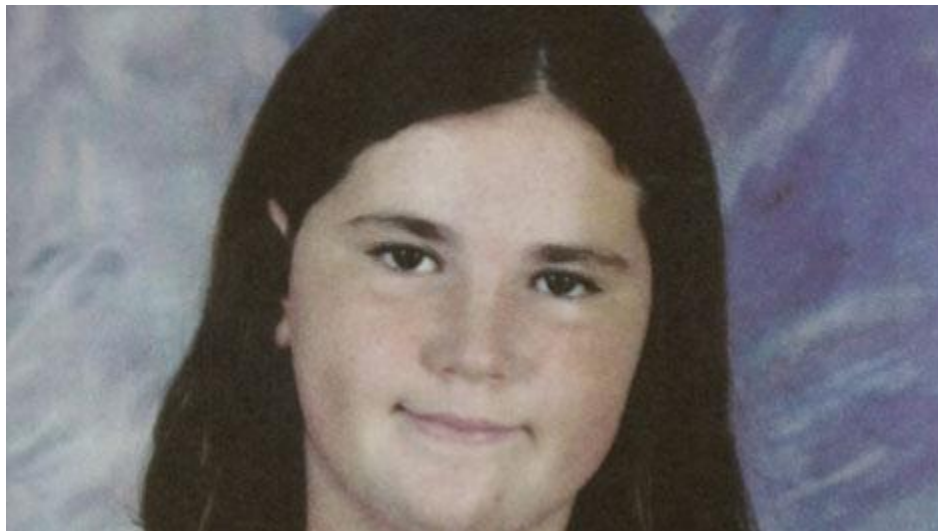




Judge ponders whether to release Ashley Smith videos



An undated family handout photo of Ashley Smith, who took her own life in a federal institution on October 19, 2007. The photo was taken before she was incarcerated. (THE CANADIAN PRESS/Tom Hanson)

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TORONTO — A judge is considering whether to allow the release of videotapes showing teenage inmate Ashley Smith being forcibly restrained and given anti-psychotic drugs.

The judge says it will take him a few days to decide whether tapes of the mentally-ill New Brunswick teen who died in custody in an Ontario prison five years ago should be used in a judicial review on May 2.

That review will look into whether the coroner made a mistake in refusing to include the tapes in an upcoming inquest into Smith's death.

"This is not going to be easy. I'm going to take some time," Justice Tom Lederer told a courtroom after both sides argued their case for almost four hours. He did indicate how long he could take to make the decision.

Corrections Canada had asked the court to quash a summons calling for its commissioner to appear in court with the videos and any records related to the restraining incidents.

Ashley Smith, who was 19 when she died, later strangled herself in her cell while prison staff looked on.

Julian Falconer, the lawyer for Smith's family, argued that the shock value of the tapes themselves will show why the coroner's jury should be allowed to view the material.

"At minimum, make sure the divisional court is armed with what the commissioner has, because everybody does not know (what the videos show)," he argued.

"The simple playing of video would've led to inevitable conclusion to show the jury...to make sure it never happens again," he said.

Falconer said the tapes act as unbiased witnesses that show Smith being strapped to a gurney for 12 hours and being threatened by a nurse wearing a gas mask and holding a syringe. He said they show Smith being injected with drugs against her will as a restraint measure, rather than as treatment.

The family claims that excluding evidence covering the 19-year-old's treatment in a Quebec prison will not give the jury a true picture of Smith's state of mind.

Falconer said excluding the tapes is essentially tying his hands when it comes to showing what truly happened to Smith.

Corrections Canada said Smith's family is abusing the process by asking for the tapes, which presiding coroner Dr. Bonita Porter did not include in an upcoming inquest into Smith's death.

"Whether something is shocking or not is going beyond what this test provides for," said Joel Robichaud, a lawyer for the prison service.

"By saying videos are relevant here...I think you're almost saying they are relevant to the inquest. You're crossing that line," he said to the judge.

Robichaud added that the fact the coroner included reports describing the contents of the tapes provides sufficient information for the inquest.