

Smith defense: Psychologist lacks proper credentials

By Dani Palmer
Cannon Beach Gazette

A state-appointed psychologist lacks proper credentials to examine alleged killer Jessica Smith, her attorney said at an August hearing.

Smith, 41, of Goldendale, Washington, appeared in Clatsop County Circuit Court shackled and in a blue jumpsuit on Friday, Aug. 28. She is accused of aggravated murder and attempted aggravated murder for allegedly drugging and drowning her daughter, Isabella Smith, 2, and attempting to kill her older daughter, Alana Smith, 13, by slashing her throat and wrists in a Cannon Beach hotel in July 2014. Alana now lives with her father, Greg Smith, in Washington.

Falls asked the judge to oppose the state's request for a mental health evaluation with Dr. Paul Guastadisegni, a Portland-based psychologist, because he is not qualified under new state standards to evaluate a criminal defendant.

"It's not the evaluation, it's the evaluator," Falls told Judge Cindee Matyas.

Falls said he is not opposed to a state evaluation as long as the defense can participate in the process with a certified evaluator. In any case, Falls said he would direct Smith not to answer questions about her



Jessica Smith, outside the Clatsop County Courthouse Friday, Aug. 28, is charged with aggravated murder and attempted aggravated murder in the drowning death of her 2-year-old daughter and cutting the throat of her teenage daughter in Cannon Beach in July 2014.



Smith, left, listens during a status hearing at the Clatsop County Courthouse Friday, Aug. 28.

state of mind at the time of the murder and attempted murder.

The defense has already indicated it may seek to prove Smith acted with diminished capacity as a result of postpartum depression.

Marquis said he was disappointed with the defense waiting until the court appearance date to make an objection. A letter stating the district attorney's office expected to call Guasta-

disegni as an expert witness was sent five weeks ago and the state has already provided 100s of pages of document to the psychologist, he added.

In seeking to speed proceedings, Marquis noted that the trial is already set for two years after the crime, unusual in a murder case.

"Alana is the victim and has a right to a speedy trial," added Dawn Buzzard, Marquis' co-counsel.

Falls said he only learned Guastadisegni was improperly credentialed Wednesday morning, and had not had time to contact the DA's office prior to Friday's court appearance.

Marquis conferred with the state attorney general's office during a 30-minute recess and afterward said he believed the defense was "misapplying" the new standards.

"The state is flying blind" without the mental

health information Guastadisegni would be able to provide, he added. "We need to move forward on this case."

Matyas tentatively scheduled Smith's evaluation with Guastadisegni for Oct. 13 and 14, and gave the state more time to respond to Fall's opposition.

"There's nothing wrong with a little courtesy and a little communication," she said.

Falls suggested the state look for a different, certified evaluator in the meantime. He also asked for a protective order that would shield "sensitive materials." A protective order is already in place, but Falls wanted access to reports regarding Smith's mental health further limited to preclude police access. Smith's ex-husband should not receive copies either, he said.

Marquis said the state would not share those reports, but would likely ask Greg Smith questions regarding Jessica Smith's mental health. He added that expert witnesses nor investigators should be excluded.

The attorneys will meet again in court on Oct. 2 for a follow-up hearing.

Jessica Smith's trial is scheduled to begin in June 2016.

CANNON BEACH POLICE LOG

Aug. 16
3:07 p.m. Highway 101 and Silverpoint: Driving privileges suspended. A subject was arrested for a misdemeanor for driving with a suspended license. Driver was cited and released.

5:37 p.m. 1700 block of Forest Lawn: Hit-and-run accident reported. A subject hit a high voltage junction box. The subject was later located.

Aug. 18
2:53 p.m. Beach and Harrison Street: Suspicious circumstances. Oregon State Parks reported a

wedding on the beach without a permit. Those responsible for the wedding were advised after the fact.

11:16 p.m. On the beach at Surfsand Resort: Disturbance and noise complaint. A large group for a beach wedding was informed to keep the noise down.

11:40 p.m. Beach off Surfcrest: minor in possession of alcohol.

Aug. 20
4:21 p.m. 100 block of East Jefferson Street: Disturbance. Complaint of a female yelling

obscurities at a child playing in a neighboring front yard.

Aug. 23
1:44 a.m. Tolovana Wayside: curfew. Curfew violation and a minor in possession of marijuana.

5:17 p.m. 3400 block of South Hemlock Street: Property crime. Report of missing prescription pills.

Aug. 24
7:30 p.m. Hemlock and Jackson streets: Hit-and-run. A vehicle knocked down a stop sign and left. The driver was later contacted with a civil resolution.

11:26 p.m. Silver Point: Suspicious circumstances. The caller reported suspicious circumstances in a vehicle at Silverpoint. After further investigation, it was determined both occupants of the vehicle were not permitted to drive and were informed to have a licensed driver move the vehicle.

Aug. 25
2:24 p.m. North Entrance: Motor vehicle accident.

Aug. 26
11:17 a.m. 200 block of North

Hemlock Street: Hit-and-run. A vehicle hit-and-run property.

Aug. 27
2:09 p.m. 1400 block of South Hemlock Street: Motor vehicle Hit-and-run. No injuries reported.

Aug. 28
7:15 p.m. Hemlock Street and Sunset Boulevard: DUII. Report of an intoxicated driver. Jerome J. Petach, 45, of Milwaukie, Ore., was taken into custody and transported to the Seaside Police Department for DUII, careless

driving, breathalyzer refusal and failure to drive within the lane.

Aug. 29
12:21 p.m. Highway 26 and Highway 101: motor vehicle accident. A single vehicle accident at the sweeping southbound curve was reported. No injuries. The Oregon Department of Transportation remained on scene until the vehicle was towed.

There were 55 reports of illegal camping, and six animal reports.

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503.436.1777

Alaina Giguere
Owner/Principal Broker
c: 503.440.3202
f: 877.812.1126
e: alainagiguere@mac.com

Martin Giguere
Owner/Broker
c: 503.440.7676
o: 503.436.1777
e: mr007@pacifier.com

Egrane Brown
Broker
c: 503.440.1648
e: egranebrown@gmail.com

Susan Tone
Broker
c: 503.354.4072
e: suanetone@nehalem.net

Maryann Sinkler
Broker
c: 503.440.9280
e: maryanns@remax.net

Andrea Mace
Broker
c: 503-440-4024
e: Andrea.k.mace@remax.net

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