

## Plea Deal Sought / 2 charged in '80 kidnapping in court today

**Author:** Karen Freifeld. STAFF WRITER

**Abstract (Abstract):** 1) Newsday Photo / Jiro Ose - [Judith Smiley] and her husband, [Barry Smiley], in background, in Kew Gardens last week after arraignment on kidnapping charges. 2) [Matthew Propp] The Smileys, who are free on \$25,000 bail each, allegedly vanished with the boy after they failed to overturn a 1979 Queens Family Court ruling that the biological mother, the former Debbie Gardner, had been deceived when she gave up the baby. The biological father, Anthony Russini, had never given his consent, the judge determined. The baby, who grew up to be Matthew Propp, was 15 months old at the time.

**Full text:** Lawyers for the couple charged with kidnapping a toddler they wanted to adopt 21 years ago are hoping for a plea bargain in the case today.

The couple, Barry and Judith Smiley, who fled New York in 1980 with a baby they had been ordered to return to the biological parents, are due in State Supreme Court in Kew Gardens this afternoon.

"All sides are still talking, and we're hoping there can be a disposition," Assistant District Attorney Cindy Suarez said yesterday. She suggested, however, that today might be too soon for a disposition.

Acting State Supreme Court Justice Joseph Grosso set the date last week.

Yesterday, a source said a deal was being discussed that included probation for the Smileys (also known as Bennett and Mary Propp), restitution to the biological family for the expenses they incurred in searching for their son, and counseling for Matthew Propp, the young man in the middle of the case.

The Smileys, who are free on \$25,000 bail each, allegedly vanished with the boy after they failed to overturn a 1979 Queens Family Court ruling that the biological mother, the former Debbie Gardner, had been deceived when she gave up the baby. The biological father, Anthony Russini, had never given his consent, the judge determined. The baby, who grew up to be Matthew Propp, was 15 months old at the time.

Last week, the lawyer for Russini of Westbury, the birth father, was pushing for jail time for the Smileys. "It's inconceivable that they don't go to jail for the crime they committed," said the lawyer, Fred Magovern.

Meanwhile, Judith Smiley's attorney, Steven Brill, said any settlement he would negotiate would not include jail time.

If no settlement is reached, the case could go to trial on the kidnapping charge, which carries a minimum prison term of 2 to 6 years on conviction.

Brill said he still hopes for a good resolution before trial. "This case is going to be ending in a creative way," he said. "At this point, I just don't know what that is."

Raymond Colon, who represents Barry Smiley, said the prosecution would likely require any plea to include some kind of penalty.

Matthew Propp, 22, a security guard in New Mexico, has made it clear he does not believe the Smileys should be punished.

That has not assuaged Russini, whose recently revived relationship with his son has deteriorated. Propp did not show up Saturday at his biological sister's high school graduation ceremony in Oyster Bay, although he had said he would.

### Illustration

Caption: 1) Newsday Photo / Jiro Ose - Judith Smiley and her husband, Barry, in background, in Kew Gardens last week after arraignment on kidnapping charges. 2) Matthew Propp

**People:** Smiley, Judith, Propp, Matthew, Russini, Anthony, Smiley, Barry

**Publication title:** Newsday, Combined editions

**Pages:** A19

**Number of pages:** 0

**Publication year:** 2001

**Publication date:** Jun 12, 2001

**Year:** 2001

**Section:** NEWS

**Publisher:** Newsday Inc.

**Place of publication:** Long Island, N.Y.

**Country of publication:** United States

---

---

---