

Ashley Smith's family says coroner's office refusing to seek key evidence



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Monday, Feb. 28, 2011

The family of a mentally ill woman who died in prison as guards looked on has accused the Ontario coroner's office of inexplicably refusing to seek key evidence in the case.

The latest eruption at the Ashley Smith inquest centres on a decision not to seek videotapes depicting Ms. Smith being forcibly restrained and administered anti-psychotic medication at Quebec's Joliette prison for women.

In a letter sent to the coroner on Monday, the Smith family accused the Office of the Chief Coroner of insulating its decision on the videotapes from serious debate with an order that parties can only oppose it by filing written submissions to the inquest.

The letter said that Coroner Bonita Porter's refusal to allow oral submissions will deprive the inquiry of pivotal evidence while simultaneously shutting out the press and public.

Julian Falconer, a lawyer for the family, noted that the decision comes just months after Dr. Porter caused a furor by putting a gag order on any discussion of arguments about expanding the inquest to look at the final year of Ms. Smith's life.

The gag order was eventually withdrawn, along with a sealing order that had prevented the release of several key documents and reports on the Smith case.

"We thought that we had accomplished a proper look at some of the worst abuses committed to Ashley shortly before her death," Mr. Falconer said in an interview Monday. "But to the family's utter shock, what we now find out that the coroner is not even prepared to request the video evidence of Ashley's abuse at Joliette."

“This is a shock to [Coralee Smith, Ashley’s mother], who had assumed we were well beyond this,” he said. “It is of real concern that a public process like a coroner’s inquest not evolve into what amounts to a paper chase, where arguments are only on paper and out of public view.”

Peter Rosenthal, a Toronto lawyer who has appeared at several coroners’ inquests, said the scenario is an extreme instance of a phenomenon that crops up all too often at inquests.

“The only function of a coroner’s inquest is to expose what happened and look for remedies to prevent it happening in future,” Mr. Rosenthal said. “This means it should be a very broad inquiry. But too often, coroners very artificially limit the evidence.

“They seem to act to protect people,” Mr. Rosenthal said. “For some reason, they seem to not want to really probe deeply. This is an outrageous example of that. Why would they not want that videotape? What is the harm in getting it? There is no reasonable excuse for the coroner taking the position she has taken.”

Jennifer Young, a spokeswoman for the coroner’s office, said it could not provide an immediate response to the Smith family’s criticism.

At the time of her death, Ms. Smith had endured months of being forcibly medicated, isolated and transferred from one prison to another. She choked herself to death with a strip of cloth inside a segregation cell at Kitchener’s Grand Valley Institution in October, 2007.

Correctional officers had been told to steer clear of Ms. Smith’s cell if she used a ligature provided she was still breathing.

“The idea that Coralee Smith now has to bear the burden of instructing counsel and fighting again for ground that she thought she had achieved in getting her daughter’s death properly looked at just multiplies the burdens,” Mr. Falconer said in the interview.

“There is an odd disconnect between how portions of this process are unfolding and how the law says coroners’ inquests are supposed to be,” he said. “This is supposed to be a public process. Its essence is about transparency and public access to an open and fair court process. With all due respect to Dr. Porter, that is simply not happening.”