

Nurse pleads no contest in Placerville elder abuse case

By Marjie Lundstrom, Sacramento Bee

A nurse accused of providing shoddy care to a 77-year-old woman at a Placerville nursing home pleaded no contest Thursday to felony elder abuse and agreed to help prosecutors with the criminal case against her former supervisor.

Rebecca LeAn Smith, 39, returned to El Dorado County last week from her Louisiana home and negotiated a plea with California's attorney general over her role leading up to the 2008 death of Johnnie Esco of Cameron Park.

The elderly woman, whose devoted husband and family members visited her daily, deteriorated rapidly during her 13-day stay at the El Dorado Care Center in Placerville, court documents show.

She died on March 7, 2008, at nearby Marshall Medical Center, and her family subsequently settled a civil lawsuit with the nursing home's former owner, Horizon West Healthcare Inc. of Rocklin.

In March of this year – four years after Johnnie Esco's death – the California attorney general took the extraordinary legal step of charging Smith and the facility's then-director of nursing, Donna Darlene Palmer, 58, with felony elder abuse. Both nurses also were charged with the special allegation of inflicting "great bodily injury" which, for victims over 70, adds five years to a prison sentence.

The nurses' preliminary hearing was scheduled to begin Thursday in El Dorado Superior Court, but Palmer's attorney was granted a postponement – while Smith's attorney struck a deal.

"I have responsibility, and I have to own up to my responsibility," Smith told the *Bee* after Thursday's hearing, speaking softly and holding back tears. "There were things that were missed. Things could have been done better.

"My heart aches," said the mother of five, who will return to Louisiana until her sentencing in January.

Palmer's attorney, Patrick K. Hanly of Sacramento, said he was surprised by Smith's plea because "there was no evidence from discovery that she committed a crime."

His client is preparing to go to trial, he said.

Deputy Attorney General Steven Muni, who is prosecuting the case, called Thursday's settlement "a positive step."

Muni had worked closely for months with Johnnie Esco's husband of nearly 61 years, Don Esco, a retired Air Force veteran who anguished over his wife's death – and pressed for justice in the criminal courts.

Don Esco died Oct. 8 in Sacramento at age 82 after undergoing surgery to relieve his chronic back pain. Because of his declining health, Esco was allowed to testify before the court in August. He told the *Bee* in one of his last interviews that he was "living on borrowed time" and worried he would not see the criminal case to its conclusion.

"This (plea agreement) complies with the wishes of the late Mr. Esco, who regarded Ms. Smith as a ... mother who was just working to make ends meet for her kids," said Muni, noting that Esco "felt considerable compassion" for Smith.

Don Esco was more blunt in his assessment of Donna Palmer and Horizon West management, whom he blamed for his wife's death. Esco's civil suit, which was settled in 2010 for nearly \$3 million, accused the company of understaffing the facility to maximize profits.

Last year, Horizon West Healthcare Inc. sold its 27 nursing homes, including the El Dorado Care Center, to a San Marcos-based chain. The Placerville facility since has been renamed.

The state's criminal case contends that both nurses failed to perform their duties or to adequately supervise staff members caring for Esco. The woman, who suffered from dementia, had been sent to the facility in February 2008 to recuperate after being hospitalized with pneumonia.

While there, Johnnie Esco developed a severe fecal impaction. Hospital staff also documented injuries that Don Esco had found two days earlier, including bruising along his wife's chin, jaw line, chest and wrist, and a wound on her right pinkie finger. She died less than 17 hours after being transported to the hospital.

By pleading no contest to one count of felony elder abuse (treated the same as a guilty plea), Smith agreed to a county jail term of 270 days, which will be suspended. The special allegation was dismissed. Smith, who had been a licensed vocational nurse, also agreed to "fully cooperate" in the AG's ongoing investigation of Palmer, and to testify against her, if called, according to court documents.

The deal also calls for her to perform 200 to 300 hours of community service, and to comply with any decisions of California's vocational nursing licensing board.

Smith told the *Bee* she has not practiced nursing since she suffered from "burnout" in mid-2010 and returned to her home to focus on raising her children.

Smith voluntarily agreed months ago to perform no official nursing duties, pending the criminal case's outcome. Palmer got approval to continue working as a consulting nurse for a group of nursing homes but not provide "hands-on" patient care.

Palmer, a registered nurse, was director of nursing at the El Dorado Care Center when Johnnie Esco was there.

Smith said Thursday that while she accepts responsibility she did contend with a "high patient caseload."

"Me and the other nurses – we felt overwhelmed," she said, dissolving into tears.