

Parents sue over daughter's jail death

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Ashley Smith committed suicide less than two months after being transferred to a Kitchener prison in August 2007.

SUPPLIED PHOTO

Diana Zlomislic Staff Reporter

The family of a teenager originally jailed for throwing crabapples at a postman is suing the federal government for \$11 million, alleging inhumane conduct led to Ashley Smith's death in a dark segregation cell in Kitchener.

"The justice system let my daughter down," Coralee Smith told the *Star*.

The lawsuit alleges federal corrections staff – from senior bureaucrats to prison guards – engaged in a "conspiracy" that endangered Smith's life by "unlawfully" segregating her for nearly a year and not taking proper action after she was declared a suicide risk.

The 19-year-old was known to tie cloth ligatures around her neck, but guards were ordered "not to enter Ashley Smith's cell if she was breathing," the claim alleges. She died Oct. 19, 2007.

Allegations in the lawsuit have not been tested in court.

On Wednesday, Public Safety Minister Peter Van Loan told the *Star* that Smith did not belong in federal prison, along with what he estimated as 12 to 15 per cent of inmates with mental health issues. Van Loan said he could not discuss details of the lawsuit, but blamed the provinces where she was incarcerated for failing to provide psychiatric care.

"There's a limit to what we can do," the federal minister said.

A spokeswoman for the Correctional Service of Canada said the agency could not comment on the allegations because the matter is before the courts.

Smith's mother has watched as federal and provincial ombudsmen have investigated her daughter's case.

Despite recommendations to improve the care of inmates, little has been done. Smith's mother hopes a court action will unearth the real story of her daughter's death, incite accountability and help other inmates in the process.

"During the last year of her life Ashley was shipped across four provinces and between eight institutions ... all the while in segregation," Coralee Smith said.

"Her location changed, but the callous treatment of her most basic needs did not. When she asked for help, she was ignored. I owe it to Ashley to ensure that the truth comes out about how she was treated."

Raised in Moncton, N.B., by hard-working parents prominent in the local business community, Smith was first jailed at age 15 for a relatively minor incident.

She was caught throwing a crabapple at a letter carrier, whom neighbours believed was withholding welfare cheques, and jailed four months. In custody, a pattern began where she was accused of destructive behaviour and received escalating sentences, which ultimately landed her in federal prison at age 18.

Once in the federal system, Smith was transferred 17 times in less than a year, including moves from Nova Scotia to Saskatchewan to Quebec – ending up in Grand Valley Institution in Kitchener.

The lawsuit alleges Smith was continuously held in segregation and that prison officials sidestepped the rule that triggers a regional review after 60 days.

"The claim lays out conspiracy because a simple examination of the facts in this case makes it very difficult to believe this all happened by happenstance," the family's lawyer Julian Falconer said.

"Each time (she is transferred) her status as a segregation inmate is stopped and reset so the 60-day review period never kicks in, meaning there is no oversight mechanism to ensure that the propriety of how she is being treated is reviewed."

Confinement took a toll on Smith. Isolated for 23 hours a day wearing nothing more than a padded security gown and guarded by staff who were advised not to speak with her, she engaged in repeated self-injurious behaviour, most commonly self-strangulation with makeshift ligatures.

The lawsuit details how at least eight correctional managers and senior staff at facilities in both Nova Scotia and Kitchener had issued explicit do-not-intervene orders concerning Smith's self-harm attempts.

"The conditions of her confinement in segregation were inhumane and unnecessarily restrictive," the claim alleges.

At Nova Institution in Truro, N.S., Smith submitted seven grievances concerning the conditions of her confinement, which the lawsuit claims were ignored by senior prison officials.

Smith complained that correctional staff used excessive force against her; refused to accept a complaint; refused to permit her to leave her cell for exercise over a four-day period; failed to provide copies of decisions on her segregation status; refused to provide soap; refused to provide nourishment beyond finger foods; refused to provide deodorant beyond a small amount; and refused to provide sufficient sanitary products or underwear to meet her hygiene needs while menstruating.

Smith's mental health deteriorated and her attempts at self-harm increased by the time she arrived at Grand Valley Institution in August 2007.

A week before her death, the staff psychologist at Grand Valley Institution, Cindy Lanigan, conducted an assessment and concluded that Smith was at a very high risk of suicide and recommended around-the-clock observation.

On Oct. 19, 2007, at approximately 6:30 a.m., in a cell with missing floor tiles and broken light fixtures, correctional staff watched Smith position herself on her knees between the wall and her bed and tightly tie a ligature around her neck.

Approximately 30 minutes passed before staff intervened, by which time Smith had died, the lawsuit claims.

"The lawsuit cannot bring Ashley back and it cannot force public officials acting unlawfully to be lawful," Falconer said.

"What it can do is serve as a surrogate for a government that is incapable of doing it itself."

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