

THE GLOBE AND MAIL

Lawyers argue for broader scope in Ashley Smith death inquest

ALEYSHA HANIFF and KIRK MAKIN

Monday, Nov. 01, 2010



Canada's prison system killed Ashley Smith – not a length of cloth that the mentally ill youth tied around her neck in 2007, a coroner's inquest was told Monday.

The lawyer for Ms. Smith's family, along with advocates representing prisoners and youth, were making arguments in favour of broadening the scope of the inquest into the 19-year-old's death. They want the coroner's jury to hear about the nearly 12 months Ms. Smith spent shuttling between prisons, hospitals and psychiatric facilities in five different provinces. Ms. Smith died on Oct. 19, 2007 at the Grand Valley Institution in Kitchener, Ont., after strangling herself in her cell while prison staff looked on.

A final decision on the breadth of the inquiry will be made by Nov. 15 and a jury will be picked in January.

Speaking for the Smith family, Julian Falconer accused Correctional Services Canada officials of mistreating the girl.

"The story of what was done to a 19-year-old when her parents entrusted her to the federal correctional system is probably one of the most outrageous instances of barbaric mistreatment of a mentally ill person this country has ever seen," Mr. Falconer said. "Medical healers were ignored and security agendas were allowed to dominate – and we need to know why."

Mr. Falconer also said the jury will be unable to reach the best possible recommendations to prevent other deaths without examining the entire year that she was incarcerated.

Ms. Smith repeatedly fashioned ligatures and simulated strangling herself during her stint in federal custody. The inquest will examine the circumstances that led to Ms. Smith being placed in constant solitary confinement and put on a 24-hour-a-day suicide watch near the end of her life.

Richard Macklin, council for Ontario's Child and Youth Advocate, said the coroner would not be fulfilling her statutory mandate if the inquest did not examine the 17 transfers to nine different institutions, many of which were involuntary.

“One does not speak for the dead to protect the living if one says leave this for a public inquiry that has not been called,” he said.

Susan Chapman, co-counsel for the Canadian Association of Elizabeth Fry Societies, painted a picture of a young woman cut off from her family and social circle, kept disoriented by constant relocations and given inadequate treatment for her mental illness. She said Ms. Smith’s death was more plausibly an accident, a consequence of a series of individual and systemic failures in the corrections system and she worries that Ms. Smith’s history is too focused on suicide.

“Your own experts . . . make a very clear connection between the transfers and her own self-injurious behaviours,” she told the chief coroner.

On another highly contentious point, chief coroner Bonita Porter has placed sealing orders on most of the background documents and legal papers filed in the inquest.

Mr. Falconer was able to evade the resulting ban on publication by referring to material he obtained not from the coroner, but through disclosure procedures associated with a civil lawsuit the family has launched against CSC.

His summary of the material, obtained by The Globe and Mail, show that the Board of Investigation that looked into Ms. Smith’s death found that only two of her 17 transfers were “actioned to meet Smith’s therapeutic needs.” The rest were made to deal with “staff fatigue or institutional capacity issues.” Mr. Falconer’s written submission also indicates that Ms. Smith’s “use of ligatures increased in frequency and intensity” while she was in federal custody.

More oral submissions will be heard Tuesday.