

Jessica Smith lawyers seek to suppress some evidence in trial

Defense claims evidence should be suppressed in murder

By Kyle Spurr
EO Media Group

Lawyers in the Jessica Smith case are at odds over how the incident was investigated.

Smith, 42, is the mother charged with drugging and drowning her toddler and attempting to kill her teenager in a Cannon Beach resort July 31, 2014.

Her defense lawyers filed a motion asking the court to suppress evidence collected the next day from a search of the Surfsand Resort room where the children were found, because they say such entry, searches and questioning were made without a warrant. In addition, the defense claims Smith was illegally interrogated by law enforcement on Aug. 3, 2014.

As a result, the defense lawyers David Falls and Lynne Morgan claim, the evidence is tainted and cannot be used at trial.

Clatsop County District Attorney Josh Marquis filed a written response



EO MEDIA GROUP/FILE PHOTO
Jessica Smith is led into a status hearing at the Clatsop County Courthouse in October.

this week saying a search warrant was applied and issued for the hotel room, and Smith was repeatedly advised of her rights.

Marquis said he plans to present multiple witnesses during three days of hearings beginning April 26 in Clatsop County Circuit Court to confirm the details of the case.

The details

According to Marquis' response, the state will present evidence alleging that Smith made specific plans to drug her daughters and used razor blades to cut the throat and arms of her 13-year-old daughter, Alana. Smith allegedly placed over-the-

counter dental gel on Alana's neck, then cut her neck causing her to bleed profusely. Smith then drugged and drowned her 2-year-old daughter, Isabella, the prosecution says.

At some point early in the morning of Aug. 1, 2014, Marquis wrote, Smith abandoned the hotel room. She left behind both a cellphone and electronic tablet along with the access codes.

Housekeeping staff used their master key card to enter the room at about 9:30 a.m., but a voice told them to go away. The staff could hear the person, later identified as Alana, slipping and falling. Staff became concerned and called Cannon Beach Fire and ambulance personnel, who arrived 10 minutes later.

Cannon Beach Police Chief Jason Schermerhorn, the first officer to respond, will testify he saw Isabella, who appeared lifeless and posed, and Alana, who was seriously injured.

An arrest warrant was issued for Smith on Aug. 2, 2014.

A day later, a U.S. Coast Guard MH-60 helicopter spotted Smith near her gold 2007 Chevy Suburban on a heavily forested logging road, just off of U.S. Highway 26, about 15 miles east of Cannon Beach.

Smith appeared unharmed and in remarkably good shape, according to the state's evidence.

However, the defense claims in their motion that law enforcement had learned of Smith's intentions to end her own life in the forest. She was found in great distress, living out of her vehicle, without food and drinking water from a stream, according to the defense.

Marquis wrote the evidence will show that arresting officers offered food and drink, but she initially rejected the items that were not vegetarian.

The three law enforcement officers who were with Smith from her arrest to booking will testify in April. The state also plans to present a written transcript, video and audio recordings of Smith's statements.

"As the recordings will confirm the nature of the questioning was polite, civil, even light-hearted on the defendant's part at times," Marquis wrote.

Aid and assist

A court-appointed psychologist is evaluating Smith's mental fitness to proceed in her criminal trial. Smith pleaded not guilty to aggravated murder and attempted aggravated murder. She recently told the state-hired psychologist she had "little to no memory of the events of July 31, 2014." Her lawyers claim she is

unable to aid and assist in her own defense.

While she is claiming memory loss, Marquis points out she had no difficulty remembering her planning and execution of the actions that led to her daughter, Isabella's, death and to Alana's serious injuries.

"She manifested no evidence of any serious thought or mental disorder," Marquis wrote.

A status hearing to address the results of the evaluation is set for later this month.

If Smith is deemed unfit to proceed, the judge will send her to the Oregon State Hospital. In that case, the upcoming April hearing and June trial may be postponed.

Smith had a consultation Feb. 1 with Clatsop Behavioral Healthcare, the county's mental health provider, to determine if the county has the expertise available to treat Smith if she is found unfit to proceed, rather than sending her to the Oregon State Hospital.

Clatsop Behavioral Healthcare concluded it does not have the resources available.

"There are no known Community Restoration Programs in either Tillamook or Clatsop County to assist this client with the ability to aid and assist in her own defense," the agency concluded.

CANNON BEACH POLICE LOG

Feb. 7

8:11 p.m.: Highway 101/37. Driving complaint. Out of position, passed on to Oregon State Police.

8:19 p.m.: 800 Block Ocean Ave. Assist Cannon Beach Fire and Rescue with male fall patient. Patient refusal.

Feb. 8

12:27 a.m.: 72000 Block Highway 101. Unsecure premise. Fire de-

partment east door open, building searched and door secured.

2:53 a.m.: 1100 Block N. Roosevelt Drive. Assisted Seaside Police Department with an alarm call at Cleanline Surf Shop.

6:20 a.m.: Spruce/E. Madison. Subject(s) warned for unlawful lodging.

11:33 a.m.: 200 Block Noatak. Alarm false. Alarm sounding, arrived and found painter waiting outside resi-

dence. Alarm company deactivated alarm remotely.

Feb. 9

8:58 a.m.: 100 Block E. Chisana. Parking complaint. Complaint of construction vehicles parking blocking traffic on street. Officer arrived and no construction vehicles were present.

9:26 a.m.: 200 Block N. Hemlock. Wallet found and returned to owner by mail.

6:45 a.m.: 1600 Block S. Roosevelt Drive. Missing person. Report of missing juvenile in Seaside. Contacted father and was advised he was not where he was supposed to be. Shortly after, minor showed up and was okay.

6:51 a.m.: 3400 Block S. Hemlock. Two-year-old child escaped playpen and room while parents were sleeping. Child was reunited with parents.

10:53 a.m.: 700 Block Ave. B. Suspicious circumstances in Seaside. Report

of male knocking on woman's door, asking for a place to stay the night. After contacting the female and given a description of the male, officers were unable to locate him. There was no further incident that night.

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