

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH,
MARIO MUSCATO, SHAWN ARNOLD, CASSANDRA JORDAN, JULIA LAUZON, AMMY
LEWIS, ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL, SHERRI
OGDEN, JAHMAL PIERRE, and LINSLEY GREAVES**

Appellants

- and -

CITY OF HAMILTON

Respondent

APPELLANTS' APPEAL BOOK AND COMPENDIUM – VOLUME 3

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TAB 29

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF SHAWN ARNOLD
(affirmed September 29, 2021)

I, Shawn Arnold, of the City of Hamilton, in the Province of Ontario, AFFIRM AND SAY:

1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.
2. I am a person living in an encampment. I became homeless in 2020 when I was evicted from my rental unit.
3. In 2020 I went to Ferguson Street in Hamilton because I had nowhere else to go. We were eventually kicked out of Ferguson by a large presence of police and by-law officers that began dismantling tents and disposing of property. I was forced to look for another area to reside.
4. I am a recovery addict and have been clean. I am currently on methadone and scored 16 on an acuity test called the VISPD. Based on this assessment and the fact that I am staying away from drugs, a shelter is inappropriate and unhealthy for me. I will likely fall back into using if I go, and my acuity score speaks to difficulties in congregate settings like shelters where there is violence, other people with mental health issues and drug use.
5. The City agreed to a protocol in place of the structures by-law. This protocol allowed me to stay in a sanctioned park without having to move because of my high acuity rating of

16. I have been staying in JC Beemer park since the fall of 2020 when the protocol was enacted.
6. I have had both negative and positive experiences with by-law and the police – some exercising discretion to allow me to stay because they know I am not violent and that I cannot go to a shelter.
7. By staying in one location I am routinely able to connect with meals on meals, receive methadone and meet my other needs as agencies supporting me know when I am and I am not constantly moving.
8. Since the revocation of the protocol and enforcement of the structures by-law on August 30, 2021, I have been displaced from JC Beemer park and have been walking in search of refuge in another location. I no longer have a tent. I have had to move:
9. My tent was wrecked and so I couldn't re-erect it after people stole from me while I was away from it. I then began moving to various places in the City with the clothes on my back and backpack. It's hard without a tent having no where to relax. If I get a new tent I know that I
10. The City of Hamilton has not offered me shelter or housing prior to evicting me from will be encampments. asked to dismantle and move because of the By-law

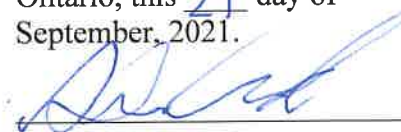
AFFIRMED BEFORE ME in the
City of Hamilton, this 29 day of
September, 2021



A Commissioner etc.

LSC/C 65464F

AFFIRMED at the City of
Hamilton, in the Province of
Ontario, this 29 day of
September, 2021.



11. It was helpful to me to stay put in one place. I am now disconnected from agencies that would routinely visit me as I am wandering around and am exhausted.

TAB 30

Court File No. CV-21-00077817-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF SHAWN ARNOLD
(affirmed May 9, 2022)

I, Shawn Arnold, of the City of Hamilton, in the Province of Ontario, AFFIRM AND SAY:

1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.
2. I became homeless in 2020.
3. My date of birth is 07/23/1969. *SA*
4. I am a person that receives the Ontario Disability Support Program income.
5. It is rare if not impossible for me to obtain housing in the private market rental market because my ODP income is so low. I receive \$497.00 in shelter benefits when I have shelter costs. I am not entitled to this shelter benefit when I do not have shelter costs, which means that I do not receive this benefit when I am unhoused. When I do not have housing I only receive the basic needs portion of the benefit which is \$672.00.

SA

6. When I became homeless in 2020 I went to the Ferguson Street encampment in Hamilton. I was forced to leave the Ferguson encampment. By-law officers or police, I cannot recall which authority, had verbally advised in advance when I had to leave the encampment. I remained at the encampment at Ferguson Street until the last day that we were required to leave by. On the day that authorities came to evict encampment residents. I complied with their direction to leave because I did not feel that I had an option not to. I witnessed both police and by-law officers physically take down other residents' tents, hovering over people and take their personal possessions to dispose of them by placing them in piles for trucks to pick up. I did not want this to happen to my tent and possessions and I did not want to have conflict with them, so I abided by their direction to move.
7. At the time that advance notice to move was given to me, no one from the City of Hamilton assessed my personal needs or offered suitable shelter options for me to move to following the eviction. At the time of eviction I also did not receive support to ensure that I was moved into a form of shelter that I could function in.
8. After I was evicted from the Ferguson encampment, I moved to another park and the authorities at the Ferguson eviction were aware of this because I told them I would be moving to another green space.
9. I am a recovering addict and have an honest fear that my sobriety would be compromised if I went to a shelter. This is because people selling drugs will target shelters where they know that people use substances and some people who use shelters will use substances in them or around them. I find it easier to maintain sobriety outside of shelters, even if that means I am on the street with or without a tent.
10. I am currently using methadone to assist with the maintenance of my sobriety.
11. I have had a VIS PDT assessment and I was verbally told that my score was 16.
12. I was able to remain in a park for several months when the City agreed to a protocol that allowed some unhoused people to remain in sanctioned sites in public spaces. I was told that I could remain in the park that I was staying at in my tent, called JC Beemer Park, because my VIS PDT score was 16.
13. The benefits of having a tent in a stable location are as follows:
 - a. I was less sleep deprived. When I was evicted from JC Beemer park, which coincided with the end of the protocol that allowed me to stay there, I experienced severe sleep deprivation because I had nowhere to rest or sleep. I wandered the street for over 4 days without sleeping. Without a tent I am less likely to sleep because I do not have privacy

and I do not have a reliable community that provides safety. I am nervous to fall asleep in the open for fear of my things being stolen from me.

b. I could relax and lay down compared to wandering around

c. I did not have to pack and move constantly

d. It allowed me to better maintain connection to services. For example, my Wesley Day Centre and outreach workers would come to the encampment to bring food, clothing, and necessities and harm reduction supplies. My Wesley case worker assisted me to find housing but as soon as the protocol ended and I no longer could remain there, I witnessed authorities taking down tents and peoples' things, including my own. I was able to retrieve some of my possession but not all. When that eviction happened I lost my tent and majority of possessions and I was left with nowhere to go and I just had the possessions I could carry and was left to wonder without anywhere to sleep for days. During this time Caroline my Wesley worker was looking for me to sign a new lease with a rental unit which was a rooming house, but she could not locate me because I had been displaced from the encampment.

e. When I was able to stay in the encampment I was able to rely on the community of other residents there to watch my belongings whenever I needed to leave. I rarely have a phone while I am unhoused because it routinely gets stolen and it is expensive to replace and maintain. Without a phone it is difficult to maintain connections to services. I am forced to walk to every service that I need to utilize. By leaving the encampment I always risk having my tent and possessions stolen, which is why having a consistent place to stay with other people gives me a greater chance to leave my things while I attend appointments because they will be cared for while I am gone.

f. The tent provided shelter from weather.

14. It is my personal belief that I would not have been as efficiently connected to someone to assist me to secure housing if I had not been stabilized in one location in a tent.

15. I am currently living the rental unit that my Wesley worker assisted me to get.

AFFIRMED BEFOR ME in the)
City of Hamilton, this 9th day of)
May, 2022)



AFIRMED at the City of
Hamilton, in the Province of
Ontario, this 9th day of May,
2022.



TAB 31

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Court File No. CV-21-77187

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH,

MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL,

CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER,

CASSANDRA JORDAN, JULIA LAUZON, AMY LEWIS,

ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,

SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and

PATRICK WARD

Applicants

and

CITY OF HAMILTON

Respondent

--- This is the Cross-Examination of SHAWN ARNOLD, an Applicant, herein, on his Affidavit Sworn the 9th day of May, 2022, taken via videoconference on the 14th day of August, 2024.

Nimigan Mihailovich Reporting Inc.
(905) 522-1653

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INDEX OF UNDERTAKINGS

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INDEX OF REFUSALS

Refusals are noted by "R/F" and are found on the following pages: 41, 42, 44, 46, 47, 50, 53, 54, 55, 56, 57.

INDEX OF ADVISEMENTS

Under Advisements are noted by "U/A" and are found on the following pages: NONE

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APPEARANCES:

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Curtis Sell

Nnonyechi Okenwa

Michelle Sutherland

Bevin Shores For the Respondent

Jordan Diacur

Vivian Caldas

ALSO PRESENT:

Katherine Finlayson Summer law student

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--- Upon commencing at 2:23 p.m.

SHAWN ARNOLD: Affirmed.

CROSS-EXAMINATION BY MR. DIACUR:

Q. Good afternoon, Mr. Arnold. My

name is Jordan Diacur. My name is just there below me on the screen. If you can see it, that's how it's spelled. I'm a lawyer acting for the City of Hamilton. I have some questions for you today principally about an affidavit that you swore, dated May 9, 2022. Do you have a copy of that document in front of you?

A. Yes, I do.**Q.** Have you --**A. Yes, I do.**

Q. Thank you, sir. Have you reviewed that document since you swore it in May 2022?

A. I'm just going through it now, right now.

Q. I'm going to take you to certain parts of it and have some questions to ask you about it. But for now, I just want to know whether or not you've reviewed it since you swore it.

A. Yeah.

Q. Okay. Have you done that recently or was that a long time ago?

A. (Indiscernible).

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1 MS. CROWE: Can you speak louder?
 2 THE DEPONENT: I thought that was last
 3 night. Wasn't it? We went through this last night.
 4 BY MR. DIACUR:
 5 6 Q. Thank you, sir. To begin with,
 6 may I call you Mr. Arnold?
 7 A. You sure can.
 8 7 Q. I tend to also refer to witnesses
 9 as "sir." If that's all right with you, I propose to
 10 do that as well, unless there's another pronoun that
 11 you'd prefer that I use.
 12 A. I don't -- no, I don't have a
 13 problem with that at all, sir.
 14 8 Q. Thank you. Sir, your date of
 15 birth is July 23, 1969? Is that correct?
 16 A. That's right. Summer of '69.
 17 9 Q. Summer of '69, right. If I'm
 18 doing my math right, that makes you 55 years old today?
 19 A. Yeah, that's correct.
 20 10 Q. Sir, I understand that you are
 21 currently residing in Hamilton. Is that correct?
 22 A. That's correct.
 23 11 Q. How long have you resided in
 24 Hamilton?
 25 A. Pretty much my whole life, except
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6

1 in the 90s I was in Vancouver. But pretty much my
 2 whole life.
 3 12 Q. Were you born in Hamilton?
 4 A. Yes. Yes, I was.
 5 13 Q. Where are you currently residing?
 6 A. I was at the YMCA, but due to the
 7 fire, they have us at the -- the Premier. I believe it
 8 was called the Days Inn before.
 9 14 Q. It's a hotel?
 10 A. A hotel, yeah. Hotel -- yeah, I
 11 think it was Days Inn, but now it's called the Premier.
 12 They have us in there right now.
 13 15 Q. So you were renting a unit in the
 14 YMCA on James Street in Hamilton?
 15 A. Yes, I was.
 16 16 Q. And there was a fire that occurred
 17 in July of 2024; is that right?
 18 A. Yes.
 19 17 Q. And as a result of that fire, you
 20 were displaced from your unit; is that right?
 21 A. Yes, that's right.
 22 18 Q. And you've been provided alternate
 23 accommodation in a hotel space as a result of that?
 24 A. Yes.
 25 19 Q. Has there been any change in terms
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413 7

1 of any rent payable, either to the YMCA or to the hotel
 2 that you're staying in currently?
 3 A. I don't believe so. I'm pretty
 4 sure it's just the same. I -- to be honest with you, I
 5 have enough things that I have -- I believe it's the
 6 same as it is.
 7 20 Q. In addition to your affidavit
 8 sworn May 9, 2022, there are two other documents that
 9 I'd like to show to you. First, I'll ask you whether
 10 you've seen them before. The first is a letter
 11 prepared by a doctor, Dr. Jill Wiwcharuk. I'll put the
 12 document up on the screen so that you can see it.
 13 There may also be a copy of it available that you can
 14 take a look at in hard copy. Can you see on the screen
 15 the document that I put up?
 16 A. No, but I believe I -- I have one
 17 in front of me.
 18 21 Q. Okay. So this is the letter. It
 19 has the Shelter Health Network letterhead and it's
 20 dated June 10, 2022. The copy that I have, anyway, is
 21 stamped Exhibit H to the affidavit of Jill Wiwcharuk.
 22 Is that the copy you're looking at?
 23 A. Yes.
 24 22 Q. And it references you and your
 25 date of birth in the bolded re line; is that right?
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8

1 A. That's right.
 2 23 Q. Have you seen Dr. Wiwcharuk as a
 3 physician treating you?
 4 A. Is that the -- no, I haven't, I
 5 don't think. Is that the one that's at the network --
 6 or what's it called? They changed their name. That's
 7 the first -- no, I haven't seen, no.
 8 24 Q. You don't recall ever seeing
 9 Dr. Wiwcharuk for any medical treatment?
 10 A. No.
 11 25 Q. In this letter, Dr. Wiwcharuk
 12 indicates that you had been a regular patient of hers
 13 through SHN, Shelter Health Network, and The Hamilton
 14 Clinic since 2020. She also indicates that she --
 15 A. Oh, okay.
 16 26 Q. -- sporadically provided care
 17 since 2018. Does that jog your memory?
 18 A. Yes, I know what you're talking
 19 about. I understand who it is now, yes. That's
 20 correct, yeah.
 21 27 Q. Is that accurate that you saw her
 22 starting in roughly 2018 and became a regular patient
 23 in 2020?
 24 A. That's right.
 25 28 Q. She lists a number of pieces of
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9

1 past medical history in the first paragraph of that
2 letter. She indicates opiate use disorder. Do you see
3 that?

4 **A. On the first page?**

5 29 **Q.** In the first paragraph on the
6 first page, that's right.

7 **A. Okay. Okay, yes, I do.**

8 30 **Q.** Is that something that you saw
9 Dr. Wiwcharuk for treatment of?

10 **A. Yes. Yes, it was.**

11 31 **Q.** Were you diagnosed with opiate use
12 disorder by Dr. Wiwcharuk?

13 **A. Yes. I'm still currently taking
14 the methadone and -- yeah, I'm still doing that too.**

15 32 **Q.** Prior to starting methadone
16 treatment, what opiates were you using?

17 **A. I was just -- hydromorphs and --
18 and cocaine, I guess. I've been doing -- I haven't
19 been -- I've stopped -- I haven't done needles for
20 about six months now. I'd say at least six months.
21 I'm doing the -- I'm doing pretty good on the --
22 staying away from people and trying to stay clean.**

23 33 **Q.** And the methadone treatment has
24 assisted you with that?

25 **A. Yes.**

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1 34 **Q.** The next thing that she lists --

2 **A. I'm --**

3 35 **Q.** Oh, sorry, I didn't mean to cut
4 you off, sir. What was that?

5 **A. I'm still taking the methadone and
6 it's working. It is working for me.**

7 36 **Q.** Now, Dr. Wiwcharuk also mentions
8 stimulant use disorder. Was that something that she
9 diagnosed you with?

10 **A. Stimulant? What is that? I don't
11 understand.**

12 37 **Q.** I'm asking you whether it's
13 something that you were told that you were diagnosed
14 with. Is that something you've ever heard before?

15 **A. I'm kind of confused on that, the
16 stimulant. I'm -- I'm confused there.**

17 38 **Q.** The next thing that she lists is
18 attention deficit hyperactive disorder. Is that
19 something that you were diagnosed with by
20 Dr. Wiwcharuk?

21 **A. Yeah.**

22 39 **Q.** Are you in treatment for ADHD,
23 attention deficit hyperactive disorder?

24 **A. I'm not in treatment, but I
25 just -- like I said, I'm focused on -- I stay away from**
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414 11

1 **certain crowds and I -- you know, I'm trying to focus
2 on just staying clean, and I've just -- I think I'm
3 doing a pretty good job. Not 90 percent or a hundred
4 percent perfect, but I'm doing a lot better than I was.**

5 40 **Q.** Do you know when the first time
6 you were told by a physician that you had attention
7 deficit hyperactive disorder was?

8 **A. I guess that was ten years ago or
9 so.**

10 41 **Q.** That's before you saw
11 Dr. Wiwcharuk?

12 **A. Dr. Jill -- Dr. Jill diagnosed me
13 with that.**

14 42 **Q.** The next thing she lists is
15 hepatitis C and she indicates recently treated.

16 **A. Yeah.**

17 43 **Q.** Was that something that she
18 treated you for, Dr. Wiwcharuk?

19 **A. Yeah, Dr. Jill. She did. Yes,
20 she did.**

21 44 **Q.** And did that resolve, the
22 hepatitis C, or do you still suffer from that
23 condition?

24 **A. No, it's resolved.**

25 45 **Q.** The last thing she lists is
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1 chronic left shoulder pain. What was the source of
2 that pain?

3 **A. I think it would have been -- I
4 had to depend on my -- my sleeping conditions, I guess,
5 because the pain in my shoulder's gone away.**

6 46 **Q.** So you don't still suffer from
7 chronic left shoulder pain?

8 **A. No.**

9 47 **Q.** Were you ever injured in your left
10 shoulder?

11 **A. Nothing serious or nothing, but
12 I -- maybe I, you know, fell off my bike a couple times
13 maybe, but nothing serious.**

14 48 **Q.** So no particular injury that you
15 can recall that would result in that sort of chronic
16 pain to your left shoulder?

17 **A. No.**

18 49 **Q.** One of the things that Dr. Jill
19 Wiwcharuk mentions in her letter, the second paragraph
20 now, is that you were living in a tent in J.C. Beemer
21 Park. That's in Hamilton?

22 **A. That's right.**

23 50 **Q.** It was in the winter of 2020/2021?
24 Is that accurate?

25 **A. No, it was in the summer.**
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13

1 51 Q. So --
 2 A. J.C. Beemer -- sorry, yeah,
 3 that's -- it was in the winter, yes.
 4 52 Q. And in those two years, the winter
 5 of 2020/2021?
 6 A. Yeah, that's right.
 7 53 Q. She mentions here that you would
 8 talk about your desire to treat opioid use disorder and
 9 get on what she calls opioid agonist therapy, i.e.,
 10 methadone. She then says, "However, he was unable to
 11 follow up regularly enough to do so."
 12 A. I --
 13 54 Q. Why was that?
 14 A. I don't -- I'm actually -- don't
 15 know what she's talking about, because I got -- stayed
 16 on it. And I did get off of it when I moved to -- when
 17 I was housed, but I -- a year later I went back on it,
 18 and then I think that would have been in 2022 or
 19 something. I've been back on it since then.
 20 55 Q. When did you begin methadone
 21 treatment?
 22 A. Let me think. 2020 or something
 23 like that, I believe.
 24 56 Q. At this time in the winter of
 25 2020? Is that right?

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14

1 A. I believe so.
 2 57 Q. How did you obtain methadone
 3 treatment? Was it from Dr. Jill Wiwcharuk?
 4 A. That's right. That's correct.
 5 58 Q. She mentions having to go to a
 6 pharmacy daily for doses.
 7 A. That's right.
 8 59 Q. Is that something that you've been
 9 doing since the winter of 2020?
 10 A. That's correct.
 11 60 Q. When Dr. Wiwcharuk says that you
 12 were unable to follow up regularly enough to do so,
 13 she's incorrect?
 14 A. Yes, she is incorrect. Because
 15 I -- if you miss three days, you have to restart, but I
 16 never missed more than one day at a time. And I did
 17 stop taking it for a year, but like I said, I went back
 18 on it in 2022 and I've been on it. I've missed maybe
 19 one day since then. Like, I'm -- I'm on -- I go to a
 20 different clinic now. I'm at -- what's it -- I go to
 21 the pharmacy on -- Pharma Plus on James Street South.
 22 61 Q. When you went off the methadone
 23 treatment and then reentered methadone treatment, was
 24 that also via Dr. Jill Wiwcharuk or a different
 25 physician?

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415 15

1 A. A different physician.
 2 62 Q. And who was that?
 3 A. I don't have her name. Yeah, I
 4 don't have her name. Actually, her name's Dr. Jill but
 5 it's a different Dr. Jill.
 6 63 Q. I'll continue, but if you think of
 7 her last name, you let me know.
 8 A. Thank you.
 9 64 Q. Now, my understanding is the
 10 methadone treatment is designed to slowly decrease the
 11 dosage over time, such that eventually you won't need
 12 to be on the methadone treatment any longer. Is that
 13 your understanding too?
 14 A. Yes.
 15 65 Q. Is that something that you are
 16 experiencing, a lowering dose over time?
 17 A. Well, I found it as a -- I don't
 18 have to -- I don't have to be on it every day and worry
 19 about being sick. Like, I can go two days and I'm fine
 20 through the day. I don't have to, you know -- I don't
 21 have to do -- I don't need it.
 22 66 Q. Is that a choice that you've made,
 23 that you won't pick up a dose on a particular day, or
 24 is that something that you've been told by a doctor you
 25 don't have to do?

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1 A. Well, it's a -- I don't know how
 2 it works. It's -- like, I can go the whole day without
 3 even thinking about doing it or I won't be sick. It
 4 helps me -- it prevents me from being sick and wanting
 5 to do it.
 6 67 Q. The last sentence in that
 7 paragraph reads, "He found the crowded conditions in
 8 shelters too hard to manage and he would end up
 9 sleeping outside or couch surf somewhere." Do you see
 10 that there? Second paragraph, last sentence.
 11 A. Yeah, I see it.
 12 68 Q. Is that accurate?
 13 A. Yes, that's true.
 14 69 Q. Do I understand from that that it
 15 was possible for you to go into a shelter but you chose
 16 not to due to crowded conditions?
 17 A. I don't -- it's not just the
 18 crowded conditions. I stay away from certain people.
 19 70 Q. So it wasn't the crowded
 20 conditions; it was particular individuals you wanted to
 21 stay away from?
 22 A. This is correct.
 23 MS. CROWE: For the record, his initial
 24 answer was "not just the crowded conditions." I don't
 25 know if you picked that up.

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17

BY MR. DIACUR:

Q. I'm not sure if that came through.

So it wasn't just crowded conditions; it was also certain individuals?

A. Well, certain individuals, yeah, comes with certain habits, and that's why I stay away from those crowds, to stay away from the habit.

Q. Was there any other reason that you would choose not to go into a shelter?

A. I wouldn't say any other reason, no. I just choose to stay away from people that -- you know, like I said, I'm going to -- I'm saving myself for the years of the drug abuse I've done and it's -- you know, it's embarrassing, so I'm trying to just clean my act up a bit and stuff, but...

Q. I understand that you --

A. I just --

Q. Sorry, I didn't mean to cut you off, sir.

A. It's okay. I'm good. You can go ahead.

Q. I understand that you have had a housing case worker assist you with obtaining housing in the past. Is that correct?

A. That's correct.

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18

Q. And that they ultimately were able to obtain housing for you in 2021? Is that true?

A. Yes.

Q. Is that why you ultimately departed from J.C. Beemer Park?

A. Yeah, I believe so.

Q. Was the housing that you obtained located at 47 Ottawa Street North in Hamilton?

A. Yes, that's right.

Q. I know that area pretty well. 47 Ottawa Street North, it's an apartment above a storefront. Is that correct?

A. There was a storefront in the front of it and -- yeah, it's a couple doors up from the Tim Hortons.

Q. The first Tim Hortons ever.

A. Yeah.

Q. Yeah, I know the area pretty well. So it's an apartment above a storefront?

A. That's right.

Q. Was that a rental unit?

A. Yes.

Q. Do you recall what you were paying to stay there?

A. I believe I could -- correct me if

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416 19

I'm wrong, but I think it was about \$450.

Q. \$450 a month?

A. I could be wrong. I believe that's what it was.

Q. I understand that you receive

ODSP --

A. Yes.

Q. -- Ontario Disability Support

Program payments. Is that right?

A. That's right. That's correct.

Q. Was that true at that time as

well?

A. Yeah.

Q. Do you recall when you first

started receiving ODSP payments?

A. It would have been closer to -- started here in Ontario in '22? 2022, I believe. I believe it started in 2022. Yeah, I think the summer of 2022, I believe.

Q. And is there any particular disability on which you rely to qualify for ODSP?

A. I don't understand.

Q. Well, as I understand it, Ontario Disability Support Program payments are made to those who qualify as disabled, so my question is whether

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there's a particular disability that was relied upon in order to qualify.

A. I have -- I -- yeah -- I don't -- I guess just -- I'm not sure how you can say this. (Indiscernible).

Q. I'm sorry, sir. I couldn't hear that response. Could you speak up?

A. I'm trying to -- terms, I don't -- I believe it would be like a -- what do you call it? I have a problem with focusing -- focusing, and I guess that would be what the ADHD is.

Q. Understood.

A. I have, you know, I guess, a focus problem. I'll plan on doing something for the day, and I'll get ready to go, and then I would be like -- run into somebody else and they'll want me to -- I end up helping somebody else out or something.

Q. Understood. Do you know how much you currently receive in ODSP payments each month?

A. Almost \$700. \$680 or something.

Q. Do you receive an additional amount for shelter benefits?

A. Yeah. Yes, I believe it's \$400 or something. \$450, I believe.

Q. Do you have any other income

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1 besides ODSP payments each month?

2 **A. No.**

3 ⁹⁶ **Q.** Sir, I'm going to put up on the

4 screen the affidavit that I was referencing from

5 May 2022. If you have a copy of that in front of you,

6 I will tell you which paragraphs I'm referencing and I

7 have some questions for you. At paragraph 5, you state

8 "it is rare if not impossible for me to obtain housing

9 in the private market rental market because my ODP

10 income is so low." Now, you've told me about two

11 different places that you have rented. I understand

12 that the 47 Ottawa Street North rental was a private

13 market apartment. Is that accurate?

14 **A. Yes, it was.**

15 ⁹⁷ **Q.** Is that what you mean when you say

16 that it's rare for you to be able to obtain such

17 housing?

18 **A. Well, the price of -- if you look**

19 **at the prices of just a bachelor, it's almost -- it's**

20 **really hard to find a place for under \$500 nowadays.**

21 ⁹⁸ **Q.** So, rare, but you say "rare if not

22 impossible." So you would agree that it's rare, but

23 it's not impossible, and that you've --

24 **A. Yeah, it's not impossible, but**

25 **it's -- I know they have -- like, CityHousing has some**
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22

1 **benefit where they're under certain conditions, some**

2 **people pay a low income for an apartment, but you have**

3 **to qualify or be on a -- on a waiting list or**

4 **something. I'm on a waiting list for the -- what's it**

5 **called -- the Indwell buildings. I think those are the**

6 **Native housing. Inwell or Indwell buildings.**

7 ⁹⁹ **Q.** And who assisted you with getting

8 onto that waiting list?

9 **A. I don't know. I think it was**

10 **Dr. Jill that was -- I believe it was. It's been about**

11 **two years.**

12 ¹⁰⁰ **Q.** At that point, you were still

13 working with a housing case worker. Could it have been

14 them?

15 **A. Yes.**

16 ¹⁰¹ **Q.** Do you recall the name of the

17 housing case worker that you worked with?

18 **A. I believe it was one of the ladies**

19 **from Social Navigator. That's who it was. What's her**

20 **name? I'm sorry. One of the ladies that works for the**

21 **Social Navigator team.**

22 ¹⁰² **Q.** And you'd agree that the private

23 rental market is not the only place that shelter or

24 housing can be obtained? You've obtained housing at

25 the YMCA; right?

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417 ²³

1 **A. That's right.**

2 ¹⁰³ **Q.** That's a form of shelter that's

3 available and that's within your budget?

4 **A. That's right.**

5 ¹⁰⁴ **Q.** Paragraph 6 of your affidavit --

6 this is again the May 2022 affidavit -- you indicate

7 that you became homeless in 2020. How did that come to

8 pass?

9 **A. That was when I was staying at a**

10 **place from a friend, but they -- him and his wife split**

11 **up and he sold the place, so I had to move.**

12 ¹⁰⁵ **Q.** So due to a sale, you were evicted

13 from that?

14 **A. I wasn't evicted, but I had to**

15 **move because they sold the place.**

16 ¹⁰⁶ **Q.** Were you paying rent at that

17 point?

18 **A. Yes.**

19 ¹⁰⁷ **Q.** What was your source of income at

20 that time?

21 **A. My income?**

22 ¹⁰⁸ **Q.** Yes. If I understood, ODSP is

23 your only source of income today, and that started in

24 about 2022.

25 **A. My last job, I was roofing. That**
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24

1 **was back in -- I believe that ended in 2019, I think.**

2 ¹⁰⁹ **Q.** You were employed up until 2019?

3 And was it savings that you were using to pay rent in

4 2020?

5 **A. Yeah. It would have been -- not**

6 **ODSP, but -- what's it called? Welfare -- what's it**

7 **called?**

8 ¹¹⁰ **Q.** At that point, you were receiving

9 money from a different government source?

10 **A. Yes.**

11 ¹¹¹ **Q.** You say that you went to the

12 Ferguson Street encampment in Hamilton and you say "I

13 was forced to leave the Ferguson encampment."

14 **A. Yes.**

15 ¹¹² **Q.** As I understand it, the Ferguson

16 Street encampment was dismantled in October 2020. Is

17 that your recollection?

18 **A. Yeah, I believe so. Yes.**

19 ¹¹³ **Q.** My understanding is that a week of

20 advance notice was given before anything was dismantled

21 at the Ferguson Street encampment. Is that your

22 recollection too?

23 **A. I don't remember. I guess we had**

24 **some notice. It was very short notice, but -- yeah, I**

25 **think that would have been correct.**

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1 114 Q. I understand that, at that time,
 2 there was an agreement between the City of Hamilton and
 3 several other groups including a group called HAMSMaRT,
 4 a group called Keeping Six and others. Was that your
 5 understanding as well?
 6 A. Yes.
 7 115 Q. You're familiar with HAMSMaRT and
 8 Keeping Six?
 9 A. Yes.
 10 116 Q. And that the agreement regarded
 11 what was to happen at the Ferguson Street encampment
 12 when it was being dismantled; is that right?
 13 A. That's correct.
 14 117 Q. The Ferguson Street encampment was
 15 dismantled in the daytime; correct?
 16 A. Yes.
 17 118 Q. My understanding is that everybody
 18 who was encamping at the Ferguson Street encampment was
 19 offered shelter at that time of the dismantlement. Is
 20 that your understanding as well?
 21 A. I wouldn't believe -- I don't
 22 think everyone was -- is -- I wouldn't say everybody
 23 was offered shelter.
 24 119 Q. If you see in paragraph 7 of your
 25 affidavit, you say that "nobody from the City of
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1 Hamilton assessed my personal needs or offered suitable
 2 shelter options for me to move to following the
 3 eviction."
 4 A. That's correct.
 5 120 Q. When you say that not everybody
 6 was offered shelter options, are you referencing
 7 suitable shelter options or any shelter options?
 8 A. Well, they had -- they didn't
 9 have -- they never offered me anyplace, except they
 10 offered me -- an officer told me that if I went to the
 11 park, J.C. Beemer, that there wouldn't be a problem
 12 there. They would let us stay there. That's why I
 13 went to the J.C. Beemer Park because they said if a
 14 small group of us went there, that they would let it
 15 slide and let us stay there. And the City removed all
 16 my items, and then I went to the J.C. Beemer Park,
 17 and --
 18 121 Q. You say in paragraph 8 of your
 19 affidavit that you moved to another park, and the
 20 authorities at the Ferguson eviction were aware of this
 21 "because I told them I would be moving to another green
 22 space." Is that accurate?
 23 A. Yes. That was the J.C. Beemer
 24 place.
 25 122 Q. That other green space you're
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418 27

1 referencing is J.C. Beemer Park?
 2 A. Yes, that's correct.
 3 123 Q. So you told them you would be
 4 moving to another green space?
 5 A. Yeah. Well, they offered me a
 6 spot. They said if you go there, that they wouldn't --
 7 there wouldn't be no trouble because they would leave
 8 us -- they would let us be there.
 9 124 Q. Just to be clear, when the
 10 Ferguson encampment was dismantled, were you offered
 11 any shelter option whatsoever?
 12 A. No.
 13 125 Q. When you say "offered suitable
 14 shelter options," what you mean is any shelter options
 15 in paragraph 7 of your affidavit?
 16 A. No, I believe -- no, I believe
 17 not.
 18 126 Q. Do you recall why you used the
 19 word "suitable" in paragraph 7 rather than "any"?
 20 A. I don't believe -- no, I don't
 21 believe they could -- they sent me to the J.C. Beemer
 22 because that was the only place I was offered.
 23 127 Q. So you're saying that it is not
 24 true that anyone offered you a place to go that was
 25 inside when the Ferguson encampment was dismantled?
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1 A. They might have, yes. They
 2 wouldn't offer me a place that -- the school that was
 3 turned into a shelter. I forget what the name was.
 4 Like I said, as I explained to them, I was -- I did not
 5 want to go to any -- into the school or a shelter
 6 because I was -- I wanted to stay away from that
 7 situation.
 8 128 Q. To be clear, you were offered a
 9 shelter space, but you declined it because you didn't
 10 think that it was appropriate for you?
 11 A. Yeah, due to my addictions.
 12 129 Q. You reference that in paragraph 9
 13 of your affidavit, where you state that you are a
 14 recovering addict and have a fear that sobriety would
 15 be compromised if you went into a shelter. That's
 16 true?
 17 A. That's true.
 18 130 Q. In terms of accepting shelter at
 19 the YMCA where you were until the fire last month and
 20 at the hotel space you're in now, why isn't that a
 21 threat to your sobriety in the same way?
 22 A. I don't understand.
 23 131 Q. At the time that you left the
 24 Ferguson Street encampment and it was dismantled, you
 25 declined an offer of shelter because you felt it was a
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1 threat to your sobriety. Why, then, was it okay to
 2 accept shelter at the YMCA until last month and then at
 3 the hotel space you're in now?
 4 **A. Okay, I understand. Because it**
 5 **was December -- well, I believe it was January and it**
 6 **was about minus 20 out, and one of the ladies from**
 7 **Social Nav offered me a place, and my shelter was**
 8 **falling apart, and I gave in and said I'm willing to**
 9 **take your offer because the -- it was freezing cold**
 10 **out. And I said okay. Like, I said -- I gave in and**
 11 **took their offer.**

12 132 **Q.** And you've been successful in
 13 maintaining your methadone treatment while in the
 14 shelter that you accepted at that time?

15 **A. That is correct.**

16 133 **Q.** And you've been successfully
 17 living in shelter both at the YMCA and in the hotel
 18 space you're in now since you accepted that offer?

19 **A. That's correct too.**

20 134 **Q.** Sir, there are drug users and
 21 drugs in encampments. Is that not accurate?

22 **A. Yes, there is.**

23 135 **Q.** There are people who sell drugs
 24 and who, in fact, target the occupants of encampments
 25 for sale of drugs. Is that not accurate?

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1 **A. That's accurate, to my knowledge.**
 2 136 **Q.** Encampments would pose an equal
 3 threat to your sobriety to the shelter environment you
 4 were afraid of. Is that not accurate?
 5 **A. Yes, that's accurate. But to be**
 6 **honest with you, I've learned how to maintain -- my**
 7 **addiction was like a -- it's all in your head and --**
 8 **like, I can -- you don't need it. It's just -- I've**
 9 **learned how to -- how do you say it? I've learned how**
 10 **to deal with it. I don't need it and I'm a lot**
 11 **stronger than I was at the time, so...**

12 137 **Q.** Since the weather ultimately --

13 **A. I --**

14 138 **Q.** Oh, sorry, I didn't mean to cut
 15 you off, sir. Please finish.

16 **A. I can say I'm a lot stronger now,**
 17 **that I know how to walk away or say no or I'm okay, I**
 18 **don't need it.**

19 139 **Q.** In your experience, since you've
 20 told me that it was the weather ultimately that led to
 21 your decision to accept shelter --

22 **A. Yes.**

23 140 **Q.** -- a tent doesn't provide the same
 24 protection as, for example, a room in the YMCA, does
 25 it?

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419 31

1 **A. What do you mean? I don't know**

2 **if --**

3 141 **Q.** Well, if it was the weather that
 4 ultimately made you decide to accept an offer of
 5 shelter --

6 **A. Oh, okay, yeah. It was very cold,**
 7 **and the lady took me down there and showed me the**
 8 **place, and I gave in. I was like -- I said I'll --**
 9 **like, I'll see what it's like, and went there, and it**
 10 **wasn't as bad as I thought. The YMCA is a little**
 11 **different than other shelters. You have your own**
 12 **private room and stuff, so you have your private space**
 13 **and -- excuse me. So you have your privacy, which is**
 14 **good.**

15 142 **Q.** Just to be clear for the record, a
 16 tent in an encampment is not equivalent weather
 17 protection to being in a shelter like the YMCA, is it?

18 **A. No.**

19 143 **Q.** It's better? The YMCA is better
 20 than living in a tent?

21 **A. That's right. Unfortunately,**
 22 **there was a -- they had an accident there and...**

23 144 **Q.** No, no, I understand. You've told
 24 me that alternate arrangements have been made at a
 25 hotel.

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1 **A. Yes.**

2 145 **Q.** The hotel space that you're in, is
 3 it any better or worse than the space in the YMCA?

4 **A. No, it's -- it's comfortable. I'm**
 5 **thankful for the space they give me.**

6 146 **Q.** In a shelter like the YMCA, you
 7 have access to supports such as meals? Is that
 8 accurate?

9 **A. No. You have to get your own**
 10 **meals. There's no meals included or nothing.**

11 147 **Q.** I'm not saying that they're
 12 included in the rent or that they're provided to you,
 13 but you have access to services such as food?

14 **A. No. There's, like, a -- I bought**
 15 **a small fridge on my own cash. No, there is no -- you**
 16 **have to do it on your own.**

17 148 **Q.** I'm not saying that they're
 18 provided to you for free or that you don't have to
 19 obtain them, but you have the ability to go and obtain
 20 food from your room in the YMCA. Is that accurate?

21 **A. No, it's not.**

22 149 **Q.** How do you feed yourself when
 23 you're in the YMCA or in your hotel space currently?

24 **A. I go to the grocery store and buy**
 25 **some -- you know, get a meal and -- or some of the**

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1 options they have in Hamilton for places that give
2 meals out. On Fridays and Mondays, there's a truck
3 that comes there and offers food. There's a lot of
4 places in Hamilton that help people out with food.

5 150 Q. The location of the hotel space
6 and the YMCA are centrally located enough to allow you
7 to access those sources of food and other supports?

8 A. Yeah. In a way, yes.

9 151 Q. Sir, I want to take you now to the
10 second of the letters that I referenced at the outset.
11 It's a letter written by a Dr. Rachel Lamont. I'll put
12 that up on screen. Do you know who Dr. Rachel Lamont
13 is?

14 A. No, I don't believe so.

15 152 Q. The letter is on McMaster
16 University letterhead, Department of Psychiatry. The
17 letter is dated December 21, 2023. I put it up on the
18 screen, but do you have a copy of that in front of you,
19 sir?

20 A. (Indiscernible).

21 153 Q. Sorry, I think your answer might
22 have been a little garbled there --

23 A. Yes, I do. Yes, I do.

24 154 Q. Okay. You have that there? All
25 right. You can see that this letter references you and

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1 your date of birth?

2 A. Yes, sir.

3 155 Q. Do you recall seeing Dr. Rachel
4 Lamont?

5 A. No, I don't. When was the -- oh,
6 I believe this was the lady that was bringing food and
7 stuff to J.C. Beemer.

8 156 Q. You saw Dr. Rachel Lamont there at
9 J.C. Beemer Park? She came to see you?

10 A. Yeah. She brought -- she was the
11 lady that brought groceries and blankets and some
12 survival -- you know, candles and stuff. She was a
13 nice lady.

14 157 Q. As I said, this letter is dated
15 December 21, 2023. I understand that you obtained your
16 room at the YMCA the following month in January 2024.
17 Is that accurate?

18 A. Wait a minute.

19 MS. CROWE: Mr. Diacur, are you okay if
20 I ask one question to maybe help him identify Dr.
21 Lamont?

22 MR. DIACUR: I have no problem with
23 clarifications. That would be helpful, thank you.

24 MS. CROWE: Thank you.

25 Do you know of the organization

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1 HAMSMaRT?

2 THE DEPONENT: (Shaking head).

3 MS. CROWE: No, that doesn't sound
4 familiar?

5 MR. DIACUR: I'm sorry, I thought that
6 Mr. Arnold already identified that he does know
7 HAMSMaRT and Keeping Six.

8 THE DEPONENT: I know Keeping Six. I
9 know Keeping Six.

10 MR. DIACUR: Sorry, my notes say that
11 he answered yes to both those.

12 MS. CROWE: I think --

13 THE DEPONENT: Yes, I was -- HAMSMaRT I
14 don't know, but I know the Keeping Six people. Sorry,
15 I was a little confused there. Okay, this is -- I have
16 my dates wrong. I don't remember these people.

17 BY MR. DIACUR:

18 158 Q. I have a few questions that don't
19 specifically turn on Dr. Lamont or your recollection of
20 her outside of the fact that she visited you at J.C.
21 Beemer. Is it your recollection that you moved into
22 the YMCA in January 2024?

23 A. Yes.

24 159 Q. Dr. Lamont uses the word
25 "eviction." You had also used that word in your

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1 affidavit. Just to be clear, you weren't paying rent
2 to stay at J.C. Beemer Park or at Ferguson before that?
3 To encamp, there's no rent?

4 A. No, there was no rent. There was
5 no rent there. That's a park. No one was charging us
6 any rent. I picked up garbage and kept it clean, but
7 there was no rent.

8 160 Q. The bottom of this first page of
9 the letter, Dr. Lamont mentions escalating opioid use
10 and numerous unintentional overdoses. Do you see that?

11 A. In the last paragraph?

12 161 Q. The last paragraph and actually
13 the last sentence on the first page.

14 A. (Indiscernible).

15 COURT REPORTER: I'm sorry, could you
16 please repeat that, Mr. Arnold?

17 THE DEPONENT: I don't understand this
18 last paragraph with the overdoses. I...

19 BY MR. DIACUR:

20 162 Q. Have you ever overdosed on
21 opiates?

22 A. I have, but that was about nine
23 years ago or so -- eight years ago, probably.

24 163 Q. Was there just one?

25 A. No, there was maybe three.

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1 164 Q. But they were all at that time?
 2 A. **No. That would have been many**
 3 **years ago, I think. Like eight years ago or something.**
 4 165 Q. When was the last time that you
 5 overdosed on opiates?
 6 A. **At least eight years ago.**
 7 166 Q. Is it true that your opioid use
 8 escalated while encamped?
 9 A. **No, I was trying -- I was doing --**
 10 **that's when I was trying to get away from it. I was --**
 11 **it's hard to move around all the time, but I was -- I**
 12 **was tired of being outside. You know, it's almost**
 13 **impossible to feed yourself, let alone buy drugs and,**
 14 **you know, have a place to stay. It's impossible.**
 15 167 Q. Just to be clear, this letter
 16 which indicates your opioid use escalated while in
 17 encampment and the fact that you underwent numerous
 18 unintentional overdoses is not accurate?
 19 A. **That's true.**
 20 168 Q. Sir, the City of Hamilton
 21 maintains records, written records regarding
 22 interactions that people have with the City-funded
 23 homelessness serving system.
 24 A. **Yes.**
 25 169 Q. Would you sign an authorization
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1 permitting records relating to you to be disclosed in
 2 this litigation?
 3 A. **Yeah.**
 4 170 Q. Thank you, sir. Just a moment's
 5 indulgence, Counsel. I'd like to review my notes and
 6 make sure I didn't inadvertently miss a question, if
 7 you don't mind.
 8 MS. CROWE: Okay.
 9 MR. DIACUR: I'm going to stop sharing
 10 my screen, but may be it for me. I'm just going to go
 11 off audio for a second and flip through my pages. Just
 12 one second.
 13 --- (Off record)
 14 MR. DIACUR: Thank you very much,
 15 Counsel. Those are all of my questions for Mr. Arnold.
 16 Thank you, Mr. Arnold, for attending.
 17 THE DEPONENT: Thank you.
 18 MS. CROWE: Thank you. Can we just
 19 stand down for five minutes so I check on -- I believe
 20 Ammy Lewis is here as well.
 21 MR. DIACUR: Certainly. I think that
 22 it would be great to know who's available and we can
 23 plan.
 24 MS. CROWE: Great, thank you.
 25 --- Recess taken at 3:18 p.m.
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1 --- Upon resuming at 3:25 p.m.
 2 RE-EXAMINATION BY MS. CROWE:
 3 171 Q. Is it okay if I call you Shawn?
 4 Shawn, I just have some redirect questions for you
 5 based on what we just discussed. Okay? We talked
 6 about the housing case worker that you had, and this is
 7 while you were staying at J.C. Beemer Park. Do you
 8 remember how long you worked with the housing worker
 9 before finding housing?
 10 A. **Almost a year, I believe.**
 11 172 Q. Almost a year? Okay. I want to
 12 also circle back to the reason why you left J.C. Beemer
 13 Park, because earlier Mr. Diacur had asked you if you
 14 were housed and that's why you left. I want to bring
 15 your attention to paragraph 13 of your May '22
 16 affidavit. So under subparagraph A, you talk about
 17 being evicted from J.C. Beemer Park. I want to
 18 clarify. What was the reason why you left J.C. Beemer
 19 Park? Shawn?
 20 A. **I'm trying to remember.**
 21 173 Q. Why don't you take a look at that
 22 paragraph of your affidavit first.
 23 A. **Why I was evicted? I don't**
 24 **believe I was there when I was evicted, when they**
 25 **were -- like, when they were -- police were involved**
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1 **and they were fighting with the police. I was already**
 2 **gone from that. I wasn't involved in that situation.**
 3 **I was already moved on. That's what that's about.**
 4 174 Q. So paragraph --
 5 A. **It was on the news. They had --**
 6 **the people in the park were -- it was almost like a**
 7 **standoff with the police or whatever. The police got**
 8 **involved with -- over there. I wasn't staying there at**
 9 **that time. I was already gone.**
 10 175 Q. Right. So I understand that there
 11 might have been different phases of the J.C. Beemer
 12 encampment eviction, and I know we're going back two
 13 years now. I just want to be really clear on what
 14 actually happened to you and why you left that park.
 15 Have you read paragraph A?
 16 A. **Paragraph 8?**
 17 176 Q. A. So it's right there.
 18 A. **Oh, I see.**
 19 177 Q. And let me know when you're done.
 20 A. **Yeah.**
 21 178 Q. And then I'd also direct you to
 22 paragraph D on the next page. If you could have a
 23 quick read of that, as well, please. Are you finished?
 24 A. **Yeah.**
 25 179 Q. Okay. What you've described in
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1 paragraph A and D are evictions from -- an eviction
 2 from J.C. Beemer, and then you talk about being
 3 disconnected from your worker --
 4 **A. Okay, I remember --**
 5 180 **Q.** You're remembering?
 6 **A. Yeah.**
 7 181 **Q.** Okay, great. I guess I'll ask the
 8 question again. Were you evicted from J.C. Beemer
 9 Park?
 10 **R/F** MR. DIACUR: I object. You've asked
 11 him that question and he answered it. He said --
 12 THE DEPONENT: Yeah, I --
 13 MR. DIACUR: -- "no, I wasn't there
 14 when the eviction happened." You can't keep asking him
 15 so his answer changes --
 16 THE DEPONENT: Yeah, I remember now --
 17 MR. DIACUR: That's completely
 18 improper --
 19 THE DEPONENT: I remember -- I remember
 20 now. They came and said --
 21 MR. DIACUR: No. I object to the
 22 question being asked again. He doesn't get to continue
 23 to answer now --
 24 THE DEPONENT: Excuse me, sir. I
 25 remember now --

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1 MS. CROWE: Mr. Diacur, this is my
 2 witness. You put this issue to him and suggested --
 3 MR. DIACUR: You asked the question
 4 already and he answered it. You don't get to ask it
 5 again and get further information --
 6 MS. CROWE: You suggested a version of
 7 events that is inconsistent with his affidavit. I'm
 8 revisiting the same issue and having him address --
 9 MR. DIACUR: You already have revisited
 10 the same issue. You don't get to do it again.
 11 THE DEPONENT: I was unaware of this --
 12 **R/F** MR. DIACUR: I object to this answer
 13 being put on the record --
 14 MS. CROWE: Okay. Your objection is
 15 noted. This is my witness. I am going to have him
 16 clarify the misinformation that was given initially.
 17 BY MS. CROWE:
 18 182 **Q.** Can you tell us what happened --
 19 **A. Oh, sorry --**
 20 **R/F** MR. DIACUR: That is the third time
 21 you've asked the question and I object again.
 22 MS. CROWE: He hasn't -- he was in the
 23 process of answering and you told us -- and in the
 24 process of him attempting to respond --
 25 THE DEPONENT: I said I --

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422 43

1 MS. CROWE: -- he was saying "I
 2 remember, it's coming back to me now," so I want to
 3 give him the opportunity to --
 4 THE DEPONENT: Yeah, that's just what
 5 I --
 6 MR. DIACUR: Yes, I understand that's
 7 the point of asking the question again, is to prompt
 8 him to change his evidence, but that's what's improper.
 9 I want this to be on the record.
 10 MS. CROWE: This is on the record, and
 11 you raised the issue in your cross. I am revisiting
 12 it, as it is my right, and he has -- you know, we can't
 13 expect the same delivery and responses as we could for
 14 the average litigant, and so I'm giving him a
 15 reasonable opportunity to correct his evidence --
 16 MR. DIACUR: No. You're asking the
 17 same question repeatedly and signalling that you want
 18 him to change his evidence. That's completely
 19 improper.
 20 THE DEPONENT: To my knowledge, I
 21 remember we were asked to leave, and I -- I was gone
 22 for a couple days. I came back. Somebody tore my tent
 23 all apart and all my stuff was -- like, what valuables
 24 were gone. A friend of mine that was in the area of
 25 the park said he didn't think I was coming back. It's

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1 because I was gone for a couple of days, but I -- I was
 2 a little bit upset with that. And at the same time,
 3 the City came to -- with a Bobcat and removed all
 4 the -- everything there. So I grabbed a couple of
 5 things quickly as they were coming with their -- the
 6 Bobcat and I took what I could and left. That's what I
 7 remember now on that day. And I believe it was raining
 8 out and that's it.
 9 BY MS. CROWE:
 10 183 **Q.** Thank you, Shawn. Can I ask you
 11 about the last sentence of this same paragraph D
 12 beginning with "during this time." Can you tell us
 13 what happened with Carol Anne, your housing worker and
 14 trying to find you?
 15 **R/F** MR. DIACUR: I object to this as well.
 16 This isn't a question that was raised in
 17 cross-examination. The affidavit speaks for itself.
 18 That's improper re-examination as well.
 19 MS. CROWE: Why is it improper?
 20 MR. DIACUR: You're allowed to ask
 21 questions about questions that were asked in
 22 cross-examination. This wasn't raised with him.
 23 BY MS. CROWE:
 24 184 **Q.** Okay, we'll move on. So, Shawn,
 25 you mentioned that your housing -- you're currently

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1 staying in a hotel. Do you know how long you can stay
2 there for?

3 **A. I'm not sure. They haven't given**
4 **us a date, but they're trying to find housing for**
5 **everybody and hopefully it's not too long.**

6 185 **Q.** Who is trying to help you find
7 housing?

8 **A. I believe the (indiscernible). I**
9 **think --**

10 **COURT REPORTER: I'm sorry, I can't**
11 **hear that answer, Mr. Arnold.**

12 **THE DEPONENT: The Red Cross and I**
13 **believe Social Navigation.**

14 **BY MS. CROWE:**

15 186 **Q.** Okay. Do you know whether you're
16 going to be able to return to the YMCA?

17 **A. The third floor, I don't -- the**
18 **people was -- which I was on the third floor. I don't**
19 **think we'll be returning because I think there was too**
20 **much extensive damage on the third floor. I don't**
21 **believe there will be anyone returning there, as I was**
22 **told. I don't even think they're going to open the**
23 **third floor up again.**

24 187 **Q.** Okay. So you have a couple of
25 organizations who are trying to find housing for you.

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1 Have you looked at rentals yourself?

2 **A. I've been looking around, but the**
3 **homeless that -- what's it called? Airbnb? That's way**
4 **too expensive for my, you know -- I don't know. I'm**
5 **just -- I'll see what happens.**

6 188 **Q.** Okay. You might have to speak up
7 a little bit. Okay?

8 **A. Yeah, sorry.**

9 189 **Q.** That's okay. Do you have any
10 sense of how much the average one-bedroom rental would
11 cost?

12 **R/F** **MR. DIACUR: I object to that question.**
13 **It's not something that was raised in cross-examination**
14 **and it would be opinion.**

15 **MS. CROWE: You suggested that it**
16 **wasn't very hard for him to find a place that was**
17 **affordable on an ODSP allowance --**

18 **MR. DIACUR: I don't think I did**
19 **suggest that, but this isn't a proper question in**
20 **re-examination.**

21 **MS. CROWE: You raised this very issue.**
22 **The availability of rental housing was raised during**
23 **the cross-examination, so I'm responding to that.**

24 **R/F** **MR. DIACUR: I object to the question.**
25 **It's improper.**

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1 **BY MS. CROWE:**

2 190 **Q.** Can you answer? Do you have any
3 idea of rental prices in Hamilton?

4 **A. I believe -- I would say between**
5 **\$600 to \$1,500 for an average bachelor or one bedroom**
6 **or...**

7 191 **Q.** Do you have any sense how
8 available, like how many places are available in that
9 price range?

10 **R/F** **MR. DIACUR: I object to that question.**
11 **That's improper. This isn't re-examination.**

12 **BY MS. CROWE:**

13 192 **Q.** Mr. Diacur asked you about
14 maintaining your sobriety in the YMCA versus the
15 shelter. Could you describe the setup at the YMCA
16 versus the shelter? When you're at the YMCA, are you
17 in a room or a dorm style?

18 **A. In a room.**

19 193 **Q.** Can you describe the privacy that
20 you have at a YMCA versus a shelter?

21 **A. You have your own room with a**
22 **locked door and -- you know, yeah, you have to share a**
23 **shower and a bathroom and that sort of stuff, but**
24 **you're not -- at least you're not sleeping with -- you**
25 **know, 20-cot room full of men sleeping on -- you know,**
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1 **a room with 20 cots. You're at least with your own**
2 **room, but -- which is nice, but...**

3 194 **Q.** Okay. You said you moved into the
4 YMCA in January of this year?

5 **A. That's correct.**

6 195 **Q.** Your affidavit of May 2022, when
7 you're talking about your reasons for not accessing
8 shelter because of concerns to maintain your sobriety,
9 how would you describe your sobriety or your recovery
10 from substance abuse now -- sorry, in January 2024 as
11 opposed to when you were living in encampments in 2021?

12 **A. I am --**

13 196 **Q.** And 2022.

14 **A. I would give myself -- from a 1**
15 **out of 10, I would give myself an 8 1/2 to -- I believe**
16 **I'd say I can -- like, I haven't used today. I -- I**
17 **haven't even used yesterday. I haven't been able to**
18 **give a clean sample, but I'm close to that.**

19 197 **Q.** Okay. So 8 1/2 is your estimate
20 of your recovery now?

21 **A. (Nodding).**

22 198 **Q.** Okay. And where would you say you
23 were on that spectrum when you swore this affidavit in
24 May 2022?

25 **A. I was doing okay (indiscernible).**
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1 **COURT REPORTER: I'm sorry, could you**
 2 **please repeat that?**
 3 **THE DEPONENT: I'm doing -- I'm just**
 4 **saying I'm doing a lot better on my -- this whole year**
 5 **I've been -- like, even my doctors are kind of proud of**
 6 **me saying that when I -- you know, keep up the good**
 7 **work, that I'm -- I don't -- hopefully I can one day**
 8 **say I'm clean. That's my goal. You know, it's**
 9 **actually my goal, having a place to live. Beyond that,**
 10 **you know, to go to my family and tell them, you know,**
 11 **I'm -- you know, it's embarrassing.**

12 199 **Q.** Right.

13 **A.** I think I'm disgusted with myself.

14 200 **Q.** Okay. Shawn, I know this is
 15 difficult to talk about, but can we go back two years,
 16 so around May 2022? How would you say you were doing
 17 at that time with your drug use and your recovery?

18 **A.** A lot worse that it is now.

19 201 **Q.** Thank you. Then Mr. Diacur also
 20 asked about drugs -- exposure to drugs in encampments
 21 versus exposure to drugs in shelters. In your opinion,
 22 was there any difference in the threat to your
 23 sobriety, your recovery, between the two types of
 24 exposure?

25 **A.** I would say it's -- it's all in
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1 **the head is all I can say. You know, I just have to**
 2 **stay strong in keeping my focus on some other things.**

3 202 **Q.** Right. Can you explain why you
 4 were choosing -- if from your affidavit you were
 5 indicating that one of your reasons for not accessing
 6 shelter was because of your concern about exposure to
 7 drugs and maintaining your sobriety, can you explain
 8 why you were then choosing encampments?

9 **A.** Well...

10 **R/F** **MR. DIACUR:** No, I object to that
 11 question as well. That's not proper re-examination.
 12 It's not something that was not raised with him.

13 **MS. CROWE:** It was, Mr. Diacur. You
 14 specifically said that there's the same exposure to
 15 drugs that is in encampments versus shelters and that
 16 it poses an equal threat.

17 **MR. DIACUR:** He agreed with that. You
 18 are then asking him to change his evidence? Is that
 19 what you're saying?

20 **MS. CROWE:** I'm asking him to explain
 21 why he was choosing encampments versus shelters in that
 22 context.

23 **MR. DIACUR:** That question can be
 24 asked, but that's not what you asked the first time.

25 **THE DEPONENT:** In the shelter --
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1 encampments --

2 **BY MS. CROWE:**

3 203 **Q.** I think you're going to have to
 4 speak up.

5 **A.** In the encampments, I would have
 6 usually a group of friends that, you know, you usually
 7 trust. Say you have someone to watch over your stuff
 8 while you were out, you know, or I'd watch their stuff
 9 while they're out, it's almost like a -- almost like a
 10 little family of us there or something, you know?
 11 Where in that -- in a room with strange people, you
 12 know -- yeah.

13 204 **Q.** Okay.

14 **A.** I don't know. I guess they got
 15 used to being outside and there was -- they can --
 16 summertime, you know, you can make a little camp. In
 17 the wintertime it's a little harder, but I have
 18 survived it. I did it.

19 205 **Q.** If there is exposure to drugs at
 20 both encampments and in shelters, why were you choosing
 21 to stay in an encampment?

22 **MR. DIACUR:** He just answered that
 23 question, Counsel.

24 **MS. CROWE:** He did not answer my
 25 question with respect to the exposure to drugs. He
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1 gave a general explanation as to why he was choosing
 2 encampment.

3 **THE DEPONENT:** Like I said --

4 **MR. DIACUR:** That is exactly the
 5 problem and the nature of my objection. You are taking
 6 an answer that he's given. You're not accepting it,
 7 and you're prompting him to give further evidence that
 8 you would prefer. That's not proper re-examination --

9 **THE DEPONENT:** I don't know why we're
 10 arguing over --

11 **MR. DIACUR:** I object to the method of
 12 this re-examination.

13 **MS. CROWE:** I know he gave evidence
 14 to --

15 **MR. DIACUR:** If you ask a question and
 16 he gives an answer, that's the answer. You can't ask
 17 the same question again and --

18 **MS. CROWE:** He didn't answer -- he
 19 didn't answer my question, and so --

20 **THE DEPONENT:** Why are we arguing
 21 over --

22 **MS. CROWE:** -- I'm asking him to
 23 clarify, which is my right under re-examination.

24 **MR. DIACUR:** So you're going to
 25 continue asking the question until he tells you what
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1 you want him to say?

2 MS. CROWE: I'm going to continue to
3 ask him the question until he answers the question that
4 I'm actually asking.

5 MR. DIACUR: He did. You asked him and
6 he answered it.

7 MS. CROWE: He answered why he chooses
8 encampments in general. He did not mention drug use.

9 MR. DIACUR: That's right. That wasn't
10 part of his answer. That's correct. He gave an answer
11 to your question. He said it was because there are
12 people in encampments that he can count on. That's his
13 answer --

14 MS. CROWE: I asked him a much more
15 narrow question in the context of exposure to drugs.

16 R/F MR. DIACUR: That's improper. I
17 object.

18 THE DEPONENT: That's all I have to
19 say. I have nothing else to say about that.

20 BY MS. CROWE:

21 206 Q. Okay, we'll move on. Mr. Diacur
22 also talked to you about the fact that the YMCA
23 provides more protection against the elements than a
24 tent would. Were there times that you slept outside
25 without a tent?

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1 A. When I was at the Y?

2 207 Q. No. While you were homeless, were
3 there times that you slept outside without a tent?

4 A. Yeah.

5 208 Q. Okay.

6 R/F MR. DIACUR: I object to that question.
7 How is that relating to the questions that were posed
8 to him?

9 BY MS. CROWE:

10 209 Q. Okay. I want to bring your
11 attention to --

12 MR. DIACUR: Those two things are not
13 connected, Counsel.

14 MS. CROWE: Okay, give me a moment.

15 THE DEPONENT: There was many times
16 where I'd be (indiscernible) with what belongings I
17 have, wondering where there was a safe spot to relax or
18 the...

19 COURT REPORTER: I'm sorry, I can't
20 hear you, Mr. Arnold. You're going to have to keep
21 your head up.

22 THE DEPONENT: I'm saying there was --
23 she asked me if there was times where I stayed out
24 without a tent, and I'm saying there's many times where
25 I didn't have a tent. I'd be in a shopping cart or

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1 something with what belongings I had and trying to find
2 a place safe to -- you know, to rest when you've been
3 up for days, and you might go to sleep and wake up with
4 your shoes on still. So, yes, there's many times I
5 slept without a tent.

6 BY MS. CROWE:

7 210 Q. And --

8 A. You have the City saying it's the
9 same -- we have a problem with you staying here, and
10 then you get comfortable. Two months go by, and they
11 say now you have to leave. I never had a problem with
12 them or I'd have -- I'd have to say, almost every park
13 or every place I stayed, the neighbours all got along
14 with me. I never had any problems with the neighbours.

15 211 Q. Okay. I want to draw your
16 attention to paragraph 13(f) of your affidavit. If you
17 could just read that. You've indicated that the tent
18 provided shelter from weather. Can you explain?

19 R/F MR. DIACUR: I object to that. How
20 does that relate to the cross-examination that was
21 conducted?

22 MS. CROWE: Because you are talking
23 about -- you raised specifically the protection that a
24 tent provides from the weather comparatively to the
25 YMCA. I'm asking him to talk about what kind of

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1 protection this tent provided from the weather.

2 THE DEPONENT: Well (indiscernible)
3 obviously dry.

4 COURT REPORTER: I'm sorry, Mr. Arnold,
5 you're going to have to keep your head up. I can't
6 hear you when you're facing down.

7 THE DEPONENT: I apologize. The tent
8 is shelter. Without a tent, there's no shelter. And,
9 yeah, of course a tent is a lot better to have than no
10 tent.

11 MS. CROWE: Did you catch that?

12 COURT REPORTER: Yes, I did.

13 MS. CROWE: Did you need him to repeat
14 it? Thank you.

15 BY MS. CROWE:

16 212 Q. Okay. I want to talk to you about
17 a report from Dr. Lamont. You seemed to have some
18 trouble remembering meeting with Dr. Lamont back in
19 December of last year. Do you remember going to a
20 HAMSMaRT building on Main Street in the basement?

21 R/F MR. DIACUR: I object to that. That's
22 completely leading, Counsel.

23 MS. CROWE: Mr. Diacur, I had
24 previously asked if I could provide some guidance to
25 jog his memory on this meeting. That's all I'm

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1 attempting to do.

2 MR. DIACUR: Yes, and he said he has no

3 recollection of HAMSMaRT. Now you're going to say that

4 there's a HAMSMaRT building and lead him to the answer

5 you want? That's improper.

6 MS. CROWE: That's fine. He's

7 answered.

8 **R/F** MR. DIACUR: I object to the question.

9 Let's be clear.

10 MS. CROWE: Noted.

11 BY MS. CROWE:

12 **213** **Q.** In this report, as Mr. Diacur went

13 over with you, she talks about the homelessness that

14 you experienced after losing your housing on Ottawa

15 Street. Okay?

16 **A. Yeah.**

17 **214** **Q.** And then she talks about an

18 increase in the number of opioid use and unintentional

19 overdoses. You indicated that that didn't sound right

20 to you, so I have a few questions about that. First of

21 all, do you remember this meeting at all?

22 **A. At the HAMSMaRT?**

23 **215** **Q.** Yes.

24 **A. Yes.**

25 **216** **Q.** Okay. So you --

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1 **A. I don't remember -- I haven't**

2 **overdosed since -- like, at all when I was at Ottawa**

3 **Street or anything. There was never that overdose.**

4 **217** **Q.** What is your definition of an

5 overdose?

6 **A. You're -- the definition of a --**

7 **you're not breathing or -- you know, you're -- I**

8 **don't -- you're on your way out, I guess. There's no**

9 **one there to help you (indiscernible).**

10 **COURT REPORTER: I'm sorry. Could you**

11 **please repeat that, Mr. Arnold?**

12 **THE DEPONENT: An overdose is like**

13 **you're -- you're not breathing. You're going to**

14 **pass -- you know, I have no recollection of overdosing**

15 **anytime during those times I stayed at the Ottawa**

16 **Street. I don't know where that came up.**

17 **BY MS. CROWE:**

18 **218** **Q.** Right. So let's clarify that,

19 because she's not talking about while you were in

20 Ottawa Street. She's talking about after you moved and

21 you were homeless again.

22 **A. Yeah, I don't remember.**

23 **219** **Q.** You still don't remember, okay.

24 **A. No overdosing after that either.**

25 **220** **Q.** Do you remember having a

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1 discussion with Dr. Lamont about your drug use?

2 **A. Yes.**

3 **221** **Q.** How much more of that meeting do

4 you remember?

5 **A. I remember it was the winter. I**

6 **had a bad cold. I was -- I guess it was necessary to**

7 **talk about. Like, I could barely even breathe when I**

8 **was talking to her. I felt kind of embarrassed. Like,**

9 **I didn't want to embarrass her. I was embarrassed by**

10 **myself. But she was trying to get a hold of me for a**

11 **while, and I guess I was not in very -- my state of**

12 **mind was zero when I ran into her --**

13 **222** **Q.** Okay.

14 **A. -- which was a bit of an**

15 **embarrassment. But still, I don't know anything about**

16 **overdoses.**

17 **223** **Q.** Okay, we're almost done. Okay,

18 thank you. Those are my questions.

19 --- Whereupon proceedings adjourned at 3:55 p.m.

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1 I HEREBY CERTIFY THE FOREGOING

2 to be a true and accurate transcription

3 of my shorthand notes

4 to the best of my skill and ability.

5

6

7 _____

8 [Electronically signed on August 22, 2024]

9 Lydia Pak, Court Reporter

10 Computer-Aided Transcription

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TAB 32

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD et al.**

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF LINSLEY GREAVES

1. I, LINSLEY GREAVES of the City of Hamilton in the Province of Ontario, MAKE OATH AND STATE:
2. I am a 52 year old Black man.
3. I am in receipt of benefits from Ontario Works. As a single person who is homeless, I receive approximately \$350 per month from Ontario Works for basic needs. I don't receive any shelter allowance while I am homeless. The shelter allowance is \$383 (for a total of \$733), which is insufficient for the price of rent in the private rental market.
4. I have wanted to apply for benefits from the Ontario Disability Support Program (ODSP) for a long time, but have been unable to focus enough to complete it. I was able to complete an application today with my doctor, Dr. Wiwcharuk.
5. I have had periods of homelessness for over ten years. Most recently, I was housed for seven years until about two years ago. My roommates did not pay their portion of the rent. It was my lease, so I was evicted.
6. I have stayed in several men's shelters in Hamilton during the first year of my most recent homelessness.
7. I had a street life past prior to going into shelter and it came back to haunt me. Some people feel like they have claimed part of the shelter for themselves. They perceived me as a threat or a competitor, so I became a target: my belongings were stolen, my property was damaged, and they tried to instigate fights with me.

8. I have also experienced racism in shelters. Most of the time, there are not big groups of African Canadian people in shelters because we usually have different support systems in place and can stay with friends or family. Sometimes there are one or two. You have to go along to get along: for example, I am not a scrapper (collecting random items), but if someone had a job to be done, I feel like I have to help to develop a closer kinship with others.
9. The N word is often used in shelters. Sometimes it's not directed to me, but the mentality seems to be that it's a go-to word when things get tense. I try not to engage directly unless it's directed at me. I don't want things to escalate and don't want to lose control. I am also worried that it will make me a target if I speak up. It is hurtful and makes me uncomfortable, particularly when it is said with hurt and anger.
10. I have also been racially profiled by shelter residents – they assume that I have dope because I am Black. They ask to buy from me, and then confront me in disbelief when I say no.
11. I am using crystal meth right now to get by. I have high anxiety and the meth helps me calm down. I use it about twice every half hour. I was worried about being caught and kicked out while in shelter and using. I am also anxious about being able to come and go from a shelter while using because if you are not there at the right times, you can be kicked out.
12. I also had trouble sleeping in shelters. It is loud, it smells, and I am surrounded by strangers. I was worried that people were lurking and trying to get me. Having all those strange men around me is uncomfortable and you don't know who may hurt you. I slept with my head at the foot of my bed to try to keep an eye on people.
13. I started saying in a tent after I was evicted. I was at Sanford and Barton – I believe it is called Woodlands Park. I stayed there for almost two years, in part while tents were allowed in certain parks. I was the last one to be evicted from the park. My tent had a kitchen area, living area, and storage area. I also had a workshop area to repair bikes. There was a canopy over top of the tent to protect me from the rain.
14. There were three women living beside me who wanted to be close to me for safety. They would call out to me if they needed me to scare anyone off.
15. There were about 16-20 people, or about seven tents, in the grassy area. Five tents were allowed in the area at the time under the previous Encampment Protocol.

16. It was comforting to be in one familiar location. I had friends with me and we looked out for each other. Community outreach like Keeping Six came by, neighbours cooked for us and brought us meals. Inside a tent, I felt more secure to sleep and was protected by the elements.
17. Eventually, By-Law officers came and told us that the City wanted their park back. We were given three days to move while they tore down tents in other areas. People in the smaller tents took off and moved to the escarpment to hide. I stayed because I thought I would be allowed because I had been there for so long and had not caused problems.
18. However, after three days, By-law and Social Navigation came back. They surrounded my tent with cars and police. The City's white trucks and bulldozers were there. I was the only one left. I was in the middle of it all and couldn't go anywhere. I felt very small. The Hamilton Encampment Support Network stood between me and the police and tried to negotiate a bit of time for me to move. A woman who lived in the area came by and said that we should not be moved because we were not bothering anyone. We were located at the back of a grassy field against a factory wall, mostly hidden from public view.
19. I was in the process of moving my belongings and the City kept pressuring me to get my things out quicker. They started the trucks and were driving them around. It was a lot of pressure. They offered to drive some of my belongings to a yard for temporary storage. I agreed because I had no other option, but was worried about my belongings.
20. I had nowhere to go and was separated from a lot of my belongings. I couldn't get hold of the storage site, or Social Navigation. I went to the Hub to see if they could get hold of anyone but they were not able. I ended up losing a truck load's worth of tools, camping supplies, tarps, beds, cots, and clothing. My tent was also lost.
21. I was offered a shelter room at Four Points hotel but I did not have anywhere to put even the belongings that I was able to take with me.
22. After being evicted, I was able to couch surf with a friend for a couple weeks. However, I could not stay indefinitely and had to move. After that, I was back on the streets trying to survive. I no longer had a tent because I lost it in the last eviction.
23. I stayed wherever necessary: there was a vent behind the family court building on MacNab. There were about 15 of us sleeping sausage style up against each other. We were forced to leave after about three weeks when the heating vents were turned off.

24. From there, I went to Urban Core's parking lot. I was there for about a week with some of the same people I had been at MacNab with. It was then closed up with fencing.
25. After Urban Core, I slept around City Hall and the Convention Centre. Then I was at a nearby church staircase. Then I circled back to Urban Core.
26. Everywhere I went, either By-Law or police would tell me I could not stay. At some point, I got a new tent, but we knew that we could not put one up because the City would be buzzing all around and tell us to take it down.
27. I tried to create a tent using tarps to protect against the elements. I just hoped that I could get some sleep before the cops came long.
28. It feels like the City is always trying to take away anything that makes homeless people comfortable: they turn off heating vents, if you stay on a cluster of benches, you come back and only one is left.
29. Staying outside without a tent has been very difficult for me. I can't really sleep. You are constantly moving around trying to stay warm and safe. It worsens my anxiety. I feel like a victim to the weather – there is nowhere to hide from it.
30. As a result, I fall asleep often during the day. I shrink into myself. It is hard to concentrate. I just want to find a quiet corner. I sleep at Wesley during the day when I can.
31. I ended up getting frostbite on my left foot and toes last winter while sleeping outside. I had a blanket on me but nothing else. It took time for the toes and then my foot to change colour. Then I had balance problem. It has been getting steadily worse and today Dr. Wiwcharuk told me I am going to lose my left big toe. She told me I will be an amputee. It is so painful now that even slight winds cause extreme pain.
32. I only learned of this Application today after meeting with Dr. Wiwcharuk at the Wesley Day Centre for treatment of my frostbite.

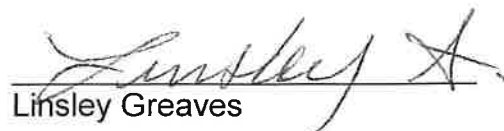
SWORN BEFORE ME in the City
of Hamilton, this 2nd day of June, 2022



A Commissioner, etc.

Sharon Crome

Barrister & Solicitor



Linsley Greaves

TAB 33

Court File No. CV-21-00077817-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
AND SHAWN ARNOLD, ET AL.

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF LINSLEY GREAVES

I, Linsley Greaves, of the City Hamilton in the Province of Ontario, Affirm and say:

1. Since June 2022 I have stayed in the following locations:
 - Last summer (2022) I stayed in Beasley Park
 - In the fall of 2022, I stayed in my friend's shed
 - I'm currently encamped at Woodland park and have been encamped there in various locations since December 2022

2. I have been impacted by on-going encampment evictions since June 2022 in the following ways:

- Due to repeated evictions from June 2022-present and bad weather, I have lost a number of my personal belongings (such as a phone, tablet, & technical clothing)
- In December 2022, I suffered from a foot infection in both of my feet due repeated evictions during cold weather
- Due to the worsening infection in my left foot, I underwent an amputation under my left knee
- On June 28th, 2023, I lost a toe on my right foot. I had not yet been able to seek medical treatment because of the distance to the hospital and my limited mobility.
- I have lost weight due to the stress of being evicted and the instability it has caused me
- The encampment evictions have affected my mental health by making me feel very low. It has made me feel like I'm lower than everyone else and has hurt my self-esteem. I feel self-conscious showing my legs. I also wake up feeling a lot of anxiety and sometimes have panic attacks.
- Due to the repeated evictions, and frostbite caused by it, I'm now in a wheelchair. The wheelchair has made it difficult to move around the city and to attend my appointments. The manual wheelchair is very difficult and fatigues me. The repeated use of the manual wheelchair makes very difficult for me to sleep. I find it difficult to make it to the shelter in time with a wheelchair. In addition, not all shelters are wheelchair accessible.
- I feel unable to reconnect with my daughter after losing my leg and being confined to be in a wheelchair. I find that because of my physical appearance and what I've lost, I'm unable to face her in the state that I'm in.

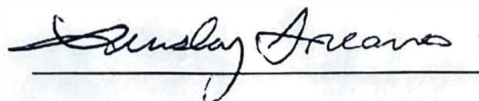
3. Due to the infection, and now having to be in a wheelchair, I have tremendous pain in my legs, back, abdominal and I feel constant tension. Furthermore, because I'm stuck in a wheelchair all day, I feel unable to stretch my legs. I also feel being in a wheelchair makes me feel lame.

AFFIRMED AND DECLARED
before me at the City of Hamilton,
in the Province of Ontario,
this 5th day of July, 2023.

)
)
)
)



A Commissioner etc.



TAB 34

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Court File No. CV-21-77187

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH,

MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL,

CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER,

CASSANDRA JORDAN, JULIA LAUZON, AMY LEWIS,

ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,

SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and

PATRICK WARD

Applicants

and

CITY OF HAMILTON

Respondent

--- This is the Cross-Examination of LINSLEY GREAVES,
an Applicant, herein, on his Affidavits Sworn the 2nd
day of June, 2022, and the 5th day of July, 2023, taken
via videoconference on the 14th day of August, 2024.

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2

APPEARANCES:

Sharon Crowe For the Applicants
Curtis Sell
Nnonyechi Okenwa
Michelle Sutherland

Bevin Shores For the Respondent
Jordan Diacur
Vivian Caldas

ALSO PRESENT:

Katherine Finlayson Summer law student

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--- Upon commencing at 10:03 a.m.

LINSLEY GREAVES: Affirmed.

CROSS-EXAMINATION BY MS. SHORES:

Q. Good morning, Mr. Greaves. Can
you please state your full name for the record?

A. My name is Linsley Osman Greaves.

Q. And how do you spell your middle
name?

A. O-S-M-A-N.

Q. O-S-M-A-N. And how would you like
to be addressed today?

A. As "Linsley."

Q. "Linsley"? Great. Do you have
any pronouns that you wish to share or that you use?

A. No, that's quite fine.

Q. Okay. And as we introduced off
the record, my name is Bevin Shores. I'm a lawyer with
the City of Hamilton. My pronouns are "she" and "her."
And I'll be asking you some questions today about two
affidavits that you've sworn. One of them -- or
affirmed. One of them is June 2, 2022, and the other
one is July 5, 2023.

A. Okay.

Q. Linsley, before we get started, if
during this cross-examination you don't understand any

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5

1 of my questions, please let me know. Okay?

2 **A. No problem.**

3 7 **Q.** Okay. And if you don't say so,
4 I'm going to proceed on the understanding that you do
5 understand my questions.

6 **A. Okay.**

7 8 **Q.** All right. So you're attending
8 today from the office of your lawyers, and you've got
9 your lawyers Sharon Crowe and Curtis Sell in the room
10 with you; correct?

11 **A. That's right.**

12 9 **Q.** And you understand that your
13 evidence is to be your own and no one's helping you
14 give evidence today; correct?

15 **A. That's right.**

16 10 **Q.** And as we discussed before we got
17 started, you'll give verbal responses because the
18 transcript that Lydia's going to prepare doesn't
19 reflect head nods or other gestures. Is that
20 understood?

21 **A. Okay.**

22 11 **Q.** All right. Have you reviewed your
23 June 2, 2022, affidavit?

24 **A. Yes, I have.**

25 12 **Q.** Can you confirm that everything in
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1 that affidavit is accurate?

2 **A. That's accurate, but the first,**
3 **like, change is that I'm now receiving ODPS but no**
4 **longer on welfare.**

5 13 **Q.** Okay. So you're receiving ODSP,
6 no longer on welfare. When did you start receiving
7 ODSP?

8 **A. Shortly after my injury.**

9 14 **Q.** Which injury is that?

10 **A. My leg amputation.**

11 15 **Q.** Okay. When was your leg
12 amputation?

13 **A. Date -- I don't have the date**
14 **exactly confirmed.**

15 16 **Q.** And we'll get to this, but
16 Dr. Claire Bodkin indicated that she saw you in
17 December of 2022, and she referred you to hospital
18 after which you had an amputation. Would it have been
19 around December of 2022?

20 **A. Yeah, it would be around that**
21 **time, I would think.**

22 17 **Q.** Okay. How much do you get for
23 ODSP?

24 **A. I believe it's \$700 now, if I'm**
25 **accurate.**

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7

1 18 **Q.** About \$700? And is that per month
2 or is that some other --

3 **A. Per month, yeah.**

4 19 **Q.** Per month. And what is the
5 disability for which you receive ODSP?

6 **A. Well, my leg amputation.**

7 20 **Q.** I'm going to come back to that,
8 but you also affirmed an affidavit dated July 5, 2023.
9 Have you reviewed that affidavit?

10 **A. I don't remember the dates on the**
11 **affidavits.**

12 21 **Q.** Okay. I'll put it up on the
13 screen for you so you can take a look and see if that
14 jogs your memory. I'm placing on the screen the
15 affidavit of Linsley Greaves and scrolling down to the
16 signature page. It says affirmed and declared the 5th
17 day of July 2023. Does that assist you?

18 **A. I'm getting there.**

19 MS. CROWE: Bevin, sorry to interrupt.
20 He also has a printed copy in front of him, so I'm
21 going to refer him to the printed copy.

22 MS. SHORES: Excellent, thank you.

23 BY MS. SHORES:

24 22 **Q.** Okay, Mr. Greaves. So have you
25 reviewed that affidavit?

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8

1 **A. Yes, I did briefly.**

2 23 **Q.** And can you confirm everything in
3 that affidavit is accurate?

4 **A. Yes, I can.**

5 24 **Q.** Okay. You currently live in
6 Hamilton?

7 **A. Yes, I do.**

8 25 **Q.** How long have you lived in
9 Hamilton for?

10 **A. I'd say 16 years now.**

11 26 **Q.** Where did you live before coming
12 to Hamilton?

13 **A. I was in Toronto.**

14 27 **Q.** Where are you currently living?

15 **A. I'm currently living outside.**

16 **It's in a park in Hamilton.**

17 28 **Q.** Which park are you living in?

18 **A. I don't know the exact name of it,**
19 **but it's on Sanford Street.**

20 29 **Q.** On Sanford Street?

21 **A. Yeah.**

22 30 **Q.** How long have you been in the park
23 on Sanford Street?

24 **A. About a month now.**

25 31 **Q.** Are you living in a tent in the

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<p>1 park on Sanford Street?</p> <p>2 A. Yes, I am.</p> <p>3 32 Q. And before living in the tent in</p> <p>4 the park on Sanford Street, where were you living?</p> <p>5 A. I was at a shelter for a little</p> <p>6 bit.</p> <p>7 33 Q. Which shelter were you staying at?</p> <p>8 A. The Mission Services.</p> <p>9 34 Q. Mission Services. For how long</p> <p>10 were you staying at Mission Services approximately?</p> <p>11 A. I believe it was, like, two</p> <p>12 weeks -- two to three weeks.</p> <p>13 35 Q. And why did you leave the shelter</p> <p>14 at Mission Services?</p> <p>15 A. At that time, I was confused and I</p> <p>16 was losing property and I didn't know, like, what was</p> <p>17 happening with my stuff, so I got upset and I didn't</p> <p>18 want to go back because I was losing too much stuff</p> <p>19 that I needed.</p> <p>20 36 Q. And prior to going to shelter at</p> <p>21 Mission Services, where were you living?</p> <p>22 A. Not certain about that. I was</p> <p>23 just outside in between.</p> <p>24 37 Q. Okay. So outside living in a</p> <p>25 tent?</p>	<p>1 42 Q. Before I move on to the next ⁴³⁹</p> <p>2 paragraphs in your affidavit, you mention at paragraph</p> <p>3 3 of your June 2, 2022, affidavit that when you were on</p> <p>4 Ontario Works, the shelter allowance would have been</p> <p>5 \$383, which you do say that you weren't receiving,</p> <p>6 "which is insufficient for the price of rent in the</p> <p>7 private rental market." Now that you're receiving</p> <p>8 ODSP, has that changed your ability to rent an</p> <p>9 apartment on the rental market?</p> <p>10 A. Well, maybe somewhat, but the rent</p> <p>11 in the market has gone up a lot more. So it's still</p> <p>12 competitive and I can't really find anything at my</p> <p>13 range for a single person.</p> <p>14 43 Q. Have you considered living with</p> <p>15 roommates to pool money --</p> <p>16 A. Yeah, I have. Yes, I have.</p> <p>17 44 Q. And has that worked out at all?</p> <p>18 A. Well, there's hardly anyone that's</p> <p>19 cooperative enough or stable enough to do something</p> <p>20 with that. It's just a few people that are able to.</p> <p>21 45 Q. Out of the people you know?</p> <p>22 A. Yeah.</p> <p>23 46 Q. At paragraph 6 of your June 2022</p> <p>24 affidavit, you state you've stayed in several men's</p> <p>25 shelters in Hamilton during the first year of most</p>
<p>1 A. Yes.</p> <p>2 38 Q. When you went into shelter at</p> <p>3 Mission Services, was there anything in particular that</p> <p>4 prompted you to go into shelter?</p> <p>5 A. I'm not too sure. It's just,</p> <p>6 like, accessibilities or need of, like, you know, to be</p> <p>7 hygienically clean, or certain things like sleep or to</p> <p>8 eat, basically. Necessities.</p> <p>9 39 Q. Have you been housed at all since</p> <p>10 coming to Hamilton? Sorry, strike that. You indicated</p> <p>11 that you were housed until about two years before your</p> <p>12 June 22, 2022, affidavit.</p> <p>13 A. Yes.</p> <p>14 40 Q. So have you been housed at all</p> <p>15 since about 2020?</p> <p>16 A. 2020? I don't think so. Not</p> <p>17 after my eviction, no.</p> <p>18 41 Q. All right. Let's start talking</p> <p>19 about that a little bit. You stated at paragraph 5 of</p> <p>20 your June 2, 2022, affidavit "I was housed for seven</p> <p>21 years until about two years ago. My roommates did not</p> <p>22 pay their portion of rent. It was my lease, so I was</p> <p>23 evicted." That's the eviction that you just referred</p> <p>24 to?</p> <p>25 A. Yeah.</p>	<p>1 recent homelessness. Do you remember which ones?</p> <p>2 A. Not quite. Not quite exactly, no.</p> <p>3 47 Q. At paragraph 7, you say "I had a</p> <p>4 street life past prior to going into shelter and it</p> <p>5 came back to haunt me." When you say "came back to</p> <p>6 haunt me," do you mean you've had conflicts with other</p> <p>7 people who lived on the street?</p> <p>8 A. Yeah. It's hard to be out on the</p> <p>9 street without having conflicts. I mean, there's</p> <p>10 always some challenge every day with people trying to</p> <p>11 test their barrier.</p> <p>12 48 Q. At paragraph 8 of your June 2022</p> <p>13 affidavit, you say you experienced racism in shelters,</p> <p>14 and then you go on to describe that there are not big</p> <p>15 groups of African-Canadian people in shelters because</p> <p>16 "we usually have different support systems in place."</p> <p>17 And at paragraph 9, you state "The N word is often used</p> <p>18 in shelters. Sometimes it's not directed to me, but</p> <p>19 the mentality seems to be that it's a go-to word when</p> <p>20 things get tense." Are those things what you mean when</p> <p>21 you say you've experienced racism in shelters?</p> <p>22 A. Well, yeah, generally.</p> <p>23 49 Q. And the use of the N word in</p> <p>24 shelters, that's not by the shelter staff; that's by</p> <p>25 other people there?</p>

<p>1 A. No, it's not common by the staff, 2 to hear anything like that. It's just generally the 3 public. 4 50 Q. The other people? 5 A. Yeah. 6 51 Q. And the people who have used the N 7 word, did you ever see those people out on the street? 8 A. Oh, yeah. 9 52 Q. In encampments? 10 A. Oh, yeah. It's a wide bunch of 11 people, indifferences. 12 53 Q. Paragraph 10, you say you've been 13 racially profiled by shelter residents. "They assume 14 that I have dope because I am Black." Has anyone ever 15 said specifically that they assume you have dope 16 because you're Black? 17 A. Not directly. It's just that -- 18 it's my perception of a general assumption I think 19 people have of my culture, that because you, like, 20 generally are Black, you should have something. It's 21 an expectation of most of them, but it's not always the 22 truth. 23 54 Q. And again, that's not the shelter 24 staff; that's other people who are -- 25 A. Yeah, that's the general --</p>	<p>1 2022? 2 A. Perhaps, yeah. 3 60 Q. And around that time, how much of 4 your day would have been spent obtaining and using 5 crystal meth? 6 A. Not much, because other people 7 would come by and they would have some, a little bit, 8 so I would never have to really go out looking for 9 anything or chasing it -- you know? -- chasing the 10 dope. 11 61 Q. When you say other people would 12 come by, you mean coming by to your tent? 13 A. Yeah, just my little social 14 circle. Someone would come by, drop by, come there. 15 62 Q. And are you using crystal meth at 16 all or have you been able to stop completely? 17 A. I've been -- I've been greatly 18 reduced. I've just dabbled, like, now and then with it 19 because I was stressed out, but I'm not really as 20 addicted as I was before. 21 63 Q. And so have you gotten treatment 22 for the underlying stress or anxiety that led you to 23 use crystal meth? 24 A. I had had a little bit of anxiety 25 pills, but I believe since my doctor situation hasn't</p>
<p>1 55 Q. -- shelter residents? Sorry, I 2 didn't mean to interrupt you. Paragraph 11 -- so this 3 is again in your June 2022 affidavit -- you state "I am 4 using crystal meth right now to get by. I have high 5 anxiety and the meth helps me calm down. I use it 6 about twice every half hour." Are you still using 7 crystal meth about twice every half hour? 8 A. I have briefly dabbled in it, but 9 I have reduced my usage in it. It affects my organs 10 and so forth, so I haven't been really using much of 11 anything. 12 56 Q. For how long would you have been 13 using crystal meth with a frequency of twice every half 14 hour? 15 A. I'd say about -- I guess a year. 16 57 Q. A year. If I'm doing the math, 17 that's about every 15 minutes. Is that accurate? 18 A. Well, not that -- not that 19 accurate, no. It's more or less, like, you know, I 20 guess, leisure time. Not every 15 minutes, no. 21 58 Q. So at that point in time, the 22 rough year that you were using crystal meth -- well, 23 let me ask: Do you remember when that was, what year? 24 A. No, I can't say exactly. 25 59 Q. Okay. Sometime around June of</p>	<p>1 straightened out, I haven't -- I haven't had any more, 2 like, medical assistance with it. 3 64 Q. Which was the doctor who gave you 4 the anxiety pills? 5 A. I believe it was Julian. 6 65 Q. Julian? Is it Dr. Jill maybe? 7 A. Yeah, Jill or Julian, yeah. 8 66 Q. Okay. How many times did you see 9 Dr. Jill? 10 A. Basically twice a week when she 11 was operating. Yeah, about that. 12 67 Q. And where would you see Dr. Jill? 13 A. At the Wesley Centre. She had an 14 office there. 15 68 Q. So you could go to the Wesley 16 Centre and see Dr. Jill and get treatment? 17 A. Yeah. 18 69 Q. And do you remember what timeframe 19 you would have been seeing Dr. Jill? 20 A. Oh, no. I'm bad with memory about 21 time and dates. 22 70 Q. Okay. Would it help you to think 23 of when would be the last time that you saw Dr. Jill? 24 A. No. It's kind of hard. But she 25 has since left the city and moved on. But it's -- I</p>

1 **don't know exactly when it's been.**

2 71 **Q.** Do you see anyone else now that
3 Dr. Jill has moved? Is there another doctor who's
4 filled that role for you?

5 **A. I think I've dropped into a couple**
6 **of drop-ins, but I haven't addressed, like, my**
7 **substance use problem or I haven't had any, like,**
8 **stress about it to come and bring it to the table.**
9 **Generally, general health issues I've been putting**
10 **together.**

11 72 **Q.** Okay. Let me just make sure I
12 understand your evidence. You're experiencing
13 substance use problems but not to the point where
14 you're seeking help with them?

15 **A. Yeah, somewhat.**

16 73 **Q.** Now, I'm going to go back to your
17 June 2022 affidavit. At paragraph 11 again, towards
18 the end of the paragraph, you say "I am also anxious
19 about being able to come and go from a shelter while
20 using because if you are not there at the right times,
21 you can be kicked out." Are you referring there to bed
22 checks?

23 **A. Oh, yeah. Bed checks, you got to**
24 **be there before -- or, well, while they check the beds.**
25 **So it's basically you're two minutes of being at the**

1 Sanford and Barton. You believe it's called Woodlands⁴⁴¹
2 Park. Is that where you are now?

3 **A. Woodlands Park is just north of**
4 **the one that I'm at right now.**

5 80 **Q.** I see.

6 **A. In the same proximity.**

7 81 **Q.** When you stayed in your tent after
8 you were evicted, according to your affidavit, you
9 stayed there for almost two years?

10 **A. I don't remember the length of**
11 **time.**

12 82 **Q.** It says here in your affidavit it
13 was almost two years, so that would probably be correct
14 if that's what you wrote?

15 **A. Okay. Then I would go with that.**

16 83 **Q.** You said your tent had a kitchen
17 area, a living area, and a storage area. How big was
18 your tent?

19 **A. Well, every tent, it just went a**
20 **little more than we should have, and tried to make it a**
21 **more stable kind of home, like, environment. It wasn't**
22 **as big as big. It was just a couple feet, like 16 feet**
23 **by 10.**

24 84 **Q.** Okay. So this was all in one
25 tent? You just had sort of a kitchen section, a living

1 **shelter.**

2 74 **Q.** So they check the bed to make sure
3 you're still using it; right?

4 **A. Yeah, that you're still in the bed**
5 **or you're going to use it overnight.**

6 75 **Q.** And they don't kick you out for
7 just one missed bed check, though; right?

8 **A. No, no. There's three bed checks**
9 **a night.**

10 76 **Q.** And so is there anything that
11 would be stopping you from being there for at least one
12 of the bed checks?

13 **A. I don't know. Like, just rapid**
14 **stuff, if anything, but not any real, general object**
15 **that's going to stop me, period.**

16 77 **Q.** At paragraph 13, you say you
17 started staying in a tent after you were evicted. We
18 talked before about you having been evicted from your
19 apartment. Is that when you started staying in a tent
20 after you were evicted from your apartment?

21 **A. That's right.**

22 78 **Q.** And so would that have been
23 sometime around 2020? Do you remember?

24 **A. Yeah, I believe so.**

25 79 **Q.** And you go on to say you were at

1 area --

2 **A. Yeah. It was basically tarped**
3 **over and it was, like, separated by tarps.**

4 85 **Q.** Okay. Did you have like a camping
5 tent or was it more just a structure covered with
6 tarps?

7 **A. It was a camping tent surrounded**
8 **by a structure covered with tarps.**

9 86 **Q.** And what kind of things did you
10 store in your storage area?

11 **A. Just general -- clothes, my bike,**
12 **general stuff, tools, just general stuff.**

13 87 **Q.** And how much space was taken up by
14 your tent and the tarps and the storage area? Do you
15 remember?

16 **A. Not much. It was still**
17 **functional. I like everything to be more or less**
18 **concise. It was pretty tight and functional. I don't**
19 **know how much space in general.**

20 88 **Q.** You said 16 by 10 before. That
21 would be the footprint of your tent in --

22 **A. Yeah, about that in feet.**

23 89 **Q.** Okay. You said you had a kitchen
24 area. Did you cook in there?

25 **A. It was basically outside of the**

1 tent. It was a basic grill, barbecue grill with a
2 little wooden kind of slab top for the kitchen area.
3 And we found an old cabinet that we had put -- like, I
4 think it was the bottom of one of the cabinets. I just
5 kind of improvised it.

6 90 Q. And how was the grill fuelled?
7 Was it propane or wood or charcoal --

8 A. It was -- it was charcoal-fuelled.

9 91 Q. When you were staying in your
10 tent, you would still go out and move around and go see
11 people, go to the Wesley Day Centre, go see your
12 doctor, go out and about?

13 A. Yeah.

14 92 Q. So you're not sitting in the tent
15 24/7?

16 A. No.

17 93 Q. Okay. Have you had things stolen
18 from your tent when you're gone?

19 A. Yes, at times.

20 94 Q. At paragraph 15, you say that
21 there were about 16 to 20 people among 7 tents. Do you
22 know about how much space that group of seven tents
23 took up?

24 A. Well, basically, the field is, I'd
25 say, like, about 200 feet long by about, I guess,

1 100-and-something feet wide. It generally went along
2 the back edge of the field to the other side. It had a
3 couple more as well.

4 95 Q. Okay. At paragraph 17, you
5 describe that, "Eventually, by-law officers came and
6 told us that the City wanted their park back." You'd
7 agree that other people couldn't use the space while
8 you and your companions were in it?

9 A. Other people? No. We were away
10 from the field itself. We were, like, off to the side
11 of the fencing, so the field was still wide open. The
12 park was available to anyone that needed it.

13 96 Q. Okay. So the people could use the
14 field and the part of the park that you weren't in?

15 A. Yeah. The park that I was -- the
16 field was accessible. It was quite usable.

17 97 Q. You say you were given three days
18 to move while they tore down tents in other areas.
19 What do you mean "tore down tents in other areas"?

20 A. Well, we were hearing from other
21 people, like, people that were, like, removed from
22 their tents. They generally needed some space, so they
23 came by our tent and were telling us that the City had
24 them leave their tent while they tore down with a
25 bulldozer and threw everything in the garbage, all

1 their property away at the same time. So that's --
2 like, they tore their stuff down, had these guys all,
3 like, scooting around trying to find somewhere to
4 stay.

5 98 Q. And who told you that?

6 A. Some of the people that I know.

7 99 Q. Do you know their names?

8 A. Oh, I -- no, I don't remember
9 exactly everybody, but it's, like, two to four people
10 that I know that's been talking about -- they were at
11 another park that had been cleaned up, that they
12 bulldozed, and then they went up higher towards the
13 mountain area. And I think they cleaned around the
14 escarpment, I heard, and they were coming -- there was
15 an actual warning that they were coming down to
16 Woodlands Park, so everyone was kind of anxious or
17 nervous that they were coming down and they would take
18 up the park. But they used a different method. They
19 just kind of had to try to stay there and watch us all
20 remove our stuff until they were ready to pull it up.

21 100 Q. When you say tents being torn down
22 in other areas, you didn't actually witness it
23 yourself; this was just what other people were
24 talking --

25 A. I wasn't there. It was just

1 people that were displaced, that had nowhere to stay.
2 Like, they came by to stay over there.

3 101 Q. And you said that when the by-law
4 officers came to your site, they didn't do that, and
5 you describe in your affidavit "we were given three
6 days to move"?

7 A. Well, that's what they said that
8 we would have, at least three days to move before
9 they'd come and remove the stuff from the tents. But
10 in general, we had nowhere to go to, so it was, like,
11 where do we go with our stuff? You know, it was a big
12 question. It was hard to get up and move anywhere.
13 They were telling us to move from everywhere we went
14 before that. Before that, it was hard to even
15 stabilize for one night. They would come in the middle
16 of the night and they would tell you you have to move
17 in the middle of the night, or at four o'clock, or
18 six o'clock. And it's like -- you know, it's just
19 upsetting, like, to get up and move to nowhere that you
20 don't really -- you didn't really plan it.

21 102 Q. When you say people come in the
22 middle of the night, tell me about that. Has that ever
23 happened to you?

24 A. Yeah. They had officers and
25 by-law -- I don't think it was the by-law. It was just

1 officers in general telling us that we can't stay
2 there. We had to pick up and leave. And it wasn't
3 really a tent system. It was just, like, basic tarps,
4 like, to keep from the wind and stuff. But they just
5 kept on moving on consistently from everywhere that we
6 settled down.

7 103 Q. Okay. I want to find out
8 specifically, though. If someone's telling you to move
9 in the middle of the night, and you said it wasn't
10 by-law, do you know who it was?

11 A. It was generally the officers. I
12 don't know, like, what they're called, their titles. I
13 guess -- I don't know the titling of anyone.

14 104 Q. Where were you when that happened?

15 A. Ferguson was one. Well,
16 generally, in every place. We were at City Hall. We
17 were just moved around. Anywhere we could find a
18 little bit of space in some shelter against the
19 elements, we stayed there.

20 105 Q. Okay. I want to know specifically
21 about anytime where someone came to you in the middle
22 of the night and you moved around. So you said that
23 happened once at Ferguson?

24 A. Yeah.

25 106 Q. When did that happen?

1 A. Like I said, I can't really put a
2 date or time on anything. I just remember the event.

3 107 Q. What time was it when it happened?

4 A. It was later than usual, very
5 late.

6 108 Q. What's usual --

7 A. It was very late, like -- I
8 can't -- no, I don't know. It was just generally later
9 than usual. I remember I had fallen asleep and I was
10 woken up by officers just trying to tell us to take it
11 down, and they were ready to move it right away, so we
12 all had to get up and go.

13 109 Q. Do you know for sure it was in the
14 middle of the night, or was it just that you were
15 sleeping and they woke you up?

16 A. Well, being that there was no
17 accurate clock there, I just felt as if it was way
18 past, like, the middle of the night in general. It was
19 later than usual.

20 110 Q. Have you been told to move at
21 night at any time other than the time at Ferguson that
22 you just described to me?

23 A. Well, late evening is also still
24 night. But, yeah, generally around late evening too.
25 We haven't been able to settle anywhere. It's like as

1 443
2 soon as we put it down, they would come show up, and
3 they would ask us to get up and go again. It was hard
4 to stay anywhere.

5 111 Q. When would that have happened? Do
6 you remember even what year?

7 A. No. It's been a while. I can't
8 remember all the times or the dates or anything like
9 that, no.

10 112 Q. Going back to when the by-law
11 officers gave you three days to move from where you
12 were at Woodlands Park, you state in your June 2022
13 affidavit "I stayed because I thought I would be
14 allowed because I had been there for so long and had
15 not caused problems." And then at paragraph 18, you
16 say "after three days, by-law and Social Navigation
17 came back."

18 A. Okay.

19 113 Q. That's accurate?

20 A. I remember that, yeah. Yeah, I
21 remember that.

22 114 Q. Did anyone tell you that you
23 wouldn't have to move?

24 A. No, no one told me that I wouldn't
25 have to move. We all had to go.

115 Q. Did you take any steps to move in

1 those three days?

2 A. Like I said, it's just hard to
3 find anywhere to put yourself together. Because
4 anywhere you went, generally they came and they told
5 you to leave. So it was hard for me to be able to come
6 up with a place to go. I was kind of residulent (ph)
7 to leave in general. And I kind of wanted to stay
8 there because it was like it didn't seem as if it was
9 in anyone's way. It was out of the way of everyone in
10 the back of the park. Plus, I kind of got kind of
11 situated and used to that. It's my neighbourhood in
12 general. I wanted to be in my neighbourhood, for
13 another thing.

14 116 Q. Did you seek any help finding
15 another place to go?

16 A. As far as health concerns, we
17 consulted, like, mostly around among each other. And
18 they suggested, like, some way-off sites, like up in
19 the mountain -- what do you call it -- like in the
20 mountain escarpment, which is, like, not really a
21 possible good site. There's a lot of bad things
22 happening in that area, and down by the bay shore,
23 which is a very cold area, so no one really wanted to
24 get down that low by the waterfront. We were trying to
25 stay, like, midsection.

1 117 Q. When was this happening? Do you
2 remember what month?

3 A. No, I can't really say.

4 118 Q. And --

5 A. In general, it was just -- we were
6 all just trying to hit the mountain or down by the
7 bayside and just asking each other where would we be
8 able to, like, pitch a tent. It was just in general
9 that was the common thinking.

10 119 Q. Okay. At paragraph 19, you
11 describe you were in the process of moving your
12 belongings. "The City kept pressuring me to get my
13 things out quicker. They started the trucks and were
14 driving them around. It was a lot of pressure. They
15 offered to drive some of my belongings to a yard for
16 temporary storage. I agreed because I had no other
17 option, but was worried about my belongings." They
18 did, in fact, take your things to a yard for storage?

19 A. Yeah, they did.

20 120 Q. And at paragraph 21, you describe
21 you were offered a shelter room at Four Points Hotel;
22 that's correct?

23 A. Yeah, they said there would be a
24 shelter at Four Points, but I had no -- I couldn't
25 bring any of my property with me. And when they had

1 the trucks take my property up and take them to their
2 yard, they told me I can call back in a couple days and
3 I can have my stuff brought back to me, but I had
4 called back and no one had answered the phone. And
5 then when I got a hold of someone, they said the person
6 in charge of the moving was not available. They were
7 out on -- in the -- they were out in the -- what do you
8 call it -- in the field, so they weren't able to reach
9 them. They didn't make no effort, and I was still
10 stuck without my stuff.

11 121 Q. When did you finally get a hold of
12 that person? How long after you left the encampment at
13 Woodlands Park?

14 A. There was no getting a hold of --
15 after my stuff has been removed from me, I haven't been
16 able to talk to anyone. I was there at the site when
17 they were taking it.

18 122 Q. But you said you talked to someone
19 and they said the supervisor wasn't there, so when did
20 that conversation happen?

21 A. Yeah, that was in search of --
22 when we went to get my stuff back, I was on the phone
23 with the person and they said they couldn't really get
24 a hold of the person that was doing the movement or who
25 had moved my stuff.

1 123 Q. Did you make further efforts to
2 try to get your things back after that time?

3 A. I had no other contacts or no
4 other leads. I didn't know what else to do.

5 124 Q. Going back to the hotel, you said
6 you couldn't take your things with you, but they had
7 already put your things in storage. So couldn't you go
8 to the hotel then?

9 A. I probably could have went to the
10 hotel, but I had nothing of my own. It was all taken
11 to the yard.

12 125 Q. Couldn't you have taken a few of
13 your things with you?

14 A. Well, generally, I had no way of
15 transporting my stuff anywhere.

16 126 Q. But you could have gone to the
17 hotel. I just don't understand. Could someone have
18 given you a bag or something?

19 A. There was nothing like that option
20 offered or whatever. It was just a lot of pressure to
21 pick up the stuff and get it off the field. It was no
22 suggestion of what you're taking, what you're not
23 taking. It was just to get the stuff off the field,
24 put it all in the truck, and then you can call back
25 later and pick it up. I basically left there

1 empty-handed, with nothing.

2 127 Q. At paragraph 22, you say you were
3 able to couch surf with a friend for a couple of weeks.
4 Is that where you went after you left Woodlands Park?

5 A. Well, at times I could have couch
6 surfed, but they had a family that -- I couldn't be
7 there anytime I wanted to be. It was kind of awkward
8 to get into, like, his place to stay because the
9 family's -- like, you know, it's their dwelling space.

10 128 Q. So where did you go after you left
11 Woodlands Park?

12 A. I just kind of stayed out for a
13 while, but I stayed at one or two of my friends' for a
14 little bit. I couldn't really do anything other than
15 that.

16 129 Q. At paragraph 26, the second
17 sentence, you say "At some point, I got a new tent."
18 Do you remember when you got your new tent?

19 A. Paragraph where?

20 130 Q. 26. It's the third paragraph down
21 on the last page of your June 2022 affidavit.

22 A. I don't remember when exactly I
23 got my new tent. I remember there was a space in
24 between that I had nothing, and then I did receive a
25 tent from -- I think it was the Outreach worker. But

1 that, too, I was told that I couldn't have erected it,
2 and I had nothing, again, because they were taking it.

3 131 Q. And you don't remember when that
4 was?

5 A. No. That was practically -- like,
6 I think it was, like -- no, I don't remember exactly.
7 I can't say a date on anything. I can't tell you the
8 time or anything.

9 132 Q. At paragraph 26, you also say
10 "Everywhere I went, either by-law or police would tell
11 me I could not stay." When they told you that, how
12 long did they give you to leave?

13 A. Some of them, it was like --
14 generally, like, pick it up now, and some of them was
15 like, okay, well, they'll give you, you know, the day
16 they'll be back, shortly. You know? So it's, like,
17 when they come by, you have to start moving everything
18 out.

19 133 Q. When they tell you you can't be
20 here, you pack up and leave like they ask?

21 A. At times I do, and at times it's
22 hard to because I don't know wherever I'm going with
23 this stuff or what I'm going to do with myself. Like,
24 I don't have no other options. We tried to stay at
25 many other places, and they still told us to move, so

1 than, like, you know, being able have some of your own,
2 you know, belongings. And generally, that's what the
3 things are, that you can't bring this and that into
4 shelter. You just can't.

5 138 Q. But you would agree with me that
6 if it's cold out, for example, you can get warm by
7 going into a shelter?

8 A. Yeah, you could. You could go in
9 quickly and spend some time, but you would still have,
10 like, an erected tent that you might have someone
11 watch, or you just kind of leave it for two, three days
12 to keep up -- keep out of the weather and go back in
13 when the weather's better.

14 139 Q. I mean, you would agree, if it's
15 cold out, it's still going to be cold in your tent;
16 right?

17 A. Well, not normally, no. We had
18 heating sources to heat up or keep warm, sleeping bags
19 and blankets, all that.

20 140 Q. What heating sources do you use in
21 your tent?

22 A. We have, like, makeshift little
23 fireplaces. We have, I guess, all the -- what do you
24 call it -- warming blankets, like, the warming
25 blankets, and the -- like, four blankets between two

1 we ran out of options for a while. And it's hard to
2 just get your brain in gear that you're just going to
3 go over here or over there. It's the same scenario.
4 They'll tell you to move from wherever you sit.

5 134 Q. At this point in time, did you try
6 to get into shelter?

7 A. At that point in time, I don't
8 think I was trying to get into shelter. I was just
9 generally trying to stay -- stay, you know, out and
10 get -- being, like, you know, independent.

11 135 Q. One of the City's workers, Rob
12 Mastroianni, states that you were offered shelter in
13 March of 2022 and turned it down. Is it possible
14 that's accurate?

15 A. When was that?

16 136 Q. March of 2022.

17 A. March 2022? I don't recall
18 anything -- who's Rob?

19 137 Q. He's a worker with the City who
20 looks at shelter records.

21 A. I'm not too sure. Generally,
22 it's -- when they give you shelter, they separate you
23 from your property and your belongings, which is -- I
24 don't know. It's important to have these things. And
25 I can't see no other reason not to take shelter other

1 blankets is a good source. Even tarping over -- like,
2 two to three tarps over the top of the tent generally
3 keeps it warmer than the average.

4 141 Q. But it's still not as warm as
5 being indoors; right?

6 A. It won't a hundred percent warm,
7 but it could be -- you could wear a T-shirt inside the
8 tent no problem.

9 142 Q. Even in winter?

10 A. Yeah. We have -- we had enough
11 heat that we can at least wear a T-shirt inside the
12 tent.

13 143 Q. At paragraph 27 of your June 2022
14 affidavit, you say you "tried to create a tent using
15 tarps to protect against the elements. I just hoped
16 that I could get some sleep before the cops came
17 along." Did cops actually ever come along when you
18 were using that tent that you made using tarps?

19 A. I'm not sure which particular tent
20 that would be, but it's just a constant worry that they
21 will be there to pick you up out of your space. It was
22 always a constant on the mind. No matter where you
23 were, it always happened that they came along and they
24 told you to get up and get going.

25 144 Q. So you would move, you would set

1 up your tent or your shelter with your tarps, you would
 2 be worried that someone would come by, and if they came
 3 by, you would move when they told you?
 4 **A. Yeah.**
 5 145 **Q.** At paragraph 31, you state you
 6 ended up getting frostbite on your left foot and toes
 7 last winter while sleeping outside. Do you remember
 8 when that frostbite happened?
 9 **A. Well, I remember I was tenting in**
 10 **Woodlands Park and, like, about three, four days before**
 11 **that, they had asked me to take my tent down. So I was**
 12 **out in the general area for a while. I didn't sleep**
 13 **for, like, two days. And finally, I came to a spot**
 14 **where I felt like the weather would not affect me. And**
 15 **it wasn't even cold out or anything. It was just kind**
 16 **of chilly. I sat down for a rest and ended up falling**
 17 **asleep outside, and that's when I got frostbite.**
 18 146 **Q.** Had you tried to get into a
 19 shelter or warming centre?
 20 **A. At that point in time, the weather**
 21 **wasn't bad, so there wasn't, like, an attempt to run**
 22 **into a shelter. It was pretty -- it was pretty decent**
 23 **out, and then it just went downhill. It just turned.**
 24 **The temperature turned in an instant overnight.**
 25 147 **Q.** Now, you say that it's been

1 getting steadily worse. You said it was in the winter.
 2 Do you know how long before you gave this affidavit in
 3 June 2022 it had been since you got frostbite?
 4 **A. I can't, no. I can't place the**
 5 **time in between things right now.**
 6 148 **Q.** Had you gotten medical treatment
 7 before you talked to Dr. Wiwcharuk in June 2022?
 8 **A. Medical treatment for what? A**
 9 **particular condition after I --**
 10 149 **Q.** The frostbite -- sorry.
 11 **A. After it got cold, I had sought**
 12 **some medical treatment, yes, I had, but there was**
 13 **nothing to do. It was just my toes had already started**
 14 **to get -- like, change colours and so forth, so I**
 15 **couldn't do much about anything. It was going downhill**
 16 **from there. It was already setting.**
 17 150 **Q.** How long after you got your
 18 frostbite did you get that treatment?
 19 **A. That's another question I don't**
 20 **really have the answer to.**
 21 151 **Q.** This Dr. Wiwcharuk referred to in
 22 paragraph 31, that's Dr. Jill; right?
 23 **A. 31? I believe it was.**
 24 152 **Q.** Dr. Jill, according to paragraph
 25 31 of your affidavit, told you you're going to lose

1 your left big toe. "She told me I will be an amputee."
 2 Is that correct? That's what she told you?
 3 **A. I believe so. I believe that's**
 4 **what it was.**
 5 153 **Q.** Did she send you to the hospital
 6 or give you any treatment at that time?
 7 **A. There was nothing you could do at**
 8 **the hospital because there was enough nerve damage and**
 9 **my toes have already kind of, like, withered from**
 10 **the -- like, the effect of the frostbite itself, it was**
 11 **turning black with necrosis, they call it. So there**
 12 **was nothing really you could do. You just have to -- I**
 13 **had actually spent some time in the hospital bed before**
 14 **it actually got that bad to this worse state before**
 15 **they amputated it. I spent some time in the hospital.**
 16 154 **Q.** I want to be clear, though.
 17 Dr. Wiwcharuk is telling you that you're going to lose
 18 your toe and you're going to be an amputee. Did she
 19 send you to the hospital? Did you get treatment at
 20 that time?
 21 **A. I don't remember how it, like,**
 22 **unfolded.**
 23 155 **Q.** You say you "only learned of this
 24 application today after meeting with Dr. Wiwcharuk."
 25 Did she tell you about the application?

1 **A. What application was that?**
 2 156 **Q.** I assume it's this court
 3 proceeding, but I don't know. I can only go on the
 4 words that you've used.
 5 **A. Just the treatment of frostbite.**
 6 **I don't know what application you're referring to.**
 7 157 **Q.** Did she tell you anything about
 8 this court proceeding?
 9 **A. What in particular would be**
 10 **mentioned? I didn't know there was anything about a**
 11 **court that would be necessary for catching frostbite.**
 12 **It was just -- I heard or -- I don't even remember**
 13 **where I heard that I should put in a claim because of**
 14 **my injuries. I don't recall where exactly, but I just**
 15 **thought it was, like, the right thing to do.**
 16 158 **Q.** I'm going to move to your July 5,
 17 2023, affidavit. At paragraph 2, the second --
 18 beginning with the bullet point just talking again
 19 about your frostbite, you say "In December 2022, I
 20 suffered a foot infection in both of my feet due to
 21 repeated evictions during the cold weather." So you
 22 hadn't had your amputation at that point yet?
 23 **A. Actually -- no, I -- well, if I**
 24 **had it in both my feet, I still didn't -- I didn't have**
 25 **the amputation at that time, if I'm referring to that.**

<p>1 I don't know if I'm speaking in the present or prior 2 time. 3 159 Q. I mentioned a Dr. Claire Bodkin, 4 so I'm going to take you -- she wrote a letter, so I'm 5 going to take you to that now. Dr. Claire Bodkin wrote 6 a letter dated April 27, 2023. Have you seen this 7 letter before? 8 A. I did briefly run over it when I 9 reviewed my affidavits, yes. 10 160 Q. Okay. Dr. Bodkin says she saw you 11 on December 15, 2022. And then I'm going to skip a 12 little ahead a bit, because she says in the fourth 13 paragraph, "I sent him immediately to the emergency 14 department where he was admitted and ultimately 15 underwent amputation of his left leg below the knee." 16 So that's what I was saying before when I was asking if 17 that helps you remember when you had your amputation. 18 Would it have been around December or would it have 19 been after that? 20 A. I would -- I would still -- I'll 21 go with what she's saying. Because if she actually 22 knows the dates, then everything -- better to go with 23 her professionalism. 24 161 Q. She may, but doctors make mistakes 25 sometimes, so your memory is important too. Does that</p>	<p>1 A. The Booth Centre? 447 2 166 Q. The Booth Centre, yeah. 3 A. That's the Mission -- is that the 4 Mission Services? 5 167 Q. I think so. It's one of -- 6 A. Yeah, that's a shelter. It's 7 generally a shelter with overnight bed stay. 8 168 Q. Okay. Are you aware of them 9 offering things like bus tickets, or the ability for 10 you to charge things, meet with people there, anything 11 like that? 12 A. Yeah, they do offer some access to 13 things that people need on the streets, but it's not 14 often that they have all that stuff available. 15 169 Q. Do you have a case worker or an 16 Outreach worker that you routinely work with? 17 A. Yeah, I have one in the same place 18 at Mission Services, Booth Centre, Justin. 19 170 Q. Okay. And what is Justin doing 20 for you? 21 A. He's seeking shelter for me. 22 171 Q. How often do you see Justin? 23 A. Generally on the weekends. 24 172 Q. Do you have any prospects of 25 obtaining housing right now?</p>
<p>1 sound about right? Would it have been in the winter? 2 A. It could be, yes. 3 162 Q. Okay. Had you seen any other 4 doctors between seeing Dr. Wiwcharuk and Dr. Bodkin 5 about your frostbite or the problems with your feet and 6 your legs? 7 A. I don't recall all the medical 8 encounters. I really don't. 9 163 Q. Bear with me for a moment. I'm 10 going to go back to your June 2022 affidavit. You 11 mentioned that you saw Dr. Wiwcharuk at the Wesley Day 12 Centre. Do you continue to go to the Wesley Day 13 Centre? 14 A. It's not the same place anymore. 15 They changed the format and the Day Centre has been 16 closed. 17 164 Q. Okay. So where do you go now? 18 A. There's nowhere really optional 19 that I can go now. There is a couple churches there, I 20 think, that offer, like, daytime dinners or meals or 21 lunch or something like that, but they're closed early 22 in the day, and sometimes -- some other days they're 23 not open. 24 165 Q. How about the Booth Centre? Do 25 you ever go there?</p>	<p>1 A. I don't know. We filled out, 2 like, almost every application and every type of forms 3 that we had -- like, they have in their centre to put 4 in to process. 5 173 Q. Given your amputation, have you 6 talked to anyone about getting into a residential care 7 facility? 8 A. There have been some times that 9 are offered to me, yes, that it would be an elderly 10 building with more older folks that I would be staying 11 with in a residential facility, but it just doesn't 12 seem feasible because -- I don't know. I'm just not 13 familiar with that kind of environment. 14 174 Q. Okay. But that would allow you to 15 get indoors and have a roof over your head; right? 16 A. Yeah, but I'm trying to find 17 something stable. I don't want to just get indoors 18 because I'm just running from the outdoors. I'm trying 19 to find something that I can have a permanent stay on 20 personal -- like myself, so I could build myself back 21 up again. 22 175 Q. But wouldn't the residential care 23 facility be stable? You would have a spot there. It's 24 yours. 25 A. In truth, I don't know much about</p>

1 **it, and it's kind of like -- just that kind of**
2 **uncertainty kind of keeps me hesitant about what I'm**
3 **doing with it. I don't know much about these places.**
4 176 **Q.** So it was offered to you and you
5 turned it down; you didn't want to go there?
6 **A. I'm not sure about -- it just**
7 **didn't seem -- maybe the way they presented it, it**
8 **didn't seem as if it was a feasible answer to my**
9 **problems.**
10 177 **Q.** Mr. Greaves, the City of Hamilton
11 keeps records of your attempts to stay in shelter and
12 to obtain assistance, including housing assistance,
13 shelter stays and service restrictions. Will you sign
14 an authorization allowing those records to be disclosed
15 in this litigation?
16 **A. I don't see why not.**
17 178 **Q.** Okay. We can send an
18 authorization to your lawyer to have you sign it.
19 Thank you. Now, I was asking you about Dr. Bodkin
20 before. Have you seen her more than once? She said
21 see saw you before you got your amputation. Did you
22 ever see her again?
23 **A. Like I said, I have a very bad**
24 **memory, so it's hard for me to put the face behind the**
25 **name of what exactly or who they were.**

1 179 **Q.** Okay. So you're not sure?
2 **A. No, I'm not a hundred percent on**
3 **that. I can't say yes or no to that. I don't know who**
4 **exactly Dr. Bodkin is.**
5 180 **Q.** Okay. Since June of 2022 -- I'm
6 now going to your July 5, 2023, affidavit -- you state
7 at paragraph 1, "Since June 2022, I have stayed in the
8 following locations: Last summer, 2022, I stayed in
9 Beasley Park." Is that correct?
10 **A. Yeah, I've been at Beasley Park.**
11 181 **Q.** You were staying there in a tent?
12 **A. Yes.**
13 182 **Q.** And in fall of 2022, you stayed in
14 your friend's shed?
15 **A. Uh-huh.**
16 183 **Q.** As of July 2023, you said you were
17 currently encamped at Woodlands Park and have been
18 encamped there and in various locations since
19 December 2022? That's correct?
20 **A. Yeah.**
21 184 **Q.** And "encamped" meaning you're in a
22 tent?
23 **A. Yeah. I was in a spot, yeah.**
24 185 **Q.** Okay. Since July of 2023 -- I
25 recognize you said before you couldn't remember exact

1 details, but you've been in various tents in various
2 parks since then?
3 **A. Mm-hmm.**
4 186 **Q.** And shelters? In fairness to you,
5 you also have said you had some stays in shelter?
6 **A. Okay.**
7 187 **Q.** A doctor named Dr. Rachel Lamont
8 also wrote a letter about you. Do you recall seeing a
9 Dr. Rachel Lamont?
10 **A. I remember the name Rachel.**
11 188 **Q.** Okay. Dr. Rachel Lamont wrote a
12 letter about you dated January 30, 2024. Do you
13 remember seeing her at all? Let me ask you that first.
14 **A. I do remember seeing a Rachel,**
15 **yeah.**
16 189 **Q.** Okay. Did you see her more than
17 once?
18 **A. I can't tell you that. I don't**
19 **know how much time.**
20 190 **Q.** Okay. What was she seeing you
21 for?
22 **A. I believe it was about the same**
23 **treatment of my -- my injury, my frostbite.**
24 191 **Q.** What treatment did she do for you?
25 **A. At that time, I needed -- I guess**

1 **I was under a lot of pain and there was a lot of --**
2 **like, just trying to stabilize my day-to-day, like, you**
3 **know, functionality, so I had to see some doctors to**
4 **get medication from them in general. I had to keep up**
5 **with my med prescription. I don't remember much more**
6 **other than that, that I was trying to find doctors to**
7 **help me through.**
8 192 **Q.** Did she help you with those
9 problems?
10 **A. I believe I have received some**
11 **kind of help from the doctor, yeah.**
12 193 **Q.** Do you remember what kind of help
13 that was?
14 **A. It's hard to say.**
15 194 **Q.** Okay. We're almost done,
16 Mr. Greaves -- or Linsley. You've been very patient.
17 There is something that you said in your July 2023
18 affidavit. You state, on the fourth bullet point down,
19 "On June 28, 2023, I lost a toe on my right foot" --
20 MS. CROWE: Sorry, Bevin. Just give me
21 one more second.
22 MS. SHORES: Sorry, Counsel.
23 MS. CROWE: What paragraph?
24 MS. SHORES: It's paragraph 2, the
25 fourth bullet point down.

1 MS. CROWE: Of the July affidavit?
2 MS. SHORES: Correct.
3 MS. CROWE: Okay, we're with you.
4 BY MS. SHORES:
5 195 Q. Okay. So you say "On June 28,
6 2023, I lost a toe on my right foot. I had not yet
7 been able to seek medical treatment because of the
8 distance to the hospital and my limited mobility." Did
9 anyone ever offer to call you an ambulance or help you
10 get to hospital?
11 A. **Not that I recall.**
12 196 Q. Okay. We talked before about how
13 you saw Dr. Bodkin when you got those infections. Did
14 she try to help you get to hospital for your toe on
15 your right foot?
16 A. **The toe was -- like, I lost my**
17 **toe. That means that I was in, like, the middle of my**
18 **actual frostbite episode, because that's when it**
19 **happened. Like, it already took place and my toe was**
20 **just the first part of it that came undone.**
21 197 Q. So it might not have been June 28,
22 2023, because we think your amputation was probably in
23 December 2022?
24 A. **December -- oh, man. I don't**
25 **know. I'm so uncertain about dates. I'm not trying to**

1 **be complicated. It's just that it -- I didn't actually**
2 **remember the months I'm outside, and what date and what**
3 **month I'm in.**
4 198 Q. All you can do is do your best and
5 give us the best memory that you have. That's all we
6 ask. But just about getting to hospital, because you
7 said that prevented you from getting medical treatment,
8 had you asked for help getting to hospital? Anyone to
9 call you an ambulance or call you a cab or help you
10 with a bus?
11 A. **I can't really answer on that**
12 **because I don't remember what state of mind I was in to**
13 **say I did or did not. Maybe it -- I don't know.**
14 199 Q. Okay. Mr. Greaves, have you
15 understood all of the questions I've asked you today?
16 A. **In general, yeah.**
17 200 Q. Okay. Are there any of your
18 answers that you wish to change?
19 A. **No, I'm not going back on things.**
20 201 Q. Okay. Thank you for your time
21 today. Those are my questions.
22 A. **All right.**
23 MS. CROWE: Thank you.
24 --- (Off-record discussion)
25 RE-EXAMINATION BY MS. CROWE:

1 202 Q. Okay, Linsley. I'm going to ask ⁴⁴⁹
2 you some questions just to tie into some of what you
3 were asked by Mr. Shores. Okay?
4 A. **Mm-hmm.**
5 203 Q. The first thing is ODSP. You're
6 getting \$700 a month. If you were housed, do you know
7 if you would get any more funding from ODSP?
8 A. **Yeah. It would be, like, basic**
9 **diet and shelter, like, coverage.**
10 204 Q. Do you have any idea how much
11 additional funding you would get from ODSP --
12 A. **No, no idea. It depends on what**
13 **the rate's set at, at the housing.**
14 205 Q. Right.
15 A. **So whatever the rate's set at,**
16 **they generally give you a couple more hundred on top of**
17 **that, and that's for your shelter or transportation.**
18 206 Q. Okay. In your original affidavit,
19 you had talked about not being able to afford rent
20 while on Ontario Works, and then today we talked about
21 that you have a housing worker, Justin, who's helping
22 you look for housing. Has Justin had any discussions
23 with you about the cost of rent or affordability?
24 A. **Well, we generally go down what's**
25 **available and what we can afford or I can afford.**

1 **Personally, I'm by myself. It's not optional. As far**
2 **as going in with another person, we don't have another**
3 **person that can be the person to go into renting an**
4 **apartment with, so we just go by whatever the access --**
5 **if the access is this much, if we can actually cover it**
6 **or not.**
7 207 Q. You talked about your recent stay
8 at Mission Services and that you were losing property.
9 Can you clarify what you meant by you were losing
10 property while you were there?
11 A. **Well, if you were to fall asleep**
12 **at a table, you would lose your -- like, they'll take**
13 **your knapsack. They'll take anything that they can get**
14 **their hands on as soon as you turn your back. So**
15 **everything that you can't sit on or lay on while you**
16 **just kind of nap or, you know, pass out, it's generally**
17 **gone. People's shoes have gone missing, you know,**
18 **whole bags of clothes, everything that you practically**
19 **own. And it's hard to be out there without anything.**
20 **You know, these things, like, you gather them to try to**
21 **keep you going, and then you have to start over again**
22 **or you have to go back on your OW or whatever to pay**
23 **for whatever you just bought. So it's still, like,**
24 **running a threat, you know? It's hard.**
25 208 Q. Okay. Ms. Shores had also asked

1 you whether or not you've ever had anything stolen from
2 your tents while you were away. Can you compare the
3 experience that you've had with theft from shelter
4 versus theft from your tent?

5 **A. Well, theft from shelters are**
6 **generally, like, rapidly -- it's constant, more**
7 **constant than the ones in your tent. Generally, you**
8 **will have -- like, even if someone might come by and**
9 **stay over for a little, and they would decide when they**
10 **want to leave when they're leaving, they would end up**
11 **taking something. Like, they've probably been eyeing**
12 **it for a while and they will end up taking whatever,**
13 **like your propane torch or your propane cans, canister,**
14 **or something that is important to have while you're**
15 **outside. You know, a sleeping bag or -- you know,**
16 **like, they will end up taking your belongings, even**
17 **clothing or knapsacks. They'll take all that.**

18 209 **Q.** Where is it easier for you to
19 safeguard your belongings, in shelter or in a tent?

20 **A. More in the tent because you can**
21 **choose the ones that don't have that bad influence,**
22 **that don't pick up your stuff. Like, we even talk**
23 **amongst each other as to who's been -- like, you know,**
24 **sticky fingers, whoever. So it would be easier to say**
25 **no to people who have already, like, you know, done**

1 **someone else wrong. It's easier to say no to them,**
2 **them not knowing that we already asked about them ahead**
3 **of time.**

4 210 **Q.** Okay. Ms. Bevin had asked you
5 about the eviction from Woodlands back in 2022. Do you
6 remember what your emotional state was when you were
7 evicted?

8 **A. I was disappointed, I know that.**
9 **I didn't think it was fair that I was out there, for**
10 **two. I always try to keep a positive attitude. And I**
11 **had a few people that needed my help that -- I mean,**
12 **people are coming to me for help a lot, but there's**
13 **people that, like, you know, need my help. And I just**
14 **kept on trying to pursue, like, the better option of**
15 **everything. I couldn't really say what other options**
16 **there were.**

17 211 **Q.** Ms. Shores had asked you -- I want
18 to direct you to paragraph 19 and 21 of your June 2022
19 affidavit. Just give us a second to go back to that.
20 Ms. Shores had asked you about paragraphs 19 and 21
21 where you were describing what was happening with
22 transporting and removing your belongings, but we
23 didn't talk about paragraph 20. Can you take a quick
24 look at that paragraph? So you describe in this
25 paragraph that you ended up losing a lot of belongings.

1 Can you explain, to the best of your knowledge, how⁴⁵⁰
2 that happened?

3 **A. This is when the City picked up my**
4 **belongings and took them out to their -- to their yard,**
5 **so I had nowhere else to put them. I mean, I had no**
6 **way of contacting them.**

7 212 **Q.** Okay. And then were you ever able
8 to contact anyone from the City --

9 **A. I haven't had no -- no one try and**
10 **call to have that conversation to get my property back.**
11 **It's just kind of a dead end.**

12 213 **Q.** Ms. Shores also mentioned an
13 affidavit from the City's witness, Rob Mastroianni. Do
14 you know Rob?

15 **A. Is that the Social Navigator**
16 **officer?**

17 214 **Q.** No. I'm going to refer to his
18 title in his affidavit. He's the manager of
19 Homelessness and Housing Support. To the best of your
20 knowledge, have you ever met him?

21 **A. I'm not quite remembering exactly**
22 **who he was. Was this the mulatto dude?**

23 215 **Q.** Sorry?

24 **A. A mulatto guy? A big guy?**

25 216 **Q.** I'm not sure I can identify him

1 that way. We can move on. In his affidavit, in
2 paragraph 53, he indicates that you were offered
3 shelter March 30, 2022, but declined. Do you have any
4 memory of that?

5 **A. I can't say no -- I can't say,**
6 **yes, I remember the conversation, but we probably did.**
7 **And there might have been a reasoning for that, if**
8 **there was, that I declined on that. Maybe he just**
9 **wanted me going to get up and leave my stuff and go**
10 **stay in the spot, which didn't seem like it was a**
11 **permanent solution. It was just, like, something that**
12 **would just get me out of the park.**

13 217 **Q.** When you say that someone might
14 have offered you shelter in March 2022, what's your
15 understanding of what might have been offered?

16 **A. It could have been just to stay at**
17 **a room in a hotel or -- I'm just -- because I remember**
18 **there was a hotel room but in one of the shelters**
19 **systems like Good Shepherd or the Mission Services,**
20 **which I have been trying to stay when I could in there.**

21 218 **Q.** Okay. So March 2022, was this
22 before or after your amputation?

23 **A. 2022? I think that was before.**

24 219 **Q.** Before March 30th? Okay, thank
25 you. And then we talked about residential care

1 facilities. Has anyone ever offered you an actual
 2 address and a room?
 3 **A. No. I believe there was -- the**
 4 **first place was one of the places they offered me, and**
 5 **then there was another spot somewhat on the west side**
 6 **of Eastgate mall, around that area. They told me that**
 7 **there was a place, but that was not wheelchair**
 8 **accessible. It was just a house. Other than that,**
 9 **there was not much more options other than the shelter.**
 10 220 **Q.** Just to go back for a moment,
 11 Justin is your housing worker?
 12 **A. Mm-hmm.**
 13 221 **Q.** How long has he been working with
 14 you?
 15 **A. Probably four months.**
 16 222 **Q.** Did you have a housing worker
 17 before Justin?
 18 **A. I believe I had one at the Wesley**
 19 **Centre. I don't remember the name of them, though, who**
 20 **exactly it was. There was one at the Wesley Centre.**
 21 223 **Q.** Okay. And then we talked about
 22 this letter from Dr. Lamont. I just wanted to bring
 23 your attention to Dr. Lamont's letter, January 30,
 24 2024. So she indicates that she is a psychiatrist, in
 25 the first paragraph, with the Hamilton Social Medicine

58

1 Response Team and Shelter Health Network. I just want
 2 to clarify what you would have been seeing her for.
 3 Because you had indicated that you might have been
 4 seeing her for the frostbite, but she is, in fact, a
 5 psychiatrist.
 6 **A.** I probably had a lot of issues. I
 7 can't really put it under, like, my thumb right now.
 8 Psychologically, I wasn't really thinking on --
 9 clearly, I don't think, about much of anything because
 10 I've been trying to figure out things that I haven't
 11 been able to solve. I don't know what else to say
 12 here. Perhaps to meet back all together again, all the
 13 moments that I've been through.
 14 **MS. CROWE:** Okay, thank you. Those are
 15 my questions.
 16 --- Whereupon proceedings adjourned at 11:10 a.m.
 17 **I HEREBY CERTIFY THE FOREGOING**
 18 **to be a true and accurate transcription**
 19 **of my shorthand notes**
 20 **to the best of my skill and ability.**
 21
 22
 23 [Electronically signed on August 22, 2024]
 24 Lydia Pak, Court Reporter
 25 Computer-Aided Transcription

Nimigan Mihailovich Reporting Inc.
 (905) 522-1653

TAB 35

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD ET AL**

Applicants

-and-

CITY OF HAMILTON

Respondent

**AFFIDAVIT OF KRISTEN HEEGSMA
(Sworn June 7, 2022)**

1. I, KRISTEN KEEGSMA, of the City of Homeless in the Province of Ontario, MAKE OATH AND STATE:
2. I am a 31 year old Indigenous woman.
3. I am in a person with a disability and in receipt of benefits from the Ontario Disability Support Program (ODSP). As a single person who is homeless, I receive approximately \$900.00 per month from ODSP for basic needs and a special diet. I don't receive any shelter allowance while I am homeless. The shelter allowance is \$497.00 which is insufficient for the price of rent in the private rental market.
4. My medical conditions include mental health and substance use disorders. Specifically, I have PTSD, depression, anxiety, and Borderline Personality Disorder and Crohn's disease.
5. I have been homeless on and off since 2016. I have been consistently homeless since 2019.
6. Before becoming homeless in 2016, I was evicted after an ex abusive boyfriend damaged the apartment. In 2019, I was living with my grandparents. They thought I was reconciling with my abusive ex, and kicked me out.
7. After losing my housing, I started living on the streets. Then I was in shelter, and was kicked out. I was living on the streets until I got a tent, and then returned to shelter until being kicked out repeatedly.

8. In the summer of 2020, I stayed in a tent in different parks in Hamilton. The following chart is a breakdown of the locations and general timeframes:

Location	Timeframe	Duration of stay	Outcome
Ferguson Encampment	Summer 2020	About a month	Bylaw Officers evicted me
Jackie Washington	Summer 2020	About six months	By-Law Officers evicted me, and took my tent & I lost my belongings
Beasley Park	January or February 2021	About six months	By-Law Officers evicted me, took my tent & I lost some belongings
Wolverton Park	Fall 2021	Few months	By-Law Officers and police evicted me and I lost my belongings

9. After the Court denied the motion for an injunction on November 2, 2021, I knew the City would start enforcing the by-laws and force me to move.
10. Without a tent, I slept outside in nothing but a sleeping bag in different locations.
11. In the two to three weeks after being displaced from Wolverton Park, and while sleeping outside without a tent, I was repeatedly victimized. I was assaulted seven times, robbed three times, and raped. When I was without a tent, I slept on a bench outside of City Hall and woke up to a person raping me in the open.
12. My belongings were repeatedly stolen during assaults by another woman who was experiencing homelessness.
13. I reported the rape to police and was taken to the hospital for an examination and to have a rape kit done. I am unsure of the status of the investigation. I also saw my doctor.
14. I reported the assaults to staff at the Wesley Day Centre, who knew my attacker. Wesley staff spoke with the person. The assaults stopped. I did not report the assaults or robberies to the police because, as a homeless woman, I know there is a significant risk of more violence on the streets if people find out that I went to the police.

15. I have also had my backpack, money and belongings stolen. I have been robbed at knifepoint and gun point. I have woken up and realized my things were stolen. I have not reported these incidents to the police because I know that it is risky to do so, and because I know they won't be able to do anything about it. Without even a tent, there is no way to protect my belongings, and so I have no way of improving my situation. You don't even feel like a person.
16. I have stayed in shelters many times, and continue to try to access a shelter bed.
17. I experience several barriers to being able to access a shelter bed. First, women's shelters are almost always full. Every time I see my doctor (bi-weekly), he calls to try to find me a bed, and they are always. I don't have a phone and can't call on my own. Wesley Day Centre tries regularly – sometimes daily – to try to find a bed for me. Again, they are told the shelters are full.
18. Second, I have repeatedly been kicked out of shelters.
19. Third, I have been unable to access a shelter bed during times when I am in a relationship. There are no couples shelters in Hamilton. The City temporarily ran a hotel program out of Four Points Hotel, but the program ended. Even when the program was running, I was kicked out three times for the following reasons:
 - a. Travelling to London to visit my mom and daughter. I was away for a week and lost my room as a result;
 - b. I missed curfew after having to work late; and
 - c. My then boyfriend and I broke up and I was no longer eligible to stay in the hotel. He was sent to a men's shelter, but even after staff called, there was no space in the women's shelter for me. I was turned away to the street.
20. I had to leave Four Points a fourth time because my abusive ex-boyfriend was placed in the room beside me. I feared for my safety.
21. In March 2022, I tried to get into shelter with my then partner, but couples were not allowed.
22. I have not stayed in a tent since I was evicted from Wolverton Park. Without a tent, I have had to sleep outside in just a sleeping bag. I have slept in stairwells, in the double doors leading into stairs. I also slept outside City Hall on the heating vents until the City boarded up the vents in January 2022. I have also stayed outside the YWCA and most recently, outside the Four Points Hotel. I have a friend stayed at the Four Points Hotel and feel a little safer being close to her. I stay under a tarp and blanket.
23. If I can't find somewhere to sleep, I just walk around all night. It is scary. I am approached by men trying to solicit me for sex.

24. Without a tent, I have no privacy, or shelter from the elements. I have nowhere to store my belongings. I am more vulnerable to violence on the streets, and have been repeatedly attacked more often than when I am in a tent. I can't sleep properly. On average, I only sleep about two nights a week. I am up for days and then crash. If I wander the streets all night, I don't sleep at all. Because I am constantly sleep deprived, I can't concentrate, I fall asleep during the day all the time. Two weeks ago, I fell asleep while walking and fell. I hit my head on concrete and had a large gash on my head. I went to the hospital and my doctor.
25. There are various benefits from staying in a tent compared to without a tent in a sanctioned space and they are:
- a. I have privacy. Without a tent I have nowhere to change privately, to process my emotions in private or to have a moment where not everyone is watching me. A tent gives me a moment of reprieve from being constantly out in the open and subject to the noise and energy of the public street and others. It's like being in a jail cell without the bars.
 - b. It prevents the risk of rape and sexual assaults because the tent has a zipper and a lock that warns me of an intruder. I always locked my tent. When I had a sanctioned site I stayed with community who looked out for me; whereas, without a tent and without a sanctioned site, I am put into a circumstance of being alone and without a buddy system that I can rely on to call on when I am about to be attacked.
 - c. A tent in a community with other tents prevents overdoses because your neighbours will look out for you and administer Naloxone or contact emergency services for assistance. I have been saved by my encampments neighbours many times. Now, I wander around trying to hide and if I use drugs, I am all alone. A tent gives you a base so people can find you. Without a tent, I am wandering and alone, which increases my stress and feelings of aloneness fuelling my desire to use drugs in an effort to escape the survival mode that I am in. When I am in an encamped community I am less likely to use because of the emotional support that I receive from co-existing, which reduces the fears I have when I am without a tent and helping one another which makes me feel valued and like I matter. When I was living in an encampment I was able to save someone from overdosing. Had they been alone, they would have died. In my experience, more lives are saved when we lived together in an encamped space than when we are not permitted to do this and we are without shelter, hiding and wandering into hidden less visible locations where you're more likely to be alone than with others.
 - d. When I remained the same location with my tent and was not required to move I was able to better maintain connections to street outreach services who knew where to find me. This also allowed me to make friends that become like family and these relationships improve my happiness and mood. I do not have family to support me, but my encampment friends fulfil that gap in my life. The community that develops at the encampments that I have stayed in becomes a lifeline of support and helped

me to leave an abusive relationship. When you're in a community, you're more likely to be cared about by others, which makes you care more about yourself. In contrast, when I cannot put a tent, I wander and search for a place to sit or sleep alone and this results in a lack of communication and connection to others.

- e. By staying in an encampment I am able to leave my tent and possessions with others staying there without fear that they will be stolen.
 - f. Overall, being allowed a tent when I cannot be in a shelter brings me security, hope closeness and family through community.
 - g. It allows me to have some privacy while in a relationship;
 - h. I have friends and a family member, who I believe have been "hot-shotted" while sleeping or living on the streets. Someone injects them with Fentanyl or a mixture while they sleep. There has been talk amongst people experiencing homelessness that this is a new risk, and now I have friends who haven't used IV drugs dying from overdoses.
26. I can't put up a tent. I can't get into shelter. I am stranded with no safe place to go. It is so discouraging that half the time I want to die. I can't get help and I can't help myself.
27. Being evicted from encampments, and having to live and sleep without a tent has been very difficult.
28. I routinely attempt to enter women's shelters but am told that they are full. For instance, when I met with Doctor Tim O'Shea at the Aids Network on March 15, 2022, he assisted me to contact shelters as I did not have a phone to do this myself, and we were told that there was no shelter space. Despite his efforts I left my appointment with nowhere to go and without a tent.
29. Often times I do not have a phone because they are easily stolen and I cannot afford them. Without a phone I am forced to walk to shelters to try to get in. This is exhausting when I haven't slept or eaten.


Altagracia
RC

30. In order to meet my basic needs I must rely on non-profits and institutions that provide services at specific times. It is a full time job trying to get food at the time that is available while also carrying my personal possessions on me while I also try to meet with other service providers such as doctors and system navigators who try to find me housing. Walking in search of services to meet my needs is exhausting and adds to the feelings of hopelessness. Trying to survive while relying on this system is worsened when I feel kicked down again every time I am evicted and my tent is taken.

SWORN BEFORE ME in the City
of Hamilton, this 7th day of June, 2022


A Commissioner, etc.

Sharon Crowe
Barrister & Solicitor


Kristen Heegsma

TAB 36

Court File No. CV-21-00077817-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, AND
 SHAWN ARNOLD, ET AL.**

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF *Kristen Heegsma*
 (sworn April *27*, 2023)

I *Kristen Heegsma* , of the City of Hamilton in the Province of Ontario,

AFFIRM AND STATE:

1. Since June 2022, I have stayed in various locations, including in a tent on Kenora, in a handmade shelter in the woods, on the streets in downtown Hamilton in parks, on benches or the grass, in a tent at Beasley Park, downtown Burlington tram station, on the GO train, and on the streets in Toronto (on park benches, etc.)

KH se

2. In either December 2022 or January 2023, I went to a rooming house a friend was staying in. It was freezing cold outside, with a wind a snow storm. I needed to go somewhere warm. Once I arrived, I discovered there was another resident there I had previously had a conflict with. This person, and several others, ended up holding me captive and beating me for 48 hours. I was left with a broken nose, black eyes, and deeply traumatized. They stole my wallet with my bank card, birth certificate, SIN card, health card, and gift cards. They stole my ODSP cheque of approximately \$900 from my account. I did not report this to the police, because I worried I would be labelled a rat and in even more danger.

SWORN THIS day of April, 2023
in the City of Hamilton, Province of
of Ontario

Sharon Crowe
A Commissioner, etc.

Sharon Crowe
Barrister & Solicitor

)
)
)
)
)

K. Haggman

SH
SC

TAB 37

KRISTEN HEEGSMA

Court File No: CV-21-77187

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS, ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and PATRICK WARD

Applicants

and

CITY OF HAMILTON

Respondent

Cross-Examination on affidavits sworn June 7th, 2022, and April 27th, 2023, of KRISTEN HEEGSMA, Applicant, taken upon affirmation this 23rd day of AUGUST, 2024, via videoconference hosted by the offices of Nimigan Mihailovich Reporting Inc., One James St. S., Suite 701, Hamilton, Ontario, Canada L8P 4R5

APPEARANCES:

For the Applicants: SHARON CROWE
Community Legal Clinic of York Region
SUJIT CHOUDHRY
Haki Chambers Global

For Respondent: JORDAN DIACUR
Gowling WLG (Canada) LLP
VIVIAN CALDAS
LIZ MARR

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EXHIBITS

No exhibits entered.

GUIDE TO UNDERTAKINGS

This should be regarded as merely a guide
and does not necessarily constitute a full
and complete list.

UNDERTAKINGS (U/T) ARE FOUND ON THE FOLLOWING PAGES:

n/a

Under advisements (U/A) are found on the following
pages:
33

Refusals (R/F) are found on the following pages:
71, 73, 74, 76

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KRISTEN HEEGSMA

1 Upon commencing at 10:24 a.m.
2 KRISTEN HEEGSMA, affirmed
3 CROSS-EXAMINATION BY MR. DIACUR:
4 BY MR. DIACUR:
5 1 Q. Now, would you please state your
6 full name for the record?
7 A. Kristen Heegsma, K-R-I-S-T-E-N,
8 H-E-E-G-S-M-A.
9 2 Q. Thank you. And your date of
10 birth is November 20th, 1990?
11 A. October 20th, 1990.
12 3 Q. October 20th, thank you. That
13 must be an error in my notes. October 20th, 1990.
14 And may I refer to you as Kristen?
15 A. Yes.
16 4 Q. Or ma'am?
17 A. Yeah, either/or.
18 5 Q. Thank you. So today I'm going
19 to have some questions for you about statements in
20 two affidavits that you have provided in this matter;
21 the first is dated June 7th, 2022, and the second is
22 dated April 27th, 2023. Do you have copies of those
23 two documents available to you?
24 A. Yes, I do.
25 6 Q. Okay. I also have a copy that I

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KRISTEN HEEGSMA

1 can put up on the screen as we go. There are two
2 other documents that I intend to take you to and show
3 you.
4 Now, counsel, I'm not sure whether
5 hard copy of these are available, but I can put them
6 on the screen. The first is a letter in reference to
7 you by a Dr. Lamont?
8 A. Yeah.
9 7 Q. The second is a letter in
10 reference to you by a Dr. O'Shea?
11 A. Yes.
12 8 Q. So I can put those up on screen,
13 and, in fact, I'll probably put them up on screen
14 before your affidavit. So, just for your
15 information, I'll show you what I'm referring to and
16 what I'm talking about before asking you any
17 questions about those.
18 MS. CROWE: Thank you, Mr. Daicur.
19 And just to confirm, she does have hard copies of
20 those documents.
21 MR. DIACUR: Excellent. Thank you,
22 I appreciate that, counsel.
23 MS. CROWE: Okay.
24 BY MR. DIACUR:
25 9 Q. So ma'am, how long have you

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1 lived in Hamilton?
 2 A. Since 2002.
 3 10 Q. Are you currently residing in
 4 Hamilton?
 5 A. Yes, I am.
 6 11 Q. And over the period since 2002,
 7 have you resided in any other municipalities, any
 8 towns or cities?
 9 A. Yes, I have.
 10 12 Q. Okay. And what are those?
 11 A. Barrie in 2004, I believe, and
 12 maybe 2005. And also in London in 2012 I want to
 13 say, and 2015 or '16. And then also in Oakville last
 14 year, off and on.
 15 13 Q. Anywhere else that you can
 16 recall?
 17 A. Not that I can recall of.
 18 14 Q. And so Oakville, was it last
 19 year? Was it all of last year or just part of it?
 20 A. No, just parts of it, off and
 21 on.
 22 15 Q. Okay.
 23 A. In the beginning of last year.
 24 And maybe the end of 2022. Like, I was there off and
 25 on for about two or three months.

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1 16 Q. Understood. Okay, thank you for
 2 that.
 3 And where are you currently staying?
 4 A. Um, as of the beginning of this
 5 month, I'm back in encampments.
 6 17 Q. And what changed at the
 7 beginning of this month?
 8 A. My landlord turned out not to be
 9 my landlord, he turned out to be a tenant and they
 10 were subletting to me, and my step-father was out
 11 informing us, and he wasn't paying rent. So in turn,
 12 he ended up in the Landlord Tenant Board and we got
 13 kicked out, even though we were paying rent to him.
 14 18 Q. Got it. Okay. And where was
 15 that, where was that sublet?
 16 A. That was at 9 Faircourt Drive,
 17 in Stoney Creek.
 18 19 Q. And how long was that ongoing,
 19 that sublet?
 20 A. December was when I moved in; my
 21 father had been there for four or five months prior
 22 to me.
 23 20 Q. That's December 2023?
 24 A. Yes.
 25 21 Q. Okay. So I appreciate that

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KRISTEN HEEGSMA

1 information.
 2 The first document that I'd like to
 3 take you to is the Dr. Lamont's letter that I
 4 referenced to previously. I'll share my screen and
 5 put it up on screen and you can confirm that you have
 6 the same document and are looking at the same
 7 document. It's dated June 20th, 2023; it's on
 8 McMaster University letterhead and HAMSMart
 9 letterhead. Do you see that?
 10 A. Yeah.
 11 22 Q. And as I scroll down, I see that
 12 Dr. Lamont is a psychiatrist?
 13 A. Yes.
 14 23 Q. And that she has been your
 15 treating psychiatrist since November of 2021; are
 16 both of those things accurate?
 17 A. Yes.
 18 24 Q. And she indicates that you have
 19 diagnoses of the following: Post-traumatic stress
 20 disorder, PTSD; borderline personality disorder;
 21 generalized anxiety disorder; depression and opioid
 22 and stimulant use disorders, severe; is that true?
 23 A. Yes.
 24 25 Q. And can you tell me what
 25 treatment you're receiving for those conditions?

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1 A. I'm on what they call the Safe
 2 Supply Program for the opiate and stimulant use
 3 disorders.
 4 For the other ones, there's really
 5 not much treatment. I'm waiting to be put through
 6 the BT -- I believe it's called BPTD or -- it's for
 7 borderline.
 8 26 Q. Okay. And can you tell me what
 9 the City Supply Program involves?
 10 A. It's safe Supply Program. It's
 11 --
 12 27 Q. Oh, I'm sorry, I thought that
 13 you said "City." So Safe Supply Program, that's the
 14 name of it?
 15 A. Yes.
 16 28 Q. Okay.
 17 A. I'm on methadone, and I'm on
 18 Dilaudid 8 and Kadian to work my way off of opiates
 19 and stimulants.
 20 29 Q. Understood. Okay. And where do
 21 you receive that treatment?
 22 A. Through Dr. Tim O'Shea, and he
 23 is part of, I believe, McMaster, but I go to the
 24 Segue Clinic on Myrtle.
 25 30 Q. Understood. Thank you.

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1 And I think that is a good segue to
2 the letter by Dr. O'Shea, which I'll take you to now,
3 just jump to it on the screen. But it is a letter
4 dated June 13th, 2022, and it's also on McMaster
5 University letterhead but also Hamilton Health
6 Sciences; can you see that?

7 A. Yeah.

8 31 Q. And so this letter identifies
9 Dr. O'Shea as a physician. And he indicates that you
10 have the following medical conditions, there are
11 five. So 1: Crohn's disease; 2: Opioid use disorder;
12 3: Stimulant use disorder; 4: Attention deficit
13 hyperactivity disorder; and 5: post-traumatic stress
14 disorder. Is that also true, that list?

15 A. Yeah.

16 32 Q. And are you receiving any
17 treatment for Crohn's disease or attention deficit
18 hyperactivity disorder? I believe these others are
19 also listed by Dr. Lamont?

20 A. No, I'm not.

21 33 Q. Okay.

22 A. With the Crohn's, it's basically
23 just at the beginning; I've only been diagnosed with
24 it in the past year, so they're still trying to
25 figure out how far I'm on it, like.

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1 34 Q. Understood. So that's a
2 relatively recent diagnosis?

3 A. Yes.

4 35 Q. And the others are more
5 long-standing?

6 A. Yeah.

7 36 Q. Do you know when you were
8 diagnosed, for example, with attention deficit
9 hyperactivity disorder?

10 A. I believe that was when I was a
11 child, to be honest.

12 37 Q. No, understood. I mean I
13 understand that's often the case, but do you recall
14 if that is true?

15 A. I'm pretty sure I was, like, 13
16 when I found out, so, yes.

17 38 Q. Okay. And Dr. O'Shea says that
18 he sees you every two weeks on average; is that still
19 true?

20 A. Yes, it is.

21 39 Q. And in terms of picking up the
22 medication that you had indicated, methadone, et
23 cetera, by the Safe Supply Program, does that occur
24 more often than every two weeks?

25 A. I do that every day at Sammy's

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1 Pharmacy.

2 40 Q. Okay. Thank you. That was my
3 next question is where that occurs.

4 All right. So a couple of other
5 questions for you about living arrangements. So I
6 understand, from your affidavit, that you had
7 previously lived with grandparents, and the date on
8 that was 2019; do I have that right?

9 A. Yes.

10 41 Q. And I understand that at some
11 point that was no longer possible, but why is that?
12 Why was it no longer possible to stay with your
13 grandparents?

14 A. So I, previous to living with my
15 grandparents, I was in an abusive relationship in
16 which we got charged together, and also I jumped in
17 front of a cop car for him to get away and for me to
18 get away from him, because if I had not had police
19 and everything, without calling cops, there was no
20 way that I was probably going to live by the end of
21 it.

22 Due to that, I ended up moving out
23 of the city, moved in with my grandparents. When he
24 got out of jail, after he had been arrested and I had
25 been released, he messaged me with my grandparents'

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1 address and threatened to come out there, and due to
2 my daughter being there, I didn't want that, so I
3 agreed to meet up with him in Hamilton when I came
4 for my step-daughter's grade eight grad, and my
5 grandparents found out, thought that I was
6 reconciling with him and kicked me out.

7 42 Q. But you were not reconciling
8 with him?

9 A. No way in hell.

10 43 Q. No, understood, but that was the
11 misunderstanding?

12 A. Yes.

13 44 Q. And was --

14 A. I didn't --

15 45 Q. -- there a discussion about that
16 being a misunderstanding or was it simply no longer
17 possible to stay there?

18 A. They thought I was lying and
19 there was no way, because of my daughter, which I
20 understand.

21 46 Q. When you say that they lived
22 outside the city, where did they live?

23 A. London, Ontario.

24 47 Q. I understand that for a time you
25 were in what's called the YMCA's Transitional Living

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1 Program; is that right?
 2 A. For three or four months, yes.
 3 48 Q. Okay. I understand that that
 4 may have ended in roughly September 2021; does that
 5 sound right?
 6 A. Approximately, July or
 7 September, yes.
 8 49 Q. And was this via the YWCA's
 9 location on McNab Street in Hamilton?
 10 A. Yes.
 11 50 Q. I understand that that
 12 Transitional Living Program lasts up to one year; is
 13 there a reason that you were there for only a few
 14 months?
 15 A. So I had money go missing from
 16 my room, and as far as I knew the only other people
 17 that had a key to my room would have been the staff,
 18 so when I found, figured out that portion of it, I
 19 decided to be a smart ass and a dumb ass at the same
 20 time and go into the staff office and make them
 21 realize what I felt. I got caught and I got kicked
 22 out.
 23 51 Q. Understood. While you were with
 24 the YWCA Transitional Living Program, you had a case
 25 worker working with you; is that correct?

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KRISTEN HEEGSMASMA

1 A. Yes, I did.
 2 52 Q. And efforts were being made to
 3 locate housing for you?
 4 A. Yes.
 5 53 Q. And did that program result in
 6 you having housing?
 7 A. No, it did not.
 8 54 Q. And is it a result of that
 9 incident that you just mentioned?
 10 A. That and we didn't really start
 11 looking until, like, a week prior to that. Like,
 12 they don't really help you while you're there too
 13 much, to be honest.
 14 55 Q. And those efforts, the case
 15 worker efforts, ended when you were terminated from
 16 the program?
 17 A. Yes, they did.
 18 56 Q. Now, I understand that you had
 19 previously resided at an address, 123 Bold Street in
 20 Hamilton; is that right?
 21 A. Yes, I did.
 22 57 Q. And the date that I understand
 23 that you obtained that housing was January 18th,
 24 2022; does that sound right?
 25 A. Approximately, yes.

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KRISTEN HEEGSMASMA

1 58 Q. Okay. And how did that come
 2 about?
 3 A. I ended up meeting somebody, he
 4 had an apartment, he offered me and my spouse a place
 5 to stay. I ended up moving in with her. He moved in
 6 with us. He was working with a housing worker as
 7 well. The landlord and her got into an argument and
 8 she ended up getting kicked out, and so obviously we
 9 did too.
 10 59 Q. Okay. So it was an argument
 11 that the friend had with the landlord?
 12 A. Yes, that had been ongoing from
 13 the time she moved in to the time that she was kicked
 14 out.
 15 60 Q. I understand that your address
 16 changed in 2022 to 2180 Itabashi Way in Burlington;
 17 is that right?
 18 A. Yes
 19 61 Q. And how did that happen?
 20 A. That was when I was going, I
 21 believe that's when I switched over to Oakville, and
 22 that's the ODSP office in Burlington.
 23 62 Q. Understood. Okay. So that
 24 address is for the ODSP office in Burlington, but you
 25 were actually staying in Oakville?

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KRISTEN HEEGSMASMA

1 A. I was going back and forth at
 2 that point, trying to find a place.
 3 63 Q. Understood.
 4 A. Yes.
 5 64 Q. Okay. Did you – well, did you
 6 access any other resources in Burlington or Oakville?
 7 A. I believe I ended up in jail, so
 8 I ended up in Milton, which was in Vanier.
 9 65 Q. So how did that come to pass?
 10 A. I was car-hopping one night,
 11 trying to come up with some more money or – to be
 12 able to stay in a hotel while I was in Oakville, and,
 13 yeah, I got caught.
 14 66 Q. Car-hopping means checking car
 15 doors and looking for money in cars?
 16 A. Yes. Yes.
 17 67 Q. And what was the result of that?
 18 You were charged and convicted?
 19 A. I was charged, convicted and
 20 released on, um, on, like, pre-trial custody.
 21 68 Q. I understand that in roughly
 22 late 2023, you were staying at an address, 9
 23 Faircourt Drive in Stoney Creek; is that right?
 24 A. Yes.
 25 69 Q. And is that the address that you

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1 were referencing earlier –
 2 A. Yes, it was.
 3 70 Q. – that there was that Stoney
 4 Creek address? Okay.
 5 And again, how did that come to
 6 pass?
 7 A. Because the landlord turned out
 8 to be the tenant that was subletting to my
 9 step-father and I without, unbeknownst to us. So in
 10 turn, when he went to the Landlord Tenant Board for
 11 not paying rent and got kicked out, so did we.
 12 71 Q. Okay. But that was housing that
 13 was available to you because your father was already
 14 staying there?
 15 A. Yes.
 16 72 Q. Does your father still live in
 17 Hamilton?
 18 A. Yes, he does.
 19 73 Q. And that's not somewhere that
 20 you can stay currently?
 21 A. He's currently homeless as well.
 22 74 Q. Okay. You mentioned previously
 23 a spouse, was that a Douglas Friebe, F-R-I-E-B-E?
 24 A. That was as one of my exes, yes.
 25 75 Q. Okay. And what happened to him,

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KRISTEN HEEGSMA

1 Mr. Friebe?
 2 A. He ended up getting convicted of
 3 domestic abuse on me.
 4 76 Q. And is that the relationship
 5 that was abusive you were referencing earlier?
 6 A. No.
 7 77 Q. No. So that's a separate, a
 8 separate abusive relationship?
 9 A. Yes. I have very poor choice in
 10 men. I've been beaten up by almost every single
 11 boyfriend I've ever had, so --
 12 78 Q. I am sorry to hear that.
 13 Have you ever been married, other
 14 than to Douglas Friebe?
 15 A. I was never married, period, but
 16 I've been in common-law relationships, yes, many of
 17 them.
 18 79 Q. Okay. So if there's a reference
 19 to a spouse, for example, it's a common-law spouse?
 20 A. Yes.
 21 80 Q. Understood.
 22 Did you ever reside at a place
 23 called 8 Windsor Street in Hamilton?
 24 A. Yes, I did.
 25 81 Q. Okay. And how did that come to

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1 pass?
 2 A. That was -- so my mom had been
 3 married three times; two of the guys continued to
 4 take me on as their step-daughter. One of them was
 5 the one that lived at 8 Windsor; one was the one that
 6 lived with me at 9 Faircourt. The one at 8 Windsor,
 7 he ended up hanging himself, so --
 8 82 Q. So do you know roughly when you
 9 stayed there?
 10 A. I've stayed there off and on,
 11 like, whenever I needed it basically at night or two
 12 to stay there since I was, like, 13.
 13 83 Q. Okay. So it wasn't a long-term
 14 residence, it was just a place where you could stay
 15 when you needed to?
 16 A. Yes. Or a place that I could
 17 have mail sent.
 18 84 Q. Understood. Okay. So it was a
 19 mailing address as well.
 20 And have you ever resided at 757
 21 King Street West in Hamilton?
 22 MS. CROWE: I'm sorry, what was that
 23 address?
 24 MR. DIACUR: 757 King Street West.
 25 MS. CROWE: Thank you.

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1 A. I think that was back in 2016
 2 maybe.
 3 BY MR. DIACUR:
 4 85 Q. Okay.
 5 A. I think that's where I was
 6 brought out.
 7 86 Q. That's not long ago?
 8 A. Yeah, I'm pretty sure that was
 9 where I was out on probation -- out on bail.
 10 87 Q. Okay. Is that a halfway house?
 11 A. No, it was a friend's house that
 12 bailed me out.
 13 88 Q. Okay. I'd like to turn now to
 14 your first affidavit; to do that I'm just going to go
 15 through from the index of this document. I'll put
 16 that on the screen.
 17 So on screen is your affidavit sworn
 18 June 7th, 2022; do you have that in front of you?
 19 A. Yes, I do.
 20 89 Q. Have you reviewed this document
 21 recently?
 22 A. Yes, I have.
 23 90 Q. Okay. Was there anything in the
 24 document that you found to be incorrect or that was
 25 needed to be added?

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KRISTEN HEEGSMA

1 A. No.
 2 91 Q. Okay. All right. I'm going to
 3 scroll down to paragraph 6. And you indicate that,
 4 "Before becoming homeless in 2016, I
 5 was evicted after an ex abusive
 6 boyfriend damaged the apartment."
 7 What residence are you referring to
 8 there?
 9 A. That one was 181 Jackson -- or
 10 John Street North.
 11 92 Q. And that's in Hamilton?
 12 A. Yes, it is.
 13 93 Q. And the boyfriend, is that Mr.
 14 Friebe or is it someone else?
 15 A. No, that one was someone else.
 16 That was the one that I, that I got kicked out over
 17 with my grandparents. His name was Shane Murray,
 18 a.k.a. Bones Malone.
 19 94 Q. All right. And at that time, in
 20 2016, there's an eviction from the apartment, what
 21 happened at that time?
 22 A. I had jumped in front of a cop
 23 car for my ex to get away; he had keys to my
 24 apartment. He had thought I was with somebody,
 25 because I was walking with one of this friends and he

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1 didn't run into his friend till the next day, so he
 2 thought that me and his friend had dallied off
 3 somewhere and decided to sleep together, and so he
 4 went back to my apartment and caused a whole bunch of
 5 damage, flooded it, and I was evicted almost a week
 6 later when it was all said and done and the damage
 7 was concluded and everything.
 8 95 Q. Understood. And where did you
 9 go upon that eviction?
 10 A. Well, at the current time I was
 11 in jail, so I didn't find out until I got out that I
 12 had no place to go.
 13 96 Q. Okay. And was this because of
 14 the events that we discussed earlier, the checking of
 15 car doors and the arrests in Milton?
 16 A. No. No. I was under -- I was
 17 in jail for jumping in front of the cop car for my ex
 18 to get away, and also because he and I had gotten
 19 charged with an assault causing bodily harm, which it
 20 was dropped on me but it was on him.
 21 97 Q. And so that led to a separate
 22 conviction and a jail sentence?
 23 A. Yes.
 24 98 Q. And how long did that sentence
 25 last?

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1 A. I was in jail for 45 days, and
 2 then I got 18 months probation.
 3 99 Q. And when you were released from
 4 jail, where did you go?
 5 A. That's when I found out that I
 6 was homeless, and I went and spent a couple of nights
 7 at the 8 Windsor Street address until I could figure
 8 out what to do, and then I started to be in
 9 encampments, and --
 10 100 Q. And was that any -- in paragraph
 11 6 of your affidavit that you then reference in 2019
 12 you were living with your grandparents?
 13 A. Yes.
 14 101 Q. I know that we've discussed a
 15 number of addresses over time, but were you encamped
 16 between 2016 and 2019 when you moved in with your
 17 grandparents?
 18 A. Yes.
 19 102 Q. And was that always in the City
 20 of Hamilton?
 21 A. Yes.
 22 103 Q. And so how did it come to pass
 23 that you moved in with your grandparents in London?
 24 A. My daughter.
 25 104 Q. So she was living with your

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1 grandparents?
 2 A. They obtained custody of her and
 3 so, yes, she was staying there, and I was trying to
 4 get custody back.
 5 105 Q. Understood. And when did your
 6 grandparents obtain custody of your daughter?
 7 A. They obtained custody in 2017,
 8 December.
 9 106 Q. And how old was your daughter at
 10 that time?
 11 A. She was going on one years old.
 12 107 Q. Paragraph 6, the last sentence.
 13 "They thought I was reconciling with
 14 my abusive ex and kicked me out."
 15 You had referenced that previously.
 16 Just to be clear, was it made clear to your
 17 grandparents that your only alternative was
 18 homelessness and shelter if they kicked you out?
 19 A. Well, they knew, they definitely
 20 knew.
 21 108 Q. And did you stay in the City of
 22 London?
 23 A. No, I did not.
 24 109 Q. So you returned to Hamilton at
 25 that time?

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- 1 A. Yes, I did.
 2 110 Q. And what was the reasoning for
 3 that?
 4 A. I knew more people out here, I
 5 figured I would have more support.
 6 111 Q. Understood. Okay.
 7 And in paragraph 7, you indicate
 8 that you were in shelter and that you were kicked out
 9 of shelter repeatedly. The shelter that you're
 10 referencing there, is it one in particular or more
 11 than one?
 12 A. It was more than one. Mostly
 13 the one was the, when they were doing the hotels, I
 14 was in the Hotel Program place at one, and four times
 15 at another, but – and then there was also two normal
 16 shelters I was kicked out of.
 17 112 Q. And you said that you stayed in
 18 a hotel a number of times; was that for several
 19 nights at a time, or was it for single nights?
 20 A. Well, no, the hotel was mainly,
 21 like, hotel programs, when I was placed in there for
 22 housing, so it was at least a month normally that I'd
 23 be there.
 24 113 Q. So each time you went in, you'd
 25 stay for a period of time up to a month?

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- 1 A. Up to a month being the least
 2 amount of time. I was there for the shelter
 3 programs, like, it wasn't like I was paying for the
 4 hotel, it was the shelter program I was placed in.
 5 114 Q. Yeah. No, no, understood. But
 6 for the periods of time that you were staying in
 7 hotel – I think you referenced five different times
 8 –
 9 A. Yes.
 10 115 Q. -- how long total did you stay
 11 in the hotel?
 12 A. I would say probably maybe a
 13 year over those five times.
 14 116 Q. And was there a reason that you
 15 would enter and then exit the hotel program?
 16 A. Um, I left one of the times, and
 17 the other four times I was kicked out.
 18 117 Q. And why did that happen?
 19 A. The first time I was kicked out
 20 due to the fact that I had a nighttime job and I
 21 wouldn't be there every night, so in turn they said
 22 if I wasn't there for my bed, I couldn't be there,
 23 basically. It didn't matter that I was trying to
 24 work to collect money to get a place on my own.
 25 118 Q. And where – sorry, I didn't

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- 1 mean to cut you off, please continue.
 2 A. Two of the times was because I
 3 was with boyfriends, and they – one didn't return,
 4 and one and I got into an argument and we split up;
 5 and then the last time I left.
 6 And the very first time I got kicked
 7 out was because I went to visit my grandparents, my
 8 grandmom and my child in London, and I didn't make it
 9 back in the allotted time due to the fact that I
 10 didn't have a car ride until two days later.
 11 119 Q. Understood. And so when you say
 12 that you stayed with your grandparents in London, you
 13 mentioned your mother, your mother was also staying
 14 with your grandparents?
 15 A. No, my mom also lived in London
 16 though.
 17 120 Q. Okay. So they're separate
 18 residence?
 19 A. Yes.
 20 121 Q. Have you ever stayed with your
 21 mother?
 22 A. For, like, three days, four days
 23 at a time when I go down there, that's it.
 24 122 Q. It's not possible to stay longer
 25 term?

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- 1 A. No. Me and my mom do not see
 2 eye to eye, for one; for two, she has a boyfriend
 3 that lives with her; and for three, my grandparents
 4 don't agree with us staying together and they're her
 5 co-signers.
 6 123 Q. Understood. Is there a reason
 7 why your grandparents don't agree with it?
 8 A. Because me and my mom do not see
 9 eye to eye.
 10 124 Q. So you referenced the hotel
 11 option, in and out of that for four or five times;
 12 you also referenced two normal shelters; what do you
 13 mean by that, which shelter are you referencing?
 14 A. Like, shelters, like the
 15 original shelters, like Mary's Place; and there was
 16 another one that I was placed in in, I believe,
 17 Burlington for, like, a night.
 18 125 Q. Okay. So there's one shelter,
 19 Mary's Place in Hamilton, and one in Burlington?
 20 A. Yeah.
 21 126 Q. And you referenced being kicked
 22 out repeatedly, were you able to stay in those
 23 shelters for any length of time or was it just a
 24 night or two at a time?
 25 A. I believe it was – for the

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1 hotel ones, it was at least a month, if not longer.
 2 127 Q. Right?
 3 A. For the one in Burlington, it
 4 was only one night because I was out there for an
 5 appointment; and then the one, Mary's Place here, I
 6 was there for maybe two or three nights.
 7 128 Q. And did that end because you
 8 were kicked out, as you say?
 9 A. Yes.
 10 129 Q. And why did that happen?
 11 A. The one at Mary's Place was due
 12 to a conflict of interest; and then the one in
 13 Burlington was because I was not from there, I was
 14 going back to Hamilton, so --
 15 130 Q. Conflict of interest, what do
 16 you mean?
 17 A. I mean it was with a, more like
 18 a coach use, that I was on probation and not allowed
 19 to deal with.
 20 131 Q. Understood. You referenced your
 21 employment, where were you working?
 22 A. Off and on I was working for a
 23 temp agency, and then I was also just looking for a
 24 job.
 25 132 Q. And where did you temp?

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1 A. AppleOne.
 2 133 Q. And where is that located?
 3 A. It's in Stoney Creek. It's the
 4 temp service, they temp, but I worked at Karma Candy.
 5 134 Q. And how did that work out?
 6 A. It was all right, but I was only
 7 doing it for, very brief.
 8 135 Q. And what wages were you paid as
 9 a temp?
 10 A. Minimum wage.
 11 136 Q. And how long did you serve as a
 12 temp?
 13 A. I would say two, two months at
 14 Karma Candy, and maybe a week at another place.
 15 137 Q. And why did that end?
 16 A. With Karma Candy, it was because
 17 where I was living, I was on continental shift, and
 18 in turn I wasn't able to keep up with it. I was
 19 living in a home where there was four other people
 20 and I couldn't sleep during the day to be able to be
 21 up for my nighttime shift.
 22 138 Q. Was the temp agency able to
 23 place you anywhere else?
 24 A. They did try, but I didn't
 25 really have too many, like, too many -- I didn't know

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1 what I was doing that much, like it was too hard on
 2 me.
 3 139 Q. And in paragraph 7, you mention
 4 that you were living on the streets until you got a
 5 tent.
 6 A. Yes.
 7 140 Q. When did you get a tent, do you
 8 recall?
 9 A. I think it was, like, three
 10 months into it. I'm not sure.
 11 141 Q. Where did you get the tent?
 12 A. I believe Tim had given it to
 13 me, like the doctor.
 14 142 Q. Dr. O'Shea?
 15 A. Yes.
 16 143 Q. All right. So if I scroll to
 17 the next page, paragraph 8, you indicate that you
 18 stayed at the Ferguson encampment until it was
 19 dismantled in October of 2020; is that right?
 20 A. Yeah.
 21 144 Q. And that dismantling, there was
 22 notice provided that that was going to happen; is
 23 that right?
 24 A. No.
 25 145 Q. No, that's incorrect?

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1 A. That's incorrect, there was no
 2 notice on that one.
 3 146 Q. And the dismantling occurred in
 4 the daytime; is that right?
 5 A. Yes.
 6 147 Q. I understand that everyone in
 7 the encampment, the Ferguson encampment, was offered
 8 shelter at the time that it was dismantled; is that
 9 right?
 10 A. Not that I'm aware of.
 11 148 Q. I understand that shelter was
 12 offered to you and that you declined it; is that not
 13 the case?
 14 A. No.
 15 149 Q. So, ma'am, the City of Hamilton
 16 maintenance records regarding your interactions with
 17 the city-funded homelessness-serving system, would
 18 you agree to sign an authorization permitting records
 19 relating to you to be disclosed in this litigation?
 20 MS. CROWE: Mr. Diacur, what's the
 21 basis for this request?
 22 MR. DIACUR: Well, Ms. Heegsma has
 23 indicated that she did not decline shelter; my
 24 understanding is that city notes may indicate what
 25 happened at that time and they cannot be disclosed

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1 without authorization. So I am asking for the
2 authorization for the disclosure so that we can get
3 to the bottom of the issue on which I am examining
4 her.

5 MS. CROWE: Okay, we'll take it
6 under advisement.
7 U/A

8 BY MR. DIACUR:
9 150 Q. And looking at the chart on
10 paragraph 8, I understand that you, after the
11 Ferguson encampment was dismantled, went to Jackie
12 Robinson Park; is that right?

13 A. Jackie Washington, yes.

14 151 Q. Yes, I'm sorry, I said Jackie
15 Robinson, yes. No, that's the baseball player. I
16 mean Jackie Washington, you're correct.

17 You went to Jackie Washington Park
18 after the dismantling of the Ferguson encampment?

19 A. Yes.

20 152 Q. Okay. And that was in October
21 of 2020?

22 A. Yes.

23 153 Q. Did you go straight there or was
24 there anywhere else in between?

25 A. I believe I went straight there.

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1 154 Q. I understand from this chart
2 that bylaw officers spoke to you about remaining in
3 Jackie Washington Park?

4 A. Yes.

5 155 Q. You were provided notice that
6 you were not permitted to remain there; is that
7 correct?

8 A. Yes.

9 156 Q. And I understand from the chart
10 that you lost your tent and other belongings at the
11 time that you vacated Jackie Washington Park; is that
12 right?

13 A. Yes.

14 157 Q. And do I understand that you
15 left the park voluntarily when you were told by bylaw
16 that you couldn't remain and left possessions behind?

17 A. I did leave when I was told to.

18 I didn't have time to move everything that I was --

19 158 Q. How much notice were you given?

20 A. I was given, honestly, probably

21 about, I would say the first time was a week, I
22 think, and then the accident one was, like, an hour
23 or two.

24 159 Q. So there was a week of notice
25 provided?

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1 A. I believe so.

2 160 Q. And then bylaw returned and
3 said:

4 "In an hour we are going to start
5 dismantling"?

6 A. Yes. Yes.

7 161 Q. Based on the chart, I understand
8 that you next went to Beasley Park in Hamilton. The
9 dismantling of Jackie Washington -- or at least your
10 notice to depart from Jackie Washington, did that
11 occur in January or February of 2021?

12 A. I believe so.

13 162 Q. Did you go straight to Beasley
14 Park from Jackie Washington Park?

15 A. I believe so.

16 163 Q. And just on followup question on
17 Jackie Washington Park: when you spoke to bylaw, it
18 was in the daytime; correct?

19 A. Yes.

20 164 Q. And that's when the dismantling
21 occurred?

22 A. Yes.

23 165 Q. And I understand that Beasley
24 Park, from the charts, again you spoke to bylaw
25 officers?

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1 A. Yes.

2 166 Q. They provided notice that you
3 were not permitted to remain in Beasley Park; is that
4 right?

5 A. Yes.

6 167 Q. How long had you been in Beasley
7 Park when that notice was given to you?

8 A. I believe four and a half, five
9 months.

10 168 Q. And how much notice was provided
11 to you that you were going to have to depart?

12 A. I believe that one was a month.

13 169 Q. And again, I understand that
14 upon getting that notice, you ultimately left
15 voluntarily and left some possessions behind; is that
16 right?

17 A. Yes.

18 170 Q. And in that circumstance, why
19 not take your possessions with you?

20 A. Because I was going into
21 shelter, I believe.

22 171 Q. Okay. And was this the point
23 where you went into the YWCA's Transitional Living
24 Program?

25 A. I believe so.

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1 172 Q. So we've talked about that. And
 2 I understand that in the fall of 2021, you encamped
 3 at Woolverton Park; is that in Hamilton?
 4 A. Yes.
 5 173 Q. So if I've got the timeline
 6 right, roughly January or February 2021, you're at
 7 Beasley Park; you're there for about six months; you
 8 are told that you can no longer remain; you enter the
 9 YWCA's Transitional Living Program; you're there for
 10 a few months, as you told me, and then at Woolverton
 11 Park. Was there anywhere else in between?
 12 A. Not that I'm aware of.
 13 174 Q. And how long were you at
 14 Woolverton park?
 15 A. I would say I was there till
 16 June, I believe, May or June.
 17 175 Q. So through to sort of early
 18 summer, late spring of 2022; is that fair?
 19 A. I believe so.
 20 176 Q. And you indicate in the chart
 21 again that you spoke to bylaw officers; they gave you
 22 notice that you weren't able to remain any longer?
 23 A. Yes. But I was already getting,
 24 I was already, it was already approved for me to move
 25 into the YWCA at that point, either way.

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1 177 Q. Okay. So I just want to be,
 2 want to be clear. So did you go back into the YWCA'S
 3 programming?
 4 A. No. No. I'm saying, like, it
 5 was already, when I got the notice, it was already in
 6 placement for me to go to the YWCA, I think it was
 7 already started.
 8 178 Q. Okay. Well, I just want to be
 9 clear on the timeline. So I had understood that you
 10 went into the YWCA'S Transitional Living Program
 11 after leaving Beasley Park; is that not right?
 12 A. Yes, that is right.
 13 179 Q. Okay?
 14 A. But I'm saying, like, I was
 15 working with someone that was getting me into the
 16 YWCA, which was a, it was a month process --
 17 180 Q. Understood. Okay.
 18 A. -- to do that.
 19 181 Q. So there was, there were steps
 20 being taken to re-enter the YWCA'S program?
 21 A. No, no, no, there were steps
 22 taken for me to first enter for the first time; I had
 23 never been there yet.
 24 182 Q. Oh, I see. So there were steps
 25 being taken when you, when you departed from Beasley

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1 Park?
 2 A. Yes.
 3 183 Q. And it was only when the
 4 Woolverton encampment was dismantled that you
 5 actually entered the YWCA'S program; do I have that
 6 right?
 7 A. No. No. I believe I entered
 8 the Beasley -- I believe from Beasley Park I went
 9 into YWCA; from the YWCA I went to Woolverton.
 10 184 Q. Right. And so what happened
 11 when you were departing from the Woolverton
 12 encampment?
 13 A. It was shut down, and then I
 14 believe I just ended up sleeping outside on benches
 15 and stuff.
 16 185 Q. Were you given notice by bylaw
 17 that you were no longer able to remain in Woolverton
 18 Park?
 19 A. No, that was when I -- I believe
 20 that's when I found out -- how I found out that the
 21 encampment law had changed was in Woolverton.
 22 186 Q. Were there already people
 23 encamped in Woolverton Park when you arrived there?
 24 A. No. I was the first one there.
 25 187 Q. Did other people join you after

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1 you encamped there?
 2 A. Four or five, yes.
 3 188 Q. And in terms of this contact
 4 with bylaw officers that you referenced at
 5 paragraph 8 of your affidavit, what does that look
 6 like?
 7 A. It was, there was, like, five, I
 8 believe five times more people, and we were all,
 9 like, semi, basically semi attached in a way, we
 10 were, like, really close to each other, because we
 11 were in the wooded park of the Woolverton.
 12 189 Q. So, I'm sorry, five bylaw
 13 officers attended, is that what you said?
 14 A. No, there was only one bylaw.
 15 190 Q. Okay. And what did they say?
 16 A. They just, I believe, told me
 17 that it was, I had one day to move because they were
 18 shutting down all encampments, that we were no longer
 19 allowed them, and I had to figure out something else.
 20 191 Q. So they gave one day of notice,
 21 is that right?
 22 A. Yeah.
 23 192 Q. And was that given to you during
 24 the daytime?
 25 A. Yes, it was.

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1 193 Q. And did they return the
 2 following day?
 3 A. Yes, they did.
 4 194 Q. What steps were taken when they
 5 returned?
 6 A. I had already packed up
 7 everything that I needed -- needed, not that I
 8 wanted, needed, and then I was leaving.
 9 195 Q. So you left Woolverton Park
 10 voluntarily upon being given notice?
 11 A. Not really voluntarily, I had no
 12 choice but to go.
 13 196 Q. You left possessions behind?
 14 A. Yes. I had no choice. I can't
 15 carry them.
 16 197 Q. What shelters did you contact at
 17 that point?
 18 A. I believe I contacted -- I
 19 believe -- actually, I had not contacted them, I
 20 believe my doctor had contacted every shelter that
 21 there was.
 22 198 Q. Is that a reference to
 23 Dr. O'Shea?
 24 A. Yes.
 25 199 Q. And what was the result of that?

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1 A. There was no shelter beds
 2 available.
 3 200 Q. Now, if I scroll down,
 4 paragraph 9, you indicate:
 5 "After the court denied the motion
 6 for an injunction on November 2nd,
 7 2021, I knew the city would start
 8 enforcing the bylaws and enforce me
 9 to move."
 10 How did you learn about that?
 11 A. I learned about it from the
 12 lawyers, from my doctor, and from, I believe, the
 13 outreach.
 14 201 Q. Now, are you saying that you
 15 assumed that there would be enforcement steps taken
 16 after the injunction was not granted?
 17 A. Well, I had been told that there
 18 would be.
 19 202 Q. And who told you that?
 20 A. The lawyer that reads -- I
 21 believe the bylaw even. Then -- and I think the
 22 encampment team, as well as the police.
 23 203 Q. Now, if I move on, in your
 24 affidavit, paragraph 11, I understand that you were
 25 the victim of a number of crimes and that there was

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1 at least one police report made; do I have that
 2 right?
 3 A. Yes.
 4 204 Q. Was there any police
 5 investigation that resulted from the report?
 6 A. I don't believe so.
 7 205 Q. And the injuries that you
 8 referenced, they were the results of these crimes
 9 that were committed against you; that's correct?
 10 A. Sorry, what was that question
 11 again?
 12 206 Q. The injuries that you
 13 referenced, assaulted seven times, robbed three
 14 times, et cetera, that was the result of the crimes
 15 that were committed against you; is that right?
 16 A. Yes.
 17 207 Q. And if I scroll down to
 18 paragraphs 13 and 14, there's a point that I don't
 19 quite understand; it seems like it might be
 20 contradictory. You reported some crimes to the
 21 police but not others because you say there is a
 22 significant risk of violence of if people find out
 23 you went to the police; is that right?
 24 A. Yes.
 25 208 Q. Okay. So just to be clear, are

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1 you saying that you considered the gravity of the
 2 crimes that occurred and only reported the ones that
 3 you considered to be more serious?
 4 A. No, I reported the ones that
 5 caused me more mental damage, more emotional damage
 6 or physical damage than the ones that would lead me
 7 to be caused more of that.
 8 209 Q. Understood. So paragraph 15,
 9 this is on the next page, if I scroll down, this is
 10 in the same affidavit, you say you know the police
 11 won't be able to do anything about things like armed
 12 robbery; what are you basing that statement on?
 13 A. The fact that even if I went to
 14 the police after my stuff was stolen, they couldn't
 15 prove that it was my stuff; they couldn't prove that
 16 it was stolen by them; they couldn't prove that I
 17 even wanted -- like I wasn't, I didn't sell the
 18 stuff, I didn't give it away, I didn't -- they had
 19 no, there would be no proof of anything, what would
 20 be the point? I would just get beat up more.
 21 210 Q. And in paragraph 16 of your
 22 affidavit, you indicate that you've stayed in
 23 shelters many times. We've discussed the YWCA and
 24 Mary's Place in Hamilton; are there any other
 25 shelters in Hamilton that you have stayed in?

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- 1 A. The Shelter Program, that's it.
 2 211 Q. The Hotel Program?
 3 A. Yeah. On, and the, there's
 4 another type of shelter thing, but I don't know what
 5 it was called; it was for, like, it was likely
 6 emergency or mental health, not the one at the
 7 hospital but the one on Emerald.
 8 212 Q. Is this the Bennett Program?
 9 A. Barrett Centre.
 10 213 Q. Barrett Program, that's right.
 11 Again, that's my notes, Barrett. The Barrett
 12 Program, that's a short-term, roughly five-night
 13 crisis, mental health crisis centre, is that right?
 14 A. Yes.
 15 214 Q. And you've stayed there?
 16 A. Yes.
 17 215 Q. Is that only once or more than
 18 once?
 19 A. Twice.
 20 216 Q. Twice. And do you recall
 21 roughly when?
 22 A. Um, I want to say in the end of
 23 2021 and beginning -- and then the end of 2022, I
 24 believe.
 25 217 Q. Is there any ongoing treatment

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- 1 that is given via the Barrett Centre?
 2 A. No.
 3 218 Q. But you've received ongoing
 4 medical treatment by Dr. O'Shea and now Dr. Lamont?
 5 A. Yes.
 6 219 Q. You say in paragraph 17,
 7 regarding barriers, that women's shelters are almost
 8 always full; you would agree that they are sometimes
 9 not full, since you've been able to access them many
 10 times?
 11 A. Yes.
 12 220 Q. And you mentioned in paragraph
 13 18 that you have repeatedly been kicked out of
 14 shelters; we've discussed a couple of the reasons
 15 why.
 16 In terms of the results of being
 17 kicked out of a shelter, have you ever been told that
 18 you're no longer able to return to a particular
 19 shelter for a period of time?
 20 A. Yes, the Hotel Program.
 21 221 Q. Okay. And were you informed of
 22 how long you were no longer able to return?
 23 A. I believe it runs for a year.
 24 222 Q. So several months or a year did
 25 you say?

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- 1 A. Yes.
 2 223 Q. And in terms of the last time
 3 that you exited the Hotel Program, how did that come
 4 to pass?
 5 A. Like, how did I end up into it?
 6 224 Q. No, no, in terms of exiting, the
 7 last time that you left the Hotel Program, how did
 8 that come to pass? Was it by choice or was it again
 9 one of these incidents of being kicked out?
 10 A. No, that one was by choice.
 11 225 Q. Paragraph 19, you mention that
 12 you've been unable to access a shelter bed during
 13 times when you're in a relationship. Now, you could
 14 access a shelter bed without the person you are in a
 15 relationship with; correct?
 16 A. Correct.
 17 226 Q. You would choose not to do so
 18 when you're in a relationship, or to seek a shelter
 19 bed for yourself only; is that right?
 20 A. Yes.
 21 227 Q. And I understand that you had
 22 indicated that you had made use of hotel spaces for
 23 couples?
 24 A. Yes.
 25 228 Q. And you do mention in

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- 1 paragraph 19, in that lettered list, travelling to
 2 London to visit your mother and daughter; in terms of
 3 going there, how do you get there and back?
 4 A. I had taken either the train or
 5 the Go or the Greyhound.
 6 229 Q. And is this something that is
 7 part of custody for your daughter, that you have to
 8 visit her or have the ability to visit her on some
 9 regular schedule?
 10 A. It was.
 11 230 Q. And is no longer?
 12 A. No.
 13 231 Q. And is that because your
 14 grandparents have obtained custody?
 15 A. No, that is because my daughter
 16 is adopted.
 17 232 Q. Oh, understood. Okay. So she
 18 has been adopted?
 19 A. All five of my kids are adopted.
 20 233 Q. What are the ages of your
 21 children?
 22 A. My oldest will be 16 on the 27th
 23 of this month. My second one will be 15 in November.
 24 My third one will be 14 in February. My fifth one
 25 will be nine in October -- or eight in October,

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- 1 sorry. And my fifth one will be five in September.
 2 234 Q. And that's the daughter that
 3 we're referencing here in paragraph 19, your
 4 youngest?
 5 A. No, my second youngest.
 6 235 Q. Second youngest. Understood.
 7 And all of those children are with
 8 adoptive parents?
 9 A. Yes.
 10 236 Q. At paragraph 19(b), you
 11 reference missing curfew having to work late; we've
 12 discussed that, I believe. I just want to confirm,
 13 other than the temp service that had provided the
 14 opportunity for employment at several, well, two
 15 different places, throughout this period, since 2016
 16 that you've been experiencing homelessness off and
 17 on, have you worked anywhere else?
 18 A. No.
 19 237 Q. And currently you receive ODSP
 20 income; is that right?
 21 A. Yes.
 22 238 Q. It's referenced earlier in your
 23 affidavit, I just want to make sure that it's still
 24 something that you receive; is that true?
 25 A. Yes. Yes.

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- 1 239 Q. All right. So if we go to
 2 paragraph 22 of your affidavit, you indicate staying
 3 with a friend outside the Four Points Hotel?
 4 A. Yes.
 5 240 Q. Where is the friend today?
 6 A. I believe she is in shelter, I'm
 7 not too sure.
 8 241 Q. If I go to paragraph 24, an
 9 inability to sleep properly --
 10 A. Yes.
 11 242 Q. -- as part of being unhoused.
 12 That sleep deprivation has existed throughout the
 13 period that you've been experiencing homelessness; is
 14 that right?
 15 A. Yes.
 16 243 Q. Do you sleep better when you are
 17 in a shelter?
 18 A. Sometimes, yes.
 19 244 Q. And you reference an injury, a
 20 gash, I believe you say, in, a large gash on your
 21 head; did you obtain medical treatment for that?
 22 A. I don't believe so.
 23 245 Q. Did you go to the hospital? Do
 24 you know?
 25 A. Yeah, I believe I did.

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- 1 246 Q. And would that have been St.
 2 Joe's or The General? Was that in Hamilton?
 3 A. It was in Hamilton. It probably
 4 would have been The General at that time.
 5 247 Q. And did you receive stitches or
 6 other treatment?
 7 A. I believe they did -- I got four
 8 staples.
 9 248 Q. Okay. If I scroll down to
 10 paragraph 25, there's another lettered list; I have
 11 some questions for you about this.
 12 There is a point here where you say
 13 that you were unable to access a tent; why would you
 14 be unable to access a tent?
 15 A. By not having the money or the
 16 means to do so, or not being able to go into the
 17 store that I'm trying to go into or --
 18 249 Q. I understand that you had
 19 previously obtained a tent from Dr. O'Shea, or via
 20 Dr. O'Shea's office; that's right?
 21 A. Yes.
 22 250 Q. After swearing this affidavit in
 23 June of 2022, were you able to access or obtain a
 24 tent?
 25 A. A week after when, sorry?

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- 1 251 Q. Oh, so the date on this document
 2 is June of 2022; after that time, were you able to
 3 obtain a tent?
 4 A. I believe so.
 5 252 Q. And how did you do that?
 6 A. To be honest, I believe I took
 7 it out the side door of a store.
 8 253 Q. Okay. Now, if I scroll down in
 9 this list, there is letter H; you indicate:
 10 "I have friends and a family member
 11 who I believe have been hot-shotted
 12 while sleeping or living on the
 13 streets."
 14 And you indicate that "hot-shotted"
 15 means someone injecting them with fentanyl or a
 16 mixture while they sleep?
 17 A. Yes.
 18 254 Q. Now, in terms of where that
 19 belief comes from, is that something that you have
 20 been told by these people or by others, or is it
 21 something that you have seen?
 22 A. Something I have seen, in the
 23 sense of my brother-in-law is now deceased due to his
 24 girlfriend.
 25 255 Q. So the family member you

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1 reference here is your brother-in-law?
 2 A. Yes.
 3 256 Q. And would that be the brother of
 4 Mr. Friebe who we discussed earlier?
 5 A. No, that would be the twin
 6 brother of my kid's father.
 7 257 Q. Okay. And so, just to be clear,
 8 you saw his spouse inject him with fentanyl or a
 9 mixture?
 10 A. No, not his spouse. He had done
 11 it himself, but he had gotten it, like, he, he had
 12 gotten the dope from his girlfriend who knew that the
 13 dope was bad, knew that it was killing people, knew
 14 that it would kill him if he did it.
 15 258 Q. Okay. So I think we're talking
 16 about two different things. So, in that case,
 17 somebody provided fentanyl, or a mixture, to him
 18 knowing that it was toxic; is that right?
 19 A. Yes.
 20 259 Q. And when you reference being
 21 hot-shotted, that would be somebody surreptitiously,
 22 secretly injecting somebody while they're sleeping?
 23 A. It could --
 24 260 Q. Is that right?
 25 A. It could mean that, yes, but it

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1 could also mean that they are given dope that is bad
 2 that killed then.
 3 261 Q. Okay. Well, I'm just trying to
 4 clarify, because what's stated in the affidavit is
 5 than someone injects them with fentanyl, or a
 6 mixture, while they sleep, and I understand that to
 7 be the definition of "hot-shot" if it's being used;
 8 but it's actually broader than that, it could be just
 9 providing fentanyl or a mixture that is known to be
 10 toxic?
 11 A. Yes.
 12 262 Q. Okay. And in terms of your
 13 belief, how do, how did you come to the belief that,
 14 for example, you brother-in-law was being provided
 15 knowingly with a toxic mixture or fentanyl?
 16 A. Because she was the one that
 17 had -- like, his spouse is the one that had made the
 18 -- she had known that she had put something in it
 19 called xylene (xylazine) that was not good; she knew
 20 that other people had passed away from it; she knew
 21 that he was new, like a newer user, and she knew that
 22 he would die from it.
 23 263 Q. Was that reported to the police?
 24 A. I believe it has been, yes.
 25 264 Q. And in terms of the other part

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1 of the definition of "hot-shot," that someone
 2 secretly, while they're sleeping, being injected with
 3 fentanyl, or a mixture, what do you base your belief
 4 that that has occurred on?
 5 A. Based on, like, obituary
 6 documents, like documents from a coroner's report.
 7 265 Q. So you've seen a coroner's
 8 report where it states that this person was secretly
 9 injected with Fentanyl or a mixture?
 10 A. No, I've seen a coroner's report
 11 that stated that it was a toxic level of xylene, and
 12 I know that my brother-in-law could not hit himself,
 13 so I knew that his girlfriend had to be the one that
 14 would have given him the needle. I knew that he only
 15 started using needles when he got with this girl.
 16 And yes, I have seen the coroner's report to get
 17 that.
 18 266 Q. And you mentioned that this has
 19 also happened to friends of yours; how many?
 20 A. I would say at least three.
 21 267 Q. They reported being either given
 22 knowingly a mixture or Fentanyl that is toxic, or
 23 somebody injecting them while they sleep?
 24 A. No, they can't because they're
 25 deceased.

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1 268 Q. So the conclusion that that is
 2 what had to have occurred is an assumption that
 3 you're making?
 4 A. And something based on the fact
 5 that I know these people; I know what they do; I know
 6 what type of drugs; I know that they know their limit
 7 if it was in it. Like it's an assumption based on
 8 different aspects that I know of.
 9 269 Q. Understood.
 10 A. Or things that people have said,
 11 not just an assumption.
 12 270 Q. Understood. So if we go to
 13 paragraph 26 of your affidavit, you say:
 14 "I can't put up a tent."
 15 You have in the past put up a tent
 16 and encamped; correct?
 17 A. Yes, I have.
 18 271 Q. And I understand that you've
 19 been given notice that you had to move your tent from
 20 a particular park, but you could put up a tent now
 21 that you've obtained one; correct?
 22 A. Yeah, but really I'd be putting
 23 up a tent to be told I have to leave, so what would
 24 be the sense in putting up a tent?
 25 272 Q. Well, the alternative, it seems,

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1 from your affidavit, is sleeping without a tent. So
 2 my next question is: Sleeping with a tent is better
 3 than sleeping without one, isn't it?
 4 A. Yes, it is, but at the same
 5 time, moving every day and having to pack that tent
 6 up and move, when I could easily just stay in the
 7 same place, as long as I'm not bugging neighbours,
 8 it's easier.
 9 273 Q. No, I understand that.
 10 A. And then on top of it --
 11 274 Q. Sorry, I didn't mean to cut you
 12 off.
 13 A. On top of it, if I turn around
 14 and I get stuff, how am I ever going to be able to
 15 carry my tent and my stuff and move it, because you
 16 guys don't like where I place my tent?
 17 275 Q. No, I understand. We've gone
 18 over the history of moves from park to park over
 19 time. In each of those instances, though, you stayed
 20 in a park for, in some cases, a period of up to six
 21 months; is that not right?
 22 A. While you guys were in the,
 23 further -- like, when you guys were saying that we
 24 could encamp anywhere, yes. When there was legal
 25 documentation that we could camp in a park, yes.

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1 Now, no, I haven't been able to stay
 2 in a park past a week or two.
 3 276 Q. Well, is it your understanding
 4 that as of August 2023 encamping indefinitely in city
 5 parks in the city of Hamilton is permitted?
 6 A. Yes.
 7 277 Q. So as of August of 2023, you've
 8 been aware of that?
 9 A. Well, yes, obviously, I've been
 10 in this, I've been part of this court hearing for a
 11 long time, for some time now, so I know everything
 12 that's been going on, yes.
 13 278 Q. And have you been encamping
 14 since August of 2023?
 15 A. Not until this month of this
 16 year, but where am I supposed to put up a tent now?
 17 Back then --
 18 279 Q. You told me that -- I'm sorry, I
 19 didn't mean to cut you off. Continue, please.
 20 A. Back then, it was the same
 21 thing, where could I put a tent up? No different
 22 than what it was.
 23 280 Q. Well, you had said that you were
 24 forced to move every day; I would like you to confirm
 25 that that's not true, that in fact you were given the

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1 ability to encamp for periods for time at each of
 2 Jackie Washington Park, Beasley Park, at the Ferguson
 3 encampment and at Woolverton Park; is that right?
 4 A. When you guys allowed us to
 5 encamp in parks, yes, I was able to stay.
 6 281 Q. Would you agree that shelters
 7 are safer than sleeping outside?
 8 A. No, I wouldn't say that.
 9 282 Q. On what basis is that not true?
 10 A. On the basis of, I could go to a
 11 shelter and I could have conflicts still, every day.
 12 I could end up going to a shelter in which there is a
 13 person there that does not like me, that wants to
 14 beat me every day of the week. No different than if
 15 I was in a tent or in an apartment building or in a
 16 city.
 17 283 Q. So there is nowhere that is
 18 safe, is that what you're saying?
 19 A. Technically, no, no place is
 20 safe.
 21 284 Q. If we go to paragraph 28 of your
 22 affidavit, you indicate:
 23 "I routinely attempt to enter
 24 women's shelters but am told that
 25 they are full."

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1 A. Yes.
 2 285 Q. We've established that there
 3 have been times when you've been able to enter
 4 shelters; that's correct?
 5 A. Yes.
 6 286 Q. And there have been times when
 7 you felt discouraged and stopped seeking a shelter
 8 bed; is that correct?
 9 A. Yes.
 10 287 Q. How lengthy are these periods
 11 where you feel discouraged and stop seeking a shelter
 12 bed?
 13 A. Um, maybe a month.
 14 288 Q. And during that period of time,
 15 let's say a month, you wouldn't become aware of any
 16 opportunities for a shelter bed or housing when
 17 you're not seeking it; that's fair to say?
 18 A. Well, yes and no.
 19 289 Q. Okay? In what way is that not
 20 correct?
 21 A. Because I don't need to see it
 22 to know that it's full, right? I have friends that
 23 talk, that can inform me of things, too.
 24 290 Q. So you're relying on a group of
 25 friends and their attempts to access shelters, is

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1 that right?
 2 A. I'm relying on myself, my group
 3 of friends, the city, just like you guys. Like, I'm
 4 supposed to have support, so in turn, if I have
 5 support, then I have people that will help me. "Oh,
 6 there's a bed available here and you should try it."
 7 Or "Oh, there's no space here but there might be
 8 space here." So, yes, I'm relying on other people as
 9 well as myself.
 10 291 Q. Understood. Okay. I would like
 11 to move to your subsequent affidavit, Which I'll put
 12 up on the screen now. This was sworn April 27th,
 13 2023, and it's largely in handwriting. Can you see
 14 that, or do you have a copy in front of you?
 15 A. Yes, I do.
 16 292 Q. Okay. The first -- whose
 17 handwriting is this? Is it yours?
 18 A. No.
 19 293 Q. Do you know who prepared this
 20 then, for you?
 21 A. I believe Sharon did it.
 22 294 Q. Okay. Well, that's fine, I
 23 don't need to ask any questions about conversations
 24 you had with your lawyer.
 25 This affidavit indicates that you've

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1 stayed in a number of different places since June of
 2 2022.
 3 A. Yes.
 4 295 Q. But before we get into that, I
 5 understand that you had worked with a Wesley Urban
 6 Ministries case worker in roughly March of 2022; is
 7 that right?
 8 A. Yes.
 9 296 Q. And I understand that you
 10 ultimately submitted what's called an Access to
 11 Housing Application in March of 2023; does that sound
 12 right?
 13 A. I have done that a couple of
 14 times, and one was a SPDAT.
 15 297 Q. Yes, I understood about the
 16 VI-SPDAT, but does that sound right, in March of 2023
 17 there was an Access to Housing application submitted
 18 for you?
 19 A. I believe so.
 20 298 Q. And so I just want to go over
 21 the places that are indicated here in terms of where
 22 you stayed.
 23 There's a place on Kenora Avenue; is
 24 that right?
 25 A. Yes.

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1 299 Q. And again, that's in Hamilton,
 2 not in the City of Kenora?
 3 A. No, that's in Hamilton.
 4 300 Q. And so from roughly when to when
 5 did you stay there?
 6 A. I would say summer of 2022, the
 7 summer -- like, wait. Actually, spring of probably
 8 2023.
 9 301 Q. Okay. So you stayed there from
 10 the summer through the winter to the spring; is that
 11 right?
 12 A. I believe so.
 13 302 Q. And what shelter did you have on
 14 Kenora Avenue?
 15 A. It was just a tent in a park.
 16 303 Q. Do you remember the name of the
 17 park?
 18 A. It was a Crown's play --
 19 Crown's -- like it was in, near the highway; it
 20 wasn't in an actual park, it was, like, a field but I
 21 call it a park.
 22 304 Q. No, understood. It may have
 23 been the right of away for the highway?
 24 A. Yeah.
 25 305 Q. The next reference is to a

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1 handmade shelter in the woods. Now, first, why did
 2 you leave Kenora Avenue?
 3 A. I had gotten with somebody.
 4 306 Q. And did you go with them to the
 5 handmade shelter?
 6 A. Yeah, like he had made the
 7 shelter.
 8 307 Q. Where was that shelter, the
 9 handmade shelter?
 10 A. It was in Centennial area.
 11 308 Q. By the lake?
 12 A. Yeah, like -- well, no, it was
 13 off the train tracks, but --
 14 309 Q. And so it was, you say in the
 15 woods, but it was in the wooded area adjoining the
 16 rail line?
 17 A. It was in a wooded area from the
 18 rail line through the Walmart area.
 19 310 Q. Okay. Yes, now I know exactly
 20 where you mean. Okay.
 21 How long did you stay there?
 22 A. About two months, I would say.
 23 311 Q. And why did you leave that
 24 homemade shelter?
 25 A. The person I was staying with

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- 1 ended up in the hospital on life support.
 2 312 Q. And I understand that next there
 3 were a number of places, you say, on the streets in
 4 downtown Hamilton, in parks, on benches or the grass;
 5 you also mentioned in a tent at Beasley Park?
 6 A. Yes.
 7 313 Q. Now, how long did this period
 8 last where you were moving like this from place to
 9 place?
 10 A. I would say four, five days, two
 11 or three weeks.
 12 314 Q. And in terms of staying in
 13 Beasley Park, this is the second time that you were
 14 staying there?
 15 A. No, it would be the first time.
 16 315 Q. Okay. So this is a reference to
 17 the period that we've talked about earlier in the
 18 chart?
 19 A. Yes.
 20 316 Q. And there's a reference to the
 21 Burlington train station; when were you staying
 22 there?
 23 A. When I was going back and forth
 24 between Oakville and here.
 25 317 Q. You also referenced the GO

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- 1 train; is that how you were getting back and forth?
 2 A. Yes.
 3 318 Q. And then you mention "On the
 4 streets in Toronto." How did it come to pass that
 5 you were in Toronto?
 6 A. I had gone there to go boosting.
 7 319 Q. I'm sorry, I didn't catch that?
 8 A. I had gone there to go boosting.
 9 320 Q. I'm not sure what that means;
 10 can you explain?
 11 A. I had gone there to go stealing
 12 from stores.
 13 321 Q. Oh, okay. No, understood.
 14 Did you seek any shelter in Toronto?
 15 A. No.
 16 322 Q. Is there a reason that you
 17 didn't do that?
 18 A. I wasn't planning on being there
 19 long enough. I didn't want to be there for the first
 20 time.
 21 323 Q. How did you get there if you
 22 didn't want to be there?
 23 A. Because I went there in turn to
 24 try and get some money so that I could get out of the
 25 streets.

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- 1 324 Q. And so why did you leave
 2 Toronto?
 3 A. Because Toronto is not where I
 4 really wanted to be.
 5 325 Q. And Hamilton is?
 6 A. No, Hamilton is the only place
 7 that feels like home.
 8 326 Q. Got it. So if I go to paragraph
 9 2 of your affidavit, you mention a rooming house;
 10 where was this?
 11 A. That was at 9 Faircourt.
 12 327 Q. Oh, okay. So that's the 9
 13 Faircourt address; all right.
 14 A. Uh-huh.
 15 328 Q. And you mentioned a friend
 16 staying there and another resident; was that your
 17 father?
 18 A. Yes.
 19 329 Q. And you mentioned that there was
 20 a theft and access to your ODSP account.
 21 A. Yes.
 22 330 Q. How do you access your ODSP
 23 account?
 24 A. By Right Pay card.
 25 331 Q. Okay. And is that what

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- 1 happened, they stole that card and used it?
 2 A. Yes.
 3 332 Q. Was that -- I understand that
 4 the theft was not reported, out of fear, to the
 5 police, but was that reported to ODSP?
 6 A. Yes, it was.
 7 333 Q. And you mentioned a number of
 8 injuries, including an assault. The injuries again
 9 here are the result of crimes that were committed
 10 against you, would you agree with that?
 11 A. Yes.
 12 334 Q. And I understand that ultimately
 13 you were able to obtain housing via the Access to
 14 Housing application that was submitted by you, is
 15 that right?
 16 A. Hmm, no.
 17 335 Q. No. So that's not correct,
 18 there was no housing obtained via the Access to
 19 Housing application?
 20 A. Correct.
 21 MR. DIACUR: So I just want to --
 22 just a moment's indulgence, counsel, I want to make
 23 sure I didn't miss a question accidentally, but that
 24 may be all of the questions that I have for
 25 Ms. Heegsma. Just a moment.

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1 (Off record at 11:40:06 a.m.)
 2 (Resumes at 11:40:15 a.m.)
 3 MR. DIACUR: Yes, those are all of
 4 my questions. Thank you very much for attending and
 5 answering, ma'am.
 6 WITNESS: No problem.
 7 RE-EXAMINATION BY MS. CROWE:
 8 MS. CROWE: Thank you, Ms. Heegsma.
 9 I just have a few short questions, okay?
 10 336 Q. So we discussed a lot of
 11 timelines, a lot of addresses; one of the addresses
 12 was 123 Bold Street, in around January 2022, and you
 13 mentioned something about a spouse?
 14 A. Yes.
 15 337 Q. Okay. Was this a same sex or
 16 opposite sex partner?
 17 A. Same -- opposite, sorry.
 18 Opposite. That was Douglas.
 19 338 Q. Okay. And how long were you in
 20 that relationship?
 21 A. Six months.
 22 339 Q. Okay. And then when we were
 23 talking about your hotel stays, you mentioned that
 24 there were a couple of instances where it sounded
 25 like you were in a relationship at the time?

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1 A. Yeah.
 2 340 Q. Okay. And so I'm just looking
 3 back to your testimony. So when you were talking
 4 about the times that you were kicked out of shelter,
 5 you said that you were with boyfriends and one didn't
 6 return and one you got into an argument and he left?
 7 A. Yes.
 8 341 Q. So, can you help us understand,
 9 if your boyfriend didn't return, why would that
 10 result in you being kicked out?
 11 A. Because of the fact that it was
 12 a spouse -- it was a shelter for a spouse, you know,
 13 for relationships for couples.
 14 342 Q. Okay. And what about when you
 15 got into an argument and he left?
 16 A. I had asked for us to be
 17 separated and to have our own separate rooms, and
 18 they refused to do that; I got kicked out and they
 19 put him in a different shelter.
 20 343 Q. Okay. Thank you.
 21 And then you said another time you
 22 left is to go to London and see family and didn't
 23 make it back on time, what happened there, in terms
 24 of not making it back in time?
 25 A. The fact that it was that I had

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1 money for the bus but the bus was not able to,
 2 because at that time, I believe they were on strike,
 3 the buses were only running certain amount and I
 4 didn't, I didn't get one until Friday, or my
 5 grandparents wouldn't be able to drive me till
 6 Friday, but I was supposed to be able on the
 7 Wednesday. I called them on Tuesday to inform them
 8 on what was going on and they told me if I was not
 9 back by Wednesday, they were kicking me out.
 10 344 Q. Okay. Thank you.
 11 When Mr. Daicur was asking you about
 12 your encampment at Beasley, he asked you if you left
 13 voluntarily; what do you think "leaving voluntarily"
 14 means?
 15 A. Leaving voluntarily --
 16 MR. DIACUR: That's an improper
 17 question. I'm objecting to that, counsel.
 18 R/F
 19 MS. CROWE: Why is it improper?
 20 MR. DIACUR: Well, it's calling for
 21 her opinion, first of all, but also it's an attempt
 22 to expand her evidence; it is not an attempt to
 23 clarify an ambiguity, it is an attempt to expand her
 24 evidence beyond evidence that she's given. It's also
 25 calling for opinion evidence, so there's a couple of

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1 reasons.
 2 MS. CROWE: Well, I think I was
 3 asking her what her understanding was, but that's all
 4 right, we'll move on.
 5 345 Q. Okay. So in paragraph 11 of
 6 your June 2022 affidavit, you talk about some crimes
 7 that took place, and so I just wanted to distinguish.
 8 So there were assaults, thefts and a rape?
 9 A. Yes.
 10 346 Q. Okay. And Mr. Diacur was asking
 11 you about filing a report for the rape but not the
 12 other crimes, so I want to talk about the assaults,
 13 which you just confirmed that's separate than the
 14 rape incident?
 15 A. Yes.
 16 347 Q. Okay. Thank you.
 17 Do you know who assaulted you?
 18 A. Yes, I do.
 19 348 Q. So you were familiar with them.
 20 Did you know them before the assaults?
 21 A. Yes.
 22 349 Q. Okay. How did you know this
 23 person?
 24 A. They were --
 25 MR. DIACUR: I'm objecting to this

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1 as well. This is, again, an attempt to expand
2 evidence than's been given; this isn't clarifying
3 anything. This is re-direct, it's not an opportunity
4 for her to just continue testifying. I object.
5 R/F

6 MS. CROWE: No, this is absolutely
7 clarifying. You asked about the circumstances under
8 which she decided to report one crime and not the
9 other.

10 MR. DIACUR: Yes.

11 MS. CROWE: And you classified her
12 responses as referencing the gravity of the crimes,
13 and so I am looking for clarification on the
14 circumstances under which she reported one crime and
15 not the other.

16 MR. DIACUR: Yes, but she's had the
17 opportunity to give that evidence. Like, the
18 affidavit speaks for itself on this subject. You're
19 trying to expand her evidence and that's not the
20 purpose of re-examination.

21 MS. CROWE: Well, I think that, you
22 know, you are classifying this as expanding, I'm
23 classifying this as clarifying, and so I take it that
24 this is objection, but this is my witness, I'm going
25 to direct her to answer the question.

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1 MR. DIACUR: Well, she can answer
2 it, but I'm putting on the record my objection.
3 R/F

4 MS. CROWE: I understand. Thank
5 you.

6 350 Q. Okay. So you said that you knew
7 the person who assaulted you?

8 A. Yes, I did.

9 351 Q. And how did you know them?

10 A. They were a friend previous to
11 the assaults.

12 352 Q. Okay. And you mentioned
13 reporting this staff to the Wesley -- this, the
14 assaults to the Wesley Day Centre; what is the Wesley
15 Day Centre?

16 A. The Wesley Day Centre was staff
17 that I was able to talk to that weren't police and
18 they weren't navigational workers either.

19 353 Q. Okay. And you mentioned that
20 Wesley Day Centre staff knew the individual who was
21 assaulting you?

22 A. Yes, they did. She was also a
23 client of theirs.

24 354 Q. Okay. Thank you.

25 And then you mentioned that at the

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1 beginning of this month you returned to living in an
2 encampment?

3 A. Yeah.

4 355 Q. And we've talked about some of
5 the previous times where you had to leave
6 encampments; when was the last time you were told
7 that you had to leave an encampment?

8 A. I believe it was in 2022.

9 356 Q. Okay. So for this month, you
10 haven't been told to leave?

11 A. I was not told to leave, my
12 friend was told to leave yesterday from their
13 encampment they had just moved to. They had not had
14 previous -- previously been told that they had to
15 leave. But upon that happening, we found out that
16 other people had been told. I just happened to be
17 there yesterday when that happened, and they got told
18 then that they had an hour to move. They have a dog,
19 they had a bunch of stuff that they had just put up,
20 just unpacked, and then all of a sudden they had an
21 hour to repack it and we -- or they were getting
22 demolished.

23 357 Q. And who told them that?

24 A. The police.

25 MR. DIACUR: I'm objecting. I'm

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1 objecting to this as well, counsel. This entire line
2 of questioning is expanding the witness' evidence
3 beyond what, anything that she was asked.

4 R/F

5 The purpose of re-examination --
6 MS. CROWE: Mr. Diacur, that's fine,
7 that's fine.

8 MR. DIACUR: -- is to clarify an
9 ambiguity or an issue with evidence that's been given
10 in an affidavit versus what was said, a contradiction
11 perhaps in the oral evidence, it's not to ask her
12 about matters that she's not been cross-examined on
13 because she's not given any evidence. The purpose of
14 this is not to provide evidence that cannot be
15 subject to cross-examination, which is what this
16 would be. This is for the record.

17 MS. CROWE: Well, you specifically
18 asked her about the timelines of staying in
19 encampments and where she's staying, her current
20 whereabouts. But that's fine, that's the end for my
21 questions.

22 MR. DIACUR: Thank you very much,
23 counsel.

24 -- (Adjourned at 11:50 a.m.)

25

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I HEREBY CERTIFY THE FOREGOING
to be a true and accurate
transcription of my shorthand notes
to the best of my skill and ability.



MARC BEEBE, O.C.R.
Computer-Aided Transcription

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TAB 38

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD, ET AL.**

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF CASSANDRA JORDAN

1. I, CASSANDRA JORDAN, of the City of Hamilton in the Province of Ontario, MAKE OATH AND STATE:
2. My date of birth is April 29, 1983.
3. I am Indigenous.
4. I have been homeless since August or September of 2020.
5. Before becoming homeless, I was living in a unit at 253 Victoria Avenue in Hamilton. The owner of the building passed away. The owner's children then told all tenants that we had to leave. They did not go through the Landlord and Tenant Board process to evict me. Instead, they used the police to unlawfully evict me. I lost almost all of my belongings.
6. I am in a person with a disability and in receipt of benefits from the Ontario Disability Support Program (ODSP). As a single person who is homeless, I receive \$672 per month from ODSP. If I had shelter, I would receive a shelter allowance of \$497.00, per month.
7. My medical conditions include degenerative disc disease, chronic pain and substance abuse disorder.
8. I have had substance abuse issues but I am in recovery. I am currently treating my disorder with methadone.

9. I am prone to getting pneumonia. Living outside, trying to survive without a proper bed, without adequate shelter to shield me from the cold weather, snow and rain, and routinely having to move all of my life's possessions and rudimentary shelter, makes me more prone to pneumonia and exacerbates my pre-existing medical conditions. There have been times that I have required hospitalization to treat my pneumonia.
10. After I was evicted from my rental unit, I called shelters and was told that they were full.
11. I didn't have any storage for the few belongings I was able to pack, and had nowhere to go. I moved to a tent on Ferguson Avenue in Hamilton, where an encampment had already been established.
12. I stayed in the tent at Ferguson until the City dismantled the encampment on or about October 15, 2021. I had nowhere to go. The City took my tent in the process.
13. During the eviction at Ferguson, there were several police and by-law officers in attendance. The sheer number of authorities and the garbage removal trucks was intimidating and traumatizing. It felt very forceful and that I had no option but to move, especially because bylaw took my tent.
14. During the eviction from Ferguson, I was told that there was a hotel spot for me and that I could only take 1 bag of my belongings to it. I didn't want to dispose of my remaining belongings in order to get into the hotel spot and so I advised the person that I would make arrangements for my excess possessions and they advised that this was fine and the hotel spot would be available for me to claim the following morning. I returned to the Centre on Ferguson, the Wesley, and staff person there looked into my reserved hotel spot and I was told my spot was taken. It was upsetting to see that my room was not held when I advised the person that I was making arrangements for my things and they advised that it would be reserved for me for the next morning.
15. After I had no hotel room reserved for me, there was nowhere for me to go as women's shelters were full.
16. After being evicted from the Ferguson encampment, I went to stay at JC Beemer Park. I first stayed in a tent with a friend and then got another tent donated to me and then another one donated to me by some church people. I eventually was given a tarp to provide greater protection and straw for insulation.
17. The City eventually evicted me from JC Beemer Park. The eviction looked similar to that of Ferguson: a heavy police and by-law presence, bobcats to remove possessions and garbage removal. At the time of my eviction I was on a walker because of third degree burns on my leg that had yet to recover. The police who attended JC Beemer had arranged for me to go to the Barret Crisis Centre. The police said that the Barret Centre would help them find somewhere to go after my 5 day stay there but all the Barret Centre did was discharge me after 5 days and hand me a list of the shelters that I already had

knowledge of. The shelters were full again and no one ensured that I transitioned into housing or a shelter. I utilized my last resort and went to my mom's house for a short period of time. I was still healing the first degree burns.

18. I could not stay at my mom's long term and eventually had to leave because my mom lives in public subsidized housing and if a guest stays longer than permitted, she will lose her subsidy.
19. After I left my mom's I had nowhere to go because every shelter I contacted was full at that time. Since then, I have stayed outside in several different locations. I have slept in tunnels, outside a local Tim Horton's, the back of City Hall, outside a church. When I am alone moving between several more hidden locations, I tend to be alone.
20. I tried to get into Carol Anne's place around the end of February but was denied because I tested positive for Covid and had to continue to live outside. It was freezing.
21. Being evicted from encampments, and having to live and sleep without a tent has been very difficult. I have been robbed. It is very difficult to sleep. Sometimes I don't even know what day it is. I am trying to abstain from using substances but it is difficult to do this while trying to survive.
22. Having to pack up and move when I am evicted from an encampment is exhausting physically, mentally and emotionally. It is scary because you don't know what to do. Every time you end up leaving things behind because it's not easy to move. It is a very traumatic experience.
23. Having a tent in one location creates safety because I am able to remain in one location with several other people who become reliable community allies. When a cluster of tents was permitted, I was able to develop a consistent community that looked out for one another and that would prevent theft. As well, we would share resources such as food and blankets to stay safe and fed. There is safety in numbers especially as a single female. For example, I had some guy climb in my tent to assault me and when I started yelling, the neighbouring encampment resident chased him away. Also, we were able to defend our possessions as a group when a theft was occurring because it was harder to bully a group that sticks together versus alone. When it got cold, we all shared one tent to stay warm.
24. While in an encampment I interacted routinely with Social Navigation with the Police. They could only refer us to shelters but they were always full and were the same shelters that we were already aware of. They communicated to us that they would warn us if by-law or other police were coming to move us. They would update us about what was happening because we don't have TV or cell phones with internet to find out what decisions were being made by the City and how we would be affected.
25. I have attempted to go to shelters. The women's shelters are almost always full. I don't have a phone, but do my best to phone to ask if there is a bed available. Willow's Place is a drop in centre for women, and they have often called trying to get me into a shelter.

They have not been able to get me into a shelter. It seems to me that everyone who is already in shelter is keeping their bed.

26. Carol Anne's Place is an overnight drop in centre for women that acts as an overflow shelter when the other women's shelters are full. It is a congregate setting with people sleeping on the floor on either a mat or cot. They open at 10 p.m. In order to get in you have to line up hours in advance because there are only so many people they can take in. It isn't a sure thing. In March 2022, I was able to stay there for two nights. They were full on the third night and I was left outside at 10 p.m. with nowhere to go.
27. Carol Anne's Place has also called women's shelters to try to get me into shelter. They have also not been able to find a shelter bed for me.
28. When I am without shelter, I sometimes stay warm by going to the heat vents at City Hall but those were eventually boarded up and we were kicked out by police. It was the middle of winter and I thought I was going to freeze to death when this "option" of heat vents was removed and I had no shelter to go to.
29. During the winter, the Wesley became an emergency drop in during cold alerts and we would take turns coming in and out to warm up. This was not always an option though because it only opened up at random times when the City declared a cold alert on a case by case basis.
30. I am still unhoused and without shelter.

SWORN BEFORE ME in the City
of Hamilton, this 3rd day of June, 2022

Cassandra Jordan
Cassandra Jordan

Stephanie Cap
A Commissioner, etc.

TAB 39

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		(905) 522-1653		
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2	1	APPEARANCES:		
3	2	Sharon Crowe	For the Applicants	
4	3	Wade Poziomka		
5	4	Curtis Sell		
6	5	Nnonyechi Okenwa		
7	6	Michelle Sutherland		
8	7			
9	8	Bevin Shores	For the Respondent	
10	9	Jordan Diacur		
11	10			
12	11	ALSO PRESENT:		
13	12	Liz Marr	Summer law student	
14	13			
15	14			
16	15			
17	16			
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	25	Nimigan Mihailovich Reporting Inc.		
		(905) 522-1653		
1	1	---	Upon commencing at 1:17 p.m.	
2	2		CASSANDRA JORDAN: Affirmed.	
3	3		CROSS-EXAMINATION BY MR. DIACUR:	
4	4	1	Q. Would you please state and spell	
5	5		your last name?	
6	6		A. Cassandra Jordan, J-O-R-D-A-N.	
7	7	2	Q. Thank you. It is all right if I	
8	8		refer to you as Cassandra?	
9	9		A. Yes.	
10	10	3	Q. Or ma'am?	
11	11		A. Sure.	
12	12	4	Q. How long have you lived in	
13	13		Hamilton?	
14	14		A. Since I was born.	
15	15	5	Q. You were born in Hamilton?	
16	16		A. Yes, sir.	
17	17	6	Q. Where are you currently residing?	
18	18		A. Outside the women's Y on the	
19	19		sidewalk.	
20	20	7	Q. Your date of birth is April 29,	
21	21		1983; is that right?	
22	22		A. That's right.	
23	23	8	Q. So you're 41 years old?	
24	24		A. Yes, sir.	
25	25	9	Q. I'm going to have some questions	
			Nimigan Mihailovich Reporting Inc.	
			(905) 522-1653	

5

1 for you about an affidavit that you swore, dated
2 June 3, 2022. I just want to make sure that you have a
3 copy of that with you. I can also put it up on the
4 screen.

5 **A. Yes, I have it right here in front**
6 **of me.**

7 10 **Q.** You can use either, but I'll put
8 it up on the screen for everybody's reference. I will
9 have some questions for you about that. I understand
10 that you formerly resided at 22 Beechwood Avenue. Is
11 that correct?

12 **A. That's right.**

13 11 **Q.** I'm sorry, I don't think I could
14 hear that answer.

15 **A. That is correct. That is my**
16 **uncle's address.**

17 12 **Q.** I'm sorry?

18 **A. That's my uncle's address.**

19 13 **Q.** Okay, thank you. That was another
20 question I had for you. I understand that you resided
21 there starting in 2016. Is that correct?

22 **A. I'm not sure when I first started**
23 **staying there.**

24 14 **Q.** I understand that that is the
25 address that is on file for your ODSP payments or was

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6

1 until recently. Does that sound correct?

2 **A. Yes.**

3 15 **Q.** I understand that you've been
4 receiving ODSP since 2005. Is that correct?

5 **A. Yes.**

6 16 **Q.** And 22 Beechwood, that's over by
7 Ivor Wynne or what's now Tim Hortons Field. Is that
8 right?

9 **A. By, like, Sherman and Barton.**

10 17 **Q.** Yeah, that's right. So pretty
11 close to the old Ivor Wynne Stadium?

12 **A. Yes.**

13 18 **Q.** When you receive ODSP payments,
14 does it come directly to a bank account or onto a
15 reloadable card for you?

16 **A. Yes, sir.**

17 19 **Q.** Do you recall when you stopped
18 residing at 22 Beechwood?

19 **A. I'm having a hard time to**
20 **remember. The problem is my uncle, he had gotten sick.**
21 **He's got lung cancer, and he was in and out of the**
22 **hospital. And while he went in while -- while he was**
23 **in the hospital, his sons watched over the house and**
24 **they kicked me out when they were there because -- I**
25 **don't know. They just didn't want me to be there or**
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1 **whatever. I was -- like, I don't know. They just**
2 **didn't want me there.**

3 20 **Q.** I understand that you spoke to
4 someone at Mary's Place in January 2024 and indicated
5 that you had lost housing due to a conflict or a
6 relationship loss. Do you recall that?

7 **A. Is this on this paper thing that**
8 **he's talking about?**

9 21 **Q.** This isn't in your affidavit.
10 This is before we get to the questions about your
11 affidavit.

12 **A. Okay. So what were you saying**
13 **again?**

14 22 **Q.** So I understand that you spoke to
15 somebody at Mary's Place, the drop-in centre, and you
16 indicated to them that you had lost housing in
17 January 2024 and indicated that that was due to a
18 conflict or a relationship loss. Do you remember that?

19 **A. Oh, because temporarily I had -- I**
20 **had a boyfriend for about a month or two and I**
21 **sometimes had stayed off and on with him, and he was**
22 **abusive, and I ended up getting away from that and**
23 **ended up at Mary's Place.**

24 23 **Q.** Okay. So that conflict, that's
25 not what you were referring to with the sons of your

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8

1 uncle where you were staying at Beechwood? That's a
2 separate incident?

3 **A. Yes, sir.**

4 24 **Q.** I'm just trying to sort out the
5 timeline. If you can't recall when you left Beechwood,
6 do you recall any other places that you've lived since
7 Beechwood?

8 **A. I stayed in Jimmy Beemer Park. I**
9 **stayed at Carole Anne's Place. I stayed just at random**
10 **sidewalks. I stayed on the rail trail. I stayed on**
11 **the actual -- right inside the -- beside the rail**
12 **trail, right in the yard where the train tracks were**
13 **before I got moved and told I couldn't stay there**
14 **anymore. I'm sure the list goes on.**

15 25 **Q.** At paragraph 5 of your affidavit,
16 you reference an address, 253 Victoria Avenue. Do you
17 recall living there?

18 **A. I had a room there, yes.**

19 26 **Q.** Was that --

20 **A. An apartment there.**

21 27 **Q.** Was that before or after
22 Beechwood?

23 **A. That was -- that was -- that was**
24 **after, but it was also somewhat during because I got**
25 **that place because my boyfriend at the time had**
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9

1 gotten -- was in the penitentiary, and he needed to
2 come out and have somewhere to go, so I got that place.
3 So that way, he was able to have stable -- somewhere
4 stable to live.

5 28 Q. How long did you stay there?

6 A. Well, until we got evicted.

7 29 Q. I understand that there's evidence
8 about an eviction, but do you recall how long you were
9 there?

10 A. I'm not -- I don't know -- I don't
11 know what he's talking about.

12 30 Q. You're not sure how long you
13 resided at 253 Victoria Avenue?

14 A. I remember I moved there sometime.

15 It was the summertime or something, I think, and I
16 stayed there -- what -- when did I get kicked out of
17 there? When was that? I can figure it out that way.

18 31 Q. The affidavit says that --

19 A. Okay. It --

20 32 Q. -- indicates it was August or
21 September of 2020?

22 A. In 2021, I stayed in a tent at
23 Ferguson. So I went right from that -- that apartment
24 on Victoria right to Ferguson, to the Tent City at
25 Ferguson.

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10

1 33 Q. But you don't recall how long you
2 were at that 253 Victoria Avenue address?

3 A. It was about a year or something.

4 34 Q. In paragraph 5 of your affidavit,
5 you say that the owner of the building at 253 Victoria
6 passed away, and the owner's children told all the
7 tenants that they had to leave?

8 A. Yeah. Well, what happened is
9 they -- he told us that we had to leave. They refused
10 our rent payments. Right? And then they went behind
11 our backs with lawyers and other people, and they sold
12 the house to a lawyer guy and didn't tell us they were
13 going to do that, and then got -- so he would come down
14 to evict us, like, the police, when the police had no
15 right to do that.

16 35 Q. So police officers attended?

17 A. Absolutely.

18 36 Q. What did the police officers tell
19 you?

20 A. They told us we had to leave.
21 Because they said apparently that -- because the owner
22 of the house had passed away, that now our lease that
23 we had with the guy was null and void.

24 37 Q. It doesn't reference any notice
25 being given to you. Were you given notice that you had

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1 to leave 253 Victoria?

2 A. Notice? Like handwritten stuff?

3 38 Q. Were you given a written document
4 that says you have this much time left before you have
5 to leave? Anything like that?

6 A. Nothing from the tribunal.

7 39 Q. No, I understand, but were you
8 given notice by the landlords, by the children of the
9 deceased owner?

10 A. Not from the children, from the...

11 40 Q. The purchaser, the lawyer you
12 mentioned?

13 A. The people that had bought it,
14 they put a -- they came by and put a notice on the
15 inside of the door and said we had such-and-such days
16 to leave. It was only a couple of weeks or something,
17 if that, and we didn't really think that that really
18 had, like, any power over it because it was just, like,
19 a handwritten note there. You know?

20 41 Q. Since January of 2024, you've been
21 living unsheltered outside? Is that right?

22 A. Yes, sir, except for when I stayed
23 at the Barrett Centre for five days, and I was
24 hospitalized due to the police tackling me and putting
25 my leg through the socket. So I was hospitalized --

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12

1 42 Q. I have some questions for you
2 about that, for sure.

3 A. Okay. And also when I had the
4 burn on my leg, and I was, like, kicked out and with
5 nowhere to go. My mom picked me up and I stayed with
6 my mom temporarily until I could walk with a walker and
7 stuff like that.

8 43 Q. I have a couple of questions for
9 you about that too. You make use of the YWCA close to
10 where you're staying and Carole Anne's Place sometimes?
11 Is that true?

12 A. Mostly just Carole Anne's Place.

13 44 Q. Mary's Place as well? Is that
14 true?

15 A. Mary's Place, they pretty much
16 kicked me out because they said -- like, my abusive
17 boyfriend was calling there and showing up at the door,
18 and they said that I was -- I was putting the other
19 women in the shelter at risk, so I had to leave or go
20 to some other place that was, like, way out. I wasn't
21 prepared to do that because all my supports are in
22 Hamilton.

23 45 Q. Understood. Is there a case
24 worker who works with you to seek shelter?

25 A. Well, several different people.

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1 **Street Outreach, there's the Social Nav, all those**
2 **people. They all talk to me and do several things for**
3 **me.**
4 46 **Q.** Are they actively seeking shelter
5 for you, to your knowledge?
6 **A. I think so.**
7 47 **Q.** When was the last time you saw one
8 of those people?
9 **A. I seen Street Outreach yesterday.**
10 48 **Q.** And did they tell you that there
11 are any prospects for shelter for you?
12 **A. No. They provided me a tent so I**
13 **can leave the sidewalk where I am, so I can go to a**
14 **more appropriate place.**
15 49 **Q.** You mentioned the Barrett Centre
16 earlier. My understanding is that that is a mental
17 crisis centre. Is that your understanding?
18 **A. It's a crisis centre, sure.**
19 50 **Q.** Are there physicians? Are there
20 doctors there?
21 **A. I seen a physician. I seen a**
22 **nurse that was down the street at the school when I**
23 **needed to be there.**
24 51 **Q.** Did they give you any medical
25 treatment?

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1 **A. Yes, they did.**
2 52 **Q.** I see in paragraph 7 of your
3 affidavit you mention several medical conditions. You
4 mention degenerative disc disease, chronic pain and
5 substance abuse disorder. Are those the conditions
6 that you were given treatment for?
7 **A. No. When I was at Mary's Place,**
8 **they were treating me for that. It was third-degree**
9 **burns I had from the bottom of my butt cheek to the**
10 **back of my knee.**
11 53 **Q.** Well, we'll come to that. That's
12 just a little later in your affidavit. I do have some
13 questions for you about that. Have you ever received
14 treatment for degenerative disc disease, chronic pain,
15 or substance abuse disorder?
16 **A. Have I ever received help for it?**
17 54 **Q.** Yeah. Has a doctor ever treated
18 you for those three things?
19 **A. Yeah.**
20 55 **Q.** You mention in paragraph 8 that
21 you are treating substance abuse with methadone. Is
22 that still true today?
23 **A. Yeah. I've been off the**
24 **methadone, but I have a -- I was supposed to go back**
25 **on -- I was supposed to go back on Saturday, but**

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1 (indiscernible).
2 **MS. CROWE: Are you able to hear her?**
3 **COURT REPORTER: I was just going to**
4 **ask her to repeat that.**
5 **MR. DIACUR: I think that I could hear**
6 **what she was saying, but it is very faint.**
7 **THE DEPONENT: I forgot what was I say**
8 **now. Could you...**
9 **BY MR. DIACUR:**
10 56 **Q.** I can ask the question again if it
11 would help.
12 **A. Okay, yeah.**
13 57 **Q.** It does say in paragraph 8 of your
14 affidavit that you're currently treating substance
15 abuse with methadone. Is that still true today?
16 **A. No. Temporarily I've been cut off**
17 **methadone. Right?**
18 58 **Q.** Did you say that temporarily that
19 was cut off?
20 **A. Yeah. Temporarily I got cut off.**
21 59 **Q.** Do you remember when that was cut
22 off?
23 **A. Yes. Okay, so I was on methadone,**
24 **and then -- like, sometimes I have a hard time with --**
25 **with travelling. Okay? I can't walk long distances**

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1 **and I can't get around very well because of what the**
2 **police have done to me, and the fact that I threw my --**
3 **like, I already had problems with my back, and the fact**
4 **that it's through my whole spine. So I couldn't make**
5 **it there every day. Because at the time -- like, most**
6 **recently, I was staying at the Bayford (ph) and get**
7 **hooked up with things I needed to get, and I...**
8 60 **Q.** You were unable to go and pick up
9 methadone every day, so it was cut off? Is that right?
10 **A. Yes.**
11 61 **Q.** Do you recall whether a physician
12 indicated that you should resume that?
13 **MS. CROWE: Did you hear the question?**
14 **THE DEPONENT: Well, they said that**
15 **they think that -- like, it would help with my**
16 **substance abuse problems, yes, but it doesn't -- it's**
17 **not doing what it needs to do for my pain management.**
18 **So I made appointments. I missed one day, the second**
19 **day. And I'm not sure, but now I have the**
20 **(indiscernible) right here. I have a (indiscernible).**
21 **COURT REPORTER: Sorry, can you please**
22 **repeat that?**
23 **THE DEPONENT: I have an appointment on**
24 **Saturday.**
25 **BY MR. DIACUR:**

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1 62 Q. So you have a physician's
2 appointment, a doctor's appointment on Saturday?
3 A. Yes. (Indiscernible) on John
4 Street.
5 63 Q. At the John Street Clinic? Is
6 that right?
7 A. Yeah. And they're going to put me
8 on methadone, Kadian for pain, and also
9 (indiscernible).
10 COURT REPORTER: Sorry, could you
11 repeat that again?
12 THE DEPONENT: They're going to put me
13 on methadone, Kadian, and they're also going to put me
14 on Dilaudid, which is going to help my pain. Now, when
15 I was on this program before, I was able to get the
16 pain -- and it's the only thing -- mostly, like, what's
17 happening without having any help with pain and stuff
18 like that because I'm suffering -- at the moment I'm
19 suffering.
20 64 Q. At the moment you're not receiving
21 any treatment at all? Is that right?
22 A. No, I'm not receiving proper
23 treatment for my pain and I'm suffering a lot, like,
24 every day. It's a challenge for me. I can't walk
25 properly. I'm in a lot of pain. Ever since they'd
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1 done my hip -- like, I threw my whole back out because
2 I was missing discs in my spine and I had, like, a
3 bulging disc and herniated disc and narrowing in the
4 spine. They removed...
5 65 Q. I see in paragraph 9 of your
6 affidavit you say "I am prone to getting pneumonia."
7 Is that something that a doctor has told you or is that
8 just from your experience?
9 A. No. I'm prone because after I had
10 it -- after I had it, I was feeling very, very sick and
11 I ended up in the hospital for a week. I ended up in
12 the hospital.
13 66 Q. So you were hospitalized for
14 pneumonia? Is that right?
15 A. Yeah, for a week.
16 67 Q. Do you know when that was?
17 A. Do you know when that was?
18 MS. CROWE: I can't answer.
19 THE DEPONENT: It was when I was living
20 in -- living on Victoria.
21 BY MR. DIACUR:
22 68 Q. Okay. It was in that year that
23 you were at the Victoria address?
24 A. Yes, sir.
25 69 Q. You say in paragraph 10, after you
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1 were evicted from your rental unit -- I'm assuming
2 that's still the Victoria address -- you called
3 shelters and were told they were full. Do you recall
4 what shelters you contacted?
5 A. Like, contacted while I was -- I
6 contacted Carole Anne's. I contacted everyone that was
7 on that fucking list. You know what I mean? Everyone
8 on that list that says that it's a women's shelter and
9 for emergency housing. I called every one.
10 70 Q. And we'll come to this later. I
11 understand you were given a list of shelters by the
12 police, as far as I can tell. Is that true?
13 A. When by the police?
14 71 Q. We'll come to that, then. I don't
15 want to skip any paragraphs in your affidavit, so let's
16 do that in order.
17 A. Mm-hmm.
18 72 Q. Paragraph 12 of your affidavit,
19 you mention that you stayed in a tent at Ferguson until
20 the City dismantled the encampment.
21 A. Yeah.
22 73 Q. And you reference October 15,
23 2021. My understanding is that the Ferguson encampment
24 was dismantled in or around October 15, 2020. I'm
25 wondering if that's an error in the date. Do you know?
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1 A. It must be.
2 74 Q. In terms of what happened at the
3 Ferguson encampment, paragraph 13 you mention that
4 there were several police and by-law officers in
5 attendance. You also say in paragraph 14 that during
6 the Ferguson encampment being dismantled, you were told
7 that there was a hotel spot for you and that you could
8 only take one bag of belongings too. All of that is
9 accurate?
10 A. Yeah. They told me that they had
11 a hotel room for me, and right before I was getting
12 ready to go, they told me I could only bring one bag of
13 belongings. Well, I just been evicted from my house
14 and I had more than one bag of belongings with me at
15 the time. Okay? And they told me that I can't bring
16 my stuff? Like...
17 75 Q. Right. I understand that what
18 happened then, paragraph 14, you mention that there
19 were arrangements made for your other possessions to be
20 stored. That's true?
21 A. Yes. Well, I made arrangements.
22 I had to call my mom and do all this. So I made
23 arrangements for my stuff to be stored, and I think
24 even maybe possibly they were putting storage by my
25 mom -- or my mother-in-law's (ph) and putting it there
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21

1 at the moment or something.

2 76 Q. How long did it take for the
3 arrangements to store some of your possessions? How
4 long did that take?

5 A. Well, I did it, like, that day.
6 So my mom came down and she took a bunch of stuff, but
7 I had to get rid of a whole bunch of stuff because I
8 couldn't take it with me and I couldn't take it to the
9 storage and put it in my mom's basement or nothing. So
10 I lost a bunch of my stuff that way. Then the next
11 day, when I finally took everything down -- like,
12 remember, that day when they took everything, they
13 never gave me a choice to keep my tent. They just
14 ripped my fucking tent right down. They threw it in
15 the back of a fucking garbage truck. So now even if I
16 couldn't go to the -- to this hotel, now I'm fucked
17 because I have no roof over my head. That night I
18 slept outside without a roof over my head.

19 77 Q. And that's the question I have for
20 you next. Did you go to the hotel where the spot for
21 you was being held?

22 A. The next morning, I went to talk
23 to them and I said, "Okay, like, what's going on?
24 Because, like, you guys said you had a hotel room for
25 me and, like, all my stuff's out here. What am I --
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1 what am I doing?" Right? And that's when they told me
2 that, "Oh, I was talking about the other place." They
3 already had given it away to somebody else and they
4 thought that I didn't want it. I said that's bullshit,
5 because my friend, very good friend of mine, she was in
6 the same position as me and she had been there a lot
7 longer than me, and she had, like, way more stuff than
8 I did, and she got to wait until the next day and just
9 go and get into her apartment. So I didn't understand
10 why mine was such a hard -- why I couldn't do the same
11 thing when this is what's usually -- back there, they
12 promised me they'd put me in a place and that we'd live
13 there.

14 78 Q. I understand it was somebody at
15 the Wesley Day Centre who told you about the hotel
16 issue? Is that right?

17 A. Was that Ferguson Street, the
18 Wesley there?

19 79 Q. Yeah. So what you say in
20 paragraph 14 is "I returned to" --

21 A. So I went -- yeah, so I went -- I
22 went into the building and I said, like, what's going
23 on with the hotel, like, spot and everything because,
24 like, I'm sitting out here and all my stuff's outside.
25 I'm, like, sitting on top, like, my shit. Right?

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1 Because I don't have a tent. I don't have a bed. I
2 don't have nothing anymore. Right? So I stay on top
3 of my, like, bin -- like, my bin and my bag -- where
4 should this fucking shit go? Right? They tell me
5 what's going on. And I seen my friend Misty. I seen
6 her -- the vehicle had come for her, and her to go to
7 the hotel. And I asked again, like, what's going on?
8 And they're like, hold on, they just need to have to
9 look into it. This is what they told me two, three
10 times. Then finally I went back and was like, "What
11 the fuck is going on? Like, I'm sitting out here all
12 day waiting for something to happen. What is going on?
13 Like, I can't be out here like this." And that's when
14 they told me, "Oh, we're really sorry. We thought you
15 weren't coming." They threw everything out with the
16 garbage and all this shit. I was like, what the fuck?

17 80 Q. This was the following day after
18 the Ferguson encampment was dismantled? Is that right?

19 A. Yeah. They promised me a hotel
20 room, and then they gave it away on me, and then there
21 was nowhere for me to go aside from where I was. I was
22 one of the last people sitting on the street that day
23 because I didn't know what the fuck to do or where to
24 go with my stuff, and now I no longer had a fucking
25 tent because they threw it in the back of the goddamn

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1 garbage truck.

2 81 Q. Did you contact any shelters at
3 that point?

4 A. Fucking right, I did.

5 82 Q. Which ones?

6 A. I called everywhere. I had the
7 workers calling for me. There was nowhere for me to
8 go.

9 83 Q. I understand in paragraph 15 you
10 say that you went to J.C. Beemer Park at that point?
11 Is that right?

12 A. I made my way there, yeah.

13 84 Q. Did you go there directly from the
14 Wesley Day Centre?

15 A. I had put my stuff in a cab and I
16 went over there, yeah, because they knew I was at -- I
17 had a friend over there, and I had to call my friend
18 for some help. But it really -- it was kind of bad.
19 Like, I'm calling on a friend, that is already homeless
20 and living outside in a tent, for help.

21 85 Q. And you received a tent that was
22 donated? Is that right?

23 A. Not at first. Like, I went
24 without a tent at all and kind of, like, sleeping in
25 other people's tents and have my stuff stolen and just

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1 **whatever for a while before I was able to get my own**
 2 **tent.**
 3 86 **Q.** How long did you remain at J.C.
 4 Beemer Park?
 5 **A. I don't know. When was the --**
 6 **when did they come to -- to do the protest?**
 7 87 **Q.** I don't know. You're saying that
 8 you stayed until the protest?
 9 **A. The encampment at Ferguson was**
 10 **October 15th. Right? So when was the protest at Jimmy**
 11 **Beemer? Do you not have a date on that?**
 12 88 **Q.** I'm not sure what you're referring
 13 to by "protest" --
 14 **A. There was a protest that made the**
 15 **news and everything. You don't remember anything of**
 16 **that happening?**
 17 89 **Q.** I'm not sure what you're
 18 referencing. So did you stay until there was a
 19 protest?
 20 **A. There was -- somebody lit a fire,**
 21 **the propane tanks blew, and then they came, put a --**
 22 **they evicted everybody in the city and wanted to evict**
 23 **us last. Okay? Because they had already come to evict**
 24 **us in that park before, and we had held hands in**
 25 **solidarity and they couldn't get near the tents. So**
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1 **they didn't know how they were going to get us the next**
 2 **time. So this time, they got somebody to light a fire**
 3 **in one of the tents, which lit up the propane tanks,**
 4 **and the -- all of a sudden, the police show up, tape**
 5 **off the whole park, kick everybody out. And then**
 6 **even after the police were there, it still took another**
 7 **half an hour almost for the fire trucks to show up,**
 8 **which I didn't understand at all, because any other**
 9 **emergency, the fire trucks show up first.**
 10 90 **Q.** I think I understand now. You're
 11 referencing the dismantling of the J.C. Beemer
 12 encampment. When you say "protest," that's what you
 13 mean?
 14 **A. Yeah. Yeah, it was a protest.**
 15 **Like, 250 people were there. It made the news. You**
 16 **know?**
 17 91 **Q.** I believe I understand what you're
 18 referencing now. How did the burns to your legs occur?
 19 **A. Well, it was December and it was**
 20 **cold outside, and I was trying to heat my tent with a**
 21 **tabletop barbecue and I had it in my tent. The propane**
 22 **tank was outside my tent, but I ran the cord inside. I**
 23 **had the barbecue going. While I was attempting to get**
 24 **changed into my pyjamas, I slipped and I put -- landed**
 25 **on my bare ass on the barbecue.**
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1 92 **Q.** Okay. I understand that at J.C.
 2 Beemer Park, that is where the burns occurred. Is that
 3 correct?
 4 **A. Yes.**
 5 93 **Q.** And I understand that it was in
 6 November or December of 2021 that the burns occurred.
 7 Is that right?
 8 **A. That's right.**
 9 94 **Q.** Were you there at J.C. Beemer Park
 10 for over a year? Does that sound correct?
 11 **A. Pretty close, yeah.**
 12 95 **Q.** And I understand --
 13 **A. We were working with --**
 14 96 **Q.** I'm sorry.
 15 **A. We were working with people that**
 16 **were trying to find better arrangements for us and**
 17 **stuff, but we were fighting in court, and the City was**
 18 **fighting against the encampments. There was just so**
 19 **much going on that we weren't even -- we weren't able**
 20 **to find better accommodations for quite a while.**
 21 97 **Q.** Now, in terms of what happened at
 22 J.C. Beemer Park, I understand that there was notice
 23 given that the encampment in the park was going to be
 24 dismantled. Is that right?
 25 **A. No, no, no. There was notice**
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1 **given that the City had changed their protocols.**
 2 **That's what we were -- the notice we were given. What**
 3 **happened there that day was the fire that somebody**
 4 **started purposely so that we would have to be forced**
 5 **out of the park. Because then after the fire, they**
 6 **tried to say it wasn't safe for us to be there, because**
 7 **the fire, like, got hot on the hydro lines or**
 8 **something. So all of a sudden, it wasn't safe for us**
 9 **to be there, and that's how they got us out.**
 10 98 **Q.** You disagreed that it was unsafe?
 11 **A. Absolutely.**
 12 99 **Q.** But there was notice given that it
 13 was considered unsafe and that you would have to leave?
 14 Is that true?
 15 **A. Yeah. It was only way they could**
 16 **get us out.**
 17 100 **Q.** When the police and by-law
 18 attended at J.C. Beemer Park, that was during the
 19 daytime?
 20 **A. It was early morning.**
 21 101 **Q.** I understand that from J.C. Beemer
 22 Park, you were referred to the Barrett Crisis Centre by
 23 the police. Is that true?
 24 **A. Yeah. I'd also like to add that**
 25 **while they had us taped off and everything, they didn't**
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1 allow any of the residents that were staying in tents
2 to talk to each other during that time. So we weren't
3 allowed to talk to each other. They weren't allowing
4 anybody, like, to come in -- into the park to help us
5 pack or anything like that. So at first, I was there
6 packing my whole entire tent with these third-degree
7 burns on the back of my leg, then eventually my mom
8 came and she had a connip-shit at the end of the road
9 there, and they eventually let my mom come in to help
10 me to pack my stuff and to get me out. But the thing
11 is, is even then, my mom was only allowed to talk to
12 me. She wasn't allowed to talk to anybody else that
13 was there either. Because at the time, my mom -- by
14 then, my mom had met everybody that was staying there.
15 There was Tilau (ph) and, you know, John, Homer and all
16 that. My mom had known all of them by then. And we
17 weren't allowed to talk to any of them because of --
18 they had it all blocked off. I tried to go and talk to
19 John, see what -- because I wanted to know where my
20 friends were going and where -- what was happening,
21 where I could find them after all this was done, and
22 they were blocking us from talking to each other.

23 102 Q. I understand that you were
24 referred to the Barrett Crisis Centre by the police at
25 the time that the J.C. Beemer encampment was

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1 dismantled. Is that true?

2 A. Yes.

3 103 Q. Is that the only time that you
4 were at the Barrett Crisis Centre or have you been
5 there more than once?

6 A. I believe that's the only time.

7 104 Q. So when we were referring to it
8 earlier, it occurred at this point, roughly November or
9 December of 2021?

10 A. Mm-hmm, yeah.

11 105 Q. I understand that the Barrett
12 Crisis Centre is short-term.

13 A. That's right.

14 106 Q. After you left the Barrett Crisis
15 Centre, did you contact any shelters at that point?

16 A. Well, here's the thing. We were
17 told by the police -- and even it was told, like, on
18 the news and everything -- that the Barrett Crisis
19 Centre was going to help us with accommodations, like,
20 meaning they were going to help us to find a place to
21 live after -- like, after the five days was up.

22 107 Q. I understand from paragraph 17
23 that you went and stayed at your mom's house at that
24 point after leaving the Barrett Centre. Is that
25 correct?

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1 A. Yeah.

2 108 Q. Is it possible that shelter wasn't
3 offered to you because you had said you were going to
4 stay with your mother?

5 A. No, no, no. What happened was
6 there was nowhere for me to go, and because I had
7 third-degree burns from the back of my knee to the
8 bottom of my butt cheek, I was walking with a walker
9 and I was in excruciating pain, and I went and stayed
10 at my mom's house on a short-term because there was no
11 place for me to go. And my mom did not want me to be
12 out on the street with those burns and everything like
13 that because she was scared to death that they were
14 going to get infected or something.

15 109 Q. Where does your mother reside?

16 A. In Hamilton.

17 110 Q. In a house?

18 A. In a townhouse. And it's
19 subsidized housing, so I'm not able to stay there
20 long-term. It was only short-term because I had to --
21 because I needed help. Like, I couldn't even shower.
22 I couldn't get dressed on my own, nothing.

23 111 Q. Understood. You do say in
24 paragraph 18 that your mother's place is subsidized
25 housing, public-subsidized housing.

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1 A. Mm-hmm.

2 112 Q. Now, you say that you would be
3 considered a guest at that location?

4 A. That's right.

5 113 Q. Was any request made to allow you
6 to stay there?

7 A. She contacted her -- her landlord
8 or whatever and let them know that I would be staying
9 there temporarily.

10 114 Q. Was any request made that you
11 might be able to stay longer?

12 A. She talked to them about it. She
13 would lose her subsidy and she would have to pay market
14 rent.

15 115 Q. I understand that rules are
16 different when it comes to children compared to guests,
17 generally, in public-subsidized housing. Was your
18 mother told that you could not stay long-term?

19 A. I'm an adult child, and I think
20 it's a little bit different for adult children.

21 116 Q. Was your mother told that, to your
22 knowledge?

23 A. She was told that if I stayed, she
24 would not -- no longer be -- be accepted for the
25 subsidized rent thing. She couldn't get subsidized

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1 **rent anymore.**

2 117 **Q.** In paragraph 19 of your affidavit,

3 you say that after you left your mother's, you had

4 nowhere to go because every shelter you contacted was

5 full. What shelters did you contact at that point?

6 **A.** I'm sure you got the list. The

7 list hasn't changed in years. It's the same paper that

8 you give everybody.

9 118 **Q.** You contacted everyone on a list?

10 **A.** Yeah. I couldn't even get a --

11 119 **Q.** Do you recall which shelters you

12 contacted?

13 **A.** What is it? The Bayview -- what's

14 the one that -- Bayview or something? The Mary's

15 Place, Willow's, Carole Anne's, like, you name it.

16 120 **Q.** I understand from paragraph 20 of

17 your affidavit that there was space at Carole Anne's

18 Place at around the end of February, and this would be

19 2022, but you were denied because you tested positive

20 for COVID. Is that accurate?

21 **A.** I had stayed there for a couple

22 days. Okay? And then -- and then I went to go -- they

23 were testing and I -- I tested positive. I ended up

24 sleeping -- there's -- like, at the top of MacNab,

25 there's a little -- stairs. You go down. It's like a

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1 **tunnel that goes underneath the train bridge. I slept**

2 **in that tunnel. It was New Year's at the time. I**

3 **slept there on New Year's Eve because I was not**

4 **permitted to go inside the building.**

5 121 **Q.** Did you test positive for COVID at

6 that point? Do you recall?

7 **A.** They said I tested positive, but I

8 did not have any symptoms and I was not ill.

9 122 **Q.** Paragraph 24, you say that "while

10 in an encampment, I interacted routinely with Social

11 Navigation with the police," and you say that they

12 could refer you to shelters. Do you recall what

13 shelters you were referred to by Social Navigation or

14 by the police?

15 **A.** There's no shelters. I don't know

16 what you don't understand about this. There was

17 nothing that they could refer me to shelters, if there

18 were shelter spaces available, but there wasn't.

19 123 **Q.** That's what I want to ask you

20 about. In terms of your contact with the shelters, how

21 often were you contacting?

22 **A.** I'm not -- am I not saying

23 something correctly?

24 MS. CROWE: You have to answer the

25 questions, please.

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1 BY MR. DIACUR:

2 124 **Q.** Did you contact them every day?

3 **A.** Well, when I was at Carole Anne's

4 and I had COVID, I couldn't go anywhere because of the

5 COVID. Right? So I was pretty much fucked there. And

6 then I had called around and asked -- like, and I

7 showed up, but even Carole Anne's Place, in the line,

8 staying outside in the freezing cold waiting for a bed,

9 only to be told that, you know, oh, I can't come in

10 because they were full or stuff like this. Right?

11 125 **Q.** So you were being told by others

12 that the shelters were full?

13 **A.** Carole Anne's Place is a last

14 resort. Okay? If there is another space, if you go

15 there and there's no space there, they will tell you,

16 "Oh, well, there's room at Willow's," for instance.

17 "You could go over there." They'll let you know that.

18 126 **Q.** So you're relying on contacting

19 one shelter and seeing if they will be able to tell you

20 that there's another place that's available?

21 **A.** I've called. Okay? I've called

22 different shelters. I've called them. I don't

23 understand why you're asking me the same question.

24 I've called them. I've called and called and called

25 and called just to be rejected, rejected, rejected,

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36

1 **rejected.**

2 127 **Q.** How often have you contacted the

3 shelters? Do you do that every day?

4 **A.** Not anymore.

5 128 **Q.** At some point were you doing it

6 daily?

7 **A.** Yeah, at one point I was because,

8 like, I wanted to get off the street. It was fucking

9 freezing cold.

10 129 **Q.** You say in paragraphs 24 and 25

11 that you don't have a phone but do your best to

12 phone --

13 **A.** We used to go --

14 130 **Q.** -- to ask if there is a bed

15 available. Is that accurate?

16 **A.** -- we used to go to the Wesley

17 Centre and use the phone at the Wesley Centre.

18 131 **Q.** When were you doing that?

19 **A.** Every day when I went there to get

20 something to eat.

21 132 **Q.** When was the last time that you

22 used the phone at the Wesley Centre?

23 **A.** Well, the Wesley Centre is no

24 longer there. You guys took that away too.

25 133 **Q.** Do you recall the last time that

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1 you were able to use the phone at the Wesley Centre?

2 **A. Well, months ago now. It's been**
3 **gone for a while.**

4 ¹³⁴ **Q. Is that the period of time that**
5 **we're talking about when you would contact shelters**
6 **every day?**

7 **A. When it was cold, I was calling**
8 **every day. Eventually, I said "Fuck this. Why am I**
9 **going to keep calling to be told the same fucking**
10 **thing?" So I just got a tent and I just built myself**
11 **somewhere outside where I could be warm, where I wasn't**
12 **going to be kicked to the curb or dragging my stuff**
13 **back and forth, back and forth every fucking day. You**
14 **know what I mean? This is stupid. Because even at**
15 **Carole Anne's Place, you go there -- the place opens**
16 **ten o'clock in the morning. They open. So you can go**
17 **in there at ten o'clock. You can have something to**
18 **eat. Then at twelve o'clock, they close. You take all**
19 **your stuff outside. Right? Everything you own has to**
20 **come outside with you and you drag it around in buggies**
21 **or whatever the fuck you got to drag it around in, and**
22 **then you have to line up, be the first -- like, so many**
23 **in line for 5:30, because at 5:30, 6:00, they open the**
24 **doors again. Well, this is the thing. At 5:30, 6:00,**
25 **I could be the first one in line. But if I wasn't**

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1 **there the night before, then I don't get in. Because**
2 **they tend to let the people that were there the night**
3 **before in. But those people that were there the night**
4 **before, they could have been at the end of the fucking**
5 **line. It don't matter because they already know**
6 **they're getting in, because they were there the night**
7 **before. Right? So, people, once they get a spot, they**
8 **ain't giving it up because they know how hard it is to**
9 **get a new one, to get a spot again. So you can come in**
10 **and you can have something to eat, and then they boot**
11 **you back outside again with all your stuff, unless you**
12 **leave it outside to have somebody watch it. Because if**
13 **you do that, then you run the risk of somebody stealing**
14 **your fucking shit, which happens all the time. I went**
15 **in there to have a shower. I had two bags. I had a**
16 **rolling suitcase and a rolling duffel bag. While I**
17 **went into the stall -- I like to use a wheelchair**
18 **stall, but somebody was in there taking their sweet ass**
19 **time, so I had to use the other stall. So I took my**
20 **one suitcase in there. The other one was just outside**
21 **the door. While I was in there using the bathroom,**
22 **somebody sneakily took my suitcase with all my clothes**
23 **and all my toiletries and everything like that, took it**
24 **away, and then I come out and it was just gone. I look**
25 **all over for it. It's gone. Nobody knows what**

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1 **happened to it. And, like, this is something that**
2 **happens on the regular. So now I got no clothes**
3 **because all my clothes were in them. Then I get --**
4 **just boughten -- because they stole my suitcase, like,**
5 **probably a week before after that. You know what I**
6 **mean? This is retarded. Like, this is the nonsense**
7 **that's going on. It's not fair. It's not safe. Like,**
8 **I sleep outside on a fucking sidewalk, like on a mat**
9 **with blankets on a sidewalk. What do you think I do**
10 **when it rains? What do you do when it rains? You go**
11 **indoors. Right? Where the fuck do I go when it rains?**

12 ¹³⁵ **Q. In paragraph 25 of you're**
13 **affidavit, you say that the women's shelters are almost**
14 **always full. So you'd agree that there are times that**
15 **there are available rooms? Cassandra?**

16 **A. There's no rooms there. Okay? I**
17 **don't know why you keep asking me these same things.**
18 **There's no rooms there. I sleep on the sidewalk,**
19 **remember?**

20 ¹³⁶ **Q. Well, you say that they're almost**
21 **always full. That means that they're not always full,**
22 **you'd agree?**

23 **A. Yeah, occasionally someone might**
24 **die or something in a fucking -- a room might come up**
25 **for grabs, yeah.**

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1 ¹³⁷ **Q. And you have done that?**
2 **A. Or they might go to jail for some**
3 **stupid thing, for, you know, sleeping on the sidewalk**
4 **or something.**

5 ¹³⁸ **Q. And that has happened? You have**
6 **accessed shelter?**

7 **A. Yeah, temporarily, not for any**
8 **amount of time.**

9 ¹³⁹ **Q. Is there anything preventing you**
10 **from keeping a bed once you have one?**

11 **A. Anything preventing me from**
12 **keeping a bed once I have one. Well, you have to --**
13 **like I said, there's a lineup that you have to line up**
14 **for every day. There's -- you have to be able to get**
15 **along with the people every day. There's the stuff**
16 **that you have to drag in and out of the fucking**
17 **building every day. You know? It's just such a**
18 **hassle. That's why people tend to go for the**
19 **encampments because it's -- like, at least you can have**
20 **a day or two where you're going to have, like, time to**
21 **relax. Like, I'm, like, all fucking crippled up from**
22 **dragging bags and boxes and fucking everything all over**
23 **the place. I can't even, like, walk properly anymore.**
24 **Police fucking tackled me for walking on the street,**
25 **tackled me from behind, pulling my leg through the**

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1 **fucking socket.**

2 ¹⁴⁰ **Q.** I have a question for you about
3 that in a moment, but I just want to be clear. You're
4 saying that encampments are less of a hassle than
5 shelter?

6 **A.** They are -- they aren't -- yeah, I
7 don't know. I don't really -- I haven't accessed a
8 long-term shelter. I accessed a shelter like Carole
9 Anne's Place where I'm allowed in for the night, and
10 we'll see what happens tomorrow night.

11 ¹⁴¹ **Q.** Right. But as you say, if you
12 have a bed, you are given preference for that bed
13 again?

14 **A.** Well, sometimes, yeah, but I --
15 but thing is, I was given a bed one time. You know?
16 That doesn't mean I'm guaranteed to get it the next
17 night. These are people that are there every single
18 night. And a lot of times, they -- they tend to give
19 it to the older girls, the older women, the seniors.
20 You know what I mean? The crippled people, the crazy
21 people. So I kind of just slip between the cracks
22 because I'm not completely batshit crazy, screaming at
23 myself, and I'm not old as fuck, like, where I should
24 be in a senior citizen's fucking home. Right? So I'm
25 falling between the cracks, which doesn't make any

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1 **sense.** Because a lot of these women, they should be in
2 homes. I don't even know why they're there. They need
3 help and nobody's helping them. But you should go
4 stand down by the YWCA. Stand there for a day and just
5 watch them and see what goes on. Women screaming,
6 arguing with themselves, screaming at the top of their
7 lungs.

8 ¹⁴² **Q.** I understand that --

9 **A.** Nobody's there. They're not
10 screaming at anybody. They're just screaming. They
11 think they're talking to somebody and nobody's fucking
12 there.

13 ¹⁴³ **Q.** I understand --

14 **A.** Who's helping these people?

15 ¹⁴⁴ **Q.** I understand that the altercation
16 you referenced with the police occurred in 2022, on
17 May 6th. Is that accurate?

18 **A.** Sure. I think so.

19 ¹⁴⁵ **Q.** You referenced it a couple of
20 times. What happened on that date that led to your
21 injury to your hip?

22 **A.** Well, the police watched some
23 woman steal money out of my bag, and then people were
24 yelling at me and told me that the girl stole stuff out
25 of my bag. Because I was sick with pneumonia and just

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1 **came from the doctor's and I was exhausted, so I sat**
2 **down for a minute and I was just kind of like -- like,**
3 **relaxing because I was sick and I couldn't fucking do**
4 **anything. Right? And so when they yelled at me that**
5 **the girl stole my money, I got up and I yelled to the**
6 **girl to give me back my money. She said she didn't**
7 **have it, and I called her some names, told her she's a**
8 **piece of shit, stuff like this, she should give it**
9 **back. She -- "I don't have it, I don't have it." And**
10 **then I look across the street, and all the while,**
11 **there's three police across the street that watched the**
12 **whole thing. Who knew? Right? And then I just, like,**
13 **gave up. They weren't doing anything. I said, like,**
14 **you don't -- like, whatever. This is what's going to**
15 **go on. Like, people are going to steal from people,**
16 **and police are going to sit there and watch, and it's**
17 **okay? And that's what happened. So I turned around,**
18 **frustrated, walked back to my spot. I was sitting. I**
19 **sat there for a couple minutes, and then I got up to**
20 **walk away. And I had a hammer that I got from my**
21 **friend that is now deceased, and he was also a homeless**
22 **person. And it was a -- like a father-daughter hammer**
23 **set. It said something about "to a father that can fix**
24 **anything, and a daughter" -- something -- I don't know.**
25 **It doesn't matter what it said. But I was carrying**

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1 **that in my hand, and I walked down towards -- down the**
2 **street, and then this is, like -- this was, like, ten**
3 **minutes after this girl had already walked away with my**
4 **money as the police watched her. I walked down the**
5 **street with the hammer in my hand, because I was going**
6 **to show my friend, another one of my friends, what I**
7 **had gotten. When I turned the corner, I guess because**
8 **I was walking in the direction of that girl, they**
9 **thought I was going to go and do something to that**
10 **girl, and -- even though she had been long gone for**
11 **over ten minutes. They ran at me from behind and**
12 **tackled me and dislocated by hip. They put my leg**
13 **right through the socket and I had go to the hospital**
14 **and have my whole leg reconstructed.**

15 ¹⁴⁶ **Q.** When --

16 **A.** Which I -- high-risk surgery,
17 because I had pneumococcal pneumonia at the time and,
18 like, obviously they had to reconstruct my hip. And
19 they never contacted my next of kin. And I had three
20 court appearances in jail, because they arrested me for
21 that. Go figure. Because they thought I -- they said
22 that I had intent to -- to do something when I didn't,
23 and they -- so I was also indignantly (ph), apparently,
24 in the hospital. And so they were, like, on my back.
25 Like, they didn't say nothing to me. They just plowed

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1 me right down. I was walking down the street with my
2 friend. He has one leg, and they knocked him, flying
3 out of the way, too.

4 147 Q. What was the outcome of the
5 criminal charges?

6 A. I pled to a lesser charge just so
7 I could get out of the hospital. Because they were
8 sending me to the -- to the women's prison, and I was
9 in no shape to go to a prison because I couldn't even
10 walk.

11 148 Q. What was the charge that you pled
12 guilty to?

13 A. Having a dangerous weapon in
14 public.

15 149 Q. I understand that --

16 A. Like, I'm homeless. I'm pretty
17 sure a hammer while you're homeless is not necessarily
18 a weapon. It would be a tool. But I had to plead to
19 that charge just to get out of the -- out of being in
20 trouble and being in jail and all that. So I was
21 pretty much forced into it.

22 150 Q. I understand that you're currently
23 sleeping on the sidewalk outside of the YWCA --

24 A. Mm-hmm.

25 151 Q. Do you currently have access to a
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1 tent?

2 A. No.

3 152 Q. In speaking to the Street Outreach
4 team, have you been offered a tent?

5 A. Oh, Street Outreach -- actually,
6 Street Outreach, I just talked to them. They said if I
7 go to another spot that's not the sidewalk out there,
8 that they will try and help me with a tent. And I
9 have --

10 153 Q. And at present, it's permitted to
11 encamp in a public park, subject to certain
12 restrictions on space?

13 A. Yeah, something like that. Five
14 tents to a -- whatever it is. Five tents to a cluster
15 and all that stuff, yeah, I guess.

16 154 Q. Yeah, there's a certain set of
17 restrictions on space --

18 A. Also -- they were also telling us
19 the tent -- the places that we were told we could go,
20 like the bay front, I was told -- I was at City Hall.
21 They told me to go down to the bay front. I went to
22 the bay front and I was told I wouldn't be bothered
23 there. And I had been told to move three times since
24 I've been there, to different -- once, I had to move my
25 tent literally 20 feet. Do you know how much of a pain
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1 in the ass it is to take everything out of your tent,
2 move it 20 fucking feet, and then put everything back
3 in it, especially when you have a disability and you're
4 in pain?

5 155 Q. And that was to comply with the
6 space restrictions. Is that right?

7 A. Yeah, because I wasn't close
8 enough to the other guy to be considered part of the
9 cluster. And then I decided, like -- the people that
10 they were forcing me to be really close to, which
11 pretty much you could hear them fart in the next tent
12 because they were so fucking close to me -- I said
13 screw this. I don't want to be around these people
14 because they're sheisty people, so I went to -- down to
15 another spot, moved it again. And when I moved there,
16 they told me I couldn't be there because, once again, I
17 guess the people beside me had too big of an encampment
18 thing. They had, like, four tents all tarped off, so
19 then I couldn't be there because of that. So I had
20 to -- because it was -- theirs was too big, so I had to
21 move again. Then I moved again, and -- I don't know.
22 I moved three times, anyways, because of different
23 things that they were telling me why -- different
24 reasons that they've been giving me every time.

25 156 Q. Are you going to take the Street
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1 Outreach team up on the offer of having a tent and
2 encamping in a park?

3 A. Well, the thing is they said
4 they'll help me, but they are now telling me that you
5 don't want to go to Gage Park because Gage Park is a
6 shitshow. You don't want to go to the bay front
7 because the bay front is a shitshow. Plus, I have a
8 boyfriend that is there that was abusive towards me, so
9 I don't want to be anywhere near him. And -- like,
10 that only leaves me with so many other options. You
11 know what I mean? Like, where else can I go? Like,
12 you have to remember, I'm a woman by myself. Like,
13 what am I going to do? I want to be in a spot where --
14 like, if something happens and I scream for help, I
15 want somebody to be able to hear me. It just seems
16 like everybody's just shoving me in these places where,
17 if I scream for help, no one can hear me. Because
18 that's the whole point. They're just going to shove us
19 all out of the way so nobody sees us and maybe the
20 problem will go away. You know? That what it seems
21 like.

22 157 Q. I'm going to ask that again. Do
23 you intend to take the Street Outreach team up on its
24 offer of a tent and to encamp in a public park or not?

25 A. Well, yeah, I think I am because I
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1 have nowhere else to go and I need to have some kind of
2 shelter over me. Like, because it rains and I try to
3 tarp my stuff. So my stuff keeps getting wet. I'm
4 getting wet. I need some kind of shelter. I need it.
5 I need that. It's getting cold now.

6 MR. DIACUR: Thank you, Counsel. Those
7 are all my questions for this witness, and thank you,
8 Cassandra, for attending and answering.

9 MS. CROWE: Thank you.

10 RE-EXAMINATION BY MS. CROWE:

11 158 Q. Cassandra, I just have a few
12 questions to follow up, and then we'll be done. Okay?

13 A. Okay.

14 159 Q. We talked about Carole Anne's
15 Place and you described it as a last resort. What is
16 Carole Anne's Place?

17 A. It's like an overflow for the
18 shelters.

19 160 Q. What does overflow for shelters
20 mean?

21 A. It means, like, for any shelters
22 that are full and any beds -- like, if anybody goes to
23 those other shelters and they don't have any room, they
24 all get shipped to Carole Anne's Place.

25 161 Q. When was the last time you stayed

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1 at Carole Anne's Place?

2 A. I don't tend to stay there
3 anymore. I stay there in the wintertime where they
4 open up extra beds because it was cold. And we all
5 sleep on the floor and on couches and on chairs and
6 stuff like that. Like, there's women sleeping on the
7 floor on the way to the bathroom.

8 162 Q. Thank you.

9 A. And the women that are there are
10 trying their very best to accommodate everybody. You
11 know what I mean? They know me well. They know that I
12 live outside on the street, so they will -- at
13 nighttime when they're not supposed to be letting
14 people in, they will let me in to use the bathroom and
15 stuff like that because they know that -- you know,
16 they know I'm living out there. So they're trying
17 their best, and I -- I am one of the better -- like, I
18 don't know -- clients, I guess. Like, I help them with
19 the things that they do. I help with the other
20 clients. I help with the mental health stuff. I help
21 with -- you know, I help try to control them, to
22 de-escalate situations. I help clean up. You know,
23 I -- I'm not a problem there. I'm a solution there.
24 You know what I mean? Because I used to be a nurse
25 before and I -- like, I'm good with people. You know?

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1 So I help them the best I can. They joke around saying
2 when are they going to put me on the payroll.

3 163 Q. When you were talking about the
4 eviction from J.C. Beemer, you described it as early
5 morning. Do you remember what time?

6 A. It was, like -- I know that it
7 was, like, early like four or five o'clock because it
8 was dark still, but it became light quickly, I think.

9 164 Q. Okay. And then you mentioned your
10 discharge from the Barrett Centre and that shelters
11 were full. How did you know that shelters were full at
12 the time?

13 A. Because we're told. I called, my
14 mom was calling my mom's friend. She called. The --
15 like...

16 165 Q. Okay.

17 A. That's how I know.

18 166 Q. Thank you. And then we talked
19 about you temporarily staying with your mom at her
20 place. How did you feel about having to leave your
21 mom's place?

22 A. Like, my mom is sick right now.
23 She's getting older and she's not in good health.
24 Right? Like, it sucked. Do you know what I mean?

25 167 Q. Okay.

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1 A. I want to be there to help her,
2 but I can't. You know? I'm going through so much
3 myself.


4 168 Q. Why did you choose your current
5 location to stay?

6 A. Because I have access to food and
7 showers, like, in those certain hours that they allow
8 us to come when it's -- like, they have the day
9 program. The day program is from 10:00 to 1:00 and I'm
10 able to access Carole Anne's for food and showers at
11 that time. When I can, I'll be there from 10:00 --
12 10:00 to 11:30. In those hours, I'm able to access the
13 building for a shower, bathroom, food.

14 MS. CROWE: Okay, thank you. Those are
15 my questions.

16 --- Whereupon proceedings adjourned at 2:27 p.m.

17 I HEREBY CERTIFY THE FOREGOING
18 to be a true and accurate transcription
19 of my shorthand notes
20 to the best of my skill and ability.

21 
22 (Electronically signed on August 24, 2024)
23 Lydia Pak, Court Reporter
24 Computer-Aided Transcription
25

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TAB 40

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
AND SHAWN ARNOLD, ET AL.**

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF JULIA LAUZON
(Sworn June , 2022)

1. I, JULIA LAUZON of the City of Hamilton in the Province of Ontario, AFFIRM AND STATE:
2. I am a 24 year old Indigenous woman experiencing homelessness.
3. I am in a person with a disability and in receipt of benefits from the Ontario Disability Support Program (ODSP). I am occasionally employed, but have difficulty maintaining employment due to my disabilities.
4. My medical conditions include borderline personality disorder, OCD and substance abuse.
5. I have stayed on and off in a tent while homeless.
6. I have received trespassing notices and repeatedly told to move while staying in a tent.
7. I have repeatedly tried to get into shelters. Even though I don't have a phone, I am sometimes able to contact a shelter every day to ask about a bed. In March 2022, I tried for nine days in a row and was always told that they were full.
8. When you call to ask about a shelter bed, the shelter does not record your name. They tell you to call back every hour to check to see if a bed has opened up. It is impossible for me to do this without a phone.

9. There used to be a protocol where if all the shelters were full, Mary's Place would do a hotel referral. However, that no longer happens.
10. Carol Anne's Place is an overnight drop in centre for women that acts as an overflow shelter when the other women's shelters are full. They open at 10 p.m. In order to get a mat on the floor, you have to line up much earlier.
11. I am occasionally able to get a spot at Carol Anne's Place. However, I was recently working as a bartender until 11:00 some nights. Even when I'm not working, I often arrive too late and cannot get a spot.
12. When Carol Anne's Place is full, I have slept right outside the building.
13. I have been assaulted while sleeping outside without a tent.
14. For the past few months, I have been "tent surfing" with different people. I never know how long I will be able to stay.
15. Being unable to stay in one location is very difficult. I hardly sleep. I am constantly on the move and not knowing where I will stay that night.
16. Because I never know where I am going to live and sleep, I am in constant survival mode. I can't focus on other things. Getting to appointments is difficult because I can't concentrate, and I can't afford the transportation costs. I don't get the medical help I need because I can't follow up.
17. I have a housing worker with the Hamilton Regional Indian Centre. I am on a waiting list of housing but don't have any idea how long it will take to find housing.

SWORN BEFORE ME in the City
of Hamilton, this day of June, 2022

A Commissioner, etc.

Julia Lauzon

TAB 41

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
AND SHAWN ARNOLD, ET AL.**

Applicants

-and-

CITY OF HAMILTON

Respondent

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4. My medical conditions include borderline personality disorder, OCD and substance abuse.
5. I have stayed on and off in a tent while homeless.
6. I have received trespassing notices and repeatedly told to move while staying in a tent.
7. I have repeatedly tried to get into shelters. Even though I don't have a phone, I am sometimes able to contact a shelter every day to ask about a bed. In March 2022, I tried for nine days in a row and was always told that they were full.
8. When you call to ask about a shelter bed, the shelter does not record your name. They tell you to call back every hour to check to see if a bed has opened up. It is impossible for me to do this without a phone.

9. There used to be a protocol where if all the shelters were full, Mary's Place would do a hotel referral. However, that no longer happens.
10. Carol Anne's Place is an overnight drop in centre for women that acts as an overflow shelter when the other women's shelters are full. They open at 10 p.m. In order to get a mat on the floor, you have to line up much earlier.
11. I am occasionally able to get a spot at Carol Anne's Place. However, I was recently working as a bartender until 11:00 some nights. Even when I'm not working, I often arrive too late and cannot get a spot.
12. When Carol Anne's Place is full, I have slept right outside the building.
13. I have been assaulted while sleeping outside without a tent.
14. For the past few months, I have been "tent surfing" with different people. I never know how long I will be able to stay.
15. Being unable to stay in one location is very difficult. I hardly sleep. I am constantly on the move and not knowing where I will stay that night.
16. Because I never know where I am going to live and sleep, I am in constant survival mode. I can't focus on other things. Getting to appointments is difficult because I can't concentrate, and I can't afford the transportation costs. I don't get the medical help I need because I can't follow up.
17. I have a housing worker with the Hamilton Regional Indian Centre. I am on a waiting list of housing but don't have any idea how long it will take to find housing.

SWORN BEFORE ME in the City
of Hamilton, this 12 day of June, 2022
August 2021

Sha She
A Commissioner, etc.

Julia Lauzon
Julia Lauzon

18. This is the affidavit drafted in June 2022.
Sgt and I affirm its contents.

18
19
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24
25

TAB 42

Julia Lauzon - 1

COURT FILE NO. CV-21-77187

09:01:02AM

ONTARIO SUPERIOR COURT OF JUSTICE

B e t w e e n:

KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS, ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and PATRICK WARD

Applicant(s)

- and -

CITY OF HAMILTON

Respondent(s)

The Cross-Examination on Affidavit sworn August 12, 2024 of JULIA LAUZON, an Applicant herein, taken upon affirmation in the above action this 15th day of October, 2024, via videoconference, through the offices of Nimigan Mihailovich Reporting, Hamilton, Ontario.

APPEARANCES:

CROWE, SHARON FOR THE PLAINTIFF(S)
(Community Legal Clinic of York Region)

SHORES, BEVIN FOR THE DEFENDANT(S)
(Gowling WLG)
Also: Liz Marr

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Julia Lauzon - 2

I N D E X

WITNESS: Julia Lauzon

EXAMINATION BY: PAGE NO.

Ms. Shores.....3

UNDERTAKINGS

Reporter's note: The following indices of undertakings, under advisements and refusals are provided for the assistance of counsel and do not purport to be complete or binding on the parties herein.

UNDERTAKINGS:

UNDER ADVISEMENTS:

REFUSALS:

E X H I B I T S

EXHIBIT NO. DESCRIPTION PAGE NO.

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-- Upon commencing at 10:21 a.m.

JULIA LAUZON, AFFIRMED
EXAMINATION BY MS. SHORES:

1 Q. Good morning, Ms. Lauzon. Can you please state your full name for the record?

A. Julia Lynn Lauzon.

2 Q. Sorry, Lynn is the middle name?

A. Yes.

3 Q. And you pronounce your surname Lauzon?

A. Yes, I do.

4 Q. I'm sorry, I was mispronouncing it before. And do you have any pronouns you wish to share?

A. She/her.

5 Q. And as I introduced off record just now, my name is Bevin Shores; I'm one of the lawyers for the respondent, City of Hamilton. My pronouns are she and her. We're going to be asking you some questions today about your affidavit that was affirmed August 12, 2024; and just to confirm, you have a copy of that affidavit in front of you, correct?

A. Yes, I do.

6 Q. All right. And you were affirmed to

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tell the truth just now?

A. Yes, I do.

7 Q. Now, you're attending this morning by telephone, not by Zoom, so can you just confirm where you're attending from today?

A. Barton Wentworth Detention Centre.

8 Q. From which detention centre?

A. Barton Wentworth. Hamilton Wentworth Detention Centre, Barton Street jail.

9 Q. Okay. So we can't see you and you can't see us and you're also on the phone, so as I explained off record, it's important to make sure that you keep your voice up and speak clearly, and also to give verbal answers as opposed to nodding or gesturing; is that understood?

A. Yes.

10 Q. Your lawyer is with you today, Ms. Crowe, correct?

A. Yes, she is.

11 Q. Is anyone else in the room with you?

A. No.

12 Q. And you understand that you're to have no assistance in giving your answers today, correct?

A. Yeah.

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13 Q. Now, you were originally scheduled to attend -- or sorry, we had intended that you would attend on this past Friday, October 11th. When did you go to the Barton jail?

A. I was arrested Thursday night, so I ended up going to the Barton jail Friday afternoon.

14 Q. Okay, and were you arrested because you were charged with an offence, or was it a warrant or something else?

A. It was a missed court date.

15 Q. A missed court date for what?

A. For a breach.

16 Q. A breach of what?

A. Probation.

17 Q. So you were arrested in connection with a missed court date for a breach of probation?

A. Yes.

18 Q. Okay. What were you on probation for?

A. I was on probation for a year for a past undertaking for an aggravated assault.

19 Q. All right. And the assault that you were convicted of, did that involve another person experiencing homelessness?

A. Yes.

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20 Q. What were the circumstances of that assault?

A. The male that I was dealing with, Rodney Reid, had previously assaulted me, as it states in my disclosure. I was trying to defend myself and it ended up getting out of hand and violent, and I regret it very much.

21 Q. Where did the assault take place?

A. It took place on Bay and York Boulevard.

22 Q. Was that in an encampment?

A. No, that was right across from the Salvation Army.

23 Q. And were you incarcerated any time after you were convicted of the assault?

A. Yes, I was incarcerated for, between January and March of this year.

24 Q. Of 2024?

A. Yes.

25 Q. All right. So you currently reside in Hamilton?

A. Yes, I'm at 181 Jackson now.

26 Q. 181 Jackson. What type of residence is that?

A. It's a bachelor apartment.

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in foster care, and I don't have any other family, so.

35 Q. Between 2021 and when you got your apartment in 2024, have you had any other times when you've been housed?

A. My whole life up until then.

36 Q. Okay, and then -- sorry, maybe my question wasn't clear. So after 2021, were there any other times that you were housed?

A. No.

37 Q. So from 2021 until about this past September you were experiencing homelessness that whole time except for when you were incarcerated?

A. Yes.

38 Q. Were there any other periods of time from 2021 to this September that you were incarcerated other than the one you told us about earlier?

A. No.

39 Q. When you first began experiencing homelessness in 2021, where did you go?

A. I first I was going to Carol Ann's Place.

40 Q. How long did you stay at Carol Ann's Place?

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27 Q. How long have you lived at 181 Jackson?

A. Since September.

28 Q. Of this year?

A. Yes.

29 Q. Okay. And to give me an idea, how long have you lived in Hamilton generally?

A. My whole life.

30 Q. How old are you now?

A. 26.

31 Q. Before living at 181 Jackson, where were you living?

A. I was homeless.

32 Q. How long have you been experiencing homelessness?

A. I've been experiencing homelessness since May of 2021.

33 Q. What were the circumstances that led to you experiencing homelessness?

A. I ended up losing my first born child and ended up on the street.

34 Q. Okay. When you say you ended up on the street, what happened? You had a place to stay?

A. I had a place to stay, and then -- they (unclear) to my parents so my child wouldn't go

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A. I would stay -- it was kind of on how many people were there. There were lots of line-ups at times, it was hard to get a hold of them. You had to leave your name, and I had no phone at the time for them (unclear) right.

41 Q. Let me pause you there, Ms. Lauzon. I'm having a difficulty hearing you, so if you could just speak more clearly and keep your voice up, that would be helpful.

A. At the beginning I was staying at Carol Ann's Place. They would call and you would give your name, and I didn't have a phone at the time so it was really hard for me to get a hold of them to call back to figure out if there was any place for me.

42 Q. So if you couldn't get into Carol Ann's Place, would you go somewhere else?

A. So Carol Ann's Place is the only emergency shelter drop-in that you don't have to call for a bed in advance, so I would wait outside.

43 Q. Okay, and what would you do if you couldn't get into Carol Ann's Place?

A. I would just wait outside. I didn't have a choice where else to go.

44 Q. Did you ever stay in a tent?

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A. Maybe a couple times. It was very rare.

45 Q. Okay. So if you weren't in a tent and -- well, let me back up. You said you may have stayed in a tent a couple of times. Does that including staying in a tent encampment?

A. Yeah, I stayed in one at Beemer Park before.

46 Q. When did you stay at Beemer Park?

A. Right before I was incarcerated.

47 Q. How long had you stayed at Beemer Park?

A. I stayed there about I'd say a couple weeks, two to three weeks before I was incarcerated this year.

48 Q. And was the reason that you stopped staying there because you were taken in in connection with that assault charge?

A. Yes.

49 Q. Let's back up a bit. Where were you staying before you were at Beemer Park?

A. I was just staying outside.

50 Q. Like where outside?

A. Around Carol Ann's Place. Around Salvation Army usually.

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A. I looked into it before, yeah, but I didn't have the money for it.

55 Q. Have you ever looked into getting a tent for free from outreach workers?

A. I had one once; it got stolen.

56 Q. Where did it get stolen from?

A. Salvation Army where the truck came (unclear).

THE REPORTER: The what truck?

THE DEPONENT: The native women's outreach truck.

BY MS. SHORES:

57 Q. Sorry, they gave you the tent and then it was stolen?

A. Yeah.

58 Q. At paragraph 5 of your affidavit you do say that you stayed on and off in a tent while homeless, so I just want to make sure that we're capturing the correct periods of time. So you described staying at Beemer. Were there any other periods of time that you stayed in tents?

A. It was just the odd occasion tent surfing with other people in their tent.

59 Q. Okay. So staying with other people in their tents, and how much time would you say you

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51 Q. And were you at that point in time, so when you were at Beemer Park, were you reliably able to get into Carol Ann's Place or Salvation Army?

A. The Salvation Army is for men, so no. But Carol Ann's Place was till -- oftentimes will, right. You have to line up much earlier than they open to get a spot.

52 Q. So if you couldn't get into those places, where would you stay?

A. I would just sleep outside and hope there would be a spot open up for the night.

53 Q. When you say you would sleep outside, is there any reason that you wouldn't stay in a tent or try another shelter?

A. Like I said, I didn't have a phone, so it was hard to get hold of other shelters. And there's a lot of, there's a lot of -- there are some discrepancies with tenting. Like there's -- like depending who's there, there can be some negative interactions; a lot of things go missing. And if it's somebody else's tent, I don't know how long I'll get to stay there.

54 Q. Did you look into getting your own tent?

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stayed with other people in their tents?

A. A couple of days maybe.

60 Q. Okay. A couple of days at a time?

A. Yeah.

61 Q. Okay. And tell me in terms of time in total when you're not inside an indoor shelter, how much time would you say that you're staying with other people in their tents?

A. Can you repeat the question, please?

62 Q. Sure. So you said you would stay with people for a few days or a couple of days at a time, but I want to get a sense of how frequently you are staying with other people in tents. So can you tell me how often you're able to do that?

A. I would say a couple of nights every week.

63 Q. At paragraph 6 of your affidavit you state that you've received trespassing notices and repeatedly told to move while staying in the tent. So I want to ask you about the trespassing notices. How many have you received?

A. I don't even know. When you're with other people they still charge everybody that's inside.

64 Q. Are you able to give me an estimate?

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A. Probably, like, at least a dozen.

65 Q. And when was the last time you would have received one of these trespassing notices?

A. Probably would have been around the time I was incarcerated.

66 Q. And taking that time, what did they say that they were giving you the trespass notice for?

A. For being near the stairs of the Salvation Army.

67 Q. So did you have a tent set up there?

A. My friend did, yeah, but the cops came.

68 Q. So where physically was the tent? You said near the stairs on the Salvation Army. Was it on the sidewalk or something?

A. Yeah, on the sidewalk near the church.

69 Q. And so what did you do in response to that trespass notice?

A. I helped my friend take the tent down.

70 Q. Did they move?

A. Yeah.

71 Q. Okay. When you received the other

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you say that you repeatedly tried to get into shelters. You told us about Carol Ann's Place. Have you tried any of the other shelters?

A. I tried Mary's Place before. I to call Inasmuch and Interval House.

79 Q. And have you ever been able to stay at any of those shelters?

A. No.

80 Q. No. So have you ever stayed at Mary's place?

A. I think I was there at one point a few years ago, but it was only for a few days.

81 Q. And then did you try to get back into Mary's Place at any point after that?

A. No.

82 Q. And have you stayed at Inasmuch House or Interval House?

A. No.

83 Q. Did you look for any help from outreach workers or the other people working at the shelter if you weren't able to get into a spot?

A. Yeah, I tried to.

84 Q. Were they ever successful in finding you somewhere?

A. No.

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trespass notices, where --

A. In front of (inaudible).

72 Q. Sorry, I was rethinking my question and then you said something that I didn't quite catch?

A. In front of the Hamilton Hub.

73 Q. In front of Hamilton Hub. And again, was that tent being sort of on the sidewalk there?

A. Yeah.

74 Q. And what did you do in response to that trespass notice?

A. Again, we had to take everything and take it down.

75 Q. And then move?

A. Yeah.

76 Q. Okay. Did you ever receive trespass notices anywhere other than the Salvation Army or the Hamilton Hub?

A. Those are the few places that were more common.

77 Q. Do you remember getting a trespass notice being located anywhere else?

A. No.

78 Q. At paragraph 7 of your affidavit,

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85 Q. You mentioned at paragraph 3 of your affidavit that you're occasionally employed but have difficulty maintaining your employment due to your disability. When you're employed, what kind of work do you do?

A. Previously worked in a funeral home, and I was a bartender before.

86 Q. And other than your current predicament, are you still employed?

A. No.

87 Q. When was the last time you were employed?

A. (Inaudible).

88 Q. I didn't catch that?

A. Last time I was employed was in summer of 2021.

89 Q. And which job was that?

A. My bartending job.

90 Q. Have you looked for work since then?

A. No.

91 Q. And what's preventing you from looking for work?

A. Well, back then it was the stress of trying to be on the streets in general and trying to survive everyday, not knowing where I'm going to

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sleep at night.

92 Q. And now that you have an apartment, are you planning to start working again?

A. Yes.

93 Q. You listed in your affidavit some medical conditions. At paragraph 4 you state: "My medical conditions include borderline personality disorder, OCD and substance abuse."

When you were you diagnosed with borderline personality disorder?

A. When I was 15.

94 Q. And how about OCD, when were you diagnosed with that?

A. 15.

95 Q. And how about substance abuse, when were you diagnosed with that?

A. 20.

96 Q. At 20. And do you still suffer from substance abuse?

A. Yes.

97 Q. Are you in treatment for substance abuse?

A. Not right now, no.

98 Q. Do you have any plan to get into treatment?

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question. If you've never stayed in a hotel, then why include that in your affidavit?

A. I'm not sure.

106 Q. Okay. Is it possible that you stayed in a hotel and just haven't remembered?

A. No.

107 Q. Because it came up on another witness's examination, I'm going to ask. The City of Hamilton does keep records about your attempts to stay in shelter and obtain assistance, including shelter stays and service restrictions, if any. Can you just confirm that you have not signed an authorization allowing those records to be disclosed in this litigation?

A. (Inaudible).

108 Q. I didn't catch that. Was that okay?

A. Yes.

109 Q. So that's a yes? Your connection might be breaking up again or something, I didn't hear you?

A. Yes.

110 Q. Thank you. At paragraph 11 of your affidavit you state that you're occasionally able to get a spot at Carol Ann's Place but that you were working as a bartender until 11 some nights. On the

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Julia Lauzon - 19

A. Yes.

99 Q. Okay. What substances do you use?

A. Methamphetamine and Fentanyl.

100 Q. Methamphetamine and Fentanyl you said?

A. Yes.

101 Q. At paragraph 9 of your affidavit you state: "There used to be a protocol where if all the shelters were full, Mary's Place would give you a hotel referral." Have you ever stayed at a hotel through this referral?

A. No.

102 Q. No. Have you ever stayed at a hotel funded through the shelter system regardless whether it was referred through Mary's Place?

A. No.

103 Q. So just out of curiosity, then, why did you put that in your affidavit if you haven't stayed in a hotel?

A. Pardon?

104 Q. Why mention that in your affidavit if you've never stayed in a hotel?

A. Because if you don't have a phone, then how are you supposed to call them?

105 Q. Perhaps you didn't understand my

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nights that you were working, were you able to tell the people at Carol Ann's Place that you intended to come back after work?

A. Yeah, they wouldn't hold a bed for you.

111 Q. Even if you had stayed there the night before?

A. Yeah.

112 Q. At paragraph 13 you state that you've been assaulted while sleeping outside without a tent. Is that the incident that you described to me earlier?

A. Yes.

113 Q. And if I understand what you described earlier, even though you were convicted of an assault, there was also an assault taking place directed at you?

A. Yes.

114 Q. Did you receive medical treatment for that assault?

A. No.

115 Q. Did you seek medical treatment for that assault?

A. No.

116 Q. And was the assault on you reported

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to the place?

A. It was reported in my, in my statements to my lawyer when I went to court.

117 Q. Okay. And did the person who assaulted you also receive a conviction as a result?

A. They ended up getting convicted at the end of my sentence, but I already had time served.

118 Q. Do you ever encounter the person who assaulted you on the street these days?

A. No.

119 Q. At paragraph 14 you say that you've been tent surfing with different people and you never know how long you'll be able to stay. So I want to ask you a little bit more about the tent surfing that you described earlier. Are they more or less the same people who you will stay with?

A. Yes.

120 Q. And so how do you find people to stay with? Are they people that you already know?

A. People that I already know.

121 Q. And before -- I asked you about the period of time before you were incarcerated earlier this year, but I want to know a little bit more about where you've been staying after you were

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Ontario disability support?

A. I'm trying to update my files and my medical stuff. (Unclear) my basic needs, they only paid my rent, so I'm hoping when I'm incarcerated this time I will (unclear).

128 Q. So I think you anticipated my question which was whether your ODSP increased so that you could have some help with your rent. So if I understand you correctly, yes, the ODSP gives you some additional money for your rent and you're hoping to keep that and keep your apartment while you're dealing with the situation at the Barton jail, right?

A. Yes.

129 Q. I'm just going to take a moment to look over my notes, Ms. Lauzon. Just a couple more questions. At paragraph 16 of your affidavit you indicate that you had difficulty going to appointments because you can't concentrate and because you can't afford the transportation costs. Have you sought any assistance getting help with the transportation costs?

A. No, I haven't.

130 Q. Okay. You haven't asked about getting bus tickets at the Hub or Salvation Army or

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released and before you got your apartment. So after you were released from your incarceration, where did you stay?

A. I just stayed on the streets.

122 Q. So tent surfing some nights?

A. Yeah.

123 Q. And staying outside other nights?

A. Yeah.

124 Q. And at that point in time, so this is earlier this year or this summer I would take it, any particular reason at that point in time you didn't get your own tent?

A. I didn't -- I don't know. I just didn't happen to get one.

125 Q. And what were the circumstances that resulted in you getting the apartment you're living at now?

A. I've been waiting on a housing list for a number of years and I finally got a call back.

126 Q. And so you were able to get an apartment through that housing waiting list?

A. Yes.

127 Q. You mentioned at the beginning of your affidavit at paragraph 3 that you're in receipt of Ontario disability support. Do you still receive

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any of those places?

A. No.

131 Q. Where do you go for your appointments? What distance would you have to travel or where would you be travelling to?

A. (Inaudible).

132 Q. Sorry, where did you say they are?

A. The Concurrent Disorders Clinic at West 5th.

133 Q. At West 5th, okay. So somewhere that's on the bus line, right?

A. Yes.

134 Q. All right. And your substance abuse, your fentanyl and methamphetamine use, you agree that that can cause difficulty with concentration, right?

A. Yes.

135 Q. I asked you about your substance use, but are you also in treatment for your borderline personality disorder or your OCD?

A. Not currently, no.

136 Q. Okay. Have you sought treatment for those or tried to get treatment?

A. I stop periodically.

137 Q. Do you have a doctor that you see

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regularly?

A. I haven't seen my doctor in quite a while.

MS. SHORES: I don't have any further questions. Thank you, Ms. Lauzon, and thank you for especially taking the time and making arrangements in the circumstances to speak with us, we appreciate it.

BY MS. CROWE:

138 Q. I only have a couple of redirect questions for you, okay. When you first mentioned the assault, you mentioned a Rodney Reid and you said that you were trying to defend yourself. What were you defending yourself against?

A. Sexual assault.

139 Q. So who was the --

A. Ronny Reid.

140 Q. Okay. And what was the outcome of -- just to be clear, your charges, are they related to that same incident, the sexual assault?

A. It happened at the same time.

141 Q. Okay. And then you mentioned that the assault by Rodney was raised by your lawyer. Was that in court?

A. Yes.

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current housing after being on a housing waiting list. What kind of waiting list is that?

A. Hamilton City Housing.

147 Q. What kind of housing do you get?

A. I get a subsidized bachelor apartment.

148 Q. Subsidized. Your rent is subsidized. How much is your rent?

A. \$147.

MS. CROWE: Thank you. Those are my questions.

--- Whereupon examination concluded at 10:56 a.m.

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142 Q. Okay, what was the result of --

MS. SHORES: Sorry, can I just interject, counsel. I don't think we're capturing Ms. Lawson's answers.

MS. CROWE: Okay, I'm sorry. Which questions are you not sure about the answer?

MS. SHORES: The last one that you asked.

BY MS. CROWE:

143 Q. You mentioned that the sexual assault was raised by your lawyers in court; is that correct?

A. Yes, it is.

144 Q. Thank you. And so what happened as a result of that information being shared in the court?

A. It ended up bringing Rodney back and he ended up getting charged, he ended up being arrested and brought here right at the end of my sentence, but I already did time served for being charged.

145 Q. Thank you. When did that assault take place?

A. August 2021.

146 Q. You mentioned that you got your

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I hereby certify the foregoing to be the evidence of JULIA LAUZON, an applicant herein, given under affirmation before me on the 15th day of October, 2024, recorded verbatim and later transcribed by me.

CERTIFIED CORRECT:

Ann Marie Crowe, CSR

Verbatim Reporter

Commissioner of Oaths (Expires August, 2025)

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Heegsma et al
Appellants (Applicants)

-and-

CITY of HAMILTON
Respondent (Respondent)

Court File No.COA-25-CV-0166

Ontario
Court of Appeal

APPEAL BOOK - VOLUME 3

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