



Judge says no to release of Ashley Smith prison tapes



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)

The Canadian Press

Apr. 27, 2011

TORONTO — A judge has ruled that a judicial review doesn't need to see videotapes showing teenage inmate Ashley Smith being forcibly restrained and given anti-psychotic drugs.

In a ruling released on Wednesday, Ontario Superior Court Justice Thomas Lederer says descriptions of the videos are sufficient for the Divisional Court to make a decision.

The family of the mentally ill New Brunswick teen who died in custody in an Ontario prison in 2007 wanted the tapes used in a judicial review on May 2.

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

Lederer quashed a summons calling for Corrections Canada's commissioner to appear in court with the videos and any records related to the restraining incidents in a Quebec prison.

Smith, who was 19 when she died, strangled herself in her cell while staff at the Grand Valley Institution in Kitchener, Ont., looked on.

"I would find that the evidence on the videos is clearly irrelevant to the question placed before the Divisional Court," Lederer wrote in his decision.

"The Divisional Court will know what is shown on the videos. It is described on the summons and in the report of the reviewer. It will know when these things took place," he wrote. "The production of the videos to the Divisional Court will not add to the information already in the record."

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

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 Smith's treatment in the Quebec prison will not give the jury a true picture of Smith's state of mind.

The coronor's inquest is scheduled to begin May 16.

Smith was initially given a 90-day sentence for throwing crabapples at a postal worker, but in-custody incidents kept her behind bars in numerous prisons until her death.