

Smileys' Day in Court / Jury selection under way today

Author: Herbert Lowe. STAFF WRITER

Publication info: Newsday , Combined editions [Long Island, N.Y] 17 June 2002: A08.

Abstract (Abstract): A late media blitz by accused child abductors [Barry Smiley] and Judith Smiley is a bald attempt to influence jurors in their upcoming trial, the lawyer for the biological parents of the toddler the Smileys allegedly kidnapped said yesterday.

The couple fled from Jamaica Estates in 1980 with a 15-month-old child they had tried to adopt, despite a Queens Family Court order to return him to his biological parents. The Smileys settled in New Mexico and assumed the names Bennett and Mary Propp, raising the boy, now 23, as Matthew Propp.

The Smileys' double life came to light last year when the child sought a copy of his birth certificate to get a job in law enforcement and was unable to do so. An investigation followed, and the Smileys surrendered last year to police on a 1980 arrest warrant.

Full text: A late media blitz by accused child abductors Barry and Judith Smiley is a bald attempt to influence jurors in their upcoming trial, the lawyer for the biological parents of the toddler the Smileys allegedly kidnapped said yesterday.

"They hope that the media exposure will make the jurors sympathetic to their claims," said the attorney, Frederick Magovern, who has represented Anthony Russini and Deborah Gardner since 1979.

Jury selection is set to begin today in the Smileys' much-anticipated trial in which Queens prosecutors want them convicted of kidnapping.

The couple fled from Jamaica Estates in 1980 with a 15-month-old child they had tried to adopt, despite a Queens Family Court order to return him to his biological parents. The Smileys settled in New Mexico and assumed the names Bennett and Mary Propp, raising the boy, now 23, as Matthew Propp.

The Smileys' double life came to light last year when the child sought a copy of his birth certificate to get a job in law enforcement and was unable to do so. An investigation followed, and the Smileys surrendered last year to police on a 1980 arrest warrant.

Until last week, the Smileys and the child, who steadfastly supports them, had shunned media interviews. But on Thursday, the couple and child granted several interviews with reporters in New York and Albuquerque, where they live.

"We're not kidnapers - we never were," Barry Smiley, 56, told Newsday.

In a nationally televised appearance on NBC's "Dateline" Friday, the Smileys repeated their claims that they took the baby to protect him from people who could not care for him.

Magovern said the Smileys deserve no sympathy.

"This is their way of getting their slant on the case out in the media without having to testify under oath," he said.

"They've inflicted a terrible harm on the Russini family, and they continue to manipulate this young man by putting him out there in the media to plead their case."

Today, the Smileys likely will let their lawyers speak for them when they appear before Justice Roger Rosengarten in State Supreme Court in Kew Gardens.

The defense attorneys have signaled in court papers and interviews that they believe the couple should be charged with custodial interference, not kidnapping.

The Smileys stand charged with only kidnapping and both face serving between 2 and 25 years in prison if convicted. A judge has refused to allow the couple to be also charged with custodial interference, which carries a maximum 4-year sentence.

"We've allowed the attorneys to do the negotiating for us," said Judith Smiley, 55, referring to not only the charges but also unsuccessful efforts to reach a plea deal with the Queens district attorney's office.

"So far, all that seems to be happening is that Matt has been put in the middle," she said. "This has been very hurtful to him and it has been hurtful to us."

Propp and the Smileys, both of whom are free on \$25,000 bail, were expected to arrive in New York over the weekend from Albuquerque. Judith Smiley said she needs a wheelchair to get around because of her two knee replacement surgeries.

Propp said he remains committed to the people who raised him on an income earned while peddling wares at flea markets.

"He's my dad but I know people are going to quote differently," he said of Barry Smiley.

Illustration

Caption: AP Photos - 1) Matthew Propp listens as Judith Smiley is arraigned in court Wednesday. 2) Smiley and her husband, Barry, are shown in a photo from last year.

People: Smiley, Judith, Propp, Mary, Smiley, Barry

Company: Smileys

Publication title: Newsday, Combined editions

Pages: A08

Number of pages: 0

Publication year: 2002

Publication date: Jun 17, 2002

Year: 2002

Section: NEWS

Publisher: Newsday Inc.

Place of publication: Long Island, N.Y.

Country of publication: United States
