

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 4

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TAB 43

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 AMMY LEWIS
(Sworn June 2022)

1. I, AMMY LEWIS, of the City of Hamilton in the Province of Ontario, AFFIRM AND STATE:
2. I am a 43 year old Indigenous woman.
3. I am on the Ontario Disability Support program.
4. My medical conditions include
5. I have been homeless for about five months.
6. Prior to becoming homeless, I rented an apartment in Hamilton. The Landlord was aggressive, intimidating, and attempted to extort sex from me. He was also known to extort sex from many of the female tenants. We were all terrified of him.
7. I attempted to stand up for myself. I even had a lawyer from Hamilton Community Legal Clinic write to him and demand that he stop his offensive conduct. It did not work.
8. I eventually felt so unsafe that I packed up and left with my dog, who has been my constant companion and main source of emotional support.
9. I attempted to go to shelters. They would not accept me because of my dog. My dog is a small mixed breed and is very friendly. I tried to explain that I cannot be

separated from her, and that my doctor considers her to be a therapy dog, but they did not listen and refused to give me a bed.

10. I cannot be separated from my dog. Not only does she provide me with emotional support, she also helps to protect me. It is very dangerous to be a homeless woman. She keeps a lookout and alerts me to possible danger.
11. I started sleeping rough – outside, with no protection – after I couldn't get into shelters. I slept anywhere I could: abandoned cars, dumpsters, and an underground parking lot.
12. I got a tent after police found me sleeping in an underground parking lot. I went to the greenspace around Cathedral Park.
13. I have tried to stay at Carol Anne's Place. 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. They will not allow me in with my dog.
14. I have been assaulted more than once since becoming homeless.
15. I am always worried about when I be forced to move, and where I will go. By-law officers regularly come by and tell me I can't stay there. I know it is only a matter of time before I am forced to leave and it is very stressful.
16. I don't know where I would go because I can't get into shelter, I can't afford rent, and I'm not allowed to stay in a tent.

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

AMMY LEWIS

A Commissioner, etc.

TAB 44

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

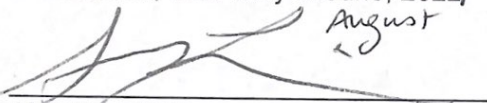
**AFFIDAVIT OF AMMY LEWIS
(Sworn June 2022)**

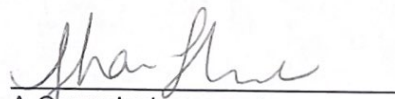
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4. My medical conditions include
5. I have been homeless for about five months.
6. Prior to becoming homeless, I rented an apartment in Hamilton. The Landlord was aggressive, intimidating, and attempted to extort sex from me. He was also known to extort sex from many of the female tenants. We were all terrified of him.
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9. I attempted to go to shelters. They would not accept me because of my dog. My dog is a small mixed breed and is very friendly. I tried to explain that I cannot be

separated from her, and that my doctor considers her to be a therapy dog, but they did not listen and refused to give me a bed.

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14. I have been assaulted more than once since becoming homeless.
15. I am always worried about when I be forced to move, and where I will go. By-law officers regularly come by and tell me I can't stay there. I know it is only a matter of time before I am forced to leave and it is very stressful.
16. I don't know where I would go because I can't get into shelter, I can't afford rent, and I'm not allowed to stay in a tent.

SWORN BEFORE ME in the City
of Hamilton, this 14th day of June, 2022


AMMY LEWIS


A Commissioner, etc.

17. This is the Affidavit drafted in June 2022.
I affirm its contents.

TAB 45

1	1	11	3
2	1	2	
3	2	3	TABLE OF CONTENTS
4	3	4	
5	4	5	INDEX OF EXAMINATIONS:
6	5	6	PAGE NO.
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14	13	14	following pages: NONE
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16	15	16	INDEX OF REFUSALS
17	16	17	Refusals are noted by "R/F" and are found on the
18	17	18	following pages: 65, 66.
19	18	19	
20	19	20	INDEX OF ADVISEMENTS
21	20	21	Under AdviseMENTS are noted by "U/A" and are found on the
22	21	22	following pages: NONE
23	22	23	
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			Nimigan Mihailovich Reporting Inc.
			(905) 522-1653
1	2	4	
2	1	1	--- Upon commencing at 4:59 p.m.
3	2	2	AMMY LEWIS: Affirmed.
4	3	3	CROSS-EXAMINATION BY MS. SHORES:
5	4	4	1 Q. Good morning, Ms. Lewis. Can you
6	5	5	please state your full name for the record?
7	6	6	A. Ammy Marie Angela Rose Lewis.
8	7	7	2 Q. Okay. How would you like to be
9	8	8	addressed today? What name would you like to go by?
10	9	9	A. Ammy.
11	10	10	3 Q. Ammy, okay. Do you have any
12	11	11	pronouns that you use?
13	12	12	A. I don't even know. No.
14	13	13	4 Q. All right. I'm going to ask you a
15	14	14	series of questions about your affidavit that was not
16	15	15	sworn, but we understand was made sometime around June
17	16	16	of 2022. I'm going to assume that you understand my
18	17	17	question unless you tell me that you don't understand
19	18	18	it. Is that okay?
20	19	19	A. Mm-hmm, yes.
21	20	20	5 Q. All right. So if you don't
22	21	21	understand one of my questions, please let me know.
23	22	22	Okay?
24	23	23	A. Mm-hmm.
25	24	24	6 Q. Yes?
	25	25	A. Yes.
			Nimigan Mihailovich Reporting Inc.
			(905) 522-1653

<p style="text-align: right;">5</p> <p>1 7 Q. Okay. We do have to make sure 2 that you say yes or no as opposed "mm-hmm" because it's 3 not clear what you mean when it's written down. So if 4 you forget, one of us will remind you. We're not 5 trying to be mean. We're just trying to make sure that 6 your evidence comes across clearly. Okay? 7 A. Yes. 8 8 Q. All right. You've given an 9 affidavit but it's not sworn. Have you reviewed this 10 affidavit? 11 A. I don't know how to -- I got it 12 today. Nobody's showed me it. 13 9 Q. You just got it today and nobody 14 showed you it. So you didn't write it? 15 A. I told my doctor all about it. 16 10 Q. Which doctor did you tell? 17 A. Dr. Lamont and the people that 18 were coming to the park and everybody that was coming 19 around, the counsellors and everybody. They all know 20 it. Like, I told them the issues. There's a lot of 21 people that know about my situation. 22 11 Q. Okay. You've seen the affidavit 23 today, but you haven't had a chance to review it? 24 A. Not all of it, no. 25 12 Q. Okay. So let's go through that. <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>	<p style="text-align: right;">12 7</p> <p>1 18 Q. All right. Do you remember -- 2 A. No lawyers came to me. No lawyers 3 or nothing came to me if that's what you're asking me. 4 19 Q. I don't want to know about 5 anything you talked to your lawyer about. 6 A. I don't have a lawyer, so -- I 7 don't know if I have a lawyer, so... 8 20 Q. Okay. We understand that you have 9 several lawyers in this proceeding. Do you understand 10 that you're a party to a court proceeding against the 11 City of Hamilton -- 12 A. Yeah, yes, I do. 13 21 Q. Okay. And do you understand that 14 you have a lawyer in that proceeding? 15 A. Yes. 16 22 Q. Okay. Do you know who your lawyer 17 is or who your lawyers are? 18 A. Not at the moment. I got a bad 19 memory and I forgot. 20 23 Q. I'm obliged to confirm that the 21 lawyers who are in the room with you, who I understand 22 are Curtis Sell and Sharon Crowe -- are they your 23 lawyers? 24 A. I think so, yes. 25 24 Q. And you're comfortable giving <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>
<p style="text-align: right;">6</p> <p>1 At paragraph -- 2 A. I know what I -- I know what I 3 said back then, and it's the same thing as what is -- 4 like, nothing's changed. 5 13 Q. Okay. Now, in legal proceedings, 6 there is a preference and actually a requirement for 7 evidence to be sworn or affirmed. That means that 8 you're swearing and affirming that you're going to tell 9 the truth. 10 A. Mm-hmm. 11 14 Q. And so -- 12 A. I swear. 13 15 Q. Okay. I'm going to take you 14 through this affidavit that you said you haven't had a 15 chance to review yet to make sure that it's correct. 16 A. Mm-hmm. 17 16 Q. I'll put it up on the screen so 18 you can see it. It doesn't have a date, so that kind 19 of makes it difficult for us to identify, but it says 20 "sworn June" -- blank -- "2022." Do you see that? 21 A. Yeah. 22 17 Q. Do you remember speaking to your 23 doctor about this in June 2022? 24 A. I remember speaking to a lot of 25 people about this. <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>	<p style="text-align: right;">8</p> <p>1 evidence today? 2 A. Yes. 3 25 Q. Okay. Let's take a look at your 4 affidavit. Do you know who typed this? 5 A. How would I know who typed this? 6 Like, no, I don't know who typed this. 7 26 Q. Okay. So I guess you wouldn't 8 know when it was typed either? 9 A. What kind of question is that? 10 Like, I don't get that. 11 27 Q. I don't have much more -- 12 A. It doesn't -- if it didn't say a 13 date there, obviously then we don't know the date. 14 Right? 15 28 Q. Right, exactly. 16 A. What are you trying to, like, get 17 me to -- I don't get this. 18 29 Q. All right. So in June 2022, were 19 you 43 years old? 20 A. Yeah, yes. 21 30 Q. And you're an Indigenous woman? 22 A. Yes. 23 31 Q. And are you on Ontario 24 Disability -- 25 A. Yes. <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>

1 32 Q. Are you still on Ontario
2 Disability Support --
3 A. Yes.
4 33 Q. And it says here "my medical
5 conditions include," and then it's left blank. Do you
6 have any medical conditions?
7 A. Yes.
8 34 Q. What are they?
9 A. I got agoraphobia, I got anxiety,
10 depression, I got OCD, I got ADHD, ADD, bipolar, couple
11 other things I'm not sure about. That's about it.
12 35 Q. Okay. We'll come back to that.
13 You say you've been homeless for about five months. As
14 you said before, we don't know when this was typed, so
15 let me ask. When did you become homeless?
16 A. When I got out of the
17 penitentiary.
18 36 Q. And --
19 A. The second day -- the second
20 day -- like, the first day I got out of the
21 penitentiary, my mom kicked me out of her house, and
22 that's where I was supposed to live. But I went out
23 with my daughter that night, and she kicked me out and
24 I went back, and I lived under the underground where it
25 was full of rats, and that's where I lived for the
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1 remainder of -- until whenever.
2 37 Q. What year --
3 A. A long time.
4 38 Q. What year --
5 A. A long time.
6 39 Q. What year did you get out of the
7 penitentiary?
8 A. I told -- I got a -- I got a bad
9 memory because I died six times. I don't got a good
10 memory. I don't even remember, like, the day I got
11 out. I know I got out of a situation a couple years
12 ago, pretty sure.
13 40 Q. Couple years ago, okay. Sorry,
14 you said something about why you have a bad memory and
15 I didn't quite catch it. You were speaking about --
16 A. I died -- I died in the hospital
17 six times, endocarditis and stuff, so I was in a coma,
18 so now my memory's all gone. I don't have a good
19 memory a little bit, and I can't remember stuff
20 sometimes.
21 41 Q. How long ago did that happen that
22 you had endocarditis and were in the hospital?
23 A. About ten years ago.
24 42 Q. Okay. So it was before you began
25 to experience homelessness?
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1 A. Mm-hmm, mm-hmm.
2 43 Q. Yes, okay. I do have to ask --
3 well, let me ask. Which penitentiary were you in?
4 A. Does it matter? Like, why?
5 There's only one penitentiary -- there's only one
6 penitentiary for women and -- like, Kitchener.
7 44 Q. In Kitchener, okay. Are you from
8 Hamilton originally?
9 A. Yes.
10 45 Q. When you left the penitentiary in
11 Kitchener, you came back to Hamilton?
12 A. Mm-hmm. Not that I leave
13 Kitchener. I was in a halfway house. I left the
14 halfway house, I'm pretty sure, and then I came back to
15 my mom's house.
16 46 Q. The reason that you were in the
17 penitentiary, was that for any sort of violent offence
18 that you committed?
19 A. No.
20 47 Q. Okay. Was it for anything that
21 happened at a shelter or encampment?
22 A. No.
23 48 Q. Was it anything involving another
24 unhoused person in the City of Hamilton?
25 A. No.
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1 49 Q. When you left the penitentiary,
2 you said it was a couple years ago, but you're not sure
3 when. I think you said you went to a halfway house and
4 then you went to your mother's?
5 A. Yeah. Like, that's -- I got
6 released -- like, I went to a halfway house -- I was in
7 the penitentiary, got released to a halfway house, and
8 then went back to the penitentiary, did the rest of my
9 time, and then I got released to my mother's.
10 50 Q. Okay. And when --
11 A. And the first day that I went
12 there, I left with my daughter that night and -- she
13 wanted to show me where she lived and blah, blah, blah,
14 and I went with her and said I didn't feel like she was
15 safe out there by herself. So she was homeless as
16 well. And I went with her, and I ended up staying
17 there with her and really didn't -- really didn't want
18 her to die there.
19 51 Q. Okay. So you stayed briefly with
20 your mother. Your mother's in Hamilton?
21 A. My mother passed May 4th this
22 year.
23 52 Q. Okay. At the time you were
24 released from penitentiary, she was still living?
25 A. Mm-hmm, yes.
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1 53 Q. Yes, okay. And so you stayed
2 there with her briefly, and then you left with your
3 daughter, who was also experiencing homelessness at the
4 time. Correct?

5 A. Yes.

6 54 Q. This is what I didn't quite catch.
7 Where did you and your daughter go?

8 A. I told -- just told you that.

9 55 Q. I didn't quite catch it, though --

10 A. You didn't catch it? The
11 underground.

12 56 Q. What do you mean by "the
13 underground"?

14 A. It's the under -- it's like a
15 place. It's where homeless people go. That's what I
16 was told. That's where -- that building, the glass
17 place building that's been half tore up. It's a
18 dangerous, like, hazardous place. Shit's falling from
19 the ceiling. There's, like, millions of rats all
20 around. You can't sleep because there's rats coming at
21 you every couple seconds. You have to be off the
22 ground, so they had to build me -- lift my tent off the
23 ground, yeah, because you can't be on the floor. The
24 only thing that pretty much saved me was my dog. She
25 saved me every night because they -- she wouldn't let

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1 the rats come in my tent. And I boarded my door up to
2 my tent, and -- I don't know. It was just hell down
3 there. And the City actually -- these people came one
4 day and seen us -- at least they came to help us. They
5 tried to help us and brought us food and stuff like
6 that, and then the City found out, I guess, that we
7 were living there, under there, and it was really
8 dangerous down there, so we got -- we had to get -- we
9 were getting kicked out of there, so they moved us to
10 another encampment, another encampment down the street,
11 down at the end of -- at Barnesdale, at the end of the
12 street at this park. And it was me and my friend
13 Billie Mallory (ph) and her boyfriend and some other
14 couple, and they -- the whole City, like, the whole
15 bunch of people from the City came down there and they
16 said you should go to that park right there, go to this
17 park, so we packed up and we went to that park. We
18 pitched our tents there. And from day one, we were
19 getting harassed and our tents were getting burned
20 down. People were throwing shit at our tents. They
21 were wrecking our shit. We had to go -- like, go
22 without tents.

23 57 Q. Let me just pause you there,
24 Ms. Lewis, because I have a few questions and I want to
25 ask them before you get too far along in your timeline.

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1 After you left the underground, you said the City came
2 by and it wasn't safe. They told you to go somewhere
3 else and you packed up your tent and moved to the other
4 place that they told you to go. Right?

5 A. Yeah, because the guy that was
6 helping us in the beginning, the guy that was helping
7 us, like, he lived on Latorre Street, and he had a
8 wife, and he had got real sick, and he said -- I don't
9 know. Like, he was Chinese. He was the only one that
10 was helping us around there. Like, nobody was, like,
11 trying to help us, all of us. There was, like, four or
12 five -- five, six people down there, and then we ran
13 into people that came there and rob our shit and take
14 our stuff. Like, it was not a good place. Like, I
15 couldn't -- like, at nighttime, I couldn't see. And
16 there was a hill, like a rock and rebar, like, sticking
17 out of the ground and shit like that. So if you
18 weren't careful, you'd hurt -- you're falling down and
19 end up worse. I went there, I fell all the way down
20 that hill, man, and I broke my leg because there was a
21 piece of rebar sticking out of the ground, and I
22 couldn't see, and I had to hold onto something -- like,
23 somebody to get down this worse part. And it was a
24 building, and it was all tore -- tore, ripped apart.

25 There was, like, rebar, rock. The whole building was

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1 caved in, like, pretty much, but separate, this little
2 part. And there was, like...

3 58 Q. And --

4 A. Like, these -- we pitched our
5 tents wherever we could pitch our tents, and we had to
6 pitch our tents off the ground because it was the
7 winter and it was cold, so we needed to stay away from
8 rats, and -- and discuss shit. Right?

9 59 Q. Okay. So --

10 A. But we tried our best to stay away
11 from the -- like, we had to, like, build something so
12 our tent would go up high.

13 60 Q. Did you try to find anywhere else
14 to go, like any of the shelters or --

15 A. I tried everything. I got a dog,
16 so nobody's trying to help anybody with a dog.

17 61 Q. When did you get your dog?

18 A. I've had my dog for about 12 years
19 now from my mom. She gave her to me for me birthday.

20 62 Q. Where did your dog go when you
21 were in the penitentiary?

22 A. My daughter kept her with her in
23 the underground.

24 63 Q. Your daughter kept your dog in the
25 underground with her?

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1 **A. Mm-hmm.**
2 64 **Q.** That's correct?
3 **A. Thank god. Thank god, yeah.**
4 65 **Q.** Okay. What's your dog's name?
5 **A. Foxy Lady.**
6 66 **Q.** Foxy Lady. And what type of dog
7 is Foxy Lady?
8 **A. She's a Jack-chi.**
9 67 **Q.** A Jack-chi, so a Jack Russell
10 terrier and chihuahua mix?
11 **A. Jack Russell-chihuahua, yeah.**
12 68 **Q.** Is Foxy Lady trained at all? Does
13 she have any sort of special training?
14 **A. No. She's my support -- she's my**
15 **emotional support dog.**
16 69 **Q.** Okay. Is she certified as an
17 emotional support dog?
18 **A. I got a vest and stuff, but I**
19 **don't think she's certified.**
20 70 **Q.** Okay. She hasn't been for any
21 sort of special training about, for example, how to --
22 **A. No, and you don't need training**
23 **for emotional support dogs, though.**
24 71 **Q.** Okay. But she --
25 **A. Training is for -- training, if**
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1 **you're a blind dog -- some people -- blind people for**
2 **things like that, but for emotional support dogs, you**
3 **don't need a trainer -- to be trained.**
4 72 **Q.** What does --
5 **A. Because they're for emotional**
6 **support.**
7 73 **Q.** What does she do for --
8 **A. She helps me. She's, like --**
9 **she's my life. She's -- if it wasn't for her, I'd**
10 **probably be dead by now.**
11 74 **Q.** Okay. So having her in your life
12 provides you with emotional support?
13 **A. Mm-hmm.**
14 75 **Q.** Yes?
15 **A. Yes.**
16 76 **Q.** Okay. But she doesn't have any
17 training about how to be in crowded public spaces or
18 not to get upset if there's something loud or startling
19 happening or anything like that?
20 **A. I don't understand that question.**
21 **What do you mean?**
22 77 **Q.** Well, service dogs --
23 **A. What kind of training?**
24 78 **Q.** -- go through a lot of training
25 to --
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1 **A. She's an emotional support dog.**
2 **She don't need training. She's for me for emotional**
3 **support. How would you need training for emotional**
4 **support dog when -- I just told you. She's an**
5 **emotional support dog. She don't need training for**
6 **that.**
7 79 **Q.** All right. So before --
8 **A. Like, it says it on the Internet,**
9 **man. All over it.**
10 80 **Q.** Did anyone --
11 **A. She was a -- she was a -- she was**
12 **a -- like, a support dog. Support dogs -- like, if I**
13 **couldn't see or something, yeah, she'd need training,**
14 **but she's not. She's not that kind of support dog.**
15 **She's my emotional support dog, because I had**
16 **depression and stuff. So how -- she helps me live my**
17 **life better because I love her. That's what she does**
18 **for me. She helps me with every day to get by.**
19 81 **Q.** Okay. And has your dog ever
20 snapped at anyone?
21 **A. No.**
22 82 **Q.** Has your dog ever attacked anyone?
23 **A. No.**
24 83 **Q.** You're sure of that?
25 **A. Yeah.**
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1 84 **Q.** Does your dog act as a guard dog?
2 She protects you from a potential attacker --
3 **A. She -- she -- she'll -- if**
4 **anybody, like, comes around my tent -- like, if**
5 **somebody was, like -- would come around my tent, first**
6 **she would -- she'd smell them and she'd -- she'd growl**
7 **so I'd know. I'd wake right up, right away. And then**
8 **if they come closer, she'd bark, and then I'd wake**
9 **right up and I'd go, "Who's there? What the fuck's**
10 **going on?" I'd wake right up. She's -- she's good**
11 **like that. She -- that's what -- she protected me.**
12 **She's a good -- she's a good dog.**
13 85 **Q.** Going back to at the time you went
14 to the underground, did you try to go to a shelter or
15 did you not try because you couldn't take your dog with
16 you?
17 **A. I tried, but I couldn't do --**
18 **everyone wouldn't take me with a dog.**
19 86 **Q.** Did you try to see if Foxy Lady
20 could go somewhere else so that you could get into a
21 shelter?
22 **A. Yeah, I tried everything.**
23 87 **Q.** What specifically did you try to
24 see about where Foxy Lady could go?
25 **A. I tried everywhere. I tried -- I**
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1 tried getting programs to help me, like, online,
 2 like -- and I had to ask my doctor for help, get her --
 3 get her -- get help for her because she got into a --
 4 people were harassing me and stuff and following me
 5 around and stuff like that, and I was getting harassed
 6 and followed a lot by -- I don't know who it was, but
 7 they were -- I don't know. A lot of people were
 8 following me around and trying to hurt me and stuff.
 9 It just kept happening and happening, and I went --
 10 this is when I -- I just got to the point where my
 11 doctor -- I told my doctor everything that happened.
 12 And the day that I got kidnapped by a taxi -- the taxi
 13 went down Main Street and my methadone clinic was on
 14 Main and -- yeah, but anyways, I tried everything. My
 15 doctor helped me get my dog into a shelter, and then
 16 that got me into a shelter, and that's how I got my
 17 place. Because it was the place that I had been
 18 sheltered that I went to was Mary's Place, and Mary's
 19 Place -- a church thing, went there. And I guess they
 20 called and they said that I was -- I -- because of my
 21 dog, too, we got into 95 Hess and we got off the
 22 streets.

23 88 Q. Let me back that up a little bit.
 24 You said you tried everything, but I think what you
 25 meant was you tried everything to get your dog into the

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1 shelter. Right? You didn't try to find --
 2 A. No. I tried -- I tried -- I
 3 probably tried to get programs and everything. Like, I
 4 tried to -- I tried everything. I tried asking family
 5 members. I tried to ask anybody.

6 89 Q. You tried to ask --

7 A. Like, even my daughter -- even my
 8 daughter was going to take her, but I didn't want her
 9 outside anymore. Like, it's not -- because it wasn't
 10 right for her to stay outside. Maybe inside.

11 90 Q. Okay. And did you --

12 A. And I decided both of us or none
 13 of us. Like, one or the other. You can't do that.

14 91 Q. Did you see if anybody could take
 15 her into boarding or into a foster?

16 A. She got into a foster, yeah.

17 92 Q. Okay. When was that?

18 A. I don't remember.

19 93 Q. Was it after you came out of the
 20 penitentiary?

21 A. Yeah.

22 94 Q. How long was she in foster?

23 A. I'm not sure. It was two,
 24 three months.

25 95 Q. Where were you while she was in
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1 foster?

2 A. Mary's Place.

3 96 Q. In Mary's Place, okay. Do you
 4 remember when that was, what year it was?

5 A. No, I don't, sorry.

6 97 Q. Okay. I think if I understand,
 7 you eventually were able to bring Foxy Lady with you in
 8 Mary's Place?

9 A. No.

10 98 Q. No, okay, you weren't. So you
 11 found a foster placement for Foxy Lady and that enabled
 12 you to go into Mary's Place. Correct?

13 A. Yes.

14 99 Q. All right. So I want to leave
 15 that. I'm going to come back to it, but I still want
 16 to talk about the time after, when you went to the
 17 underground and where you moved since then. You were
 18 at the --

19 A. I told you already. I went to the
 20 next park.

21 100 Q. Okay. But I have some more
 22 questions. How long were you at the underground?

23 A. For a while, months, months.

24 Like, months.

25 101 Q. You were there for months, okay --
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1 A. Long time. I got -- like, lots of
 2 time went by. And then -- I can't even tell you how
 3 many months I've been homeless, really, because I've
 4 been, like, for a long time.

5 102 Q. I want you to do your best to try
 6 to listen to my questions and answer them, because
 7 Lydia's been very nice to stay late today and I want to
 8 make sure that --

9 A. You want to just quit and let
 10 everyone go home? I'll just quit, then. I don't care.

11 103 Q. No. I want to be as efficient as
 12 we can --

13 A. Lydia, you want to go, I'll just
 14 stop. I'll just waste my time, make me come out here
 15 for nothing and let her go home. Okay?

16 104 Q. Now, Ms. Lewis --

17 A. How about that? Asking me
 18 questions and shit like that. If she wants to go home,
 19 let her go home.

20 105 Q. I don't think that's fair to our
 21 court reporter who's staying after her shift --

22 A. No, she don't have to stay. If
 23 she wants to go, she goes, and I'll leave, then she can
 24 go.

25 106 Q. Ms. Lewis, I'd like to keep asking
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1 you questions, and I'm just asking you to listen to the
 2 questions that I'm asking and give me answers. I'm not
 3 repeating questions, and if you listen to my questions,
 4 you'll see what I'm asking about. You said you were at
 5 the underground for a few months. Do you remember when
 6 it was that you left the underground?
 7 **A. I already told you no.**
 8 107 **Q. The City of Hamilton told you it's**
 9 not safe to be --
 10 **A. Somebody from the City or I don't**
 11 **know who they were from, but about four or five people**
 12 **from different organizations came there.**
 13 108 **Q. Okay. And --**
 14 **A. This is the second time I told**
 15 **you. Four or five agencies came to the underground**
 16 **and -- because it was so -- it was the old glass**
 17 **company, Dominion Glass. That's where it was. But**
 18 **underneath the top part was all, like, land, like**
 19 **concrete. And when you go down by the other side near**
 20 **the train tracks, there's a hill that goes down like**
 21 **that. It's all gravel in the underground. You go into**
 22 **that building, the old glass company. Well, it has,**
 23 **like, millions of, like, cubbyholes and you got to go**
 24 **deep in there, but I -- we -- I stayed right in the**
 25 **front. And that's where I lived with the rats and the**
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1 falling shit, the debris from the ceiling and the toxic
 2 shit that was down there.
 3 109 **Q. When they told you --**
 4 **A. I don't know how many people come**
 5 **down there and tell me it's not safe down there, and**
 6 **they knew it wasn't safe for us down there, so that's**
 7 **why they told us to go to the next park. The next park**
 8 **was nothing but hell because everybody is the same --**
 9 **they started ganging up on us.**
 10 110 **Q. All right. So what was the next**
 11 **park that you went to?**
 12 **A. I just told you that already.**
 13 111 **Q. What was --**
 14 **A. It was off of Barnesdale. There**
 15 **was a building on the corner of Barnesdale and -- and**
 16 **Barton.**
 17 112 **Q. Barnesdale and --**
 18 **A. That we briefly -- that I briefly**
 19 **moved into, that --**
 20 113 **Q. And you took your tent with you?**
 21 **A. Huh?**
 22 114 **Q. You took your --**
 23 **A. Yeah, we just -- they helped us**
 24 **get there.**
 25 115 **Q. And they helped you get there.**
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1 **A. They helped us get there because**
 2 **it was too much for us. Like, I had -- I'm disabled.**
 3 **Like, I can't -- you can't do it with a lot of stuff.**
 4 **So they helped us get there and they got stuff -- they**
 5 **had stuff for our dogs -- my dog and stuff, and**
 6 **Billie's dog, and they gave us, like, food and stuff,**
 7 **and people would drop food off and stuff for us -- stop**
 8 **it. And...**
 9 116 **Q. Sorry, you just said --**
 10 **A. The City -- the City knows it was**
 11 **us, we were there, and we were told that we were**
 12 **allowed to be there, but if we were allowed to be there**
 13 **and the City told us that, then there's no reason why**
 14 **we got people breaking our camp down and smashing our**
 15 **tent when we were in there, lighting it on fire and**
 16 **caving our shit and stealing all our stuff. You know?**
 17 **You know, like, just being rude.**
 18 117 **Q. What you're saying are members of**
 19 **the public, other people would come by and --**
 20 **A. Harass and rip our stuff up,**
 21 **steal, break our tents, rob our tents. We couldn't go**
 22 **out because I was, like, locked to my tent like a jail**
 23 **cell, because I couldn't leave because people would**
 24 **come there and rob my shit. Like, people would drop**
 25 **off food and stuff. Like, we need that. They would**
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1 come and steal my dog food. They'd come and steal
 2 anything they can get. Anything that was worth money,
 3 they'd steal, and they would rip their tent down. If
 4 you got to fight with somebody or you mouth somebody
 5 off, they'd come there and rip your tent down, burn
 6 your tent down, take your stuff, rip you off, say you
 7 got nothing, and then you're scared because you
 8 don't -- then you don't got nowhere to go because
 9 now -- now where the City told you to go, the people
 10 around the area start hating on us and they -- and now
 11 they're being all mean to us.
 12 The kids, right in back -- back where
 13 our tent was at the back of the fence. I was in the
 14 corner, and the tents were right in front of this
 15 fencing, and the kids that were in a house, and the
 16 family, they were throwing bricks over at us, and they
 17 had -- they had this thing in the park for, like -- I
 18 don't know. It was Corn Day and we didn't want to go
 19 the Corn Day because the people -- the kids were now
 20 making fun of us and we didn't want to eat their food
 21 because they were throwing apples and shit at our tent.
 22 And there was, like, people from the community there,
 23 all their kids, and they were making fun of us and they
 24 were throwing shit at our tents. Their parents were
 25 letting them. So we didn't want to -- like, we felt
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1 embarrassed to even go out and eat, and we were
2 starving. Like, we haven't eaten in weeks, days, and
3 we didn't want to go out because Mallory started crying
4 to me because, like, we couldn't go out. She didn't
5 want to go out because they were throwing stuff at us.

6 118 Q. So how --

7 A. The day we went, they ripped our
8 whole tents apart. They threw chairs, they just threw
9 everything. They caved our tents in a million times.
10 And you're worried for the money for a tent. We got to
11 wait a whole 'nother month for -- until Disability
12 comes to get another tent, which I don't get the money
13 for. I don't know how many tents I had to buy, you
14 know, just to get a new tent.

15 119 Q. And there are outreach groups who
16 will also hand out tents. Right?

17 A. Yeah.

18 120 Q. And --

19 A. You can only do it once or
20 twice -- you can only do it once. Right? So you get
21 one tent, you're screwed. You can't -- then you got to
22 go buy your own means to get your own tent.

23 121 Q. Have you tried to get more than
24 one tent from the outreach workers?

25 A. No. I only got one, and one for
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1 my daughter.

2 122 Q. How long were you at the park at
3 Barnesdale and Barton?

4 A. Months.

5 123 Q. Okay, for months. And then did
6 you leave on your own or did you leave because someone
7 told you to leave?

8 A. I left because the guy at the
9 building that -- where I rented, he started sending
10 people after me, harassing me, and driving around the
11 block and shit.

12 124 Q. Okay. So --

13 A. And bugging me. I was all scared
14 in my own tent.

15 125 Q. Okay. So you said the guy --

16 A. And I -- like, I ran -- I ran in
17 there. I knew they were, like, after me and stuff,
18 so -- because he was a biker or whatever. So he kicked
19 me. He tried to sexually assault my daughter and say
20 something about it, so I told him -- I asked him, "What
21 are you doing, bro?" And then he kicked us out and put
22 us at that park. And then the car started, and people
23 started following me around and harassing me and shit.

24 126 Q. Okay. Ms. Lewis --

25 A. And I'd go to the people or go to
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1 the guys who could help us down at the underground, and
2 he wouldn't come to the door and help me. So I went
3 across to this -- my mom's friend's house, and this guy
4 pulled over in a car and he pulled right at me and he
5 seen me go on the porch. He pulled over and he opened
6 his window up, and I was up knocking on a friend -- my
7 mom's friend's door, and he starts, like, laughing like
8 a fucking crazy person, man, like it was a joke. And I
9 knew it was them. Because I even know it was them now,
10 because they even got my paperwork from the tax papers,
11 and I see all these things that they -- that were sent
12 to his building that I never -- I wasn't there. I was
13 in the penitentiary at the time they took all them
14 cheques, and they cashed all these cheques in my name.
15 And he harassed me for months, and they're still
16 harassing me. I don't know -- he doesn't know where I
17 am, but I know that I still see people that were
18 following me around before at that -- at that park.
19 They're still doing it.

20 127 Q. And you said --

21 A. They're still chasing me around.

22 128 Q. Okay. So these are people
23 affiliated with a landlord that you used to rent from?

24 A. Yeah.

25 129 Q. Okay. Back in this written

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1 document that says "prior to becoming homeless, I
2 rented an apartment in Hamilton. The landlord was
3 aggressive, intimidating and attempted to extort sex
4 from me," that's the person you were --

5 A. Yeah, yeah, yeah.

6 130 Q. Do you remember when you were
7 living at the apartment with that landlord?

8 A. No, I don't remember, sorry.

9 131 Q. Was it before or after the
10 penitentiary?

11 A. It was after I got out, I think.

12 132 Q. Okay. How long were you living in
13 that apartment?

14 A. Six months, maybe.

15 133 Q. Okay. And when you --

16 A. I'm not too sure if I remember,
17 but it -- like, he -- it was bad right when we really
18 started. When I went and moved in, if I would have
19 known that guy before in his room had COVID -- he
20 didn't tell us that the guy had COVID. We all got
21 COVID. Well, not everybody. I got COVID, and then the
22 guy in the hall had COVID. He didn't tell us that he
23 had COVID, and we moved in. I wouldn't even move my
24 kid in there if they would have -- it's going to kill
25 us. Right?

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1 134 Q. So it would have been sometime
2 after 2019, at least, because you're talking about
3 COVID. Right?

4 A. Mm-hmm.

5 135 Q. Yes, okay. Do you remember if it
6 was before or after you had stayed at the underground
7 that you were in the apartment with the landlord?

8 A. That was -- that was -- no, no,
9 that was before or after -- no, that was after, like, I
10 got -- after I got out of the penitentiary.

11 136 Q. Okay. But before you told me that
12 after you got out of the penitentiary, you stayed with
13 your mom --

14 A. With my mom for one night, not
15 even a whole day. A couple hours.

16 137 Q. For one night, and then you
17 went --

18 A. Not even one night, not even one
19 night. It was like -- I went there. I visited for a
20 bit, and then me and my daughter, we went out with her
21 boyfriend, and then she wanted to show me where she
22 lived, and my mom said -- she gave me an ultimatum --
23 "If you go with her, then you're kicked out." So I
24 said, well, whatever. I got to go see where my kid's
25 living because it's my kid, man. What would you do if

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1 it was your kid? Just let her go live under there,
2 bro? That's not me, man. I'm going to see it with
3 them, check it out. I'm going to live with her if --
4 you know what? That's my kid.

5 138 Q. So you could have stayed with your
6 mom --

7 A. And that's my job.

8 139 Q. -- but she gave you an ultimatum,
9 and you chose your daughter and to go to the
10 underground. Right?

11 A. Yeah.

12 140 Q. And --

13 A. Because my daughter -- my daughter
14 wasn't safe.

15 141 Q. So that's immediately after you
16 got out of the penitentiary?

17 A. Yeah.

18 142 Q. So then would you have been in the
19 apartment with your landlord sometime after the
20 underground?

21 A. Yeah, I think so.

22 143 Q. What --

23 A. And we didn't -- we didn't last
24 that long there, because then we're homeless again.

25 144 Q. I'm just trying to clear the
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1 timeline, because you said after the underground you
2 went to the encampment at Barnesdale and Barton, and
3 then at that point you referred to people who were
4 associated with your landlord coming to harass you.
5 So --

6 A. I got proof of that. I got people
7 on that street that live right beside them. I went to
8 their house on their porch and I cried. They let me
9 stay in their backyard in my tent.

10 145 Q. So did you --

11 A. They put a thing otop of my
12 tent. They went and built a thing over my tent, and
13 then -- right behind that building. So they know
14 that -- they even seen the people following me. They
15 even seen these people following me around and harass
16 me for months.

17 146 Q. Did you know this landlord or the
18 people who were harassing --

19 A. Of course I know the landlord.
20 The landlord was my landlord.

21 147 Q. Did you know them before --

22 A. I moved there. I paid him rent.

23 148 Q. Did you know the landlord
24 before --

25 A. No, I never met him before in my
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1 life. It was a one-time deal after I got out of the
2 pen. It was harder for me to get a place because,
3 like, all landlords were having -- like, wanted sexual
4 favours. I'm not like that. Like, I just want to pay
5 my rent and -- leave me alone. That's all I wanted to
6 do, was have a normal life. You know? But everyone --
7 you know, I told my doctor every time, like, this is,
8 like -- now it's getting into my daughter. Like, don't
9 talk to her like that. You know?

10 149 Q. Is it possible that you rented
11 from this landlord before you went to the underground?

12 A. How many times are you going to
13 ask me that?

14 150 Q. Until I get an answer --

15 A. You already asked me that. You
16 already asked me that, like, ten times.

17 MS. CROWE: Do you think she's done her
18 best to establish a timeline to the best that she can?

19 MS. SHORES: I'm still completely
20 confused.

21 BY MS. SHORES:

22 151 Q. So you went to the underground,
23 and then you went to the place at Barton and
24 Barnesdale, and at that --

25 A. At the park.

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1 152 Q. At the park. And you left the
 2 park because people associated with your landlord were
 3 harassing you --
 4 A. Harassing me, yes.
 5 153 Q. But you don't remember if you
 6 stayed at the landlord before then?
 7 A. I already told you. I stayed -- I
 8 didn't -- no. I stayed -- I went from my mom's house
 9 that one night to the underground. Sometime after
 10 that, I -- we got an apartment at -- at that place
 11 after we got -- after my mom's house, after the
 12 underground.
 13 154 Q. You didn't say that before --
 14 A. After the park, or something like
 15 that --
 16 155 Q. -- and that's what I've been
 17 trying to clarify. You didn't --
 18 A. That's all I know. I don't know.
 19 Man, you're making questions that sound all -- like,
 20 you're making me confused, like thinking I'm lying or
 21 something. I don't lie.
 22 156 Q. I'm trying to do my best to get
 23 things clear.
 24 A. You asked me the same questions
 25 over six, seven times already, the same ones. Like, I
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1 don't get it. You tell me you want to get this thing
 2 done, but you're asking me the same question.
 3 157 Q. Ms. Lewis, respectfully, it's
 4 because you're not answering the question. You're
 5 telling me --
 6 A. Yeah, I am answering the question
 7 to the best of my ability.
 8 158 Q. Well, you're saying --
 9 A. You're trying to slip me up.
 10 That's what you're trying to do.
 11 159 Q. Ms. Lewis --
 12 A. That's not what you're supposed to
 13 do to somebody that's telling you the truth.
 14 160 Q. Ms. Lewis, I'm trying to get you
 15 to answer the question. You're giving me --
 16 A. I am answering the questions.
 17 161 Q. -- evidence, but they don't
 18 respond to the questions that I'm asking you.
 19 A. Yeah, I am responding to the
 20 questions. I'm telling you, but you're trying to slip
 21 me up. You keep asking the same question over and over
 22 and over again. I told you I can't remember. If I
 23 can't remember, I can't remember. Then you're
 24 pressuring me? I feel pressured because you're -- you
 25 keep going back to something, back and forth, and
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1 you're making me confused about what question you're
 2 talking about, because you're saying something about
 3 this, something about that, and then you're back to
 4 go -- "I want to go back to this thing, I want to go
 5 back to that thing." Well, we just talked about that.
 6 Like, you're confusing me, so...
 7 162 Q. Ms. Lewis --
 8 A. Like, I can't be confused. Like,
 9 I'm trying to answer your questions, like, honestly, to
 10 the best of my ability. It's all I -- that's all -- I
 11 don't tell lies. I'm trying to tell the truth. But
 12 when you try to confuse somebody -- I can't get that,
 13 because I can't -- like, it confuses me.
 14 163 Q. I'm trying to get things --
 15 A. I can't remember when you -- when
 16 people -- even when you have questions on my doctors
 17 and stuff, I can't -- that can't happen because it
 18 makes me think that something's going on.
 19 164 Q. Ms. Lewis, I am not --
 20 A. Like, you keep going over the same
 21 thing over and over again. Like, I just answered that.
 22 165 Q. You keep talking over --
 23 A. Or I at least tried to.
 24 166 Q. -- me, Ms. Lewis, and I'm trying
 25 to get things clear. I'm not trying to trip you up.
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1 I'm trying to give you every opportunity to give clear
 2 evidence about what you do and don't remember.
 3 A. Well, it's in the affidavit.
 4 Right? It's right here.
 5 167 Q. Well, you didn't give an
 6 affidavit, Ms. Lewis --
 7 A. Well, whatever it -- when I gave a
 8 statement, I gave my statement.
 9 168 Q. This is a typed document that you
 10 told us before you don't even know who typed it or
 11 when --
 12 A. Well, my lawyer's probably -- he
 13 would have -- if I -- in the beginning I forgot about
 14 all that. I forgot about the lawyers and stuff. I
 15 just talked to them today.
 16 169 Q. Ms. Lewis, is your memory strong
 17 enough to give you confidence in answering any of the
 18 questions I've asked you today --
 19 A. Yup. Yup.
 20 170 Q. You just told me you forgot about
 21 your lawyers, and now you're saying that you remember?
 22 A. Well, I remember something -- them
 23 saying about it's going to be a while for this to get
 24 closer to go to -- go through court. Right?
 25 171 Q. I don't want to know anything --
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<p style="text-align: right;">41</p> <p>1 A. So now, obviously, I -- I never 2 met nobody and I just recently got told, like, a few 3 days of that about lawyers -- 4 172 Q. I am going to interrupt you 5 because I don't want you to tell me anything about any 6 discussions you have with your lawyer. Those are 7 privileged -- 8 A. I didn't -- no, I wasn't going to 9 tell you that. 10 173 Q. All right. Well, I needed to stop 11 you in case you were, because that's -- 12 A. No, I wasn't. No, no, I didn't -- 13 like, I knew all about that -- that -- like, they said 14 it was going to take time, so I waited until somebody 15 came to me to tell me it's time for the court hearing 16 and stuff like that. So it's now that time, so now -- 17 like, now that I know it's the time, now I -- I said in 18 the beginning that these guys are working for me. I 19 just forgot, like, that -- about that, that I had a 20 lawyer. 21 174 Q. Okay. So let's pick up the 22 time -- 23 A. Because they said I could get my 24 own lawyer, but I just -- I just stick with these ones. 25 175 Q. Let's pick up with the timeline <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>	<p style="text-align: right;">21 43</p> <p>1 A. They stayed -- people from 2 there -- people from there, the railway, never, ever 3 came there. They never bothered me there. I was the 4 only one. And then people started moving around me 5 and, like, tried to take over and shit. Like, they 6 moved to the dog park and they moved across the way, 7 and then they moved to this park that was over there, 8 and then down this thing and down the way. And then 9 there's so many people coming in another area, like, 10 that were homeless. It was crazy. There was lots of 11 people living there and ripping off your stuff, people 12 ripping off your food and everything. It is, like, 13 crazy. 14 181 Q. So other people came around you 15 and were starting to steal from you, and you didn't 16 want -- 17 A. And then -- yeah, people were 18 stealing. Everything was -- everything was happening. 19 What wasn't happening when you live outside? 20 182 Q. So you moved? 21 A. No. 22 183 Q. No? What did you do? 23 A. I stayed. 24 184 Q. You stayed -- 25 A. I stayed until -- I moved once to <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>
<p style="text-align: right;">42</p> <p>1 after you leave the encampment at Barton and 2 Barnesdale. Where did you go after that? 3 A. Barton and Barnesdale. Actually, 4 a few places. We went to -- you know, we were right 5 behind No Frills -- went behind No Frills, Fortinos for 6 a while, a long time. 7 176 Q. Was that a period of weeks, 8 months? Do you remember how long? 9 A. Months, months. 10 177 Q. Months? You had your tent there? 11 A. Yeah. 12 178 Q. And you had your dog there? 13 A. On the train tracks, yes. 14 179 Q. On the train tracks. Did anybody 15 from the rail company -- 16 A. No, no, they won't. It's up to 17 you. If you want to get killed on the train tracks, 18 you get killed. You're not supposed be on the train 19 tracks. They're supposed to come get -- tell you not 20 to be there, but they never did come. They never come 21 through this. They never come. They only came -- 22 like, they only come one time because somebody took 23 copper and almost derailed the train off the tracks. 24 We would have got killed there, but... 25 180 Q. And you stayed -- <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>	<p style="text-align: right;">44</p> <p>1 the cathedral, behind the cathedral in a park behind 2 there, and that's when I got -- my dog got put in a 3 shelter, and I went to -- somebody came that night from 4 the people that work for the City or whatever, the 5 ambulance people, or the -- I forget what they're 6 called now. I forget what her name is, but she drives 7 a first-aid vehicle or something and she helps the 8 homeless. And they came that day and got me into a 9 shelter. 10 185 Q. Okay. So you went to Mary's 11 Place. Foxy Lady went to stay with a foster. 12 A. Mm-hmm. 13 186 Q. Why did you leave Mary's Place? 14 A. Because I got an apartment. They 15 found me an apartment. 16 187 Q. Okay. Do you remember when you 17 got your apartment? 18 A. February 15th or 16th. 19 188 Q. Of which year? 20 A. Like, two years ago, I think. 21 189 Q. Okay. And -- 22 A. No, a little bit over two years 23 ago. It was over two years ago. 24 190 Q. A little over two years ago, okay. 25 And are you still living in that apartment? <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p> </p>

1 **A. Yes, I am.**
 2 191 **Q.** Okay. How is that apartment
 3 funded? How do you pay for your apartment?
 4 **A. I pay market rent.**
 5 192 **Q.** You pay market rent. Do you live
 6 with anyone else?
 7 **A. With my dog.**
 8 193 **Q.** Just you and your dog?
 9 **A. Mm-hmm.**
 10 194 **Q.** And did the outreach worker help
 11 you find that apartment?
 12 **A. It's just the church did that. I**
 13 **prayed for that. And then some organization that works**
 14 **for the building -- I just found this out, like, not**
 15 **too long ago that, I guess, apparently that building**
 16 **in -- it's not even a building. It's an institution**
 17 **for something, like people that are sick or something.**
 18 **Like, I didn't even know that. Like, I thought it was**
 19 **just a normal building, but it's not. And that's why**
 20 **they're not getting harassed there now. There's just a**
 21 **bunch of harassment, man.**
 22 195 **Q.** Sorry, at the apartment that
 23 you're living at now?
 24 **A. Mm-hmm.**
 25 196 **Q.** Have you reported any of that to
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1 the police?
 2 **A. Oh, yeah, lots, lots of times.**
 3 197 **Q.** Okay.
 4 **A. Lots of times.**
 5 198 **Q.** Are these the same people who were
 6 harassing you because --
 7 **A. I'm not sure. I don't know. I'm**
 8 **not sure, but I know weird shit's been going on. Like,**
 9 **I call -- I got people coming to my door with swords.**
 10 **I got people trying to kick my door. I had to get**
 11 **cameras into my house. There were, like, cameras that**
 12 **have -- I had to buy, like, secret cameras and cameras**
 13 **that are from Bell that I had -- like, I can't even**
 14 **really afford, that I had to put up so I got proof of**
 15 **what they're doing to me.**
 16 199 **Q.** What are the things that they're
 17 doing? How are they harassing you?
 18 **A. People just trying to kick my door**
 19 **in and somebody's leaving garbage by my door. Like,**
 20 **they'll hit my -- some broad, she heard her girlfriend**
 21 **in my apartment, and I'm like, "What are you talking**
 22 **about? Get away from my door, man." And I didn't have**
 23 **the cameras up at that time, so obviously she started**
 24 **hitting my door with a sword and it's on camera. They**
 25 **got it on camera. The building does, but I didn't have**
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1 **it on camera at the time. I didn't have cameras in my**
 2 **apartment at the time. I couldn't afford those yet. I**
 3 **couldn't afford nothing at that point. I was -- I was**
 4 **totally broke from my -- paying my last month's rent**
 5 **and everything. I was -- just wanted to get my place**
 6 **stable and my shit with my dog good so I didn't have to**
 7 **worry about last month's rent and being outside ever**
 8 **again.**
 9 200 **Q.** Well, congratulations on finding
 10 an apartment and staying in it for two years. That's a
 11 legitimate accomplishment.
 12 **A. Mm-hmm, thank you.**
 13 201 **Q.** I do want to ask you a couple of
 14 questions about some doctors' notes. One of them is --
 15 this is a note from a Dr. Timothy O'Shea. It's not
 16 dated, so we don't know when he wrote it, or at least I
 17 don't know when he wrote it. But do you remember ever
 18 seeing a Dr. O'Shea?
 19 **A. That's my doctor. I remember,**
 20 **yeah. He came to me. He was the first doctor -- I met**
 21 **that doctor right when I had COVID. He come and he**
 22 **got -- he got -- he's the only person that cared at**
 23 **that time. When I met him, my life changed, and so did**
 24 **it when I -- as soon as I met Rachel, and he changed**
 25 **more.**
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1 202 **Q.** Okay. So Dr. O'Shea came to you?
 2 **A. He was the only person -- my mom**
 3 **and my kids, we -- my mom died -- she was in the**
 4 **building with me, obviously, but my mom would be**
 5 **outside in the parking lot and I would be at a window**
 6 **having her -- "Hello, how are you doing? Nice to meet**
 7 **you." But Dr. O'Shea came in and pretty much shook my**
 8 **hand and didn't care if I was sick. He actually had a**
 9 **heart and didn't care about my -- that I had COVID.**
 10 **You know, I thought I was dying. Like...**
 11 203 **Q.** And Dr. O'Shea says he first met
 12 you in March of 2021. Does that sound about right to
 13 you?
 14 **A. Yeah.**
 15 204 **Q.** How often do you see Dr. O'Shea?
 16 **A. Every Tuesday.**
 17 205 **Q.** Every Tuesday? And is he --
 18 **A. Sometimes -- not every Tuesday**
 19 **because sometimes I can't get there sometimes, and I'm**
 20 **sick sometimes. I get a hard time walking around**
 21 **because I hurt my back and my leg.**
 22 206 **Q.** Where do you see Dr. O'Shea?
 23 **A. He was at the AIDS clinic over**
 24 **here, and then from the AIDS clinic, he moved to 554**
 25 **Main, and now they're moving to somewhere else. I'm**
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<p style="text-align: right;">49</p> <p>1 not sure where they're moving to. I'm not sure if</p> <p>2 that's vacant. I'm not sure when they're moving</p> <p>3 either.</p> <p>4 207 Q. But it's his office that you go</p> <p>5 to?</p> <p>6 A. Yeah.</p> <p>7 208 Q. Okay. Dr. O'Shea has written</p> <p>8 down -- he says "to the best of my knowledge, Kristen</p> <p>9 has been homeless for at least the past three years."</p> <p>10 And then he goes on to say "Kristen has the following</p> <p>11 medical conditions." You don't go by the name Kristen,</p> <p>12 do you?</p> <p>13 A. No.</p> <p>14 209 Q. Okay. Maybe that was just a typo,</p> <p>15 but let me ask. Dr. O'Shea goes on to list four</p> <p>16 conditions: HIV infection, opioid use disorder,</p> <p>17 stimulant use disorder and posttraumatic stress</p> <p>18 disorder. Is that accurate you have those things?</p> <p>19 A. Yeah.</p> <p>20 210 Q. What is Dr. O'Shea treating you</p> <p>21 for?</p> <p>22 A. What you just said.</p> <p>23 211 Q. All of those things?</p> <p>24 A. Yeah.</p> <p>25 212 Q. Is there any reason you see him</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">23 51</p> <p>1 and stealing from you?</p> <p>2 A. Yeah. People that are -- people</p> <p>3 that's -- they're -- I'm pretty sure they stole that</p> <p>4 money off of me, and now I owe the government now.</p> <p>5 218 Q. The people who were coming to your</p> <p>6 tent and taking thing?</p> <p>7 A. Yeah. I have -- like, yeah.</p> <p>8 Some -- there's people -- like, we almost got</p> <p>9 kidnapped, me and my daughter, by the same guy. And I</p> <p>10 knew when I got off the bus. I knew that something was</p> <p>11 up with that white van. And I started -- I went to my</p> <p>12 doctor. That's when my doctor -- I went there. I had</p> <p>13 a routine. Every day I'd get up, I go to the Fortinos,</p> <p>14 I'd go in there with my dog, call a cab, get the cab,</p> <p>15 and come -- and they'd take me to Main Street to my</p> <p>16 pharmacy. Right? And so the cab driver started</p> <p>17 getting to know my route and stuff, my name and</p> <p>18 everything like that. And so the cab that kidnapped</p> <p>19 me, I tried to -- what happened was I tried to get out.</p> <p>20 I go, "Where are you going, bro?" I go, "You're going</p> <p>21 down the wrong way. Why aren't you going down -- my</p> <p>22 clinic's on Main." He sounded -- he was getting --</p> <p>23 "Why are you trying to turn down Queen Street for, bro?"</p> <p>24 We're at Cannon. What do you want to go to Cannon for?</p> <p>25 I'm not going anywhere. Let me the fuck out of the cab</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">50</p> <p>1 weekly? Is there medication that you have to get from</p> <p>2 him every week?</p> <p>3 A. Yeah.</p> <p>4 213 Q. Okay. Dr. O'Shea goes on to</p> <p>5 describe -- just bear with me one moment. On the</p> <p>6 second page, the first paragraph, he says that on at</p> <p>7 least two occasions you've been physically assaulted at</p> <p>8 your camping site.</p> <p>9 A. Yeah.</p> <p>10 214 Q. Do you know what he's referring</p> <p>11 to? Is that the difficulty you had with the people at</p> <p>12 Barton and Barnesdale?</p> <p>13 A. Yeah, those ones and the other --</p> <p>14 yeah, there's many. Like, the one cabbie, there was --</p> <p>15 yeah, there's lots of them. I can't remember which</p> <p>16 ones that he's writing about because there was many.</p> <p>17 215 Q. There were many times, okay. And</p> <p>18 he's talking --</p> <p>19 A. More than -- more than once and</p> <p>20 more than twice.</p> <p>21 216 Q. Okay. Dr. O'Shea says "she has</p> <p>22 lost all of her belongings on multiple occasions" --</p> <p>23 A. There was nothing --</p> <p>24 217 Q. -- "been subjected to verbal</p> <p>25 harassment." Again, is that the people who were coming</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">52</p> <p>1 now. Let me out." I start smashing the window. I</p> <p>2 opened -- I started opening the window and I got --</p> <p>3 able to get this open -- this much open, and I pushed</p> <p>4 my body out halfway out the fucking window and started</p> <p>5 screaming for help. Nobody would help me. Everybody</p> <p>6 would just drive by like it was okay. He was trying to</p> <p>7 get in that store. Then he crushed me in the window</p> <p>8 and broke my ribs and stuff. So then I got away. I</p> <p>9 ran. I got onto a bus. I went to the -- I went to my</p> <p>10 pharmacy. The pharmacy is closed, and then I went to</p> <p>11 the cop shop. Went to the cop shop and went to the --</p> <p>12 from the cop shop, they pretty much humiliated me. I</p> <p>13 said, "What do you guys think? I just got almost</p> <p>14 kidnapped by a cab, man." And then I forgot the cab</p> <p>15 number. Right?</p> <p>16 And then they tried -- I asked them. I</p> <p>17 go, "Why are you guys making me look like a fool, man?"</p> <p>18 Why are you guys, like -- I didn't pay the cab? I paid</p> <p>19 the cab, man. Why wouldn't I pay the cab? And then I</p> <p>20 went to the -- the Wesley Centre. They were closed.</p> <p>21 Then I went to the -- back to the -- I went across the</p> <p>22 street to the firehouse, told them. They humiliated</p> <p>23 me. So then I went to -- back to my doctor's and</p> <p>24 stayed there because I was scared. All day I didn't</p> <p>25 leave. I stayed there all day. I was in the room</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

1 panicking. And then I got -- one of the people that
2 worked there, I got him to come to the pharmacy with
3 me, because now the pharmacy's open. I got them to
4 walk with me there. And we were -- "I'm going to show
5 you these trucks that are following me around, these
6 people. Watch." So she came with me and she seen
7 them. She seen it for her own eyes. I go, "Watch,
8 watch. He's going to come around the corner."
9 Watching it come around, watching it again. So she
10 seen the people that were following me around. She
11 goes, "Yeah, yeah."

12 And then I lost my medications that day
13 accidentally. I would have heard them fall out of my
14 coat, but I didn't hear. I didn't hear my medications
15 fall out, and I wasn't asking my doctor for another
16 script because I didn't want it to look like -- that I
17 lied. Right? Or something. So -- but she knew.
18 Like, I -- she even went back to go check for them.
19 She -- like, nobody's going to just leave, and then
20 they're going to obviously tag them. Right? So we
21 asked them if it was on camera, but nothing -- we
22 couldn't do nothing anyways. After she seen them, then
23 I kind of felt better because now they knew about it
24 and now I -- now every time something does happen or go
25 down at my house now -- from then, I call my doctor's

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1 about it right away or text him. I wrote everything
2 and I got it on camera now, so now nobody cannot not
3 believe me because I got cameras on. So I feel a
4 little bit safer with the cameras being on now.

5 219 Q. So you went to your doctor and
6 they helped you?

7 A. Yeah, they help me. They're the
8 only person -- people I have that are helping me.
9 It's -- you know, my mom died, and got the doctor --
10 Rachel, she's been, like, the best person in my life
11 right now.

12 220 Q. Let's talk about --

13 A. She helped -- she helped me and my
14 mom. Like, my mom was sick with cancer. She went to
15 my mom's house to see, like, out of her own time to go
16 see my mom and help my mom before she died.

17 221 Q. Dr. Rachel has also written a
18 letter for you, and I'm going to put it up on the
19 screen. Dr. Rachel -- for the record, it's Dr. Rachel
20 Lamont. That's who you were talking about. Right?
21 The psychiatrist?

22 A. Yeah.

23 222 Q. She says she's been your treating
24 psychiatrist since October 2021. Is that correct?

25 A. Yeah.

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1 223 Q. How often do you see Dr. Lamont?

2 A. Every time I go into my doctor's.

3 224 Q. Every time --

4 A. Well, I see one. I see Tim, then
5 I see her -- her -- her and then Tim, one of the two.

6 225 Q. Okay. So --

7 A. When my mom was sick, I wasn't
8 going every -- every -- because I couldn't leave my
9 mom. I wasn't going -- I was getting my stuff
10 delivered because it was that bad. My mom was
11 deteriorating that bad. Okay? So it got real bad. It
12 got, like, real bad, and then finally -- she finally
13 passed -- like, she passed away May 4th. That was the
14 worst thing that could happen to me on top of
15 everything else.

16 226 Q. I'm sorry to hear of your mother's
17 passing. And Dr. Lamont was able to help you with your
18 grief from your mother's passing?

19 A. They were helping me.

20 227 Q. Now, Dr. Lamont says that you were
21 evicted by the City from a tent in November 2021 which
22 led you to have to return to an abusive living
23 situation. Do you remember anything like that
24 happening?

25 A. Yeah.

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1 228 Q. Where were you evicted from? Do
2 you --

3 A. Everywhere. Everywhere we went we
4 were evicted from.

5 229 Q. And that's what you were
6 describing to me before when the City came and said you
7 have to move?

8 A. Yeah.

9 230 Q. Do you remember specifically which
10 one she's talking about --

11 A. No. I just remember we got
12 harassed by everybody, everywhere we went. We even --
13 the City told us to go there. They'd harass us.

14 231 Q. But the people who are harassing
15 you are other people; it's not the City people. Right?

16 A. I don't know if they're City
17 people. It could be. I don't know. I had so many
18 people harass me. I had to sit in my tent scared every
19 single day, man, and watch them watch me. I couldn't
20 sleep. I couldn't sleep for weeks, man. I'd stay
21 awake, man. I had to --

22 232 Q. And what was the abusive --

23 A. -- get -- I always leave -- that's
24 why I got that couple -- they moved me right in the
25 backyard, and then people helped me, man. They know

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1 the truth about everything, man, because there was
2 those people who would follow me around. They were
3 trying to -- I don't know what they were trying to do,
4 but they moved my home. They moved me in -- moved the
5 tent into the backyard, which is right behind that
6 building on Barnesdale. And then from there, we moved
7 to the other place, the other places they moved -- we
8 were all over. My daughter would go -- wherever my
9 daughter would go -- like, I didn't want to leave my
10 daughter behind.

11 233 Q. Okay. So what --

12 A. I was trying to get it together.

13 I needed to take care of her. Right?

14 234 Q. All right. Can I just pause you
15 there, though? I want to ask because Dr. Lamont says
16 you returned to an abusive living situation. Do you
17 remember that? What was that?

18 A. Everything was abusive. Like, I
19 was with -- with the person I was staying with, he
20 tried -- it was abusive. Just -- I don't know. Just
21 like -- I don't remember. I know that every time -- I
22 was living with a few people at my -- several people at
23 my camp with me were abusive to me. And then I let
24 them come back, and they'd do it again and they did it
25 again. And then he just keeps coming around. He's

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1 still coming around.

2 235 Q. Ms. Lewis, you've been very
3 patient. I think I'm getting close to being done.
4 Have you ever slept in a dumpster?

5 A. Yeah.

6 236 Q. How many times have you done that?

7 A. A lot.

8 237 Q. I take it you wouldn't have done
9 that since you became housed. Right?

10 A. No.

11 238 Q. Do you remember when you slept in
12 a dumpster, when that would have been?

13 A. When I was homeless, lots of
14 times.

15 239 Q. Why would you stay in a dumpster
16 as opposed to in your tent?

17 A. Because they fucking ripped my
18 tent apart, bro, when we were sleeping in our tent.
19 There was shit out there, outside in the woods. I had
20 to sleep on the fucking ground, cover up with leaves,
21 me and my dog. We were on the snow in wintertime with
22 the leaves on us, man, because I learned it from a
23 show, like TV. So that's what I did. I put my dog on
24 my coat, with skin to skin, and covered us up with
25 fucking leaves over us, man. We slept on the snow.

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1 The snow was coming down, bro. All I cared about was
2 taking care of my fucking dog.

3 240 Q. So the people from --

4 A. We had to bring her around and put
5 her in something. It was cold outside, man.

6 241 Q. So the people who were harassing
7 and ripped down your tent, took your tent, or ripped
8 it -- and you went to sleep in a dumpster, where you
9 went to sleep out in the cold with your dog. Correct?

10 A. Yeah.

11 242 Q. How long would you have done that
12 before finding a tent again?

13 A. Random times. Sometimes had to
14 wait the whole month to get a tent. I couldn't afford
15 it all the time. Like, sometimes I got -- couple times
16 from ASM (ph), one for my daughter and one for me, and
17 one more from them. Thank god I got that. And then I
18 was on my own. Sometimes people -- like, I have -- one
19 of my friends, he bought a sheet to put up, but it
20 wasn't even a tent. It was something else, but I made
21 it into a tent.

22 243 Q. Did you try to get into shelter at
23 that time?

24 A. Every day, of course, yeah.

25 244 Q. And what happened when you tried

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1 to get into shelter --

2 A. I got a dog.

3 245 Q. Because of your dog. Did you stay
4 with other people in their tents at any time after your
5 tent was torn down --

6 A. I don't have any friends because I
7 got -- I got that thing that I -- agoraphobia, so I
8 can't -- I don't know. I can't be around people, man.
9 I'm scared to be around people and stuff. I hardly
10 come out of my house, man. I'm scared to come out.

11 246 Q. Have you ever slept in an
12 abandoned car?

13 A. Yeah.

14 247 Q. How many times?

15 A. Lots.

16 248 Q. Are you able to say anything more
17 particularly than just "lots"?

18 A. No. Just lots, a lot of times. I
19 remember I didn't have anywhere else to go, man, so I
20 slept on the train tracks, in the back of a -- a door
21 was open. There was a place where they had a bunch of
22 cars lined up. Mallory was sleeping in a truck, cube
23 truck, and that's what she showed me. And I had --
24 like, I didn't want to sit there with her boyfriend
25 with her, so I had to go somewhere. Right? So I went

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1 to the first car and the door was open, so I -- and
 2 they had -- there were bags, so I covered the window,
 3 put some bags in there so you couldn't see me in the
 4 back, laying in the back there. That's where I stayed
 5 for maybe three, four weeks.
 6 249 Q. At any time when you were staying
 7 in the car, did you try to get into shelter?
 8 A. Yeah.
 9 250 Q. Do you remember when that was?
 10 A. In the winter.
 11 251 Q. In the winter. Do you remember
 12 which winter it was?
 13 A. No.
 14 252 Q. Okay.
 15 A. I just know it was one of the
 16 winters when it was -- when it got really bad. It was
 17 really bad the whole time, but I can't tell you when.
 18 I just remember it happened, and I know where it was
 19 now. I just remembered a cube van. Mallory showed me,
 20 because she -- we got kicked out of the other place,
 21 and then...
 22 253 Q. Which shelter did you go to?
 23 A. They moved me to Mary's Place. I
 24 mean, they moved me to -- yeah, Mary's Place.
 25 254 Q. Okay. You told me about that
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1 before, but I was asking if you tried to go to shelter
 2 before sleeping in the car --
 3 A. I've been trying to go to shelter
 4 the whole time. They won't -- no shelters will take me
 5 because of the dog.
 6 255 Q. Okay. So again, you didn't want
 7 to leave your dog, so you stayed outside. Right?
 8 A. Mm-hmm.
 9 256 Q. That's a yes?
 10 A. Yes.
 11 257 Q. Are you able to estimate for me
 12 how many times you've stayed outside, outside of a
 13 tent?
 14 A. Lots of times, man.
 15 258 Q. And --
 16 A. About 20 -- 20 times, maybe.
 17 259 Q. About 20 times, okay. Just give
 18 me a moment. I'm going to take a look and review my
 19 notes. Let's go off record for a moment.
 20 --- (Off the record)
 21 BY MS. SHORES:
 22 260 Q. Ms. Lewis, the City of Hamilton
 23 keeps records about your attempts to stay in shelter
 24 and obtain assistance including shelter stays and
 25 service restrictions. Will you sign an authorization
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1 allowing those records to be disclosed in this
 2 litigation?
 3 A. Yeah.
 4 261 Q. That's a yes --
 5 A. Yes, yeah.
 6 262 Q. All right. We've already provided
 7 a copy of the form to your lawyer. We can have that
 8 arrangement made. Okay, I don't have any further
 9 questions for you, Ms. Lewis. Thank you.
 10 A. Thank you.
 11 RE-EXAMINATION BY MS. CROWE:
 12 263 Q. I just have a few questions for
 13 you. Okay?
 14 A. Mm-hmm.
 15 264 Q. Can I call you Ammy?
 16 A. Yeah.
 17 265 Q. Okay. The first is I just want to
 18 clarify when you first met with someone about this
 19 affidavit in June 2022. I realized, Counsel, that we
 20 are going to waive a very small and distinct portion of
 21 solicitor-client privilege because we do think it's
 22 important to understand everyone, that there is a
 23 retainer and a direction to her knowledge leading up to
 24 today's examination. So the first thing I want to ask,
 25 Ammy, is do you remember meeting with me at Wesley
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1 Centre?
 2 A. Yeah, I do.
 3 266 Q. Okay, great.
 4 A. Yeah, I remember. You were at the
 5 table.
 6 267 Q. Yeah. You remember talking about
 7 encampment evictions?
 8 A. Yeah.
 9 268 Q. Okay, great. And then I want to
 10 fast-forward because I know that was two years ago. Do
 11 you remember me calling you yesterday to talk about
 12 this examination?
 13 A. Yes.
 14 269 Q. Do you remember me going over your
 15 affidavit?
 16 A. Yeah, yes.
 17 270 Q. Do you remember me asking you if
 18 it sounded right?
 19 A. Yes.
 20 271 Q. I think that's good, then.
 21 A. Thank you.
 22 272 Q. Just a couple of very quick
 23 questions. Just one second. Who is your current
 24 landlord?
 25 A. I'm not sure. I do not know their
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<p style="text-align: right;">65</p> <p>1 names.</p> <p>2 273 Q. Okay.</p> <p>3 A. They aren't -- like, I don't do --</p> <p>4 I give direct payment, so I don't really know who they</p> <p>5 are. I just know I live at 95 Hess, and the money goes</p> <p>6 to them.</p> <p>7 274 Q. 95 Hess, okay.</p> <p>8 A. It's Vanier Towers.</p> <p>9 275 Q. Okay. You mentioned that it was</p> <p>10 market rent.</p> <p>11 A. Yeah, it's market rent.</p> <p>12 276 Q. How much is your rent?</p> <p>13 A. Six-something.</p> <p>14 277 Q. How much is your income from ODSP?</p> <p>15 R/F MS. SHORES: Counsel, I'm going to have</p> <p>16 to object and I'm going to give some of the same</p> <p>17 objections that Mr. Diacur gave. This is not</p> <p>18 clarifying an answer that was given. This is expanding</p> <p>19 on some of the answers that were given previously,</p> <p>20 which is not proper scope. Now, I was quite lenient</p> <p>21 earlier in the day and that does not seem to have been</p> <p>22 rewarded with a return in courtesy. So again, Counsel,</p> <p>23 I'd ask you to restrict your re-examination to the</p> <p>24 proper scope of re-examination, which is clarifying any</p> <p>25 ambiguities in the answers that were given on the</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">27 67</p> <p>1 THE DEPONENT: No, she's not.</p> <p>2 MS. SHORES: -- a different answer.</p> <p>3 And in fact, you asked a leading question about whether</p> <p>4 the City ever took her tent when she gave evidence when</p> <p>5 asked proper open-ended questions earlier --</p> <p>6 THE DEPONENT: I never -- what are you</p> <p>7 talked about, man?</p> <p>8 MS. CROWE: Number one, I think her</p> <p>9 frustration was with an entirely different line of</p> <p>10 questioning.</p> <p>11 THE DEPONENT: Yeah, it was.</p> <p>12 MS. CROWE: And number two, my question</p> <p>13 is not leading if I ask her about what happened in the</p> <p>14 course of evictions --</p> <p>15 MS. SHORES: That's not what you asked,</p> <p>16 Counsel.</p> <p>17 MS. CROWE: Well, I think I'm --</p> <p>18 MS. SHORES: The transcript will be</p> <p>19 quite clear as to what was asked and what was suggested</p> <p>20 to this witness.</p> <p>21 MS. CROWE: Right. Well, I --</p> <p>22 MS. SHORES: And I'll ask you again to</p> <p>23 constrain your re-examination to the proper scope of</p> <p>24 re-examination, which is not revisiting evidence and</p> <p>25 trying to get different answers.</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p style="text-align: right;">66</p> <p>1 cross-examination and not expanding the evidence</p> <p>2 otherwise.</p> <p>3 MS. CROWE: I think we have a</p> <p>4 disagreement on whether this is clarifying or</p> <p>5 expanding, but at any rate, I'll move on.</p> <p>6 BY MS. CROWE:</p> <p>7 278 Q. You mentioned that your tents were</p> <p>8 torn up at different times?</p> <p>9 A. Mm-hmm.</p> <p>10 279 Q. You also mentioned being evicted</p> <p>11 by the City at different times?</p> <p>12 A. Yeah.</p> <p>13 280 Q. Did the City ever take your tent</p> <p>14 in the course of an eviction?</p> <p>15 A. Yeah, they would, yeah.</p> <p>16 281 Q. Do you know how many times?</p> <p>17 MS. SHORES: Counsel --</p> <p>18 THE DEPONENT: A couple times.</p> <p>19 R/F MS. SHORES: Counsel, I'm going to</p> <p>20 object again. The record will show that Ms. Lewis was</p> <p>21 taken through this chronology several times to the</p> <p>22 point where she even complained about it and asked if I</p> <p>23 was trying to trip her up. Now you're asking her the</p> <p>24 exact same questions and doing so in a way that</p> <p>25 suggests --</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p style="text-align: right;">68</p> <p>1 MS. CROWE: I'm not revisiting evidence</p> <p>2 and trying to get different answers. I am asking</p> <p>3 questions that are based on both the affidavit and the</p> <p>4 questioning that was put forward to her in cross.</p> <p>5 MS. SHORES: Again, the proper scope of</p> <p>6 re-examination is clarifying ambiguities and dealing</p> <p>7 with issues that were raised on cross-examination. It</p> <p>8 is not revisiting the same evidence and attempting to</p> <p>9 get different answers.</p> <p>10 MS. CROWE: Well, again, I think we're</p> <p>11 just going to have to agree to disagree on the scope</p> <p>12 and the intention behind that question. At any rate,</p> <p>13 she's given an answer and I understand that you're</p> <p>14 objecting.</p> <p>15 MS. SHORES: I'm objecting and I'm also</p> <p>16 stating on the record that I believe the witness was</p> <p>17 led to that answer and it has no reliability.</p> <p>18 THE DEPONENT: She didn't lead me to</p> <p>19 nothing, man. Nice try, though. She didn't lead me on</p> <p>20 nothing.</p> <p>21 MS. SHORES: If this continues, we are</p> <p>22 going to have to adjourn these examinations to get</p> <p>23 directions.</p> <p>24 THE DEPONENT: You're the one...</p> <p>25 MS. SHORES: Please continue, Counsel.</p> <p style="text-align: center;">Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

1 MS. CROWE: I think those are my
2 questions.

3 MS. SHORES: Thank you.

4 --- Whereupon proceedings adjourned at 6:07 p.m.

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

9
10 
11 [Electronically signed on August 25, 2024]

12 Lydia Pak, Court Reporter
13 Computer-Aided Transcription
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TAB 46

**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 ASHLEY MACDONALD

1. I, ASHLEY MACDONALD, of the City of Hamilton in the Province of Ontario, AFFIRM AND STATE:
2. 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.
3. I am Indigenous.
4. I am a recipient of the Ontario Disability Support Program but only receive the basic needs portion because I do not have shelter costs while homeless.
5. I have been diagnosed with Obsessive Compulsive Disorder, Fetal Alcohol Syndrome Disorder, Depression and Substance Abuse Disorder.
6. I have been homeless on and off throughout my life. I have not had a home aside from my tent, since 2020 when I was unlawfully evicted from my rental unit.
7. Since 2020 I have been residing in tents in parks throughout Hamilton and have been evicted from them without guaranteed shelter to move into. As a result, I am constantly being moved into other parks and public spaces.
8. However, during the period of the Encampment Protocol, I was entitled to stay in my encampment indefinitely because I was too high acuity to enter shelter. Remaining in one

location during that time created more stability and I was better able to routinely connect to street outreach support such as Indigenous Housing Services through the Homeward Bound program, receive food drop off, and mobile health care provided by Dr. Wiwcharuk. It is difficult to access doctors outside of your immediate area and risk theft of your possessions if you leave your encampment. I have also chosen to encamp close to safe injection sites to prevent the risk of overdose and unsafe injections. Once the Encampment Protocol ended, I was evicted from my encampment with nowhere to go. I have been more transient and less stable since.

9. Of the times that I am homeless, I am more often than not unable to access shelter because they have been full or I have been service restricted from them.
10. When I was in a relationship, I was unable to enter the shelter system as a couple because I was told there was no space as a couple.
11. Even if my partner is able to enter the men's shelter, it is unsafe for me to remain outside alone when I cannot get into the women's shelter. In one instance, while we were apart and I was on the street alone, I was jumped and assaulted so badly that I sustained a serious head injury.
12. As well, I prefer to remain with my partner because we can help one another survive and this also helps to maintain some stability.
13. I am often without a cell phone which means that reconnecting with a partner once separated can be difficult. Without a cell phone it is also difficult to remain connected to services.
14. In the month of July in the year of 2020, my partner and I lived at the encampment located by the Wesley Day Centre.
15. I was staying at encampments at Sir John A. MacDonald, but were forcefully evicted from that encampment by by-law and had no shelter to enter when this took place because they were all full.
16. I have been evicted by by-law from various encampments even when I cannot get into shelter.
17. I want to avoid confrontation with by-law and the police because they are intimidating, I want to avoid criminal charges and minimize the risk that they tear down my tent despite my protest. For these reasons, when an enforcement is taking place, I have no option but to comply.
18. I have had a VI-SPDT administered and I scored in the high acuity range. I have been told by shelters and transitional housing programs that I am too high needs for their

programs. My high needs have been the basis to exclude me from the shelter and transitional housing programs.

19. Evictions from encampments are stressful, intimidating and traumatizing. You don't know where you are going to go to stay safe after them.

20. When my tent is removed and I am moved, I lose connection to health care and outreach supports and am at greater risk of overdose because of the loss of community that comes with an encampment where people will look out for you. I am also at greater risk of assault because I am more alone when these encampment communities are broken up.

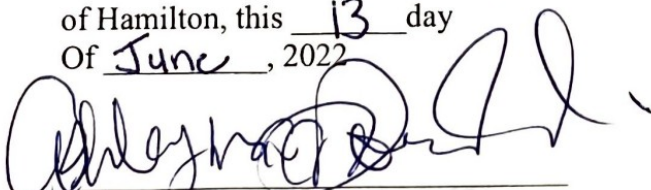
21. My ex-landlord is part of a human trafficking ring. When I was living there women were being trafficked through the house. I have been threatened by this ex-landlord. He has followed me around. He recently assaulted me.

22. Despite all authorities knowing that I am a victim, I have been kicked out of CAP; despite being told I need to check in with them to confirm that I am not kidnapped or hurt. They are also routinely full.

23. Since 2020 I have been service restricted from shelters.

24. I have nowhere to go. By-law continues to evict me from public spaces even without a tent and they threaten tickets. I have been issued roughly 50 tickets between by-law and police.

SWORN BEFORE ME in the City
of Hamilton, this 13 day
Of June, 2022


Ashley MacDonald


Commissioner

LSUC 65464F

Continuation

33

24. For example, I have also been issued a ticket for being in a park at 6:00pm even though it wasn't dusk.
25. I have had roughly 80-100 cell phones stolen in the past 6 months. My ID has also been stolen 3 times. I have now memorized my health care.
26. I have no where to go to shower and clean myself. If I go to a bathroom in the mall, security will assume I'm doing drugs and will kick me out.
27. I am routinely being jumped and assaulted by men while I am living on the street. Sometimes they are deterred by the male friends with me, other times not because they are bigger.
28. I don't know where I can legally be and exist.
29. I just want to be housed. I'm very tired of being pushed around and in this cycle.



TAB 47

Ashley MacDonald- 1

12:00:53PM

COURT FILE NO. CV-21-77187

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, 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)

Cross-examination on Affidavit sworn June 13, 2022 of ASHLEY MACDONALD, an Applicant herein, taken upon affirmation in the above action this 10th day of October, 2024, via videoconference, through the offices of Nimigan Mihailovich Reporting, Hamilton, Ontario.

APPEARANCES:

CROWE, SHARON
SELL, CURTIS FOR THE APPLICANT(S)
(Community Legal Clinic of York Region)

SHORES, BEVIN FOR THE RESPONDENT
Also Appearing: Liz Marr
(Gowling WLG)

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I N D E X

WITNESS: Ashley MacDonald

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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Ashley MacDonald - 3

-- Upon commencing at 1:30 p.m.

ASHLEY MACDONALD, AFFIRMED
EXAMINATION BY MS. SHORES:

1 Q. Good afternoon, Ms. MacDonald. As I introduced off the record, my name is Bevin Shores; my pronouns are she and her, and I am one of the lawyers for the respondent, the City of Hamilton, in this proceeding, and I will also indicate for the record that we're here for a cross-examination on an affidavit that you swore dated June 13, 2022. Can I start by getting you to please state your full name for the record?

A. Ashley Lynn MacDonald.

2 Q. Okay, and are there any names that you go by other than Ashley?

A. Yes, my step-dad's and my married name, Greene.

3 Q. You said Greene?

A. Yes, with an "e".

4 Q. So G-r-e-e-n-e?

A. G-r-e-e-n-e.

5 Q. Thank you. And do you have any pronouns that you wish to share?

A. No.

6 Q. You confirm that you've just been

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Ashley MacDonald 364

affirmed to tell the truth today?

A. Yes.

7 Q. All right. If during this cross-examination you don't understand one of my questions or you don't hear me, please let me know and I can repeat it or rephrase it for you; is that understood?

A. Yeah.

8 Q. Okay. And you can confirm that other than your lawyer, you're alone in the room?

A. Yes.

9 Q. Okay. And you understand that you're not to have any assistance in giving your answers today, that your evidence has to be yours, correct?

A. Yes.

10 Q. All right. And just a reminder as well to please give verbal responses, and keep your voice up so that Ann, our court reporter, can hear you and makes sure she gets down your evidence. If you forget, one of us will let you know, but just try to remember if you can; is that understood?

A. Yes.

11 Q. Okay. Before coming today, have you reviewed your affidavit dated June 13, 2022?

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Ashley MacDonald - 5

A. Yes.

12 Q. And can you confirm that everything in your affidavit is accurate?

A. Yes.

13 Q. How long have you lived in Hamilton?

A. Pretty much my whole life.

14 Q. Okay. And you're attending from Hamilton today? You're at your lawyer's office, I understand?

A. Not at my lawyer's office. I'm on another site, but I'm with my lawyer, yes.

15 Q. Sorry, where are you attending from today?

A. My residence, Dorothy Day.

16 Q. Dorothy Day, okay.

A. Yeah.

17 Q. And that's in Hamilton?

A. Yes.

18 Q. Okay. Now, you said that's your residence. How long have you been staying there?

A. Since June 29th, last year.

19 Q. So that would be June 29th of 2023?

A. Yes.

20 Q. I want to take you to your affidavit. And actually, sorry, I'm just going to

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ask you a little bit more about your current status. So you've been at Dorothy Day since about June of 2023. And how did you obtain your housing at Dorothy Day?

A. Actually, I don't really know how to answer that because I don't really know; it just kind of came out of nowhere. They kind of -- they asked me to lead by example and advocate for girls. So I'm not really sure of what organization is behind it.

21 Q. Okay, but some organization helped facilitate you --

A. I believe Social Nav had a lot to do with it.

22 Q. And when you say Social Nav, you mean the Social Navigator?

A. Yeah, the paramedics.

23 Q. So I want to ask you -- and I'll take you to your affidavit; I'm going to share my screen again. All right. So at paragraph 4 of your affidavit you say that you're a recipient of the Ontario Disability Support Program but only receive the basic needs portion "because I do not have shelter costs while homeless."

Has that changed now that you have

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Clinic. My disorders came from there.

30 Q. Okay. So would that have been around the same time that you received your obsessive compulsive disorder diagnosis, around the age of 19?

A. Yeah, yeah.

31 Q. Okay. And then the same thing with depression and substance use disorder?

A. Yeah, I had depression and substance uses since I was a teenager.

32 Q. Okay. Now, at paragraph 6 of your affidavit you describe that you've been homeless on and off throughout your life, and then at the time that you gave this affidavit in June of 2022, you had not had a home aside from your tent since 2020 when you were unlawfully evicted from your rental unit.

Also in your affidavit, if we go down to paragraph 21, you describe your ex-landlord who is part of the human trafficking ring. Was that the same landlord, the one who unlawfully evicted you?

A. Yes.

33 Q. Okay. And you also say at paragraph 21 of your affidavit that this ex-landlord
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housing?

A. Yes.

24 Q. Okay. So do you get some form of housing benefit for ODSP now as well?

A. Yes.

25 Q. Okay. Do you remember how much that is?

A. 525, I believe.

26 Q. And that's per month?

A. Yes.

27 Q. And at paragraph 5 you describe that you've been diagnosed with obsessive compulsive disorder, fetal alcohol syndrome disorder, depression, and substance use disorder. Do you remember when you were diagnosed with obsessive compulsive disorder?

A. Many years ago. Not exactly -- not the exact date. I was 18 or 19, I think.

28 Q. And --

A. I don't remember clearly that long ago, though.

29 Q. Fetal alcohol syndrome, I assume that was something you were diagnosed with at birth?

A. No. Well, yeah, it came from birth, but I was diagnosed from St. Joe's Women's Health

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followed you around and recently assaulted you?

A. That's correct.

34 Q. When did that assault occur?

A. I think it was 2020, but I'm not a hundred percent. It was after I was evicted from there.

35 Q. Okay, do you remember where the assault happened?

A. Yeah, it was in front of the Big B on Caroline and Hunter.

36 Q. And what happened during the assault? Like what were you doing, or how did this ex-landlord approach you?

A. He came out of a vehicle with a female and approached me with (unclear) I guess, an affidavit from an officer who reiterated what I had said during the raid. So it wasn't my words exactly; it was what the officer said I said, and he punched me in the face for that.

37 Q. You said it happened in front of the Big B. Was that where you -- were you hanging out in front of the Big B or were you about to go in there?

A. No, we were about to go in there.

38 Q. After the assault occurred, did you
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seek medical attention?

A. No.

39 Q. Other than the landlord and the woman who was with him, was there anyone else around?

A. Yeah.

40 Q. Anybody that you know? Like were there witnesses?

A. Yeah, there was four of my friends with me.

41 Q. And what did your friends do?

A. Read the affidavit, as silly as that sounds. And they told him that affidavit was what an officer said, not what I said, so doesn't make me a rat. He was accusing me of being a rat, ratting him out.

42 Q. And when this assault occurred, did you contact any authorities about the assault?

A. No.

43 Q. If we go back to paragraph 7 of your affidavit, you described that since 2020 you've been residing in tents in parks throughout Hamilton. I want to just get a little bit more of a timeline, if we may, about where you were living when. So at paragraph 8 you described that during the period of

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the encampment protocol you were entitled to stay in your encampment indefinitely because you were too high acuity to enter shelter.

So let's just start with establishing a timeline. When you were evicted from your rental unit, was the encampment protocol already in place? Do you remember about what time of year it was?

A. No, it wasn't in place yet.

44 Q. Do you remember what time of year it was?

A. I believe it was summer going into fall, but I'm not a hundred percent on that one.

45 Q. And where did you go, do you remember, after you were evicted?

A. Ferguson was the first encampment.

46 Q. Ferguson. And how long did you stay there?

A. Throughout the whole time the encampment was there.

47 Q. Okay. And when did you stop living there?

A. I can't be sure of that.

48 Q. If I suggest to you that the Ferguson encampment was, I'll say disbanded as part

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of an agreement between groups like HAMSMaRT and Keeping Six, would that sound about right to you? Would that be around the time you left or would it be some other time?

A. No, HAMSMaRT and Keeping Six, Dr. Jill, they were all involved. So Social Nav I believe started -- the program started, I think the Social Navigation Team, they just started that program at the end of the, during the Ferguson encampment. So I'm not sure when that was, though.

49 Q. Okay.

A. I would say maybe.

50 Q. Okay, that's fair. All you can do is do your best to give us your memory. And would I be correct in understanding, though, that when you left that encampment, it was part of that agreement?

A. What agreement are we talking about?

51 Q. Well, I'll suggest to you, and you can tell me if you understand differently, that there was an agreement between HAMSMaRT and Keeping Six for the disbanding of the Ferguson encampment about when it was to be done, that people were to be offered shelter, those kinds of things. Does that --

A. They were offering hotels at the end

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of the Ferguson when they were offering hotels. And then they probably did, I believe that's when they probably put couples at one of the hotels. Um, yeah. It was at the beginning of the hotels on Dundurn.

52 Q. And were you one of the people who were offered a hotel?

A. Yeah, for a short time I was offered a hotel at Dundurn; and I was kicked out, but I can't remember exactly why.

53 Q. Okay, the hotel on Dundurn -- we'll come back to that in a minute because I just want to clarify for you. In fairness to you, you say in paragraph 14 of your affidavit that in July of 2020 you lived with your partner at the encampment located by the Wesley Day Centre; is that correct?

A. Yes.

54 Q. So would that have been before you went to Ferguson?

A. I guess that would have been after. It would have been after Ferguson.

55 Q. But if you went into --

A. No, no, no. So we would have been evicted beforehand -- see, I don't know if it was after or before. My memory cannot -- I can't

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remember if we were there before or after.

56 Q. All right. And just focusing again on when you were at the encampment by Wesley Day Centre, do you remember exactly where you were camping? Like was it in a park or a parking lot?

A. We were on the street.

57 Q. On the street, okay. Like physically on the --

A. Yeah, everybody was on the street, on the sidewalk.

58 Q. I'm sorry, I didn't catch that?

A. All the tents were on the sidewalks.

59 Q. On the sidewalk. And how long were you there? How long did you camp there?

A. I don't know. It's really hard to put a timeline. I'm an addict; days go into night, night goes into days so I can't -- I'm struggling with the timeline.

60 Q. Would you be able to say whether it a number of days, a number of weeks, a number of months?

A. That I was at Ferguson?

61 Q. At Wesley?

A. At Wesley, we were there for months.

62 Q. For months. And why did you stop

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at Wesley, and I just wanted to know how much advance notice they gave you?

A. I don't really -- to be fair, I don't think there was really much of a notice other than when they came and they just offered the hotels. Like they were saying it was going to come, but there was no, like, definite date that it was going to be taken down.

66 Q. And did you take the offer of a hotel?

A. Eventually I did, yeah.

67 Q. Okay. And what did you do with your things? Were you able to take them with you?

A. No, we were only allowed to take very few things with us, and they threw the rest of it out.

68 Q. Did you tell them that you wanted to keep anything or ask where you could store things that you couldn't take with you?

A. Yes.

69 Q. And what --

A. They said we could get our own storage units, but we needed ID and stuff and that a lot of people didn't have ID. So they ended up offering a month's storage with the city for me and

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camping at Wesley?

A. That was when they dismember -- dismantled the tents and offered the hotels.

63 Q. So someone -- so when you say dismantled the tents, did they tell you beforehand that they were going to come to do that?

A. Yeah, they told us that they would offer tents, um, people offered as they were available, and then somehow we all just ended up going to hotels.

64 Q. And do you remember how long it was before, like, when they came to say we're going to come by and dismantle, if that's what they said, how long it was between then and when you got into a hotel?

A. I want to say it was probably eight months to a year, but I'm not a hundred percent on that. I know we were there in the winter because I was in the hospital for a surgery, so I know it was still at Wesley Centre in the winter.

65 Q. I think I might have phrased my question in a way that was confusing, so let me just in fairness to you make sure you understand. So you said on that one they said they were going to, I think you used the word "dismantle" the encampment

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a few people, but it was only for a month, and then they threw our stuff out anyway.

70 Q. So did you take them up on the offer for storage?

A. Yeah, for the month I did.

71 Q. Okay. And --

A. But I lost all my stuff anyway.

72 Q. And how did that happen?

A. Because we had to be housed by the time, like, the month was up, and we were still in the shelter -- or the hotels.

73 Q. Couldn't you get your stuff and bring it with you to the hotel after the --

A. You were only allowed to bring very few things, like a few suitcases and stuff with you. You weren't allowed to bring a lot with you.

74 Q. So what were the sort of things that were left behind in the storage?

A. Mostly things like TVs if we had them, stuff that may have come from our houses, clothes, keepsakes, pictures, teddy bears, just anything you could think of that came out of your house that you wanted to keep.

75 Q. And what were --

A. Some people (unclear), some people

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didn't. Me personally, I just had pictures and keepsakes and clothes and shoes and a TV and stuff like that that I had in a box, but it all got thrown out.

76 Q. And the keepsakes in particular, is there any reason you couldn't bring those with you to the hotel?

A. They didn't want too much things, like an overflow of stuff. I don't know why.

77 Q. I guess I'm just trying to understand; are you talking about photos or what sort of keep --

A. Yeah, photos. It could be from photos, it could be ashes, it could be lots of things. Depends on the person, I guess, what they had in their keepsakes.

78 Q. Sorry, I'm talking about --

A. Ashes, my photographs, shoes, purses, things that I collected over the years, they all gone thrown out.

79 Q. So I'm asking about you in particular. What keepsakes couldn't you --

A. I just listed them. I said my sister's ashes, photographs, shoes, purses. Tons of stuff, like lots of things.

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just said you have to come get your stuff?

A. No, the city was housing our stuff for a short-term period of a month. If we wanted to get our stuff, we had to take it all, like, then.

84 Q. All right.

A. They said it would be safe for the month, but it wasn't. Well, I mean it was safe for the month, but then they threw it out anyway.

85 Q. How did you learn that your things had been thrown out?

A. When I asked for them.

86 Q. When did you ask for them?

A. I forget the guy in the truck that does Parks, but he was specifically responsible for my stuff, and the agreement was that they house it for a month then they throw it out if you didn't get housed.

87 Q. Do you remember when you asked for your stuff, was it before or after the month was up?

A. It was after the month.

88 Q. Do you know how long after the month was up?

A. No.

89 Q. Now, at paragraph 15 of your affidavit you also described seeing encampments at

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80 Q. Your sister's ashes in particular, why couldn't you bring that into the hotel? That would have been in an urn, right?

A. It was in a jewelry box full of jewelry and stuff, so it was just mixed in with stuff. Like it was no neat packing kind of thing where you could, like, organize things and bring it wherever. It was kind of like take this and -- it was really high speed and fast. Because they were helping bring people's stuff to the hotel, like the paramedics were, so you could only fit whatever in the back seat and then everything else was gone.

81 Q. Okay, but you could go back to the storage and say, hey, my sister's ashes are here, I want to come get them?

A. No, you couldn't. Once you sent the stuff, that was it. The only way you could get it was if you got housing and you wanted to put your stuff at the house. If you went to get something, you had to take everything out.

82 Q. You said the only way you could get your stuff is if you got housing. Tell me more about that; who told you that?

A. It was the city.

83 Q. Is it housing in particular, or they

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Sir John A. MacDonald. Do you remember when that was?

A. No.

90 Q. Do you remember how long you were at Sir John A. MacDonald?

A. No, most places we were just there a few weeks to a couple months and then we were pushed out.

91 Q. And when you left Sir John A. MacDonald, do you remember specifically what those circumstances were?

A. What do you mean, why we left?

92 Q. Right.

A. We weren't allowed to have our tents up.

93 Q. So did someone tell you you couldn't have your tents up?

A. The city.

94 Q. What did they say?

A. Told the police to take down encampments. They had the encampment team -- what I know is the encampment team, police officers and paramedics and whoever, city workers, Parks, trucks, various people, those people are -- I'm not sure who they are exactly, but they go and take the

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encampments down.

95 Q. What did they specifically say to you, though?

A. They weren't allowed to have it there, there was no guarantee for housing, they didn't know what was going on, they had no answers for us, just that we couldn't have our tents there; and most of the time it ended up them taking it.

96 Q. What do you mean when you say that?

A. What do you mean?

97 Q. You said most of the time it ended up with them taking it. Who --

A. Taking the tents from us. They take the tents, they throw them in the garbage.

98 Q. So did that happen at John A. MacDonald?

A. That happened at John A. MacDonald, that happened at Ferguson, that happened at Urban Core, that happened at City Hall, that happened -- still happens right now.

99 Q. So when you say still happens right now, is that something that happened to you?

A. Yes, more than once.

100 Q. All right. So right now you're living at Dorothy Day; you're not in a tent anymore,

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A. I don't know; I can't answer that question. It depends on the week, it depends on the day, it depends on my mood.

107 Q. And where is your tent?

A. At the park on the next street.

108 Q. The next street. And where is Dorothy Day located, or do you know which street?

A. Arkledun.

109 Q. Arkledun, okay. When was the last time your tent was thrown out?

A. My tent? My tent is thrown out every couple weeks.

110 Q. Okay, but when was the last time that happened to you?

A. A few weeks ago. I can't remember exact dates.

111 Q. And what happened when your tent was thrown out a few weeks ago I think, if I heard you correctly?

A. Well, they just take your stuff and they throw it in the garbage.

112 Q. Where was your tent?

A. Before the park it was at the Women's Y.

113 Q. I'm sorry?

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right?

A. No, I'm still staying in a tent.

101 Q. I'm sorry, you're staying --

A. I'm transitioning into my apartment; I've been transitioning for the year, but I've been in a tent for many, many years, so. It's hard to go from outside to inside, so I'm transitioning.

102 Q. And you told me --

A. I moved closer to my building now and I'm staying more inside now than I have, so.

103 Q. So you have an apartment that you can stay in, but you're still staying outside in your tent?

A. No, no, no, not really. I still go to my tent. I still have it for comfort, I guess. I don't know, it's hard to explain.

104 Q. I understand, but I'm hoping that you can help me understand at least a little bit. So you have an apartment at Dorothy Day?

A. Yes.

105 Q. But you're still staying in your tent, you said, as a comfort thing?

A. Sometimes, yes.

106 Q. How often are you staying in your tent?

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A. It was at the Women's Y.

114 Q. The Women's Y, okay?

A. YMCA.

115 Q. And where specifically was your tent?

A. It was across from Women's Y at the heritage spot.

116 Q. By Whitehern?

A. Yes, Whitehern.

117 Q. Like on the sidewalk there?

A. Yeah.

118 Q. And did they come by and say you can't have your tent there?

A. Yes.

119 Q. And then what did you do?

A. At first we take the tents down and just move a couple feet away, and then they started taking the tents and taking all of our stuff. So then I just put up another tent and do it all over again.

120 Q. And how long between when they said you can't be here to when, as you say, they took your tents and your stuff?

A. Oh, every couple weeks they come back around.

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121 Q. So going back to Sir John A. MacDonald, when that happened, did they come by and say you can't be here?

A. Yeah.

122 Q. Okay. And then did they come back and, as you say, take your tent?

A. At that time, no, they were a little more lenient -- at least with me they were a little more lenient -- and let us take our tent down and stuff and just move along at that time.

123 Q. At paragraph 8 of your affidavit, you say that you're too high acuity to enter shelter, and you say that while describing that during the period of the encampment protocol you were entitled to stay in your encampment indefinitely.

Would I be correct in understanding that you had the acuity score that meant under the encampment protocol that you could stay in the encampment?

A. I'm not sure exactly.

124 Q. Okay.

A. I'm not sure. I just know VI-SPDAT was too high to be in, I guess be helped. It was too high to be helped. I was too high of a need to

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A. Carol Ann's Place.

130 Q. Carol Ann's Place at the Women's Y?

A. The Social Navigator team outreach.

131 Q. And what did they tell you specifically?

A. That my score was too high; they had to find a way to lower it which meant basically I'd have to lie in order to get my score low.

132 Q. And why were they trying to get your score low?

A. Because that's what you have to do to get help.

133 Q. What help were you trying to get?

A. Housing, shelter.

134 Q. Okay. In fairness to you, Ms. MacDonald, there have been some other witnesses that suggest that you don't need to have a specific acuity score higher or lower to get into shelter. So is it possible that they weren't telling you you were too high acuity to get into shelter?

A. No, they were doing a VI-SPDAT.

135 Q. Where were the VI-SPDAT done?

A. Social Navigation team did it, and Carol Ann's Place staff had done it, the Y staff done it. I don't think they go off the VI-SPDAT

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be housed I guess. I'm not really sure what the VI-SPDAT was for.

125 Q. Okay. Did anyone specifically say you're too high acuity to be helped?

A. Yes, the Social Navigator told me that -- I don't know created the VI-SPDAT, but everybody was saying that you couldn't be helped because of my, my, I scored too high to get into the shelter system.

126 Q. Scored too high to get into the shelters?

A. Yeah.

127 Q. Have you ever been told while trying to go into a shelter that you can't go in because of your acuity or your VI-SPDAT?

A. For a period, yes. There was a time where I was too high of needs for anyone to help me.

128 Q. Okay, so tell me about that. When was that?

A. I don't remember exactly when that is. I'm guessing -- I don't know. I can't give you dates. I cannot give you dates. I don't know.

129 Q. And do you know where it was that you were trying to get help from that they said they couldn't --

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anymore, but they did.

136 Q. So when you say Carol Ann's and Y staff, were those two different occasions or was that the same time?

A. They had the same staff but they had two different I guess parts of the building.

137 Q. Okay. And so when it was at Carol Ann's Place, why were they do the VI-SPDAT?

A. To get into shelter.

138 Q. To get into shelter.

A. To get you into housing, to get you into hotels or -- anything, any kind of help at that time, you had to score low on the VI-SPDAT.

139 Q. But they weren't saying you have to leave Carol Ann's Place if you don't have a certain score?

A. You can't get into Carol Ann's Place. I specifically could not get into Carol Ann's Place; I was too high a need, I had to lower my score. Why? I don't know. You'd have to ask the staff.

140 Q. And how many times were you told that you can't get into Carol Ann's Place because you have to lower your score?

A. Multiple times.

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- 141** Q. Do you know how many times?
A. No. Multiple.
- 142** Q. Do you know when that would have been?
A. No.
- 143** Q. Okay. And how about at the Y, when did they tell you or when did they do the VI-SPDAT at the Y?
A. I just told you I cannot remember dates. I can't remember things.
- 144** Q. And do you remember why they were doing the VI-SPDAT?
A. I just told you that too. The answer is the same across the board.
- 145** Q. Ms. MacDonald, can you keep your voice up, please?
A. I just told you that, I gave you that answer. It's the same for all across the board.
- 146** Q. Well, you said it was different occasions, so I just want to make sure that I understand.
A. Different occasion, yes. Same results.

147 Q. Okay. But the YWCA, I don't
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- A. I don't know.
- 152** Q. Do you know if it was more than once?
A. Yeah.
- 153** Q. And do you know how many times more than once? Are you able to say or no?
A. No.
- 154** Q. Do you remember which shelter you would have been service restricted from?
A. No.
- 155** Q. Do you remember for what?
A. Not exactly, no.
- 156** Q. And do you remember for how long you would have been service restricted?
A. No.
- 157** Q. And I just want to confirm because it's come up during another witness's cross-examination. The City of Hamilton does keep records of attempts to get into shelter including service restrictions and homeless assistance, but I want to confirm you have not provided an authorization for the city to disclose those records in this litigation, correct?
A. Correct.

158 Q. Now, at paragraph 8 of your
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- understand, has an actual shelter, so it wouldn't have been to see if you could get into --
A. Carol Ann's Place is an actual shelter.
- 148** Q. Okay, but you said the YWCA and Carol Ann's Place were different?
A. No, I did not. I said they were the same, in the same building -- different programs in the same building is what I said.
- 149** Q. And so when you --
A. The YWCA -- sorry, the Women's Y, Carol Ann's Place is their shelter.
- 150** Q. Ms. MacDonald, is it possible that they were giving you the VI-SPDAT to try to see if there were any services that you would qualify for?
A. I guess, yeah. I guess that's fair to say, which I didn't qualify for them because I was too high of a VI-SPDAT.
- 151** Q. At paragraph 9 you say: "Of the times that I'm homeless, I'm more than not unable to access shelter because they have been full or I have been service restricted from them."

I want to ask you about service restrictions. How many times have you been service restricted?

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affidavit, the part where it continues on to the second page, you state: "It's difficult to access doctors outside your immediate area and risk theft of your possessions if you leave your encampment."

I just want to confirm what you mean there. So you're concerned about going away from your tent to see a doctor because people might steal things from your tent if you're gone?

- A. Yes.
- 159** Q. At paragraph 10 of your affidavit, you state when you were in a relationship you were unable to enter the shelter system as a couple because there was no space as a couple. On those occasions, did you try to get into a shelter just on your own?
A. No.

160 Q. So on those occasions, did you just not go into shelter because you didn't want to be apart from the person --

A. Well, the Women's shelter is always full, so you could try but you don't get in. They were full. There was more women on the street than men. It was easier for men to get into the shelters than for women.

161 Q. And at paragraph 11 you state that
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in one instance while you were on the street alone you were assaulted and sustained a head injury. When did that happen?

A. I don't know. I can't recall what year it was -- or what month.

162 Q. Okay. Do you remember where it happened?

A. Not exactly, no.

163 Q. Do you know the person who assaulted you or do you know --

A. I'm not going to answer that.

164 Q. What do you mean you're not going to answer that? You know but you don't want to say?

A. Out here on the streets we can't talk about certain things, and this is one of those things that we just don't talk about. It's enough to say that I was jumped and assaulted, but to say by who and where, I can't answer that.

165 Q. Okay. Well, I'll take your refusal, Ms. MacDonald, but did you report it to law enforcement?

A. If you mean law enforcement, Social Nav paramedics, they know a lot about what's going on on the streets and stuff. As for police, no. We don't talk to police at all.

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166 Q. Did you get medical attention for your injury?

A. Yes.

167 Q. What medical attention did you get?

A. I don't know if it was Social Nav or the hospital but either/or. And it wasn't when it happened; it would have been days after or -- unless it was with Social Nav -- I don't know exactly when this happened. A lot has happened over the years.

168 Q. What did --

A. -- I got jumped or assaulted or hurt.

169 Q. What did they do for you; do you remember?

A. They can't do much with -- I think scan; they might have had a scan on my head, I'm not sure, through Social Nav. They just checked my vitals. I'm not exactly sure when this incident was specifically.

170 Q. And so this incident in particular, the person who assaulted you, were they someone that you knew before the assault?

A. Quite possible.

171 Q. Do you have any knowledge or belief as to their motivation for the assault?

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A. I can't answer these questions.

172 Q. And why not?

A. I just told you. There's a code on the street; we're not allowed to talk about these sort of things.

173 Q. When you say you're not allowed, what do you mean? What would happen if you talked?

A. I have to live on the street where there are people that, I don't know, it's a -- I don't think I have to say it out loud. There's punishments for people talking to people -- bad things.

174 Q. So you fear that the person who assaulted you or someone associated with them will harm you in some way if you say who it is?

A. Me, not necessarily. But following the street code it's -- keeping your reputation is important, especially if you're still on the street.

175 Q. Ms. MacDonald, you've mentioned a street code, but you have an apartment; like you don't have to be on the street?

A. I still have to -- I don't want to -- I don't even think this is appropriate to talk about right now. This has nothing to do with the encampments.

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176 Q. Well, Ms. MacDonald, it does because you have a claim for damages in this litigation, and so what your circumstances are are very relevant.

MS. CROWE: Ms. Shores, what's your question at this time?

MS. SHORES: Well, my question is: Why is she fearing retribution on the street if she has an apartment and no longer has to live on the street? I'm trying to get at the basis for the refusal.

THE DEPONENT: Just because I live inside doesn't mean that I am not on the street. I spent the better of 20 years on the street, so just because you're inside doesn't mean -- like half the people from the street are inside where I am, so it doesn't change anything from being outside. It's just safer because you have staff and stuff, but you still have to go out. You still have to walk around with your head held high, if that makes sense.

BY MS. SHORES:

177 Q. Ms. MacDonald --

A. I --

178 Q. -- I have to ask because you indicate at paragraph 5 of your affidavit that you were diagnosed with substance use disorder. Do you

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still use substances?

A. Yes.

179 Q. I didn't hear that?

A. I said yes.

180 Q. Is that part of the reason you're still out on the street, procuring substances?

A. Yes.

181 Q. Are you in treatment for your substance use?

A. No.

182 Q. And do you intend to get treat --

A. I'm in harm reduction, but I'm not in treatment.

183 Q. What do you mean by harm reduction?

A. I just safe use.

184 Q. But that doesn't involve actually using less?

A. Yeah, correct. Depends on the day. It goes up and it goes down.

185 Q. What substances do you use?

A. Fentanyl, methamphetamines.

186 Q. Is there any particular reason why you're not intending to get treatment?

A. I don't have my job, I don't have my kids, I don't have anything going for me.

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A. No, I have been relapsed for eight years. Six years before that I was clean.

193 Q. I see, okay. At paragraph 16 of your affidavit you describe that you've been evicted by bylaw from various encampments, and you've told me that you can't remember, but I just want to make sure that I've given you the opportunity. So you mentioned staying at Sir John A. MacDonald, at Ferguson and at Wesley and also at Whitehern by the Y. Are there any other encampments that you can recall that you've stayed at?

A. Urban Core.

194 Q. Urban Core?

A. Yeah. City Hall, Go Station. Where the park is now, where they did -- they are just doing it. Before that --

195 Q. I'm sorry --

A. Hold on. Ferguson Station. There was Victoria -- or Tweedsmuir Park, also known as Victoria Park. There is Victoria Park, First Place, the funeral home on Wellington and King. I know there's more in the east end somewhere, but I wasn't down in those ones. Those are all the -- oh, Corktown Park. Those are all the encampments that I -- yeah, I don't think I missed any.

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187 Q. But you don't need any of that to get treatment?

A. Yeah, you do. You need a reason to live, you need a reason to keep going. We all do drugs for -- to mask pain of some sort. Mine is my kids; I lost my kids and stuff. So no, I am not into treatment.

188 Q. Do you not see a benefit to getting treatment and perhaps being able to re-establish contact with your kids?

A. I've already jumped through all the hoops to do that and I still didn't get them back, so no, I don't see a benefit in doing that right now.

189 Q. When you say jumped through the hoops, do you mean you got clean?

A. Yeah. I only relapsed -- I went to Women Kind and I did everything they told me to do and they took my kids anyway.

190 Q. When did you get clean?

A. It was long, like eight years ago.

191 Q. And how long were you clean for?

A. Six years.

192 Q. So you would have relapsed about two years ago, if I understand correctly?

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196 Q. All right.

A. Gore.

197 Q. And Gore Park. So Urban Core, when were you staying there?

A. After Ferguson.

198 Q. How long were you at Urban Core?

A. I'm not sure.

199 Q. And why did you leave Urban Core?

A. We were told we had to leave.

200 Q. And what happened?

A. They moved us all out of there to Women's Y.

201 Q. So you were told to leave. Did you pack up your things and go?

A. Yeah, from there -- from the last part, yeah.

202 Q. When were you at City Hall?

A. That was over the last few years.

203 Q. Do you remember how long you were at City Hall?

A. A month anyway. Almost a year, I think.

204 Q. Okay. And at City Hall did they tell you you have to leave there too?

A. Yes.

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205 Q. And did you pack up your things and go?

A. Yes, from there I believe we did. There was a little bit of touch and go. Like yes and no. Yes and no. Like they, they kind of threw some stuff out but then they put it in.

206 Q. Of your things, did anything get thrown out?

A. Yes.

207 Q. What?

A. A tent and all my belongings, but I just replaced it all.

208 Q. So when you say they threw out the tent, were you there or had you left it behind?

A. No, I wasn't there at the moment, not when they threw it out. They threw it out when I wasn't there.

209 Q. How long had you been gone when they threw it out?

A. A couple hours.

210 Q. Had they told you they were going to come by and throw things out?

A. Yeah, I think they put notices down saying that we had to move on.

211 Q. And so you said the Go Station was

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A. Yes, that would be right because I'd almost been in a relationship three years. So yeah, yeah.

220 Q. Did they tell you you have to move from the Go Station?

A. Yes.

221 Q. Okay. And so what did they say?

A. We had to leave or they were going to take our stuff.

222 Q. And what did you do?

A. We left.

223 Q. So you packed up your things and you left?

A. Well, sort of, yeah.

224 Q. What do you mean by "sort of"?

A. We just took what we needed and we left. We left stuff behind.

225 Q. Did you replace the stuff that you left behind?

A. No.

226 Q. Where did you leave the --

A. I didn't take everything. Like we didn't take everything with us.

227 Q. What did you leave behind when you left the Go Station?

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another place you had stayed. Would that be the one at I think it's called West Harbour up on --

A. No.

212 Q. -- John Street North?

A. It's not West Harbour. It's --

213 Q. The one sort of --

A. The one that's downtown in the core. Not the West Harbour by the bay, the one that's in the core.

214 Q. Sort of by Jackson Street, right?

A. Yeah, Hunter and Jackson.

215 Q. Hunter and Jackson, okay. And how long were you there?

A. A couple months.

216 Q. And do you remember approximately when you were staying there?

A. Through the winter months.

217 Q. And you don't remember which winter?

A. The last winter.

218 Q. So if it was last winter, that would have been when you still had an apartment at Dorothy Day?

A. Okay, the winter before that, then.

219 Q. The winter before that, okay. And

--

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A. We left clothes. We left various items: other people's stuff, clothes, shoes. Random stuff like make-up, whatever, it was all mixed in. I don't really know, we just took what we could, whatever was manageable to take on foot, wagons or buggies.

228 Q. And for Ferguson Station, how long were you there?

A. Just a couple months.

229 Q. And do you remember when that was?

A. It was in the summer, and that was two years ago, three years ago.

230 Q. So it would have been for the whole summer?

A. Yeah.

231 Q. And what happened when you left there? Did someone tell you you had to go?

A. Yeah.

232 Q. And so what did they say?

A. No, that's when they offered the, the -- that's when they offered me the, the storage for the city for the month.

233 Q. So that was the first --

A. That was a few years ago.

234 Q. That was the big Ferguson

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encampment.

A. Yeah.

235 Q. Okay, we've already talked about that.

A. No, the Ferguson encampment at Ferguson Station, not the Wesley Ferguson. This was another one that was at the old train station.

236 Q. Okay. So yeah, at the old train station by Ferguson, how long were you there?

A. A few months.

237 Q. Okay, and do you remember when that was?

A. That was a few years ago, I know that.

238 Q. And so how did you come to leave the Ferguson Station?

A. That was just before the City Hall one, actually. I think I was there before I went to City Hall.

239 Q. Okay. So did someone tell you you had to leave, or were people just going to --

A. Bylaw did.

240 Q. Bylaw, okay. So what did they say?

A. The same notices they gave us, we have to leave, they didn't have an answer for us,

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A. I have a puppy that is not allowed in the building because they don't allow service dogs in here right now. So there's a whole other lawsuit thing going on over here, whatever is going on, I don't know, human right's thing going on here, that is why I'm still in a tent. I have a puppy that is not allowed in here, so I stay.

246 Q. When did you get your puppy?

A. She's a few months old. She's little yet.

247 Q. And how did you get your puppy?

A. I had to buy it.

248 Q. You bought her?

A. Yeah.

249 Q. What kind of dog is she?

A. She's a bully cross.

250 Q. A bully cross I think you said?

A. Yeah, bull mastiff cross.

251 Q. What's her name?

A. Cula.

252 Q. Sorry, how do you spell that?

A. C-u-l-a.

253 Q. C-u-l-a. And Cula is how you pronounce it?

A. Yes.

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they don't know what to tell us. But we just --

241 Q. When you say they didn't have an answer for you, they didn't have an answer for you in response to what question?

A. We asked them: "Where are we supposed to go? What are we supposed to do?"

"We don't have an answer for you.

Hopefully they come up with something soon. We don't know, but you just can't be here."

242 Q. Did you try to get into shelter?

A. I tried to get into shelter multiple times, and then I just gave up trying to get into shelter because some people are better at living outside than others.

243 Q. And are you one of the people who are better living outside than others?

A. Yeah, I wouldn't say I'm better living outside because it sucks living outside, but I'm more savvy to live outside than other women.

244 Q. I mean like right now you said you stay in a tent sometimes even though you have an apartment. So can I take it --

A. Yeah.

245 Q. -- that you're more comfortable, at least, in a tent on some occasions?

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254 Q. Does Cula have any sort of training?

A. She's doing her emotional training. Well, she will be doing her emotional training.

255 Q. So she hasn't done it yet?

A. No, she's getting lined up with that Mike I think his name is, through Good Shepherd I think it is.

256 Q. So someone's going to be giving her training?

A. Well, the vet -- well, the vet is going to be aligning with people to do the training. But yes, she's going to go for her training and her needles and all that.

257 Q. Okay. Why would she be in your care if she doesn't have the training to support you yet? That seems like something that would be harmful because it keeps you out of your apartment?

A. No, it's not harmful. You have to pick a dog -- in order for you to have the animal trained, you have to have a rapport with your animal.

258 Q. Well, Ms. MacDonald --

A. You can't just pick any animal and just be like here, here's your emotional support dog or, you know, whatever the dog may be, a service

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animal --

259 Q. Ms. --

A. It helps with my anxiety. You can't just throw me any dog and say here, you can have a dog. You have to have a rapport with that dog.

260 Q. But Ms. MacDonald, I submit to you that the dog should also have training before you start building that rapport so the dog can actually help you?

A. You have to have rapport with the dog first. If you saw my puppy, you would understand why she is going to be great at being an emotional support dog.

261 Q. So I just want to understand. So you bought a dog yourself?

A. Yeah, after she eased my anxiety and she was mellow and she was calm and she calmed me, and I used up all my substance use and not having any money and anxiety attacks and I'm not on my benzos anymore. So with all saying all that, they're looking for training for our emotional support dog. I don't know if everybody finds their dogs that way, but I found my dog that way.

262 Q. I want go back to Ferguson Station.

You were telling me that they -- you said they

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didn't have any answers for you, and that was before you went to City Hall. So do I understand correctly that you took your things and moved from Ferguson to City Hall?

A. Yes.

263 Q. You mentioned staying at Tweedsmuir Park also known as Victoria Park. When was that?

A. That wasn't very long. That was, like, in the past year.

264 Q. I didn't catch that?

A. It wasn't very long. From the past year. It was just the past year.

265 Q. So that would have been while you had your apartment at Dorothy Day?

A. Yeah.

266 Q. Okay, and what happened there? Did someone tell you to move?

A. No, no, not me. I left there before they were all told to move.

267 Q. And what prompted you to leave there, you just didn't want to be there anymore?

A. Yeah, I went back to the Women's Y.

268 Q. Sorry, when you say you went back to the Women's Y, did you go there to stay or did you go there for some other reason, like to access

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services?

A. For many reasons. Access services is one of them, I guess.

269 Q. What were the other reasons?

A. (Inaudible).

270 Q. I'm sorry, I didn't catch that?

A. I don't know how to answer that.

271 Q. You also mentioned that you stayed in an encampment at First Place. Do you remember when that was?

A. The First Place one I didn't stay at specifically, I just named encampments.

272 Q. Okay. So you also mentioned the funeral home on Wellington and King. Is that an encampment that you stayed at?

A. No.

273 Q. And how about --

A. My partner stayed at that one; I didn't stay at that one.

274 Q. How about Corktown Park, you mentioned --

A. That one I stayed at.

275 Q. Okay, when did you stay there?

A. Between Ferguson I think -- or after Ferguson. Maybe transition in between City Hall or

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maybe it was after, I'm not sure. I'm not sure of the timeline there.

276 Q. Do you remember --

A. Maybe around the same time.

277 Q. Do you remember how long you were there?

A. No.

278 Q. And do you remember why you left?

A. Had to.

279 Q. So again, did they tell you you have to leave?

A. Yes.

280 Q. And so you picked up your things and left?

A. Yeah, I think I did.

281 Q. And Gore Park was another one that you mentioned. Was that an encampment that you stayed at?

A. Yeah.

282 Q. When did you stay at Gore Park?

A. Two years ago, and it's just short -- it was just like a week stay. It wasn't long, I didn't stay at that one very long.

283 Q. Why did you stop staying at Gore Park?

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A. Because I knew they were coming to say you couldn't stay there.

284 Q. So you left rather than have them tell you?

A. Yeah.

285 Q. At paragraph 17 you say that you want to avoid confrontation with bylaw and the police because they're intimidating. What do you mean when you say they're intimidating?

A. They throw your stuff out.

286 Q. So you're afraid that they'll throw your things out, that's what you mean by intimidating?

A. Yeah.

287 Q. But you'll agree that if you leave when they ask you to, then they don't throw your things out?

A. No, that stopped after a while. They started just throwing my stuff out.

288 Q. They started just throwing your stuff out without telling you to leave first?

A. Yeah.

289 Q. When did that happen?

A. Just like over the last two years.

290 Q. But no, when specifically did that

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thing, they started throwing my stuff out specifically.

293 Q. Is it possible that they warned you and you don't remember?

A. I don't know. I guess. It could be possible, but I doubt it.

294 Q. And why do you doubt it?

A. Because I don't get along with Parks.

295 Q. You don't get along with Parks?

A. Yeah.

296 Q. Who don't you get along with?

A. Specifically your guy in the white truck, whatever the hell his name is. I forget his name now.

297 Q. Can you describe him?

A. Big, head of Parks, runs Parks. Runs around, checks all the encampments, tells everybody where they are.

298 Q. When was the last time you saw this person?

A. Every time they run into an encampment.

299 Q. Okay, but when was the last time you saw this person?

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happen?

A. I already told you I can't recall dates, but over the last two years after City Hall, the Women's Y. It's all mumbled, like, together. Like I was back and forth all over the place. I can't tell you when I was where, what time I was there. I was so everywhere; I was back and forth everywhere.

291 Q. Ms. MacDonald, at various points there is evidence from the city that their protocols that says they will warn you and give you opportunities to move your things before throwing your things out. So if you're saying that wasn't done, that's a very serious accusation and we're entitled to get as much information about that as possible?

A. I'm an addict and I can't remember the exact dates, Miss, so I can't tell you the exact dates that they came and just through our stuff out.

292 Q. Well, is it possible that they gave you warning --

A. But they still do it today. So you can ask anybody else and I'm sure they'll tell you. But specifically, I can't remember the dates. I told you over the last two years after the City Hall

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A. Three weeks ago.

300 Q. And can you describe them: How tall are they? What colour is their hair? Do they have glasses?

A. Brown, balding, no glasses, heavyset, white truck, head of Parks.

301 Q. Okay, and this last time you interacted with this person, what happened?

A. Specifically I told him to go fuck himself.

302 Q. Why did you do that?

A. Because he takes my stuff and he throws it out.

303 Q. Again --

A. He takes people's stuff and he throws it out. I don't think you realize how inhumane it is that they're grabbing people's things of -- the only thing that they have and taking it and throwing it away.

304 Q. Your things or other people's things?

A. My things and other people's things.

305 Q. But you have an apartment, so --

A. Yeah, my apartment, I am not allowed to bring everything in here. So I have to keep what

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I'm not allowed to bring in here in a tent.

306 Q. What aren't you allowed to bring into your apartment?

A. Lots of things.

307 Q. Like what?

A. There's a huge list.

308 Q. Okay, give me some examples?

A. Anything with wood on it, so there goes photographs and stuff, keepsakes.

309 Q. Why aren't you allowed to bring photographs into your apartment?

A. I don't know, ask Dorothy Day.

We're trying to figure this out already.

310 Q. So your evidence is that Dorothy Day doesn't allow you to bring any photographs into your apartment?

A. Not just photographs. Like it depends what they decide. They choose and pick. When I first moved here, they threw all my stuff out, everything, with no reason.

311 Q. You're saying Dorothy --

A. And then they gave me somebody else's stuff; I don't know whose stuff it is.

312 Q. So Dorothy Day --

A. -- it's another issue outside this

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issue. But yes, you're not allowed to have shelving units, you're not allowed to have -- whatever they decide, you're not allowed to have. It's on what you bring in and what they decide. I can't give you a list because they have to do that.

313 Q. So Dorothy Day, according to you, has a list of things that you're not allowed to have, and so you --

A. Is she listening to me?

314 Q. I'm trying to understand --

A. Hey, I'm really dizzy right now.

315 Q. Would you like to take a break?

A. Yeah, I would.

316 Q. All right, let's go off record for five minutes.

--- (OFF THE RECORD).

BY MS. SHORES:

317 Q. So just to confirm, you have not discussed your evidence with anyone while we were on our break?

A. No.

318 Q. So at paragraph 22 of your affidavit, which I'll place back on the screen, you state that you've been kicked out of Carol Ann's Place despite being told that you need to check in

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with them to confirm that "I am not kidnaped or hurt."

Tell me what happened when you were kicked out of Carol Ann's place?

A. I don't remember exactly why I was kicked out of Carol Ann's Place. I didn't get into a fight.

319 Q. Did they tell you how long you had to stay away?

A. I don't recall.

320 Q. Do you remember when that was?

A. About two years ago I thin, maybe three. I'm not exactly sure.

321 Q. And at that point in time did you ask for help finding somewhere else to go?

A. Yes and no. Like all the shelters were full. They call, like, the shelters for you and stuff, but they were always full.

322 Q. So what did you do on that occasion? Do you remember where you went?

A. At the Women's Y (inaudible).

323 Q. I'm sorry, I think I talked over you; I didn't mean to do that. What did you say?

A. Across the street from Women's Y, the heritage place.

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324 Q. Okay, did you stay in a tent there?

A. Yeah.

325 Q. At paragraph 24 of your affidavit, the part where it continues on to the next page, you state that you've been issued a ticket for being in a park at 6:00 p.m. even though it wasn't dusk.

When did that happen?

A. I believe it was roughly three years ago. That was when I was at the Corktown Park.

326 Q. Corktown?

A. Yes.

327 Q. Who issued you the ticket, do you know?

A. Hamilton Police.

328 Q. And what did they give you the ticket for?

A. They said I was in the park after dark, or like after, like after dusk even though it wasn't even-- like it wasn't dusk at all.

329 Q. But was anything else going on? Did they tell you any other reason that they would give you a ticket?

A. No, they said that, they said that, it was like engaged in illegal activity, even though there was no activities going on. Or it would be

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trespassing after dark, and it wasn't even dark. It was just like -- because I don't have them in front of me, but I did end up saving copies of the tickets -- or like my tickets, because they were weird.

330 Q. So they said you were engaging in illegal activities but you --

A. On one of the tickets, yeah, that I have gotten from them, it said I was engaging in illegal activity, though it didn't say what activity that was, and I wasn't engaging in any illegal activity at all.

331 Q. Do you remember what time of year it was, if it was 6:00 p.m. and not dusk?

A. It was between summer and fall.

332 Q. Were you in a tent at the time?

A. Yes, I would have been in a tent, but I don't know if I was in a tent at that spot.

333 Q. Do you remember anything else about what was going on when they gave you the ticket?

A. No, just that they had to meet their quotas.

334 Q. I'm sorry, I didn't catch that?

A. They had to meet their quotas. They had to give out some tickets.

335 Q. How do you know that?

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A. Well, an officer made a comment about the tickets and how we could fight them at City Hall if we could prove that we weren't, like the tickets weren't I guess valid, for better lack of words.

336 Q. Okay, but that doesn't say anything about quotas. They were just telling you what to do if you disagreed the ticket, right?

A. No, they had -- they had to give it. They give out so many tickets. Could be one of the paramedics from the Social Nav team, like I don't remember exactly, one of the workers, social workers from Keeping Six, I'm not exactly sure who told us that they had to meet quotas. Anyway.

337 Q. So what did do you in response to getting those tickets?

A. I just kept the tickets.

338 Q. Did move your tent?

A. Did I move my tent? That didn't involve a tent, but yeah, eventually, yeah, I did move a tent.

339 Q. Just not on that particular day?

A. Day, no. On that particular day, no.

340 Q. And they didn't come back?

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A. The officers?

341 Q. Correct.

A. No, they came back. We got multiple tickets.

342 Q. When did they come back?

A. They come back every couple of days. At that point they come back every couple of days, sometimes every couple of weeks. It just depends on where we were.

343 Q. Okay. And on the time you told me about where they gave you the tickets at 6:00 p.m., when was the next time they came back? Was it a couple days later?

A. I can't remember the next time I got a ticket, but they were quite frequent around that time; they were frequent that I was getting tickets.

344 Q. And when you say -- you said 6:00 p.m., but how did you know? Did you have a watch or a phone?

A. It was morning.

345 Q. I'm sorry?

A. It was in the morning?

346 Q. It was in the morning?

A. Yeah.

347 Q. So. Okay, so I just want to be

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clear, though. So at paragraph 24 of your affidavit it says for being in a park at 6:00 p.m., but it was in the morning?

A. Yeah, it was issued for being in the park at -- I forget exactly how it was worded, but anyway, it was during the day. It wasn't in the evening at all. And another ticket was, like -- I don't know, I'd have to have them in front of me to recall them all properly. It was frequent that we get tickets that -- I never looked at them right away when the officers were standing there for the most part. It was after they (unclear). That doesn't make any sense.

348 Q. And what did you do with those tickets? You said the officers told you what to do if you disagreed with them?

A. Yeah, I have been to City Hall and there's a process to the tickets and stuff. A few of them I've had thrown out, but I didn't bother doing the rest of them.

349 Q. Okay, and does anything happen if you don't bother with them?

A. You have to pay more of a fine. If you pay within a certain timeframe -- you either fight the ticket or you pay within a certain

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timeframe or you have to pay more money.

350 Q. Have you actually paid the fines?

A. Paid the fines? Yes.

351 Q. How much --

A. The last time, like, I had all my fines paid off.

352 Q. Okay, sorry. You said the last time you had all your fines paid off?

A. Yeah, I had all my fines paid off, but now they've all -- like all the fines they've given me now, I haven't done anything with them yet.

353 Q. Did you pay them yourself, or did you have some assistance getting them paid?

A. They gave me assistance. They have a thing if you're on ODSP that you don't pay, like, all of them. I don't know if you can (inaudible).

354 Q. Sorry, you said you don't know --

A. If you can do it twice or not. Like I've used it in the past to get rid of all my tickets and stuff. It would help pay for my tickets, then I get rid of them. They take a percentage off if you're on ODSP. I don't know if that's why it's more than once. I was going to look into it again.

355 Q. At paragraph 25 of your affidavit

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you say you've had roughly 80 to 100 cellphones stolen in the past six months. Were those all stolen from your tent?

A. Yes, or my purse or while I was sleeping or while I was away from my tent.

356 Q. At paragraph 26 you say you have nowhere to go shower. Could you not go to Carol Ann's or the Women's Y?

A. They have rules about the showers. Sometimes they'll just let you go and shower, but for the most part you have to be, like, stay the night or get into the line-up, stay the night to shower.

357 Q. How about the other day centres, like Wesley when it was still around or The Hub?

A. The Wesley when it was around you could use it, you could use the showers and stuff. The Hub doesn't have showers. They have a bathroom though.

358 Q. Just give me a moment.

Ms. MacDonald, did you ever stay in a hotel through one of the city's programs?

A. Yeah.

359 Q. Do you remember -- sorry, you said I think it was the one over on Dundurn, was it?

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A. Yes.

360 Q. How long did you stay at that hotel?

A. It was a few months -- I think like a month or two, and then they kicked a lot of people out. I forget exactly why they kicked us out. It seemed like we'd get back in and they would -- like it was a few times that I stayed there, but it seemed like they would get our money from ODSP and then they would kick us out.

361 Q. And so you said it was a few times that you stayed there when you said it was a few months. Was that in total or like a few months each time?

A. No, no, no, in total.

362 Q. In total, okay. And you don't remember when the last time you would have stayed at a hotel would be?

A. No.

363 Q. All right. You've understood all my questions today, Ms. MacDonald?

A. Yes, for the most part, yeah.

364 Q. Are there any of your answers that you wish to change?

A. Not today that I'm aware of this moment.

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MS. SHORES: Thank you. Those are my questions.

BY MS. CROWE:

365 Q. I just have a few questions for redirect, okay?

A. Okay.

366 Q. We're almost done. So you were talking about when you were told to leave from Sir John A. MacDonald, and you indicated that you were told by the city that there was no guarantee for housing and they didn't have answers for us. Do you remember, what were you asking?

A. Where we were supposed to go, what we were supposed to do. And the answers were always the same, they didn't have an answer for us, just -- we just have to move along.

367 Q. Ms. Shores asked you why you sometimes still spend time in a tent when you have housing, and you stated that you're transitioning into an apartment and it's hard. What did you mean?

A. I spend better than 20 years on the street in tents and homeless off and on. I was housed very, very few times. So what I mean is it's hard when you learn to live a certain way, like in a tent for instance, it's hard to sleep in a bed and

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be alone in an apartment where I am used to being around people. Everyday you're not allowed to have people in your apartment. Now we are, we're allowed to have our friends till midnight night, but that was just recent that that changed. Prior to that we weren't allowed to have anybody in our rooms, so it was very lonely, and from going -- being around people all the time and being able to stay with people, other people's voices, and being lonely, it was very depressing and sad compared to outside where I could be around people and stuff. I struggle with that when you're not allowed to have people in the room. But it was, it was much more difficult.

368 Q. Okay, thank you. And when we were talking about your substance use, you indicated that you're involved in harm reduction. What does that involve for you?

MS. SHORES: Counsel, that question was asked and answered.

MS. CROWE: No, you asked a question about a reduction in drug use, and she said something to the effect of not necessarily for me, but she didn't talk about what is actually involved in harm reduction.

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MS. SHORES: I disagree, counsel, but the question before the question that you just described I asked her what she meant by harm reduction.

MS. CROWE: Okay, we'll move on.

BY MS. CROWE:

369 Q. When you were talking about staying at Gore Park, you indicated that you left because you knew the city was coming or they were coming. How did you know that they were coming?

A. It became, it's like routine now.

They, you just kind of knew that every couple weeks that they would be coming around again. You can't stay anywhere. Nowhere was allowed. You couldn't stay before they had the compound and the bay beside the compound (inaudible). You kind of knew every few weeks that they were going to come, so it's just easier to move along.

370 Q. Okay.

A. Just up and go. And Gore Park was one of the places that was going to be taken down, I knew that for sure.

371 Q. Okay. You mentioned that you're staying at Dorothy Day. Who is Dorothy Day?

A. It's a Good Shepherd's building for

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women.

372 Q. Okay, and --

A. In the shelter system, like a shelter program.

373 Q. What do you mean it's a shelter program?

A. It's a residential program for women. I'm not exactly sure what they do for us -- but I guess it's part of the shelter system. I'm not sure how that works exactly, but it's a program that's supposed to transition us into -- I guess to teach us how to live back inside and teach us how to I guess re-rent apartments or places again.

374 Q. Okay. Do you know what the eligibility criteria is to get into Dorothy Day?

A. I'm not sure what the criteria is now, but I guess you have to be a woman, or identify as a woman. I don't know if you have to be homeless or not, but you do have to be single; you can't have children in your care, you can't have pets, you can't have service animals. When I came in that was the criteria anyway.

375 Q. Okay. You were describing it as a program. What's involved in the program?

A. I'm not sure. When I was introduced

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to the lease, I was introduced to it as a residence where we would pay rent and it was be under the Tribunal Act. Only recently they say that it was month to month and it is now under a program, so I'm not sure where the switch happened there.

376 Q. Okay. Is there programming involved, like things you have to attend?

A. I don't know if have to attend, but they do offer groups.

377 Q. What kind of groups?

A. They offer -- I know they offer like an addictions group. I know Keeping Six has a group that they do here and they do dance, there's like movie nights, like some extra-curricular activities to participate like Halloween night and, like, I don't know, dinner and movies, like, inhouse.

378 Q. Okay, how much is the rent?

A. 525, I believe, or 555; I'm not a hundred percent sure. It's paid to the landlord, so.

379 Q. Is that the same amount that you get from ODSP?

A. No.

380 Q. For rent?

A. For rent, yes.

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Ashley MacDonald - 74

- 381 Q. Okay. Is it a subsidized program?
A. I think so, yes.
- 382 Q. Okay. And then you mentioned that there was sometimes showers available through Wesley?
A. Yes.
- 383 Q. Did you use them?
A. That was at Ferguson, the original encampment. Yes, I did.
- 384 Q. Okay. How often?
A. Everyday.
- 385 Q. And were there any rules attached to using the showers?
A. No.
- 386 Q. Okay. Thank you. Those are my questions.
- Whereupon examination concluded at 5:11 a.m.

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Ashley MacDonald- 75

I hereby certify the foregoing to be the evidence of
ASHLEY MACDONALD, an Applicant herein, given under
affirmation before me on the 10th 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)

This document must bear the original signature and
certification of the Reporter in Attendance at the
examination of the witness in the above-captioned
matter. Absence of this certification and signature is
indication this document has been reproduced without the
permission of Nimigan Mihailovich Reporting.

NIMIGAN MIHAILOVICH REPORTING SERVICE

TAB 48

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN

Applicants

-and-

CITY OF HAMILTON

Respondent

**AFFIDAVIT OF DARRIN MARCHAND
(affirmed September 27, 2021)**

I, Darrin Marchand, 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 that has been living in a tent in various green spaces in Hamilton since I left the Salvation Army men's shelter located at 95 York Blvd. Hamilton, Ontario, on December 17, 2020.
3. My date of birth is October 15, 1966.
4. I am a person living with disabilities and rely on the Ontario Disability Support Program ("ODSP") for income. When I have shelter costs I am entitled to \$497.00 in shelter allowance from ODSP but since becoming homeless I am only entitled to \$672.00 of the "basic needs" portion of ODSP entitlements.
5. I have been diagnosed with Paranoid Schizophrenia.
6. For the past three years I have been homeless and during this time I have been in and out of shelters bouncing between sleeping in a shelter and sleeping on the streets without a roof over my head.

7. The last time that I had a roof over my head was when I was renting an apartment in 2017. I was forced to leave this apartment because of the derelict state of repairs that left it uninhabitable and unsafe to live in. I was then connected through the Wesley Urban Ministries Centre to another rental unit but it was in a very unsafe neighborhood where I heard gun shots and my E-bike was stolen. Since 2017 I have been homeless.
8. On December 17, 2020 while I was sleeping at the Salvation Army men's shelter I witnessed the end of a brutal and violent attack on the man in the neighboring room. I walked into the room to witness that he had been hacked into pieces as he was attacked by a man with a hatchet.¹ This incident was so traumatizing for me that I have not been able to utilize shelter since and I would rather risk the streets.
9. After witnessing this violent incident on December 17, 2021 I was admitted to the Barrett Centre for Crisis Support.
10. After my release from the Barrett Centre I discovered that I was barred from all shelters in the City of Hamilton and I have not received an explanation as to why. As a result of being restricted from shelters and unable to afford rent, I was homeless again and without any options other than living on the streets.
11. Without anywhere to go for shelter, I pitched a tent at the intersection of Strachan Street and James Street in Hamilton. City By-Law and the Police advised me to move from these locations and I have been moving between green spaces ever since. Recently my tent was stolen from me and I have been sleeping on the streets.
12. During the period of 2017 to present I have not been offered affordable housing, or appropriate shelter for a temporary stay. Since the trauma of the attack in the shelter, I am unable to stay in congregate style shelter spaces because of the associated Post Traumatic Stress.
13. Aside from my experience with the Salvation Army I have had predominantly negative experiences in shelters. It is loud and I am unable to sleep. I have had my possessions stolen and the overall atmosphere is not healthy for me as I am scared for my safety.
14. Routinely being evicted from encampments impacts me negatively both emotionally and physically because I always have to start over abruptly with little to know physical energy as I rarely have adequate sleep and food. I am not given any advance notice and so the turn-around time to move is very quick. I am left to walk around the City with my possessions in search of a new space to stay. It is very emotionally taxing as it is stressful. I have lost belongings in the process of being displaced. Routinely moving also disconnects me from nearby services and supports that I rely on such as health care from the Shelter Health Network, supports offered by Wesley Urban Ministries and food programs with Churches.

¹ Nicole Riley, "Man attacked at Hamilton Salvation Army Shelter," *Hamilton Spectator* (18 December 2020) online: <https://www.insidehalton.com/news-story/10292802-man-attacked-at-hamilton-salvation-army-shelter/>

15. I was employed with the International Longshoreman Association for 16 years and have been offered more work but without stability and a roof over my head I cannot return. I need routine in my life to be able to meet my needs.
16. I swear this affidavit in support of the motion and for no other or improper purpose.

AFFIRMED BEFORE ME in the
City of Hamilton, this 27th day of
September, 2021


A Commissioner etc. LSUC: 65464F

) **AFFIRMED** at the City of Hamilton, in the
) Province of Ontario, this 27th day of
) September, 2021.
)


Darrin Marchand

TAB 49

Court File No: CV-21-00077187-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ASHLEY POFF, DARRIN MARCHAND, GORD SMYTH, MARIO
MUSCATO and SHAWN ARNOLD

Applicants

and

CITY OF HAMILTON

Respondent

Teleconference (Zoom) Cross-examination on affidavit
of

DARRIN MARCHAND
affirmed on September 27th, 2021,
taken by Nimigan Mihailovich Reporting Inc.,
One James St. S., Suite 701, Hamilton, Ontario,
Canada L8P 4R5,
on OCTOBER 13, 2021

APPEARANCES:

for Plaintiff: MS. STEPHANIE COX
Hamilton Community Legal Clinic

For Defendant: MR. MICHAEL BORDIN
GOWLING

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Examination of DARRIN MARCHAND affirmed	3
Examination by MR. MICHAEL BORDIN	3

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:

n/a

Refusals (R/F) are found on the following pages:

3.

DARRIN MARCHAND 3

-- Upon commencing at 1:40 p.m.

DARRIN MARCHAND, affirmed

EXAMINATION BY MR. BORDIN:

BY MR. BORDIN:

1 Q. Mr. Marchand, my name is Michael
Bordin and I'm the lawyer for the city; okay?

A. Right.

2 Q. Okay. If you have any difficulties
3 understanding or hearing any of my questions, please
4 let me know; okay?

A. Okay.

5 Q. It is my understand, Mr. Marchand,
6 that you are in jail right now?

A. That's right.

7 Q. And how long have you been in jail?

8 A. At least since the end of
9 September.

10 Q. And were you charged with
11 something? Is that why you're in jail?

12 MS. COX: I'm going to object to this
13 questioning; it's irrelevant and it's not contained
14 in his affidavit.

15 R/F

16 BY MR. BORDIN:

17 Q. Mr. Marchand, do you know that you

1 have brought a court case against the City of
2 Hamilton for an injunction?

3 A. Yes.

4 7 Q. And I understand that you swore an
5 affidavit or affirmed an affidavit on September 27th,
6 2021; is that correct?

7 A. That's right.

8 8 Q. So I'm going to ask you some
9 questions about that affidavit. It's my
10 understanding you don't have a copy with you; right?

11 A. No, I don't.

12 9 Q. Okay. And just for the record, I'm
13 going to explain that, Mr. Marchand, unfortunately,
14 the video feed does not work from the jail and so you
15 are just calling in on a telephone; is that correct?

16 A. That's right.

17 10 Q. Okay. All right. So I'm going to
18 then, I'll refer you to paragraphs of your affidavit
19 and then I'll ask you questions about them; okay?

20 A. Sure.

21 11 Q. All right. So in paragraph six of
22 your affidavit, you say that you've been homeless for
23 the past three years, and you've been in and out of
24 shelters, bouncing between sleeping in the shelter
25 and sleeping on the streets without a roof over your

1 head; correct?

2 A. That's right.

3 12 Q. All right. And which shelters have
4 you stayed at for those three years?

5 A. The ones at Community really were
6 the Salvation Army; the Good Shepherd which is the
7 brothers of Good Shepherd on Mary Street but they
8 have an overflow at the Cathedral on Temple and
9 Main; and I believe that that was it. The other
10 ones would not allow me to stay in there as
11 shelters, they had me booked as, they said it was
12 conflict of interest.

13 13 Q. What was the conflict of interest
14 they said you had that disallowed you to stay at the
15 shelter?

16 A. They wouldn't tell me. I asked
17 them and they wouldn't tell me.

18 14 Q. Okay. But you've been able to
19 attend the Salvation Army, the Good Shepherd, and the
20 Good Shepherd overflow at Cathedral?

21 A. Yeah.

22 15 Q. Okay. And you've attended those
23 from, during the last three years that you've been
24 homeless; correct?

25 A. Yeah. Yeah. Sure, that's

1 correct.

2 16 Q. Well, in fairness to you, the
3 overflow centre at Cathedral would only have been
4 during COVID; correct?

5 A. Yes, you're right, they were able
6 to, yeah.

7 17 Q. Okay. And I understand -- so
8 paragraph two of your affidavit says that you've been
9 living in a tent in various green spaces in Hamilton
10 since you left the Salvation Army men's shelter at 95
11 York Boulevard on December 17th, 2020; okay? Do you
12 remember that in your affidavit?

13 A. I'm sorry, can you just repeat
14 what you just said there?

15 18 Q. Yes. Paragraph two of your
16 affidavit says you have been living in a tent, you've
17 been living in a tent in various green spaces in
18 Hamilton since you left --

19 A. Yes.

20 19 Q. -- the Salvation Army on December
21 17th,, 2020; correct?

22 A. Right.

23 20 Q. All right. How long had you been
24 staying at the Salvation Army prior to December 17th,
25 2020?

DARRIN MARCHAND 7

1 A. Prior to 2020?

2 21 Q. Yes.

3 A. Okay. That will be -- what was
4 the question? How long did I stay there for?

5 22 Q. Yes.

6 A. Well, they kept kicking me out
7 telling me I couldn't do this, I couldn't do that,
8 so I just said, you know what, I thought I would
9 just leave, I'd rather just leave, so I never went
10 back. I don't believe they ever kicked me out, but
11 my friend Sage good bludgeoned with an axe in that's
12 basically why I left. I said I'll take my chance
13 out on the street. I don't like the way they run
14 the place. I'm sorry, I didn't go there to change
15 their policy or nothing, I just don't like the way
16 they run the place.

17 23 Q. Okay. But what I was asking about
18 was before the last time you were there in
19 December 17th, 2020, do I understand from what you
20 told me before, you would be in and out of the
21 Salvation Army, sometimes you would stay, sometimes
22 they would kick you out; is that correct?

23 A. Yeah, I imagine that's pretty fair
24 to say, yeah. Yeah.

25 But I wasn't, I wasn't a problem, I

1 wasn't really a problem myself. Every time I stood
2 up for myself is when I got in trouble. I don't
3 know what you want me to say about that?

4 Before that, my memory doesn't allow
5 me to go that very far in shelters, you know, I
6 don't, have a big memory much now.

7 24 Q. Okay. Let me ask you then a couple
8 of other questions: Before COVID -- actually, let
9 me -- before you left the Salvation Army for the last
10 time in December 2020, had you stayed in encampments?

11 A. I never -- no. No, I wasn't in
12 the encampment before that.

13 25 Q. Okay.

14 A. Pardon me?

15 26 Q. So after you left the Salvation
16 Army for the last time in December 2020, that's when
17 you started staying in encampments?

18 A. Well, basically they just gave me,
19 someone gave me a tent in the, within the last
20 years; I found myself setting them up, and no sooner
21 I'd set them up the police would come and tell us,
22 you know, being nice enough to let us stay there for
23 two, three weeks, but in two, three weeks they would
24 show up with the city and tell us to tear it down or
25 they were going to tear it down, you know. So we

1 had, I was forced to just, you know, basically pick
2 up and go somewhere. And well, eventually someone
3 just stole my tent, and the, you know, the whole
4 idea of having a tent at all just went out totally
5 right out the window, I don't want a tent no more,
6 you know. I mean, I rather be out on the sidewalk
7 and sleep, and you've seen me do that already, I can
8 do that. But I mean I'm just, you see, I don't have
9 a tent no more. I never had one, I never really had
10 one before either, you know.

11 27 Q. Right. So I just want to make sure
12 I understand. So I think what you're saying is that
13 before December 17th of 2020 you did not stay in
14 encampments; correct?

15 A. No.

16 28 Q. Sorry, not correct or no you didn't
17 stay in encampments?

18 A. No, I didn't stay in a tent
19 encampment, no.

20 29 Q. Fine. And after December 17th,
21 2020, someone gave you a tent and then you started to
22 stay in tents and encampments; right?

23 A. That's right.

24 30 Q. Okay.

25 A. Not encampments, I just set up my

1 tent somewhere.

2 31 Q. Okay.

3 A. That's all. I didn't say it there
4 was a whole series of tents there. After I set up
5 my tent, other tents followed, other people came.

6 32 Q. You would set up your tent on your
7 own and then other people would set up tents after
8 you?

9 A. Yeah, they would show up.

10 33 Q. And I think from what you said
11 before, I want to make sure I understand, you would
12 be in your tent or have your location for a little
13 while, sometimes for a few weeks and then you'd be
14 asked to move on; correct?

15 A. That's right.

16 34 Q. When other people would join you
17 where you had your tent, did you -- how many people
18 would there be at the places you had your tent?

19 A. One place that -- all really,
20 there wasn't really more than four or five. So it
21 wasn't, like it was myself and maybe three, four,
22 four others, four or five more others, but they
23 weren't, they weren't all at my location, they were
24 just in the facility of the same area I was in.

25 35 Q. Okay. Can you tell me where, what,

1 like what locations you stayed at since
2 December 2020?

3 A. Yeah, I stayed in, I stayed in, by
4 the train tracks, over by the Go Station on Jane
5 Street, Strachan. And I stayed in a park up by
6 Charlton. I stayed in Dundurn Park, which is the
7 Dundurn -- (inaudible). And I was -- there's a
8 couple more places I put it up, I'm just trying to
9 remember. Where did I put that tent? Oh yeah, on
10 the east side of the tracks where I was, where I was
11 on Strachan and Jane, I was also on Strachan and
12 Barry Street, just past Barry Street, on the same
13 side, hey.

14 36 Q. Okay. And did you meet any people
15 at the encampments who were from outside the City of
16 Hamilton?

17 A. Outside of Hamilton? No. Just a
18 lot of people that shared the same circumstances as
19 I did that I, I met them, you know, through
20 conversations at the centres, like the Wesley Centre
21 or at the Salvation Army. I got to know some of the
22 people, where they were, just by staying and talking
23 with them, you know, and where they'd been.

24 37 Q. And you're from, are you from the
25 City of Hamilton before you ended up homeless?

1 A. Yes, I am, sir

2 38 Q. Okay. Are you vaccinated?

3 A. Twice, yes, I have been.

4 39 Q. Before you were taken to jail did
5 you have a phone?

6 A. I beg your pardon?

7 40 Q. Before you were taken to jail did
8 you have a phone?

9 A. My own phone? No. My phone got
10 stolen; it got stolen almost, I'd say about a year
11 ago.

12 41 Q. And --

13 A. When it got stolen, I ever had,
14 like, my mom passed away last year and it just after
15 be past away my phone got stolen, and I, what I did
16 was I never bothered getting another phone. I mean
17 I had too much of my stuff gets stolen, you know
18 what I mean. I didn't have any interest in buying
19 anything anywhere because it all gets stolen, you
20 know. I don't have any interest at all in buying
21 anything at all.

22 42 Q. Would you sometimes stay -- so let
23 me ask you this first: You have a brother, sir?

24 A. Do I have a brother?

25 43 Q. Yes.

1 A. I have one brother.

2 44 Q. And do you sometimes stay with him?

3 A. No.

4 45 Q. You never stay with your brother?

5 A. No.

6 46 Q. Is it possible that you have a
7 trespass order against you from a shelter because of
8 an assault?

9 A. A trespass order because of an
10 assault? No.

11 47 Q. Have you ever assaulted anyone in
12 the shelter?

13 A. In the shelter? No.

14 MR. BORDIN: Okay. Thank you, sir.
15 Those are or my questions.

16 WITNESS: You're welcome.

17 MS. COX: (INAUDIBLE)

18 COURT REPORTER: Excuse me, I can't
19 hear you, you're all distorted. Get closer to the
20 microphone maybe.

21 MS. COX: Can you hear me now?

22 COURT REPORTER: Yes.

23 WITNESS: Who is this?

24 MS. COX: Darrin, it's Stephanie .

25 WITNESS: Hi, Stephanie.

1 MS. COX: Hi. So the
2 cross-examination is complete now so you can hang up
3 the phone. And thank you very much for
4 participating, I will follow up with you on another
5 day after --

6 WITNESS: Okay.

7 MS. COX: -- after this; okay?

8 WITNESS: Okay. Thank you very much.
9 I'll talk to you later, all right?

10 MS. COX: Okay. You take care. Thank
11 you.

12 WITNESS: Okay. Bye.

13 MS. COX: Bye.

14 -- Adjourned at 2:01 p.m.
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1
2 I HEREBY CERTIFY THE FOREGOING
3 to be a true and accurate
4 transcription of my shorthand notes
5 to the best of my skill and ability.
6

7 -----

8 MARC BEEBE, O.C.R.
9 Computer-Aided Transcription
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TAB 50

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 DARRIN MARCHAND
(Sworn June 2, 2022)**

I, Darrin Marchand, 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 that has been living in a tent in various green spaces in Hamilton since I left the Salvation Army men's shelter located at 95 York Blvd. Hamilton, Ontario, on December 17, 2020.
3. My date of birth is October 15, 1966.
4. I am a person living with disabilities and rely on the Ontario Disability Support Program ("ODSP") for income. When I have shelter costs I am entitled to \$497.00 in shelter allowance from ODSP but since becoming homeless I am only entitled to \$672.00 of the "basic needs" portion of ODSP entitlements. I cannot afford to rent a unit in the private rental market because of my low income. For this reason I have applied to access to housing with the City for subsidized rent, but to date that has not been offered to me.
5. I have been diagnosed with Paranoid Schizophrenia.
6. For the past three years I have been homeless and during this time I have been in and out of shelters bouncing between sleeping in a shelter and sleeping on the streets without a roof over my head.

7. The last time that I had a roof over my head was when I was renting an apartment in 2017. My landlord coerced me to leave the lease because he said I was going to be evicted and I did not want to be evicted. Since 2017 I have been homeless. I went to shelter when I became homeless.
8. On December 17, 2020 while I was sleeping at the Salvation Army men's shelter I witnessed the end of a brutal and violent attack on the man in the neighboring room. I walked into the room to witness that he had been hacked into pieces as he was attacked by a man with a hatchet.¹ This incident was so traumatizing for me that I am unable to return to that shelter.
9. After witnessing this violent incident on December 17, 2020 I was admitted to the Barrett Centre for Crisis Support.
10. After my release from the Barrett Centre I discovered that I was barred from all shelters in the City of Hamilton and I have not received an explanation as to why. As a result of being restricted from shelters and unable to afford rent, I was homeless again and without any options other than living on the streets.
11. Without anywhere to go for shelter, I pitched a tent at the intersection of Strachan Street and James Street in Hamilton. City By-Law and the Police advised me to move from these locations and I have been moving between green spaces ever since.
12. I was verbally told by the police that I had to move in 14 days and I complied to avoid conflict or criminalization and moved to Dundurn castle and then to the Catherine park by Urban Core, Charlton park.
13. Various street outreach workers from non-for-profit agencies provided outreach to me in each of the parks. Sometimes they brought me food, tents, they tried to advocate for me to get into shelter. It was easier for them to connect with me when I was in one constant location compared to various locations when I am routinely forced to move.
14. I tried to return to the Salvation Army I was told that I could not come in because I was restricted. The last time I tried to get into the Salvation Army was in the second last week of April 2022 and I was told that I was restricted – meaning that they would not allow me in.
15. The last time that I attempted to get into Mission Services was the last week in April of 2022 and I was told that I could not enter because of a “conflict of interest.”
16. No one has referred me to the hotel program or sought other temporary shelter for me.

¹ Nicole Riley, “Man attacked at Hamilton Salvation Army Shelter,” *Hamilton Spectator* (18 December 2020) online: <https://www.insidehalton.com/news-story/10292802-man-attacked-at-hamilton-salvation-army-shelter/>


17. In 2021 I had 3 tents. On one occasion someone took my tent, another I gave my tent to a couple who needed a larger tent and in return I would get their single but they never gave it to me. I forget what happened to the third one.
18. The last time I had a tent was in 2021 in the fall. I can't remember what happened to it.
19. I have had nowhere to go and I do not know where I am expected to go when I am kicked out of every green space and I cannot get into any of the shelters.
20. On December 21, 2021, while homeless and without anywhere to go, I was hanging around the St. Paul's Presbyterian Church on Jackson and James Street, in Hamilton, sitting on the stairs, and a complete stranger walked up onto the stairs and shot me in the shoulder using a magnum 10 gun. I was not in a tent at that time because I did not have one. I was shot for absolutely no reason at all. My life flashed before my eyes. After he shot me he went into a car that was waiting for him and he drove away. I played dead and laid there out of fear that he would shoot me again and kill me.
21. After I was shot, I walked across the street to the YMCA and they called an ambulance.
22. I went to the Hamilton General Hospital and was there for 5 hours and was discharged to the Good Shepherd where they made an exception to allow me to recover there. I was at the Good Shepherd for two months. I was kicked out of the Good Shepherd because a nurse alleged that I threatened them, which is untrue. I had complained about a staff person kicking another shelter dweller to wake them up for sleeping, treating them like a dog and about this nurse pressuring me to change my medication when I had been given treatment by another doctor. This same nurse gave me hard time for playing my guitar.
23. I was never given a warning, I was told I was kicked out and was immediately kicked out of the shelter with nowhere to go. Two nurses, Heather and Nicole, told me that they disagreed with their decision to kick me out.
24. Without a shelter at night or anywhere to stay in the day, there's nothing for me to do. My life consists of wandering pounding the pavement.
25. I would love to have a routine again to work. Get up every morning, have breakfast go to work and go home. But that's impossible to do on the street. I would do better if I was housed.
26. With constantly being restricted and denied access to shelter, I feel that I have been targeted.
27. I would prefer to be in a shelter but I cannot get into one. When I cannot get into a shelter I would prefer to remain in one stable location with a tent rather than out in the open without one. This is because the tent offers the following benefits:

- I believe that if I had a tent in a secure area I would not have been on the church stairs shot
 - the tent provides a bit of a reprieve from the weather and being stuck in the rain where I get very cold and wet and am unable to dry my clothing
 - in a way it helps with a sense of privacy. You can still hear a lot of noise and can't control what is outside but at least you are separated to some degree
 - I don't want to carry too much stuff anymore. I only keep the most important things.
 - I constantly have sleep deprivation, but at least I sleep a little better in a tent
 - I was playing guitar along the wall, leaning against urban core and asked to leave
28. I have been ticketed for being in public space and private space, even when permission was given.
 29. When there's too much time on your hands and you're wandering the streets pounding the pavement with nowhere to sit or sleep without risking interacting with police, your mind and outlook is pretty grim. I want to cook my meals and maybe have a dog again. I just want a home. It's getting depressing and disturbing.
 30. Without a stable location that can allow for a community of street outreach workers or friends to connect with, I can go through a whole day without seeing someone I know and this makes me feel really alone. If someone asks where are you going, my answer is I am just walking around hoping to run into someone I know. The thing that brings me calm and distraction from my stress is playing my guitar.
 31. While I have been homeless, I've had to lie about ailments to get into a hospital to get warm because I am refused entry by all shelters. If I told them I needed to get in because I am cold they would not allow it. I've sat down in a warm room just to get some break. I will hang out at the train station or library.
 32. No city staff person has ever offered me a housing worker to assist with getting me into housing.
 33. During the period of 2017 to present I have not been offered affordable housing, or appropriate shelter for a temporary stay. Since the trauma of the attack in the shelter, it's difficult for me to stay in congregate style shelter spaces because of the associated Post Traumatic Stress.
 34. Aside from my experience with the Salvation Army I have had predominantly negative experiences in shelters. It is loud and I am unable to sleep. I have had my possessions stolen and the overall atmosphere is not healthy for me as I am scared for my safety.
 35. Routinely being evicted from encampments impacts me negatively both emotionally and physically because I always have to start over abruptly with little to no physical energy as I rarely have adequate sleep and food. I am not given any advance notice and

so the turn-around time to move is very quick. It is very emotionally taxing as it is stressful. I have lost belongings in the process of being displaced. Routinely moving also disconnects me from nearby services and supports that I rely on such as health care from the Shelter Health Network, supports offered by Wesley Urban Ministries and food programs with Churches.

36. Shelter at Good Shepherd would ask why you aren't in the bed sleeping, but I was having insomnia because of pills that made me sleep in the day. I had been given medication that made me dizzy and they would challenge me. I had an argument about this and said I would only get instruction from my doctor. I didn't have a problem with the other nurses but the one was being a prick towards me because of his assertion of authority. I did not feel like he respected me and he was bullying me. I feel like his job was a more important than me being shot and homeless but I took second fiddle to him.
37. When I am in the cold, I can feel my whole head becoming numb because of the cold. My arms, hips and hands hurt. I don't want this kind of living.
38. I have lost trust in the shelter because they let someone in with a hatchet and that person was attacked.
39. I have had my possessions stolen from the shelter. They say they are locking them up but I have had personal heirlooms stolen including my mother's ashes. They just see garbage bags full of things and people rummage through them, or mistakenly given the bag to the wrong person.
40. I swear this affidavit in support of the motion and for no other or improper purpose.

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



A Commissioner etc.
Sharon Crowe
Barrister & Solicitor

) **AFFIRMED** at the City of Hamilton, in the
) Province of Ontario, this 2nd day of
) June, 2022.
)



Darrin Marchand

TAB 51

Court File No. CV-21-00077817-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

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

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF Darrin Marchand

I, Darrin Marchand, of the City Hamilton in the Province of Ontario, Affirm and say:

1. Since June 2022 have stayed in the following locations: staying at friend's until Apr 22/23
Apr 23rd - staying in various locations (downtown core near Tim Horton's).
2. I was recently allowed to access to Salvation Army but haven't accessed shelter because of my bad experience there where all of my belongings were removed. The only other shelter I have access to is the mission but I have been barred entry due to a "conflict of interest" because my ex-girlfriend from 1987 works in the kitchen. I have no other options for shelter.

Along with the ~~same~~ experience and resulting trauma from witnessing this horrific act.

3. I'm now staying in various locations downtown in Hamilton near Tim Horton's Field.

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

- loss of belongings - guitars, phones, ID, clothing
- sinus and respiratory problems due to winter spent outside.
- fearful of people attacking me while I'm sleeping outside

5. My fear has significantly escalated each time I am forced to sleep outside. I want to get back into a routine and starting working, but being homeless is making that significantly challenging.

at my old job and work again. I'm optimistic and would like to make my life better.

AFFIRMED AND DECLARED)
before me at the City of Hamilton,)
in the Province of Ontario,)
this 25 day of April, 2023.)


A Commissioner etc.



TAB 52

<div>Court File No. CV-21-77187</div> <div>ONTARIO SUPERIOR COURT OF JUSTICE</div> <div>B E T W E E N:</div> <div>KRISTEN HEEGSMÄ, 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</div> <div>Applicants</div> <div>- and -</div> <div>CITY OF HAMILTON</div> <div>Respondent</div> <div>-----</div> <div>The Cross-Examination of Darrin Marchand, taken upon affirmation in the above action this 29th day of August, 2024, conducted via Zoom videoconference hosted by the offices of Nimigan Mihailovich Reporting Inc.</div> <div>-----</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>	<div>D. MARCHAND-3</div> <div>85</div> <div>INDEX OF PROCEEDINGS</div> <div>AFFIRMED: Darrin Marchand</div> <div>EXAMINATION BY: PAGE NO.</div> <div>Ms. Shores.....4</div> <div>-----</div> <div>GUIDE TO UNDERTAKINGS, UNDER ADVISEMENTS AND REFUSALS</div> <div>This should be regarded as merely a guide and does not necessarily constitute a full and complete list.</div> <div>Undertakings are found on the following pages:</div> <div>None entered</div> <div>Under advisements are found on the following pages:</div> <div>36</div> <div>Refusals are found on the following pages:</div> <div>None entered</div> <div>EXHIBITS</div> <table><tr><th>Exhibit No.</th><th>Description</th><th>Page</th></tr><tr><td></td><td>None entered</td><td></td></tr></table> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>	Exhibit No.	Description	Page		None entered	
Exhibit No.	Description	Page					
	None entered						
<div>APPEARANCES:</div> <div>Sharon Crowe For the Applicants</div> <div>Community Legal Clinic</div> <div>Bevin Shores For the Respondent</div> <div>Gowing WLG</div> <div>Also Present:</div> <div>Michelle Sutherland - Community Legal Clinic</div> <div>Liz Marr - student with Gowing WLG</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>	<div>D. MARCHAND-4</div> <div>---UPON COMMENCING AT 2:30 p.m.</div> <div>Darrin Marchand,</div> <div>having been duly affirmed,</div> <div>was examined and testified as follows:</div> <div>BY MS. SHORES:</div> <div>1 Q. Good afternoon, Mr. Marchand. As I introduced offline, my name is Bevin Shores. My pronouns are she and her. I'm one of the lawyers for the City of Hamilton in this matter and we're here today for your cross-examination on two Affidavits, one dated June 2nd, 2022 and one dated April 25th, 2023. So can we get started by having you please state your full name for the record?</div> <div>A. My name is Darrin Rene Joseph Marchand.</div> <div>2 Q. What did you say your middle name is?</div> <div>A. Rene.</div> <div>3 Q. Rene --</div> <div>A. R-E-N-E.</div> <div>4 Q. -- okay. Spelled the French way, R-E-N-E?</div> <div>A. That's right.</div> <div>5 Q. Okay, thank you. And do you have a name that you'd like to go by?</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div>						

A. Just Darrin.

6 **Q.** Okay. And do you have any pronouns that you wish to share?

A. I beg your pardon?

7 **Q.** Do you have any pronouns that you wish to share?

A. No.

8 **Q.** Okay. You've been affirmed to tell the truth just now; correct?

A. Yes.

9 **Q.** You understand that that means that you need to give truthful answers to the questions I'm asking you today?

A. That's right.

10 **Q.** Okay. And if during this cross-examination you don't understand one of my questions, please let me know and I can repeat or rephrase it for you. Is that understood?

A. Understood.

11 **Q.** Okay. Mr. Marchand, have you reviewed your Affidavit of June 2nd, 2022? Your June 2nd, 2022 Affidavit.

A. Yes.

12 **Q.** Okay. And can you confirm everything in that Affidavit is accurate?

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A. That's right.

13 **Q.** And have you reviewed your April 25th, 2023 Affidavit?

A. Yes.

14 **Q.** And you can confirm everything in that Affidavit is accurate?

A. Yes.

15 **Q.** Okay. Now, just now you're looking at two documents, which I presume are your Affidavits. One other thing before we get to my questions, you're aware that the only documents that you're to have in front of you are your Affidavits; correct?

A. That's right.

16 **Q.** And you're not to have any assistance in giving your answers; correct?

A. That's right.

17 **Q.** Okay.

MS. CROWE: Ms. Shores, I do also have Dr. Lamont's report.

MS. SHORES: Okay. I will -- I take it, Counsel, that you'll -- that's only for use if I refer Mr. Marchand to the report and he is not be referring to it spontaneously?

MS. CROWE: That's right. I can put

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it away for now if you'd like.

MS. SHORES: I don't -- perhaps that's a good idea just so that things are clear as to what Mr. Marchand should be looking at.

BY MS. SHORES:

18 **Q.** Okay. Mr. Marchand, where is your current residence?

A. I'm staying at The Salvation Army as of last night. I went back there.

19 **Q.** Salvation -- which location is that?

A. It's on York Boulevard.

20 **Q.** How long have you been staying there?

A. On and off for the last couple weeks. I go there and I signed in a little over a week ago.

21 **Q.** Okay.

A. I've been staying outside again.

22 **Q.** And Mr. Marchand, since your April 2023 Affidavit, have you been housed?

A. No.

23 **Q.** Okay. Mr. Marchand, one of the witnesses for the City of Hamilton, a gentleman named Rob Mastroianni, who I'm fairly confident you've never met, but he looked at some records and

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he indicated that those records indicated that you had obtained housing in October of 2023; is that possibly correct?

A. If you tell me where it was. I don't know where it was.

24 **Q.** I'm afraid that's not indicated.

Just that you had some sort of housing in 2023, so a little under a year ago. Last fall.

A. Last fall I went back to my parents' house to live for a week.

25 **Q.** Okay. And where are your parents?

A. My parents are both deceased and my brother has been taking care of my parents' estate.

26 **Q.** My condolences. And where was your parents' home?

A. 1019 Garth Street, Hamilton. On the West Mountain.

27 **Q.** And is there any reason that you're no longer staying at your parents' home?

A. Just conflict of interest. Me and my brother, we have a history of violence and discrepancies. We make it -- we don't always get along and I've been asked -- I've been told, more or less, that I'm welcome to come there but just as long as it's in the daytime, not nighttime.

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28 **Q.** And do you take them up on that invitation to go to your parents' house in the daytime?

A. Once in a while I build up the nerve to go up there and I knock on the door and I just say hello, is anyone home? And usually someone is home and sometimes nobody is home. I just wait around until someone shows up.

29 **Q.** And how long ago was that invitation extended to you to go to --

A. Well, last year about, I believe it was in October or September. I went up there to rake the leaves, took a couple pictures of a tree my mother planted when my father died and took some pictures of my niece and my nephew. My brother's grandchildren live there as well.

30 **Q.** So your brother lives in your parents' house with his family and his grandchildren?

A. That's right.

31 **Q.** Understood. And so if I understand your evidence correctly, sometime around last fall, September or October, that's when you went to stay with them for a week and ultimately they told you you would be welcome to come back during the day?

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A. I just came back from there the other day. I went up there and -- but I lose things. Like for example, I lost my phone and I lost my contacts with my family so basically I'm forced to, you know, either -- they don't have the same number as they once had before. It used to be a 905-389-9350 number and they don't have that number. Everybody has cell phones up there and it's hard to get a hold of my brother. He's always working and he's always doing his own thing and I don't usually get permission to go up there. I just go up there.

32 **Q.** And I'm going to change gears for a moment, Mr. Marchand, and you may previously recall giving evidence in a cross-examination back in October of 2021. Do you remember that?

A. Yes.

33 **Q.** Okay. And you remember specifically that you were affirmed to tell the truth at that time?

A. That's right.

34 **Q.** Okay. And at that time, you gave us accurate answers to our questions?

A. Right.

35 **Q.** Now, Mr. Marchand, I do also have to
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ask, in October of 2021, you participated in your examination from jail and you told us at that time you had been there since September of 2021. When did you get out of jail?

A. The same year. I went in jail three times, one for 50 something days, one for 30 days and one for 3 days.

36 **Q.** Okay. And do you remember in and around October of 2021 which stay that was?

A. When I spoke from -- I spoke with a lawyer on the telephone. I didn't know what it was for. I thought it was a criminal charge and I realized it had something to do with my Affidavit. It wanted to be confirmed by a lawyer.

37 **Q.** I'm not sure you understood my question so let me rephrase it for you. I'm trying to figure out if there's anything that jogs your memory to say when you were released from jail after you had that phone call?

A. Don't remember.

38 **Q.** Okay.

A. I don't recall.

39 **Q.** All right.

A. They just called me and said you'll be getting out today and that's it.

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40 **Q.** And the things that you were in jail for, were any of them due to something that involved a shelter?

A. I wasn't happy with my living conditions so I just went outside. I prefer to stay outside. Everybody was banging on my doors. I was living at the YMCA and I kept on going outside and playing guitar in the cold and that's all I wanted to do. I just wanted to forget that everybody is bothering me. They just keep coming to my door and bugging me for everything, you know, so I just said, you know, I just rather be outside rather than listening to what's going on in there.

In the same sense, those rooms in the YMCA seem like -- well, it seemed like I was still homeless. It didn't seem like a home. It just seemed like a jail cell. I had a hard time sleeping, I had a hard time concentrating or anything at all like going back to work and -- I don't know. I was just slowly deteriorating. My mind was, wasn't focussed and I was abusing drugs and I was, I was pretending that everything didn't bother me, but the more and more I came out, the more and more I found myself getting in trouble until one day, some person came up to me and shot me
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when I was outside -- sleeping outside at the church across from The Salvation Army -- the YMCA back in 2021.

41 **Q.** And so the incident that you referred to -- well, I'm going to talk, Mr. Marchand, a little bit later about the incident in which you were shot but I just -- going back to the time that you were in jail, let me ask it this way, what were you in jail for?

A. I crossed an imaginary line. They told me not to go anywhere from, I forget what they call it. It's an Order saying that they don't -- they didn't want me from Ferguson to Hughson, from Cannon to King Street and I had a lot of things I had to do in that area. That's why I stayed there.

I fell on a piece of ice and because I got shot, I was lifting myself up on one arm and the next thing I know, I was arrested for being in an area when, in fact, I was permitted to stay down the street at the shelter. I was going through some pain from the gunshot wound and I just -- I couldn't, I couldn't function. I was, I was getting -- I was -- I don't know. I was getting worse. I was getting a little agitated because everything was just frustrating me until they put me

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in a cell and started all my problems over again. You put me in a cell and I feel claustrophobic. I can't breathe and -- I don't know, I just have a problem being locked up. I've been locked up most of my life and it really feels like it's a bad dream.

I says there's got to be more to it than this. There's got to be more to it. You know, as soon as I got out I was supposed to report to my probation officer that I forgot to do and I didn't have the energy. I didn't have the energy to even walk over there and cross the street. I can find better things to do than dodging traffic, you know. Some of those cars coming at fast speed and if you're not paying attention, you can get hit by a car.

It's, like, I just want to, I just want a home where I don't have to cross the street all the time, you know what I mean? I don't have to go through intersections and crisscross across town. I don't want to get on buses and cross town to see my family all the time. I want to be able to call them and say hello and I can't do that because I don't have a phone. People keep stealing off me all the time. I buy a phone, people steal it. Mostly I

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leave it. I'm so tired that I get, I get disoriented of where I am, where I'm supposed to be.

They say I'm getting insubordinate with every law official that comes near me. I don't trust police officers sometimes and meanwhile, it's the police officers that have been helping me. Some of them have been giving me the gears. I got -- I got tasered in a corner one time and they didn't do nothing about it. They just tasered me, threw me, pistol whipped me, threw me in a cop car and I got belligerent with the police officers. I said the rudest things I can possibly think of and I says I'm more, I'm more valuable than that to myself. I mean more than that. That's why I don't like being locked up.

In fact, I don't like people touching me sometimes. I get very just, you know, you get very out of place, you know. I get insubordinate -- I've cussed to the police officers, I've cussed, to my own lawyer I've even cussed. I can't stand being locked up. I don't like being, like, probed and fingerprinted and -- I don't like that. Wiping off the stuff. You know what you're in here for? No, I have no clue what I'm in here for. All I know is that when I was a kid I was in

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class and I got, I got put through the ringer, you know. I went through training school, I went through juvenile, I've been through penitentiaries, mental institutions and they call it West 5th here in Hamilton. Well, there's got to be lots of different places they put people that have mental illnesses but, like, I suffer from a mental illness that I can't understand. Maybe call me stupid, I don't know, but I'm getting tired of it. I just want a home and myself, you know. Every time I try to find a home, there's no answer for it.

42 **Q.** Okay. So Mr. --

A. There's no answer. Just get going.

43 **Q.** Mr. Marchand, I'd like to --

A. I don't understand it.

44 **Q.** Mr. Marchand, I'd like to ask you

some questions about some of the things that you said. So one thing is you mentioned you don't like being locked up and we talked about when you were in jail in October of 2021. Have you been in jail since then?

A. No.

45 **Q.** Okay. And you mentioned mental institutions, have you been in mental institutions or places like West 5th since we last spoke about

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this matter in 2021?

A. Not lately, no.

46 **Q.** Not lately. What do you mean by not lately? When was the last time?

A. To go to my parents house you got to pass by that. If I take the bus, I walk past West 5th. West 5th is -- that's where -- on Fennell --

47 **Q.** I mean staying in West 5th, not in the area.

A. Staying in West 5th, no, no. I visited someone in there a while back but that's about it.

48 **Q.** Okay. Now Mr. Marchand, I put your June 2nd, 2022 Affidavit on the screen. You can also look at it in front of you. At paragraph four, you say that you're a person living with disabilities. What are the disabilities that you have?

A. I'm clumsy. I don't know. I don't know. I write it up. Do you have anything to declare? I write zero. Nothing to declare. Nothing to declare meaning, like, have you been, have you been working under the table? Well, no, but I've been working over the table down at the International Longshoremen's Association and I feel
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like I'm an idiot over there. One time I was doing such a good job that I felt positive that I'd return to the work force and let go of this disability pension that they were giving me. I look at it like a pension but, like, you know, things happen when I was in that, when I was locked up in a mental institution I call it.

I was in the -- I got assaulted by a patient and they made me undergo electric compulsive therapy for what, because I defended myself? Because I beat someone up? I was sexually assaulted by a patient and I had to look at this piece of shit, you know. I bottled it up for years and that's why I'm so -- I can't, I can't function properly because I've been abusing drugs all my life and I've been thinking, like, this is ridiculous. This is ridiculous. They made me undergo electric compulsive therapy and protected a pedophile that assaulted me when I was 15 years old and I can't get it out of my head.

So every time someone comes near me and touches me and all that and tells me what to do, I stand back and I'm wondering whether or not I'll do it or not. I guess you can say I've been living on the street long enough that I can't do it no more
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and I don't know where I find myself in the City. Well, I was born in this City and I was born in a hospital in this City and I have to go to that hospital to deal with my, with my personal hygiene that I can't take care of because I don't have my own washroom. I don't have my own facility.

49 **Q.** Mr. Marchand, you're staying at The Salvation Army. There are washrooms there, though; right?

A. Yeah.

50 **Q.** And I just want to go back to something that you said. You mentioned using drugs, is that something that you're still doing?

A. It's something that I don't want to do no more but I can't break free from it because I'm taking my medication as best I can because I got, I got arrested by the police. They took me to the hospital and they put me in these restraints after I've been pistol whipped and tasered by the police because I was cold. I just wanted to get warm. I was trying to get in and when I got in, they told me I had to go back and I went, what are you talking about? I just got here.

51 **Q.** Sorry, Mr. Marchand, where were you trying to get into?

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A. Pardon me?

52 **Q.** Where were you trying to get into? You said you were trying to get in.

A. I was trying to get in a shelter. I was talking with workers at the Wesley Centre. They moved their location for their shelter. I was talking with some workers and I was putting all my eggs in one basket, if you want to call it. I wanted to, I wanted to live somewhere.

Last time I had an apartment was 2017 and my grandfather passed away and well, I went, I went to his benefit and send my farewells and I came back and I wasn't really quite the same. I tried to forget that, you know, people in my life aren't there no more and I can't always rely on my parents for help because they're not around anymore and so I lean on my brother, and my brother, well, he's tired of me leaning on him. It's about time I stand on my own two feet, right, but I can't do it no more. I can't. I have a hard time. I have a hard time doing normal things because I don't have my own home. I signed off a lease because people were complaining about people that were coming to my house that I couldn't stop -- they were coming to my house and I walk in and they're in my house, you
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know.

53 Q. Is this the house you had back in 2017?

A. Yeah. That's the last time I remember having my own apartment, and I signed off because I didn't want any more problems there. So they said we'll get you another apartment. Well, I'm still waiting. You know, I'm still going to -- this is enough of this. I can't, I can't do this shelter cycle again. I can't do this. I want my own place. How come I can't get my own place? City of Hamilton, Hamilton Housing doesn't got me on the list. Where's the affordable housing in Hamilton? Where can I go that the rent is not too expensive, you know? I don't know. I've been asking for these questions to my answers and well, I can't find it. I'm always --

54 Q. So Mr. Marchand --

A. -- taking care of someone else's problems.

55 Q. Yeah, let's ask it this way, so you're in The Salvation Army right now and you've got a room and so --

A. I beg your pardon?

56 Q. You're at the --

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A. I'm not in The Salvation Army right now. I'm sitting in this office right here.

57 Q. I'm sorry, you have a space in --

A. I'm sorry to point that out to you, but, like --

58 Q. No, you're correct. I was --

A. Waiting at 10:00 o'clock at night to get a bed, if you get a bed, isn't something that I want to do. I don't want to jump in and out of beds. I want my own bed, you know what I mean? I want my own bed. I want my own things that I, that I'm on disability for and I buy. I buy things for my family if I can. I'll buy someone a cup of coffee. I get kicked out of places.

59 Q. Mr. Marchand, Mr. Marchand. I do understand that you have a story that you want to tell but we're here to ask questions today and we do have other people that we need to get to so --

A. I know, I know.

60 Q. -- I'm going to ask you to -- I'm trying not to interrupt but I --

A. Any ways, they say I suffer from paranoia, they say I'm schizophrenic, well, that's just a word. That's not me. My name is Darrin Rene Joseph Marchand and that's my story and that's the
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end of it. I ain't a schizophrenic. I'm just what they say but yeah, I do suffer from a lot of things.

61 Q. So when you say schizophrenic, Mr. Marchand, is that something that you have -- you're getting treatment for?

A. Well, let's put it this way, I suffer -- I'm allergic to bee venom. If I get bit by a bee, my arm will swell out and I'm in a lot of pain so I get a shot every couple of weeks. Sometimes when I'm working, I don't have time to go do that. I don't have to go to the doctor --

62 Q. Mr. Marchand, where are you working?

A. I was working down at the International Longshoremen's Association.

63 Q. Okay, but these days, are you working?

A. I'm not working at all these days, ma'am. I haven't been able to work since I got shot. Even after I got shot -- even before I got shot I try to get back to work and I tried to, I tried to find a way to go back to work and bought a bike that got stolen, I bought a phone that I left it somewhere. I'm always emptying my pockets, seeing what I got in my pockets. Sometimes I have money, sometimes I don't have money. I can't even save two
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nickels sometimes.

64 Q. So Mr. Marchand, you also mentioned when I asked you about drug use that there was medication you're taking. Are you in treatment for drug use?

A. No, I'm not.

65 Q. Okay. Is there any reason why not?

A. I don't believe in it.

66 Q. Okay.

A. I don't believe in it. I believe in the people out there that sell drugs to people so they can lose their mind and I believe they're laughing at people like myself and think it's a big joke, you know.

67 Q. Are you talking about the doctors trying to prescribe medication or are you talking about the people who sell you the drugs that you use?

A. I don't know.

68 Q. Mr. Marchand --

A. I'm just trying to forget that a guy shot me. Nearly killed me. That's what I'm trying to do.

69 Q. Okay, we're going to talk about that --

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A. I'm just trying to erase it. I'm just trying to erase it, you know. A guy nearly killed me. He walked right up to me and put a bullet in my shoulder. It went right through me. Went right out the other side and then it went in a door about that much before they pulled the bullet out of the door.

70 **Q.** Okay. You're gesturing to your left shoulder? That's where the injury was, Mr. Marchand?

A. The injury was in my left shoulder and it came out the other side.

71 **Q.** On the backside?

A. I couldn't lift my arm. When I fell on a piece of ice, police officer arrested me and put me in handcuffs and put me in the backseat of the car. He had no idea how much pain I was in. I don't think he cared, you know. Well, shame on him. I care. How about I put cuffs on him, you know what I mean? See how he likes it.

72 **Q.** When did that arrest happen, Mr. Marchand, with the officer?

A. It happened. It happened.

73 **Q.** Mr. Marchand, when did that incident happen when the police officer arrested you and

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your shoulder hurt, do you remember?

A. I've been turned down so many places and I've been excused --

74 **Q.** Mr. Marchand, I'm not trying -- I would really like not to take more of your time than we need to about this but I need you to answer my questions.

A. I'm sorry, I lost focus of what I was trying to say. It's just that I have a lot of animosity towards that person that shot me. I don't even know him. For all I know, he probably sees me every day and laughs at me, you know what I mean?

75 **Q.** You don't know the person who shot you?

A. Well, I was told who the person was. Do I know the person? No, I don't know him. He looks like any typical person I've ever met before. For all I know --

76 **Q.** Do you have any knowledge why that person shot you? Did anyone tell you --

A. Because they think he's whacked upstairs. I think he's missing a few bolts, you know. He's not wired right upstairs.

77 **Q.** So this was a random attack?

A. Walked up to a guy and shoot a guy,

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you know. I didn't even have a feather. I couldn't even tickle him with a feather if I wanted to.

78 **Q.** So to your knowledge, Mr. Marchand, it was a random attack, not somebody trying to shoot you specifically?

A. A random attack. I think he's got his marbles -- I don't think he's all there, but that's okay, neither am I. Maybe it takes one to know one.

79 **Q.** Mr. Marchand, I want to go back. We were talking about doctors and there's a Dr. Rachel Lamont who has written a letter on your behalf.

A. Yeah. Anyhow, any ways, I suffer from this. I've been diagnosed with paranoid schizophrenia. Like I said, it's just a word to me.

80 **Q.** Okay. So Mr. Marchand, but the question I want to ask you is have you actually seen Dr. Lamont for treatment?

A. No.

81 **Q.** Okay. Have you -- well, let me ask this, have you ever seen her before?

A. Have I ever seen her before?

82 **Q.** Yeah.

A. No.

83 **Q.** Okay.

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A. I don't think I'd even recognize her if she was in this room right now.

84 **Q.** Mr. Marchand, I want to go to paragraph eight of your Affidavit and now, in this paragraph, you describe something that happened in 2020. You state that you were sleeping at The Salvation Army men's shelter and witnessed an attack on a man in the neighbouring room. Specifically it was a hatchet attack. Now, at paragraph nine you say after witnessing this incident, you were admitted to the Barrett Centre for Crisis Support; is that correct?

A. That's right.

85 **Q.** How long did you stay in the Barrett Centre?

A. Oh, a couple days.

86 **Q.** A couple days.

A. I couldn't get it out of my head.

Now that I'm reading it, it's coming back to me. I was at the Barrett Centre last night. I walked a friend of mine that was staying there. I knew exactly where it was. It's down the street from my high school, which is another shelter. It's a warming centre that I'm barred from. You know, can't get along with people. I wish people would just

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give me some space, you know. You know that saying --

87 Q. I'm sorry, Mr. Marchand --

A. -- don't call us, we'll call you?

88 Q. -- you're barred from the warming centre because you can't get along with people?

A. I try my best to get along with people. Sometimes I give up. Sometimes I give up.

89 Q. And then what happens?

A. I just snap. I lose it. I lose it. I don't care about nothing but myself and me, myself and I, you know. And I feel like that's the way a lot of people are, but there's a lot of people that have been helping me and I give the people, you know, the people that are out there what you call, you know, there's a lot of good people out there and I'm one of them, you know. I feel like, I feel like, you know, like the guy who shot me, he left me for dead. He didn't care if it hurt.

90 Q. Are the people at the Barrett Centre some of the good people who tried to help you?

A. Well, I don't think they knew exactly -- I don't think they knew exactly what I was going through. I mean, when you see a guy brutally attacked, you don't see it, you just hear NIMIGAN MIHAIOVICH REPORTING INC.

it and then you get on your feet and you go next door and you see someone all chopped up with an axe. You look on the floor, there's blood on the floor and you look at -- and a guy grabbed me like this and, like I said, I have a problem with people touching me and he looked at this guy and I don't know this guy from a hole in the ground. He's got no shoes, no socks and blood all over his feet and there's a hatchet on the floor. Well, I tried to pick the hatchet up because, you know -- he picked it up first so I went to my room and locked my door and he came knocking on my door. I told him get away from my door because I'll take --

91 Q. At that point, did you have the hatchet with you?

A. It won't be nice and instead of doing that, I ran downstairs and I got help for the man that was attacked upstairs --

92 Q. Mr. Marchand, when you went back and you were speaking with the other man, you had the hatchet? You still had the hatchet?

A. He had the hatchet on the floor.

93 Q. He had the hatchet on the floor. So you said you picked it up --

A. It was on the floor and then he NIMIGAN MIHAIOVICH REPORTING INC.

picked it up and now he's got a hatchet. I don't know. I never seen him do anything. I know what I seen. I wasn't imaging things. I knew what I seen. This guy -- whoever did that did that right next door to my room and you kind of wonder, like, I don't want to be there. But that's what, that's what happened there.

94 Q. Okay. Mr. Marchand, The Salvation Army location where this incident happened, is that the same Salvation Army location you're at now or is it a different one?

A. That's right.

95 Q. It's the same one?

A. You can understand I'm having, you know -- I don't want to be there but, you know, I get, I get -- I can't live outside. I can't. I have a hard time breathing today. I take puffers, actually. I don't know what else to say. I just don't -- I just -- like, it's coming back to me. I'm sorry, but I seen -- I may have heard or seen something that I didn't want to see and I couldn't stop talking about it because the guy was --

96 Q. Mr. Marchand --

A. -- next door to me. How can I not say nothing to him? Hello, how are ya? Not bad. NIMIGAN MIHAIOVICH REPORTING INC.

97 Q. Mr. Marchand, in your Affidavit you also say after you got out of Barrett Centre you say you were -- you discovered that you were barred from all shelters in the City of Hamilton and have not received an explanation as to why. Did you ask for an explanation?

A. I tried to.

98 Q. All right. What did they say?

A. They just said get out. Just like the -- they kick you out every day in that shelter.

99 Q. Okay. Well, which shelter because you said in your Affidavit it's all shelters?

A. Well, the ones that are downtown. I lived in the north end of Hamilton down on Wood Street for 20 years. My doctor is around the corner. I just seen him a couple days ago and I got my injection that they want to see me the first week of September.

100 Q. So Mr. Marchand, who is that doctor who gives you the injection?

A. He's my family doctor.

101 Q. What's his name?

A. Dr. Owsianik.

102 Q. Do you know how to spell that?

A. O-W-S-I-A-N-I-K.

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- 103 **Q.** And what does he give you the injection for?
- A.** **Like I said, I'm allergic to --**
- 104 **Q.** To bee stings?
- A.** **-- bee venom.**
- 105 **Q.** So it's an allergy shot?
- A.** **Yeah, it's an allergy shot.**
- 106 **Q.** Now, I want to take you back to when you said you were banned from all the shelters. Do you have any idea why they might have said you were banned from shelters?
- A.** **Yeah.**
- 107 **Q.** And what's that?
- A.** **I went to the police station to give my statement about what I had heard and why I went downstairs to notify the security guard that this guy needs an ambulance upstairs. I said -- I told them like it is. You're the reason why that guy is in the hospital. You let that animal upstairs with the hatchet, not me. I didn't let him. Maybe I should get a hatchet to even it up just so I can -- oh, you're out of here. You're gone. That was it. You're out of here. Why, because I spoke the truth? You let that guy upstairs with that thing.**
- 108 **Q.** Mr. Marchand, you even just said
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- that maybe you should get a hatchet. I mean, you agree with me, someone would take that as a threat?
- A.** **When you see a guy -- I'm sorry. I got to stop talking about this guy. You know, I can close my eyes and I can see it all over again. It's not good even talking about it.**
- 109 **Q.** So Mr. Marchand, have you ever gotten into a fight with anybody at a shelter?
- A.** **Have I what?**
- 110 **Q.** Gotten into a fight with anybody at a shelter?
- A.** **Just an argument. Just an argument. Not a fight. Some guy called me a name and yeah, I went into -- I went into defensive mode. I got kicked out for that, too. You're out of here. I couldn't even have breakfast. Get going.**
- 111 **Q.** Have you threatened anyone at a shelter? Say you were going to do anything --
- A.** **No, I threaten nobody. I not threatening nobody.**
- 112 **Q.** Not even the shelter workers?
- A.** **No.**
- 113 **Q.** Have you ever broken things at a shelter?
- A.** **My own things I have. By accident.**
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- 114 **Q.** Have you ever punched anything or thrown anything?
- A.** **I beg your pardon?**
- 115 **Q.** Have you ever punched anything or thrown anything at a shelter?
- A.** **No.**
- 116 **Q.** Have you ever refused to leave a shelter when they asked you?
- A.** **Yes.**
- 117 **Q.** Okay. How many times has that happened?
- A.** **Once. Once.**
- 118 **Q.** Once. When did that happen?
- A.** **One time I broke the door open because I slipped. I was on ice and my foot went through the window. I broke the window and when I broke the window, I didn't -- I offered to pay for it but it was an accident. I didn't do it on purpose. It was an accident. I just slipped. I'm clumsy, like I said. I'm clumsy. You know, I break things by accident. You can ask for my help but I might not be able to help you. Pretty clumsy, you know.**
- 119 **Q.** So Mr. Marchand, you said in your Affidavit that you didn't get an explanation as to
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- why you were barred from shelters but the City of Hamilton has records of your attempts to access shelters and homelessness services and that also includes things like Service Restrictions. So will you sign an authorization allowing your record to be disclosed in this litigation?
- MS. CROWE: Counsel, we'll take that under advisement.
- MS. SHORES: My position is that it's relevant and that Mr. Marchand's authorization is necessary in order to comply with the relevant privacy legislation.
- ADVISEMENT
- BY MS. SHORES:
- 120 **Q.** Mr. Marchand, at paragraph 11 of your Affidavit you say that you pitched a tent at the intersection of Strachan Street and James in Hamilton. How long did you stay there?
- A.** **Oh, not very long.**
- 121 **Q.** Okay. And then you say that --
- A.** **Some people came over my tent and start bothering me and I just -- it's not like locking your door and someone is knocking on your door and, you know, they won't leave you alone.**
- 122 **Q.** All right. So --
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A. Because they tend to hang outside your tent, they piss on your tent, they steal things outside your tent. I've come back to my tent and the pegs that were holding the tent up were collapsed and a little note saying you got to move from here. And that's all I need to know because -- like I said, there's no protection in a tent but a tent is not the worst thing in the world.

123 **Q.** Okay. So Mr. Marchand, you said you came back and there was a note so you didn't see who took up the pegs in your tent; right?

A. Yeah. People were stealing from, like, taking my tent, taking my tarp.

124 **Q.** And you don't know who stole from you?

A. No, I don't know. I don't know.

125 **Q.** Who left the note?

A. Pardon me?

126 **Q.** Who left the note saying you had to move?

A. Police officers.

127 **Q.** Okay. And did you move?

A. Yeah, I packed up my tent. I had to open it up and pull all my stuff out of the tent and then pack the tent in a bag and get going again.

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Yeah, I did it quite a bit.

128 **Q.** Okay. You said you did it quite a bit. Can you tell me from, like, how long you were doing that for or can you explain that a little more?

A. Well, enough time that I don't want to do it no more.

129 **Q.** Can you be a little more specific?

A. I don't like living in a tent.

130 **Q.** I know, but in terms of how long you've been moving around from your tent?

A. Well, people just -- like I said, they won't leave me alone, you know what I mean? You know what I mean? Sometimes I just want to sleep. I just want to get some sleep. I can't sleep. That's probably -- that's why I'm probably trying to find ways of staying up. Who wants to go to sleep when, you know, there's fresh air outside.

131 **Q.** So Mr. Marchand, you say also that you had a stay at -- move to Dundurn Castle and then Catherine Park by the urban core. You were staying in tents there?

A. Yeah, I was staying in tents there and there was people that were telling me to move from there.

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132 **Q.** So same thing, when they told you to move, you packed up your tent and you moved?

A. Yeah.

133 **Q.** Do you know who was telling you to move?

A. People that were managing the Dundurn Castle.

134 **Q.** Okay.

A. Some guy came up to me and said you can't stay here. It's the location where I put my tent. They told me I couldn't stay there so I moved it.

135 **Q.** All right. He's coming up to you sometime during the day and saying you can't be here?

A. That's right.

136 **Q.** In your Affidavit, well, you say that you had a tent last in fall of 2021. Is that still true or have you had a tent since then?

A. I've had a few tents.

137 **Q.** Okay.

A. I've had a few. They were small enough that you couldn't even stand up in it and once they were put up, I had cooperation from people helping me with the tent and they wouldn't stay up.

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The trains would go by and the trains would keep me up and I can't sleep.

138 **Q.** When was the last time, Mr. Marchand, that you had a tent?

A. I beg your pardon?

139 **Q.** Let me ask you this way, do you still have a tent?

A. No, I don't.

140 **Q.** Okay. When was the last time you had a tent?

A. Who knows. I don't know.

141 **Q.** You don't know?

A. I don't have a clue. My uncle gave me a tent and someone stole it off me.

142 **Q.** Mm-hmm.

A. You know, it was there, I turned around and it was gone. Someone walked away with it, and I'm not going to run around the City looking for whose got my tent. You got my tent? I'm not going to -- I ain't running around for nothing no more.

143 **Q.** So Mr. Marchand, in your Affidavit at paragraph 13 you say that various outreach workers from not-for-profit agencies provided outreach to me in each of the parks. Sometimes

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they brought me food and tents. They tried to advocate for me to get into shelter. So outreach workers, you can get a tent from them if you need one?

A. Yeah, sometimes there's outreach workers that will provide you with a tent, yes, there are.

144 **Q.** Now, Mr. Marchand, you talked to us a little bit about the shooting and I just want to ask you a little bit more about it. You said you were on the stairs at the church across from the Y?

A. The YMCA, yes, on James and Jackson Street.

145 **Q.** Okay. Is there a particular reason you were there at the time?

A. Yeah, I was across the street from where I was staying. I was playing guitar and I was tired.

146 **Q.** Okay. So you were --

A. I was tired. I can't stay in Sally, I can't stay in the Y, I can't stay in the Good Shepherd so I'm going to park it right here at that church and that's where I went.

147 **Q.** So --

A. I --

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148 **Q.** Mr. Marchand, sorry, I just want to clarify. So you were staying at the Y at the time and then you went across the street to the church to play your guitar?

A. Well, yeah, I -- playing guitar is an outlet for me. I learned how to play it and it keeps me -- it takes my mind off things.

149 **Q.** Were you playing your guitar when the person shot you?

A. No, I was sleeping.

150 **Q.** You were sleeping?

A. I was sleeping.

151 **Q.** Okay. Is there a reason you didn't go back to the Y --

A. I was cold, I was tired, I was hungry and I was tired of walking back and forth.

152 **Q.** So you just wanted to go to sleep there?

A. Pardon me?

153 **Q.** So you just decided to sleep there?

A. Yeah, I was sleeping there. A lot of people go there. They go there to sit down. They go there to talk. This guy who came up to me and just shot me, I was told his name was Ryan Alexander Phillips. That's what I was told. And if

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it was, if it ain't, well, shame on you, buddy.

154 **Q.** So I take it they caught the person who shot you, Mr. Marchand?

A. I guess so. That's what they told me they had.

155 **Q.** And you said before that this was a random attack so for all you know, if you had been somewhere else --

A. It was an isolated gunshot wound.

156 **Q.** I'm sorry?

A. It was an isolated gunshot wound.

157 **Q.** Okay. But in terms of -- so he wasn't trying to shoot you specifically. I think you said that to us before --

A. He shot me specifically. Yeah, he shot --

158 **Q.** He targeted you. So he wanted to shoot you in particular?

A. Oh, yeah. He wanted to shoot me.

He said -- he thinks I stole his phone. I did not steal his phone. I told him that and I says I don't know if you're calling me a thief or a liar, whether you're testing my integrity. What's with the trick questions, you know? I didn't steal your phone and my buddy said we didn't see a phone in your hand but

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we see the crack pipe in your hand and I said to myself yeah, I see it too, but I didn't say nothing and he probably didn't like that. And he came back and he said -- pardon my -- I don't mean to swear but if I'm going to quote this person what he said, I'd like to.

159 **Q.** That's okay.

A. Well, he swore and he says if I don't get my effin' phone back, I'm going to effin' kill you. Well, bring it on because if that's what you want to do, I'm not going to -- I'm not going to let you shoot me again.

As a matter of fact, you know, I've even -- when I went to jail, I told them, I says I don't know which one of these assholes, and I was pointing at the police, whose idea it was to put me in jail with the guy who shot me but if he put me on that guy's fucking range or you put me near him, I'll fucking kill him with my bare hands. That's all I have. I don't have a gun, I don't have a knife. I don't fight like that.

160 **Q.** So you didn't want to be near him in jail?

A. Of course not. Of course not.

161 **Q.** But they didn't put you in the same

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cell?

A. I don't want to be in trouble the rest of my life.

162 **Q.** They didn't put you in the same cell with him; right?

A. No. As a matter of fact, they didn't even have him in the same jail but they put me in -- they put me in segregation and I started having -- I said story of my life. Locking me up. You want to question me? They're going to question me. They don't need my permission. They're going to do it any way they want. If they want me -- if they want me to go and take fingerprints, they're just going to throw me in the cop car, handcuff me and take me in and they're going to tell me.

I've been bear maced for the stupidest reasons. I've been pistol whipped, I've been tasered, I've been shot, I've been beat up and I don't know. I've asked for help but, like, yeah, I can get violent but who wants to get violent? Who wants to get violent, you know what I mean? I'm not, by nature, a violent person but when, you know, if I don't fight for my rights, who is going to fight for me?

163 **Q.** So you --

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A. I'm the only -- I deserve a home just like everyone else does.

164 **Q.** So you're not a violent person --

A. There's lots of people on that homeless list here in Hamilton. I see them all the time. I feel sorry that their lives are unmanageable just like my own.

165 **Q.** So Mr. Marchand, you don't believe you're a violent person but if I understand you correctly, sometimes you need to get violent or sometimes you get violent any way?

A. No, no. I've been assaulted a few times. I just look at it like you know what, why am I being picked on? I don't know.

166 **Q.** Mr. Marchand --

A. I don't know what I'm trying to say to you right now. It's not such a bad idea having a tent. You know, some people have tents and they're able to function and live a normal life but I shut people out. I shut people out. If I don't want to talk to you, I just, I just turn around and I got to go do something different. Change my way of thinking, you know.

167 **Q.** All right. So Mr. Marchand, I want to talk to you -- I want to take you back to the

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point in time, so after, after the shooting, you went to Good Shepherd, right? You were in Good Shepherd for two months --

A. That's right.

168 **Q.** -- according to your Affidavit.

Okay. Now, you say that you were kicked out of the Good Shepherd because a nurse alleged that you threatened them?

A. Beg your pardon?

169 **Q.** In your Affidavit, you say that you were kicked out of Good Shepherd because a nurse alleged that you threatened them; is that correct?

A. That's right.

170 **Q.** Okay. Now, you say that was untrue. Are you saying that the nurse made it up?

A. Okay. He was giving me very little for pain and one of the nurses told me that they're giving you nothing for pain, dear, and you've been shot and someone -- they put me in a room with a bunch of other people and this guy, he dropped, I don't know, his lock or something. Something fell and he looked in and I don't know what made the noise but I was in the corner in my own bed and they go -- I go -- it was the guitar that got my arm -- putting my arm up. I couldn't lift my arm over my
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shoulder like I am right now and it was playing the guitar that got my arm back to the use again and started playing guitar again. And I was -- I have to admit, I was pretty, I was pretty petrified when I got shot.

171 **Q.** Okay, but Mr. Marchand, what I asked about is you said that the nurse said that they were -- that you threatened them and that was untrue so I want to know --

A. The nurse says that. I say he threatened me. He had me kicked out in the cold. I just got shot and I'm back out in the snow again.

172 **Q.** Okay, well what happened --

A. What kind of compassion is that?

173 **Q.** What happened when the --

A. Obviously his job is more important

--

174 **Q.** Mr. Marchand --

A. -- to him than me; right?

175 **Q.** -- what I'm asking about --

A. His job is more important than me; right?

176 **Q.** Well no, nobody is saying that but what happened when the nurse kicked you out?

A. I was kicked out because that guy
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had me kicked out and that's the way they plan it.

177 **Q.** What happened when that nurse kicked you out?

A. What about it?

178 **Q.** What happened --

A. I asked for my medication, he didn't like it. I go out for a cigarette, I come back in, that's not working so now I'm -- now I'm still -- I was in pain. Give me a painkiller. Give me something to take this pain away from me. All I got is a bullet hole. It's right there.

179 **Q.** Mr. Marchand, is it possible that you said something angrily to the nurse before you got kicked out?

A. Is it possible what?

180 **Q.** That you said something angrily to the nurse before you got kicked out?

A. No, no. I kept asking what's your problem any ways? You don't like me? Did I do something to you? He kept opening the window. What's going on here? Flashing a flashlight in my face. You know, your job is to dispense the medication and see that we're all right. Well, maybe he didn't like working there. I don't know. He didn't like me. You know, I tried to make fun of
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the situation. I tried to make, you know -- so I got shot, you know.

181 **Q.** Mr. Marchand, you also say that a nurse was pressuring you to change your medication. What happened?

A. Well, I needed something for pain.

182 **Q.** No, you say that a nurse was pressuring you to change your medication. What happened?

A. I don't know. I don't know what happened. I just, I just noticed that I spent five hours in the hospital and got kicked out of the hospital. There was nowhere for me to go. I can't -- what do you want me to do, walk out with a black arm band and --

183 **Q.** No, Mr. Marchand, the question was --

A. What do you want me to do, get hit by a car next? Bolt of lightening? What's going to happen?

184 **Q.** Mr. Marchand, the question was --

A. I just got shot.

185 **Q.** -- what happened --

A. What do you want me to do? What do you want me to do?

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186 **Q.** All right, Mr. Marchand, I've given you multiple opportunities to answer the question, I'm going to move on. In paragraph 28 you say that you've been ticketed for being in public space and private space even when permission was given. When did that happen?

A. Ticketed for being -- I've been ticketed. I was given a trespassing where if I don't leave the premises I'm going to be charged with trespassing.

187 **Q.** Okay. What premises? Where were you --

A. What's that?

188 **Q.** Where were you trespassed from?

A. The YMCA where I was staying.

189 **Q.** When did that happen?

A. I said show me a piece of paper with my name on it saying I'm trespassing. Every time I said that, the police got in their car and left. I said see, there is none. There is no trespassing order. You're making it up. You're not the law, you're a police officer.

190 **Q.** Okay. So you didn't actually get --

A. You're just a police officer or you're a security guard so show me the piece of
NIMIGAN MIHAIOVICH REPORTING INC.

paper saying I'm trespassing. I'm sitting here, I've got nowhere to go. I'm getting tired of being pushed around.

191 **Q.** So Mr. Marchand --

A. Where am I going to go? You tell me where to go.

192 **Q.** Mr. Marchand --

A. You represent the City of Hamilton. I want the City of Hamilton to stand up for me and find me a place to go. You know, wherever it is, I don't care. I'll go. I'll go. I might have to travel farther and longer but where do you want me to go? I want the City of Hamilton to find me a home. I don't want to move to another City. This is where I'm from. This is where I grew up. This is where I live. This is where my family is. My niece and my nephews and my grandchildren live in this City. I should be able to walk down the street without a threat of someone shooting me, you know what I mean? What are you going to do, shoot my grandchildren? I'm going to go get a gun and start shooting people. That's what I'm going to do.

193 **Q.** Mr. Marchand, that is inappropriate.

A. (Indiscernible)

194 **Q.** Mr. Marchand --

NIMIGAN MIHAIOVICH REPORTING INC.

A. You're going to threaten my grandchildren --

195 **Q.** Mr. Marchand --

A. I'm going to take up arms myself and join a gun club and I'm going to buy a gun myself and start walking down the street with a gun.

196 **Q.** Mr. Marchand, I sincerely hope that you are not being serious when you say that.

MS. CROWE: Counsel, can I suggest that we stand this down for two minutes, five minutes, actually, to allow Mr. Marchand to go outside for a moment and collect himself?

MS. SHORES: That may be appropriate but I'll just remind --

THE WITNESS: I think it's appropriate. All you're doing is bringing up bad things, Counsel.

BY MS. SHORES:

197 **Q.** Mr. Marchand, I'm only asking you questions about what you wrote in your Affidavit.

A. Well, that's not my fault. You know, I got a guy who left me for dead, walked away, got in a car and drove away. He didn't care. He just put a bullet in me. He didn't care.

198 **Q.** Mr. Marchand --

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MS. CROWE: We're going to take a break.

MS. SHORES: We're going to take a break. You are not to discuss your evidence with anyone including your lawyer. We're going to come back in five minutes.

THE WITNESS: Okay, thank you.

MS. SHORES: Give you the opportunity to clear your head.

THE WITNESS: Thank you.

MS. CROWE: Thank you.

(OFF THE RECORD AT 3:33 p.m.)

BY MS. SHORES:

199 **Q.** Mr. Marchand, I'm going to direct you to paragraph 35 of your June 2nd, 2022 Affidavit. I'll put it back on the screen here. At paragraph 35, you're describing being in encampments and at the second sentence you say, "I'm not given any advance notice and so the turnaround time to move is very quick." Tell me about that. You're not given any advance notice that people are going to tell you to move?

A. No because I spend a lot of time trying to sleep. I get pretty lazy. I'm 57 years old and I'm more lazier than I was when I was
NIMIGAN MIHAIOVICH REPORTING INC.

younger.

200 **Q.** So when they tell you to move, do they tell you when you need to move by?

A. They sometime -- well, if I don't move and I just leave my tent there, I'll come back and it's not there. Someone takes it. They take it down. They don't --

201 **Q.** Do you know who takes your tent?

A. Pardon me?

202 **Q.** Do you know who takes your tent?

A. No, I don't.

203 **Q.** All right. I'm going to go to your April 2023 Affidavit where you say since June 2022, you've stayed in the following locations: Staying at a friend until April 22nd of 2023 and then April 23rd, staying in various locations, downtown core near Tim Hortons. So were you staying in tents there?

A. Is this the one I signed yesterday? No? This is -- oh, I see. April 25th, 2023. Okay, that was over a year ago. Under a year ago. Where was I?

MS. CROWE: Ms. Shores, could you repeat the question, please?

BY MS. SHORES:

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204 **Q.** Yes. When you were staying in various locations in the downtown core near Tim Hortons, were you staying in tents?

A. No, I was staying outside. Just staying outside.

205 **Q.** Okay. Is there any particular reason you weren't staying in a tent?

A. No, I just get cold. I feel like I'm trapped in there.

206 **Q.** You feel like you're trapped inside a tent?

A. Yeah, and there's no protection. Just elements of nature find their way to -- it's just challenging, you know, living outside.

207 **Q.** So Mr. Marchand, I just want to be clear. So I'm asking why, why in April of 2023 you weren't staying in a tent?

A. I didn't have one.

208 **Q.** You didn't have one. Did you try to get another one?

A. Well, my uncle gave me one and then I lost it. Someone, like, just took it. I put it down and I went to go get it and it was gone. So I lost it. Someone picked it up and either put it in the garbage or found a use for it. They recycled
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it. Someone else needed a tent.

209 Q. How long were you gone for when you left your tent, do you know?

A. I beg your pardon?

210 Q. How long were you gone for when you left your tent?

A. Well, I had to find myself a washroom. I had to relieve myself and by the time I come back, it was gone.

211 Q. And you don't know who took your tent?

A. No. I took my time coming back.

212 Q. Mr. Marchand, did you try to get into any shelters?

A. No.

213 Q. And since April of 2023, where have you been staying?

A. I've been staying at a church down on James Street.

214 Q. Staying inside at a church?

A. Yeah, when it's open and then I find my way back out again. I go to, I still go to these shelters. They're still feeding me, they're still helping me out.

215 Q. And do you stay at any of the
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shelters overnight?

A. I try to but in the morning after breakfast they kick you out again, right. They want you to leave because there's nothing going on. So I just try to find myself something to do.

216 Q. And so when you go to the church, is that -- sorry, Mr. Marchand, when you go to the church, is that during the day or is that somewhere where you can stay overnight as well?

A. I try to stay at my friend's place a couple times. I even tried staying at my daughter's place and she's got no room there. So I just visit my daughter and my grandchildren once in a while and I go visit them.

217 Q. Okay. So your daughter and your friend will let you stay with them sometimes?

A. Yeah, I sometimes have dinner with them. My daughter just got married on August 11th with her boyfriend and my grandchildren were there and I went to the wedding and I was pretty happy to see her. You know, she married someone she loves. She found someone she really loves and I'm so happy for her.

218 Q. Congratulations.

A. You know, I wanted to be there. I
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didn't want to let her down so I made arrangements to use the telephone at the church because like I said, I lose things when I'm on the street. I can't keep things in my pocket very long.

219 Q. Mr. Marchand, your daughter lives in Hamilton?

A. Yes, she does.

220 Q. Is she in a house or an apartment?

A. She lives in a house.

221 Q. Okay. And your friend who you stay with sometimes, they're also in Hamilton?

A. My friend that I stay -- no, I just hang out with some friends.

222 Q. Okay. So when you say you stay with your friend, there's not someone that you're actually, like, crashing at their place, you just hang out?

A. No, I don't crash in my friend's place. I just, once in a while I'll pass by a friend's place and I'll say hello.

223 Q. Or sometimes people use the phrase couch surfing, like, sleeping on their couch. You don't --

A. That's an old saying, couch surfing. Yeah. Yeah, I stretch out sometimes on the couch,
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yeah.

224 Q. At your friend's place?

A. Yeah. It's mostly at the centre. I sleep on the floor because it's the only place where I can get comfortable is in a corner.

225 Q. Okay, Mr. Marchand, have you understood all my questions today?

A. Yeah, I understand. It brought back a lot of animosity when you talked about me being shot and I brought it up but I'm more or less forgave the guy that shot me. I don't know why he shot me. I don't know why. I just, I just --

226 Q. Well, thank you for revisiting that for us, Mr. Marchand.

A. I'm sorry I was so, you know, emotional about that. I had a lot of, I had a lot of hate. I had to let go of it, you know.

227 Q. Okay.

A. Sometimes it comes back in me again and I don't like that about myself. I just, like, I just want to forget that I got shot and live the rest of my life peacefully, you know.

228 Q. That's very self-aware, Mr. Marchand, and thank you for that. Are there any of the answers that you've given me today that
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you wish to change?

A. No, I just -- you see some of my answers might have been pointless and weren't leading to any conclusion. It's just that it's hard for me to forget that day. I can't forget that day and I can't forget a lot of other days, but sometimes I'm -- I'm still optimistic, like I said. I'm looking for a place to make my life better and one day I will. I can see here from the statement that, you know, I signed it. That's my signature. I can't read without glasses and my friend gave me these glasses last night when I was talking with my lawyer and I --

229 **Q.** Mr. Marchand, I'm just going to pause you there because I don't want you to say anything that you've discussed with your lawyer, and I'm sure your lawyer doesn't want you doing that either.

A. No.

230 **Q.** I'll conclude my questions there, Mr. Marchand. I don't have any more questions for you but I want to say thank you for coming in today and thank you for spending the energy to revisit these things, which I understand have been difficult for you. So those are my questions.

NIMIGAN MIHAILOVICH REPORTING INC.

A. You're welcome. Thank you very much for listening to me.

BY MS. CROWE:

231 **Q.** Thank you. Mr. Marchand, we're almost done, I just have a few questions for you, okay?

A. Okay.

232 **Q.** So the first is that you mentioned that you were barred from a warming shelter; which one was that?

A. The Cathedral Warming Centre on Emerald and Main.

233 **Q.** When did that happen?

A. Now that it's summertime it's called the cooling centre. It happened -- they said my bar will be over September 17th and I can come back.

234 **Q.** Okay. This September 17th?

A. Yeah.

235 **Q.** When was the bar imposed?

A. Over a month ago. Months ago.

236 **Q.** Okay. Ms. Shores asked you if you were ever able to get a tent from outreach workers, when was the last time you were offered a tent from an outreach worker?

A. Someone gave me a tent for my friend

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Dwayne and we put it up. He has a dog and we put it up behind the church and it was only supposed to be temporary. We were supposed to take it down and it was taken down and I don't know what happened to the tent. But it was given -- it was -- I asked for it for my friend and his dog and they gave it to me. It was the HAMSMaRT program.

237 **Q.** Do you remember when that was?

A. Over a month ago.

238 **Q.** Thank you. I know this is difficult and so we're not going to spend too much time on it but I just want to bring you back to the shooting for a moment, okay?

A. All right.

239 **Q.** So Ms. Shores was referencing paragraph 20 of your June 2022 Affidavit and she asked you why you were staying at the church and you said it was across from where you were staying at the Y but then you also said you couldn't stay at the Y. What did you mean?

MS. SHORES: Counsel, I think he elaborated quite a bit on that answer.

MS. CROWE: He didn't elaborate on why he couldn't stay at the Y.

MS. SHORES: I believe the record

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will show that he gave quite a lengthy narrative of his reasons for not staying at the Y.

MS. CROWE: I disagree with that so I'm going to ask him to answer the question.

BY MS. CROWE:

240 **Q.** What did you mean when you said you couldn't stay at the Y?

A. Because they impose a trespassing Order on me and last time I stayed there, I was -- someone pepper sprayed me and I was in the lobby. I was sleeping on the floor, I was cold and that's actually the last time I stayed there. I just walk by there. I don't stick around. I walk down the streets if I have to.

241 **Q.** Thank you. Thank you, Mr. Marchand, those are my questions.

A. Okay.

MS. SHORES: Thank you, Mr. Marchand.

THE WITNESS: You're welcome.

---WHEREUPON THE EXAMINATION CONCLUDED AT 4:01 p.m.

NIMIGAN MIHAILOVICH REPORTING INC.

I hereby certify the foregoing to be the evidence of
Darrin Marchand, given under oath before me on the
29th day of August, 2024, recorded stenographically
and later transcribed by me.



Rachel Thompson

Court Reporter

Commissioner of Oaths (expiring November 2024)

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NIMIGAN MIHAILOVICH REPORTING INC.

TAB 53

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**ASHLEY POFF, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD et al.**

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF MISTY MARSHALL
(Sworn May 12, 2022)

1. I, MISTY MARSHALL, of the City of Hamilton in the Province of Ontario, MAKE OATH AND STATE:
2. I am a 30 year old Indigenous woman.
3. I currently have no source of income. Between about April 2020 and April 2021, I was receiving CERB.
4. My medical conditions include anxiety, depression, PTSD, and a substance use disorder.
5. I have been homeless for just over two years.
6. Before becoming homeless, I was renting a hotel room and different Air B&Bs. I became homeless shortly after my wallet was stolen. I had just replaced my ID the week before.
7. I couldn't rent a room without ID. Not having a current address also acts as a barrier to finding new housing, so it makes the search more difficult. The longer you are homeless, the harder it is to get into housing.
8. Since becoming homeless, I have not been able to get into a shelter. I am not aware of all of the women's shelters, but keep being told by other women experiencing homelessness that they are always full. In April or May 2021,

Social Navigation called a couple times to try to get me into shelter, but they were full.

9. 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. Women line up for hours before they open. I have tried to get into Carol Anne's Place, but they have been full.
10. Carol Anne's Place has also had to limit the number of women permitted inside at various times during Covid. You get to the point where you know you have almost no chance of getting in, and it's not worthwhile waiting.
11. I have witnessed men driving around Carol Anne's Place while women are in line. They watch you and try to get women to come over to them. I believe they are there to solicit women for sex.
12. Willow's Place is a daytime drop in centre for women, operated by Mission Services. They occasionally have overnight drop in. I have attempted to access the overnight drop in services a few times, but they have always been full. Sometimes they are even full in the daytime.
13. The Hub is another drop in centre, which occasionally opens up overnight during cold alerts. I have been able to go to the Hub overnight a few times. However, they try cycle people in and out when there are people waiting outside to get in. In other words, they allow you to come in and warm up for an hour, and then encourage you to leave.
14. Neither Carol Anne's Place or Willow's Place take your information when they are full.
15. I have stayed in a tent in several different locations. The following is a breakdown of the locations, timeframes and outcomes.

16. Location	Timeframe	Duration of stay	Outcome
Ferguson	Summer 2020	October 2020	Left shortly before the City removed all remaining tents during the mass clearing of the encampment.
John and Rebecca Park	Summer 2021	One week	By-Law Officers evicted me and my friend & I

			lost some belongings
Beasley Park	Right after John and Rebecca Park	About a week	Was staying with a friend in a tent and we were no longer getting along
John and Rebecca Park	Fall of 2021	About a week	City showed up with bobcats to remove belongings. 20 minutes notice given to remove belongings before police showed up. Lost more belongings but managed to save friend's tent
City Hall	October 2021	Nightly for a couple months	City blocked the outdoor heating vents and boarded it up in late December 2021 or early January 2022

17. I stayed in the tent at Ferguson in the summer of 2020 until the City dismantled the encampment on or about October 15, 2020. I had nowhere to go and ended up couch surfing with friends.

18. After leaving the Ferguson encampment, I went to stay at Beasley Park with a friend. We stayed in the same tent for security.

19. After one week, By-law officers and the police came and told everyone they had to move. There were about five tents there, pursuant to the previous Encampment Protocol. I was given 20 minutes to pack up our belongings. By-law officers and police told us that two weeks' notice had already been given to other residents at the park. This notice was before we arrived and we were not aware of a deadline. My friend was in the hospital at the time. We had a lot of

belongings at the time, and my friend's tent was very important to him. I asked By-law "what am I supposed to do right now?". No housing or support was offered. My friend showed up in his hospital gown and with a medical bag and hospital pole still attached to him, with his Dad to see the site bulldozed. I saved as much as I could, but we still lost a lot of belongings. It was traumatic.

20. We gathered up as much as we could, but lost blankets, clothing, and food in the process. Thankfully we were able to pack up my friend's tent.

21. After that, we went to City Hall to sleep on the outdoor heating grates. This lasted for about a couple months until the City blocked off the heating vents.

22. Since then, I have couch surfed and stayed outside in several different locations. I have slept in tunnels, outside a local Tim Horton's, the back of City Hall, and outside a church.

23. I have not put up a tent or stayed in a tent much in 2022 because the City has ramped up enforcement. People aren't bothering with it anymore because we know that you will just be told to move.

24. Not having a stable and secure place to stay overnight means that I almost never get a decent night's sleep. On average, I sleep one or maybe two hours at a time. Sometimes I don't sleep at all. Sometimes I am up for days at a time, and then I crash for a long time. I fall asleep several times during the day and end up having several small daytime naps. I am usually groggy and have difficulty concentrating. I feel scattered. I have mental health issues and have not been on any medications or seen a doctor to get treatment for a long time. I used to be on anti-anxiety and depression medication.

25. When I was able to stay in Ferguson for several months, I had all my belongings there. We had formed a community and people looked out for my things. Wesley was located across the street at the time and I could use their washrooms and showers. People delivered food every day. I felt safe. I could get medical treatment because doctors regularly came to the encampment site. One time I was having breathing difficulties, and Dr. Wiwcharuk was able to come to me and help. I was able to access harm reduction materials from Wesley. I slept much better and regularly because I was in one spot. I had more of a routine.

26. When I wander the streets in search of somewhere to stay, I have had men follow me in cars, doing circles and driving slowly alongside me, trying to solicit me for sex. This tends to happen more at night when there are fewer people around and they can drive slowly along the streets.

27. I feel more unsafe at night when I am wandering around trying to find a place to stay, as opposed to if I was already staying in a tent for the night, and had friends around me.

28. A couple weeks ago, some friends and I were at John Rebecca Park at around 11:00 p.m. It was cold and has started to rain, and we huddled under a friend's tarp and blankets. The police came by and said that the park was closing at 11:00 and they would be back 30 minutes later to make sure we left. I left to avoid getting arrested, and our group had to break up to avoid further enforcement. Someone in our group asked where we should go. There was no response. No housing options were offered to me at the time.
29. Last night, I stayed under a tarp with a friend. We had some belongings stolen because we could not secure the edges of the tarp. People are avoiding put tents up now because we know that they are not allowed. Tarps are easier to put up but offer less protection from theft and the weather, and security.
30. In March 2021, I was referred to the Hamilton Regional Indian Centre for an intake to get help with housing. I have not heard back from them then.

SWORN BEFORE ME in the City
of Hamilton, this 12th day of May, 2022


Misty Marshall


A Commissioner, etc.

TAB 54

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 Misty Marshall
Sworn May 8, 2023

I, Misty Marshall, of the City Hamilton in the Province of Ontario, Affirm and say:

1. Since June 2022, I have stayed in several locations, including couch surfing with friends, in tents outside City Hall and Carol Anne's Place, at Philpott Church and off
2. Wellington. I stayed briefly in an encampment off the escarpment, but it felt very unsafe so I left. I sometimes spend the night just walking around. I stayed at the Hub, but they cycle people out in one hour intervals. When I stay at Philpott, I am outside (not in a tent

2.3. This past winter, I tried to access Carol Anne's Place about 10 times, but they were full each time. I would have to make my plans around 10:15 or 10:30 p.m. for the night.

3.4. Since June 2022, I have been repeatedly robbed, to the point where I sometimes only have the clothes on my back. I have lost phones, money, clothing and more.

4.5. Couch surfing is dangerous. Over the years, I have repeatedly sexually assaulted, and threatened or coerced with sexual assault. Since June 2022, I have been sexually assaulted three times while couch surfing. I have been threatened many more times. Men sometimes expect ~~stetl~~ sex in exchange for shelter, and having to seek shelter in cold weather puts me at an increased risk.

[Large handwritten signature]

*mm
se*

AFFIRMED AND DECLARED
before me at the City of Hamilton,
in the Province of Ontario,
this 8 day of May, 2023.

[Signature]
A Commissioner etc.
Sharon Crane

[Signature]

TAB 55

<div>1</div> <div>1 Court File No. CV-21-77187</div> <div>2 ONTARIO</div> <div>3 SUPERIOR COURT OF JUSTICE</div> <div>4</div> <div>5 B E T W E E N:</div> <div>6 KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH,</div> <div>7 MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL,</div> <div>8 CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER,</div> <div>9 CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS,</div> <div>10 ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,</div> <div>11 SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and</div> <div>12 PATRICK WARD</div> <div>13 Applicants</div> <div>14</div> <div>15 and</div> <div>16</div> <div>17 CITY OF HAMILTON</div> <div>18 Respondent</div> <div>19</div> <div>20 --- This is the Cross-Examination of MISTY MARSHALL, an</div> <div>21 Applicant, herein, on her Affidavits Sworn the 12th day</div> <div>22 of, 2022, and the 8th day of May, 2023, taken via</div> <div>23 videoconference on the 15th day of August, 2024.</div> <div>24</div> <div>25</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>	<div>112³</div> <div>1 TABLE OF CONTENTS</div> <div>2</div> <div>3 INDEX OF EXAMINATIONS: PAGE NO.</div> <div>4</div> <div>5 MISTY MARSHALL: Affirmed..... 4</div> <div>6 CROSS-EXAMINATION BY MR. DIACUR..... 4</div> <div>7 RE-EXAMINATION BY MS. CROWE..... 46</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>
<div>2</div> <div>1 APPEARANCES:</div> <div>2 Sharon Crowe For the Applicants</div> <div>3 Wade Poziomka</div> <div>4 Curtis Sell</div> <div>5 Nnonyechi Okenwa</div> <div>6 Michelle Sutherland</div> <div>7</div> <div>8 Bevin Shores For the Respondent</div> <div>9 Jordan Diacur</div> <div>10</div> <div>11 ALSO PRESENT:</div> <div>12 Liz Marr Summer law student</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>	<div>4</div> <div>1 --- Upon commencing at 4:04 p.m.</div> <div>2 MISTY MARSHALL: Affirmed.</div> <div>3 CROSS-EXAMINATION BY MR. DIACUR:</div> <div>4 1 Q. Ms. Marshall, would you state your</div> <div>5 first and last name for the record, please?</div> <div>6 A. It's Misty Marshall.</div> <div>7 2 Q. How do we spell your first name?</div> <div>8 A. M-I-S-T-Y, M-A-R-S-H-A-L-L.</div> <div>9 3 Q. And your date of birth is</div> <div>10 December 18, 1991? Is that right?</div> <div>11 A. Yeah.</div> <div>12 4 Q. So that makes you 32 years old?</div> <div>13 A. I think so. It should be.</div> <div>14 5 Q. Coming up on 33?</div> <div>15 A. Yeah.</div> <div>16 6 Q. Okay. May I refer to you as</div> <div>17 Misty? Is that all right with you?</div> <div>18 A. Mm-hmm.</div> <div>19 7 Q. Or ma'am?</div> <div>20 A. Whichever you like.</div> <div>21 8 Q. Thank you. Misty, there are two</div> <div>22 affidavits that I'm going to have some questions for</div> <div>23 you about. One was from May 12, 2022, and one was from</div> <div>24 May 8, 2023. Can you let me know if you have a copy of</div> <div>25 those in front of you?</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>

5

1 **A. May 12th? This one? All right.**
2 **Yes, I do.**
3 9 **Q.** Thank you. Have you reviewed
4 those affidavits more recently than you swore them?
5 **A. Yes.**
6 10 **Q.** Do you remember the last time you
7 reviewed them?
8 **A. Today. Right?**
9 MS. CROWE: I can't answer.
10 THE DEPONENT: Today.
11 BY MR. DIACUR:
12 11 **Q.** Did you review them completely?
13 You read through them from beginning to end?
14 **A. Yes. Yes, yes, I did.**
15 12 **Q.** Were there any errors or anything
16 you'd like to correct in it that you noted?
17 **A. Not really, no.**
18 13 **Q.** Before we turn to the affidavits,
19 there is also one other document that I'm going to show
20 to you. It's about you --
21 **A. Okay.**
22 14 **Q.** -- prepared by a Dr. Jill
23 Wiwcharuk. Do you know Dr. Jill Wiwcharuk?
24 **A. Mm-hmm.**
25 15 **Q.** I'm going to put the letter up on
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6

1 screen, and I believe you'll also have a hard copy of
2 it. Let me know if that can be provided. But it's the
3 letter dated June 9, 2022.
4 **A. Yeah.**
5 16 **Q.** This is a letter on the Shelter
6 Health Network letterhead dated June 9, 2022, and it's
7 stamped Exhibit G referred to in the affidavit of Jill
8 Wiwcharuk. Can you see all that?
9 **A. Mm-hmm.**
10 17 **Q.** It lists your date of birth and
11 the name Misty Marshall in bold in the re line. Can
12 you see that?
13 **A. That's it here. Right?**
14 18 **Q.** Dr. Wiwcharuk spells your first
15 name M-Y-S-T-Y. Do you sometimes spell it that way?
16 **A. Yeah.**
17 19 **Q.** Do you recall when you last saw
18 Dr. Wiwcharuk?
19 **A. It was about -- sorry, maybe --**
20 **when was it? Two years -- was it two years? I think**
21 **it was two years ago.**
22 20 **Q.** The letter was written about two
23 years ago, a little over two years ago in June. Would
24 it have been around the time that this letter was
25 written?
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113 7

1 **A. Yeah, probably. Because the last**
2 **time I saw her, she said that she was leaving to go to**
3 **B.C. shortly.**
4 21 **Q.** And how many times did you see
5 Dr. Wiwcharuk? Do you recall?
6 **A. I do not recall.**
7 22 **Q.** She says that she first met you
8 when you were living in a tent on Ferguson Avenue in
9 the summer of 2020. Does that sound right?
10 **A. Yes.**
11 23 **Q.** She also says that you have a past
12 medical history of opiate use disorder, stimulant use
13 disorder, major depressive disorder with suicidal
14 ideation, and asthma. Does that sound accurate as
15 well?
16 **A. Mm-hmm.**
17 24 **Q.** Have you received any treatment
18 for opiate use disorder or stimulant use disorder?
19 **A. No.**
20 25 **Q.** Have you received any treatment
21 for a major depressive disorder or any medication?
22 **A. Yes.**
23 26 **Q.** So you've received medication for
24 depression?
25 **A. Yeah.**
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8

1 27 **Q.** Do you know what medication you've
2 been prescribed?
3 **A. Sorry, a lot of the -- like, I was**
4 **on Cipralex and Celexa and mirtazapine and -- what was**
5 **it -- like, it was a blend of different -- different**
6 **ones.**
7 28 **Q.** Was that prescribed to you by
8 Dr. Wiwcharuk? Do you know?
9 **A. No, it was not.**
10 29 **Q.** It was prescribed by other doctors
11 or another doctor?
12 **A. Mm-hmm.**
13 30 **Q.** Do you recall when those
14 prescriptions were made to you?
15 MS. CROWE: Misty, did you hear the
16 question?
17 THE DEPONENT: Oh, my god. I'm sorry.
18 Did I what? Will you repeat that?
19 BY MR. DIACUR:
20 31 **Q.** Of course. Do you recall when
21 those were prescribed to you or by whom?
22 **A. The -- I missed that.**
23 32 **Q.** The depression medications that
24 you listed --
25 **A. Oh, yes.**
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1 33 Q. Do you recall when those were
2 prescribed or by whom?
3 A. That would have been, like, from
4 my family doctor. That would -- this was before I
5 moved to Hamilton.
6 34 Q. That was my next question. How
7 long have you lived in Hamilton?
8 A. I lived in Hamilton for about
9 seven -- close to seven years.
10 35 Q. And where did you move from?
11 A. Burlington.
12 36 Q. Are you from Burlington originally
13 or did you move there?
14 A. We moved there as well.
15 37 Q. Where did you move to Burlington
16 from?
17 A. B.C.
18 38 Q. How long were you in Burlington?
19 A. Did I answer that? I answered
20 that in my head.
21 39 Q. Okay.
22 A. Did I say it out loud?
23 40 Q. No, I didn't get an answer to that
24 one. How long were you living in Burlington?
25 A. I lived there for 11 years.

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1 41 Q. You moved there from British
2 Columbia?
3 A. Yeah.
4 42 Q. Are you from British Columbia
5 originally?
6 A. I was born in Burlington, and then
7 I moved to British Columbia when I was a baby.
8 43 Q. Understood, okay. So you moved
9 back to Burlington from British Columbia, and then from
10 Burlington to Hamilton seven years ago. Do I have that
11 right?
12 A. Mm-hmm.
13 44 Q. Was there a reason for the moves?
14 A. I had to move from B.C. to out
15 here because my mother had met a man online on a video
16 game, and she went to the States to go get married, so
17 I got sent out here to live with my dad.
18 45 Q. Your father lives in Hamilton?
19 A. No, in Burlington.
20 46 Q. Okay. So you lived with your
21 father in Burlington for that 11 years?
22 A. (Indiscernible).
23 COURT REPORTER: I'm sorry, was that a
24 yes?
25

THE DEPONENT: No, that was a no.
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1 BY MR. DIACUR:
2 47 Q. So you lived with your father for
3 some time, some part of that 11-year period in
4 Burlington?
5 A. In Burlington I lived with him for
6 about a year and a half.
7 48 Q. And then where did you live after
8 living with your father?
9 A. With -- well, I moved in with my
10 ex-boyfriend/ex-fiancé.
11 49 Q. Did you live with him for the rest
12 of the time or were there other places that you resided
13 in in that 11 years in Burlington?
14 A. There were other places.
15 50 Q. What led to your moving to
16 Hamilton?
17 A. Me moving to Hamilton? My
18 ex-fiancé had -- it -- we just -- my ex-fiancé had
19 cheated on me and I just -- we -- I just could not --
20 we -- like, we just couldn't be around each other.
21 51 Q. Okay. So in Burlington, you and
22 your ex-fiancé broke up?
23 A. Mm-hmm.
24 52 Q. And you moved to Hamilton at that
25 point?

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1 A. Yeah.
2 53 Q. Were you moving to a specific
3 place? Did you have a place to live in Hamilton?
4 A. I rented out an Airbnb.
5 54 Q. How long did you do that?
6 A. How long ago did I do that?
7 55 Q. No, no. For how long did you rent
8 an Airbnb?
9 A. Oh, that was on and off. So the
10 first -- like, when I first moved here was a year and a
11 half -- not a year and a half, a month and a half, and
12 then I moved to the Budget motel on and off between
13 there and the Airbnbs for a little while until
14 Ferguson -- like, at the -- they call it Tent City,
15 but...
16 56 Q. Right. And we'll come to that. I
17 know that there are references to that in your
18 affidavit. In Dr. Wiwcharuk's letter, she also
19 mentions asthma and she mentions that at one point you
20 were assessed by Dr. Wiwcharuk and provided with
21 emergency treatment for your asthma. Is that correct?
22 A. Yes.
23 57 Q. And what did that involve? What
24 emergency treatment was provided to you?
25 A. Well, because I -- someone had

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<p>13</p> <p>1 stolen my purse and it had, like, all my puffers in it, 2 and without those, like, I would become lethargic, kind 3 of. Right? Because oxygen deprivation and whatnot. 4 So Dr. Jill had come and she, like, brought me an 5 inhaler. I think back then, actually, we -- they, 6 like, called out for one and someone brought me one. 7 Right? And then she just prescribed me them so that I 8 could get them.</p> <p>58 Q. Did that emergency treatment 9 require that you be hospitalized or was it just 10 providing that medication?</p> <p>12 A. As long as I had -- if there 13 were -- if I weren't able to get that, then, yes, I 14 probably would have had to have been brought to the 15 hospital and put on an oxygen mask.</p> <p>59 Q. Had that ever happened to you 16 before? Have you had to be hospitalized for your 17 asthma?</p> <p>19 A. Yeah.</p> <p>60 Q. When was the last time that 20 happened?</p> <p>22 A. It would have been this past 23 winter.</p> <p>61 Q. So, subsequent to your affidavits, 24 your asthma worsened to the point that you had to enter 25 Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p>115 15</p> <p>1 66 Q. Do you agree with that?</p> <p>2 A. At the time, I was -- like, I had 3 just left a very -- like, a very, very abusive 4 relationship, and I -- yeah, I was not in a safe -- 5 like, a proper mental space, and so -- I don't know. I 6 have really bad anxiety, so I have a hard time, like, 7 asking them for help, kind of, so...</p> <p>8 67 Q. I believe Dr. Wiwcharuk notes that 9 as well. She says, "It is noted that she does not 10 accept help from people readily." So you would agree 11 with that as well?</p> <p>12 A. Yeah.</p> <p>68 Q. Since that time, would you 13 consider yourself more ready to engage with treatment?</p> <p>15 A. Yeah, I've been thinking about 16 that recently.</p> <p>69 Q. Have you been offered treatment, 17 for example, methadone treatment?</p> <p>19 A. No, not offered it, no.</p> <p>70 Q. But you're considering asking for 20 such treatment in the future?</p> <p>22 A. I'm not too sure because -- I 23 don't know. I just had a bad experience with the 24 methadone.</p> <p>71 Q. So you have gone into methadone 25 Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p>14</p> <p>1 the hospital?</p> <p>2 A. No. It actually has gotten 3 better.</p> <p>62 Q. Okay. So you weren't hospitalized 4 for your asthma subsequent to your affidavits?</p> <p>6 A. I had -- like, in this -- this 7 past winter I had to call the ambulance, and they had 8 an oxygen tank with them, so they put me on that. And 9 I had stopped at a pharmacy to call the ambulance. So 10 the paramedics or whatever, they asked the pharmacist 11 if I could get one of the blue inhalers or whatever.</p> <p>63 Q. So you received treatment from 12 paramedics and received a new inhaler from the 13 pharmacy, but you didn't have to go to the hospital?</p> <p>15 A. Mmm -- (indiscernible).</p> <p>64 Q. Sorry, I just want to be clear. 16 Was that no?</p> <p>18 A. That was a no.</p> <p>65 Q. Okay, thank you. One of the 19 things that Dr. Wiwcharuk says in her letter is 20 first -- this is on the second page towards the top in 21 the second paragraph. She says first, "Despite having 22 an addiction to opioids, she has not been ready to 23 engage with treatment." 24 25 A. Mm-hmm. Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p>16</p> <p>1 treatment in the past?</p> <p>2 A. Yeah.</p> <p>72 Q. When was that?</p> <p>4 A. This was before I had moved to 5 Hamilton.</p> <p>73 Q. More than seven years ago?</p> <p>7 A. Yeah.</p> <p>74 Q. Okay. Have you ever been offered 8 help by somebody and declined it?</p> <p>10 A. Like how so?</p> <p>75 Q. I'm just trying to understand what 11 Dr. Wiwcharuk means when she says "she does not accept 12 help from people readily." Have you been offered help 13 and said no?</p> <p>15 A. And said no? I don't think -- no. 16 It's just, for me, because -- like, being on the 17 streets, like -- like, it's really hard to be able to 18 keep your belongings, for one, and I'm not, like, an 19 aggressive person or anything, so -- like, especially, 20 like, back then, like, I was getting targeted a lot and 21 bullied and stuff, so, like, I -- I almost -- like, 22 anything of value, it was like -- I was getting, like, 23 stolen from, like, every day. You know? So...</p> <p>76 Q. Are you familiar with the Housing 24 Focused Street Outreach Team or sometimes just called 25 Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

	17
1	the Street Outreach Team?
2	A. No.
3	77 Q. I understand that in June of 2022
4	you were assisted with getting what's called Ontario
5	Works, a --
6	A. Yeah.
7	78 Q. -- reloadable card with money on
8	it every month?
9	A. Yeah.
10	79 Q. Do you recall being assisted with
11	that by anyone?
12	A. Yeah.
13	80 Q. Do you know who it was that
14	assisted you with that?
15	A. I don't know her name, or the man,
16	if she was a man. I don't know.
17	81 Q. Are you still getting that? Are
18	you still getting Ontario Works money every month?
19	A. Yeah, I still get Ontario Works.
20	82 Q. Have you ever applied for ODSP?
21	A. I've been trying to.
22	83 Q. You've been trying to do that?
23	A. Yeah.
24	84 Q. How so? How have you been trying?
25	A. Like, I've asked whether I could
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	18
1	get, like, put on the list or whatever, but now they
2	do -- like, I guess they changed it, so they're doing
3	the ODSP clinic.
4	85 Q. So there's a clinic that you can
5	attend at to make applications?
6	A. I think so.
7	86 Q. And you're considering doing that?
8	A. Yeah.
9	87 Q. Have you ever made what's called
10	an Access to Housing application?
11	A. No.
12	88 Q. Do you have a case worker working
13	with you?
14	A. No -- a case worker? What does
15	that mean?
16	89 Q. Somebody who is trying to assist
17	you either with housing or with any other aspect of
18	your life.
19	A. No.
20	90 Q. If we could turn to the first of
21	your two affidavits. This is the May 12, 2022,
22	affidavit. I'll put it up on the screen as well, but
23	if you have a copy in front of you, that may be easier.
24	A. Mm-hmm.
25	91 Q. In paragraph 3, you indicate "I
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	116 19
1	currently have no source of income." I understand that
2	this is just before your Ontario Works application was
3	made in June of 2022.
4	A. Mm-hmm.
5	92 Q. So it's true that as of that time
6	you had no source of income?
7	A. Yeah.
8	93 Q. And prior to that time in 2020 and
9	up to April 2021, you had been receiving CERB money?
10	A. CERB money? That was before?
11	Yeah.
12	94 Q. So during COVID there was funding
13	available and you obtained that?
14	A. Yeah. Some of it, yeah.
15	95 Q. You mentioned as well in paragraph
16	6 what you had been telling me earlier about renting a
17	hotel room and different Airbnbs. You also reference
18	"I became homeless shortly after my wallet was stolen."
19	Did your wallet contain all of the money that you had
20	at that time?
21	A. Would my wallet contain all the
22	money that I had at the time? Yeah, usually. Yeah, it
23	did at the time.
24	96 Q. Were you using your CERB money in
25	order to pay for things like Airbnbs and the hotel
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	20
1	rooms?
2	A. Yeah. Yes, I was.
3	97 Q. In paragraph 8, you mention that
4	you have not been able to get into a shelter since
5	becoming homeless. I understand that that's the case
6	up until the time of this affidavit. Have you ever
7	entered a shelter in the City of Hamilton?
8	A. Sorry, can you repeat that?
9	98 Q. Yes. So I understand from
10	paragraph 8 of your affidavit that you say "I have not
11	been able to get into a shelter since becoming
12	homeless." Have you been able to get into a shelter in
13	the City of Hamilton after this affidavit was sworn in
14	2022, so in the last two years?
15	A. Into a shelter -- like, yeah.
16	Like, I've been inside. I did stay at the CAP one
17	night over this last year.
18	99 Q. Sorry, I don't mean to interrupt
19	you, but when you say "CAP," do you mean Carole Anne's
20	Place?
21	A. Yeah.
22	100 Q. So you've stayed there for one
23	night?
24	A. Yeah.
25	101 Q. And other than that, any other
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1 stays in shelter in the City of Hamilton?

2 **A. No.**

3 102 **Q.** You say in paragraph 8 that you
4 keep being told by other women experiencing
5 homelessness that they are always full, referencing the
6 women's shelters. Is that accurate?

7 **A. Sorry, where is it?**

8 103 **Q.** It's in paragraph 8, so at the
9 bottom of the first page.

10 **A. Yeah.**

11 104 **Q.** Do you recall who these other
12 women are who were telling you that?

13 **A. Just other -- it was just other**
14 **girls that are on the street. Like, I don't know**
15 **exactly who, no, but...**

16 105 **Q.** Did you ever contact a shelter
17 yourself?

18 **A. Yeah.**

19 106 **Q.** And you were told by them that
20 they were full up?

21 **A. Oh, yeah, even just the other day.**

22 **Yeah, I watched, like, three girls leave and -- and**
23 **they still said they were full up, and they let another**
24 **girl right after I said that go in.**

25 107 **Q.** How often have you checked with
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1 these women's shelters in the City of Hamilton?

2 **A. I go there -- like, I -- or knock**
3 **on the door or whatever. I don't know. Like, at least**
4 **probably twice a week.**

5 108 **Q.** Which shelters have you contacted?
6 Do you recall?

7 **A. Just the Willow's Place --**
8 **Willow's Place and Carole Anne's Place.**

9 109 **Q.** You do reference in paragraph 8
10 Social Navigation calling a couple of times to try to
11 get you into a shelter as well.

12 **A. Mm-hmm.**

13 110 **Q.** How did you contact or get in
14 touch with Social Navigation?

15 **A. They -- they happened to be at**
16 **the -- my friend's campsite.**

17 111 **Q.** They were visiting an encampment
18 and you spoke with them?

19 **A. Mm-hmm.**

20 112 **Q.** And how did that go? What did you
21 discuss with Social Navigation?

22 **A. It was good.**

23 113 **Q.** What did you discuss with them?

24 **A. What did I discuss with them?**

25 114 **Q.** Yeah.

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1 **A. Sorry, what was I -- this is about**
2 **what?**

3 115 **Q.** About your discussion with Social
4 Navigation. So you say you met with them because they
5 were at a friend's encampment site --

6 **A. Oh, they just asked me if any of**
7 **us had signed up for Ontario Works or -- or ODSP.**

8 116 **Q.** Okay. So was it Social Navigation
9 that assisted you with Ontario Works?

10 **A. It was one of the Social**
11 **Navigators. Right? Or it would be a -- yeah, I think**
12 **it was Social Nav, because there's all different teams.**
13 **Right?**

14 117 **Q.** Did they offer you any other
15 services?

16 **A. No, just that. But they helped**
17 **me. Like, they used -- like, the one lady used the**
18 **phone and, like, helped me.**

19 118 **Q.** And they contacted some shelters
20 for you?

21 **A. Some shelters? No, no shelters.**

22 119 **Q.** Well, the affidavit says that they
23 did call a couple of times to try to get you into a
24 shelter.

25 **A. Yeah, I did have Social Nav**
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1 **call -- was it the same lady? It probably was the same**
2 **lady. Yeah, she -- we called -- we called every single**
3 **one, and every single one said that they were full.**

4 120 **Q.** Did Social Navigation just do that
5 for you once or did they do it more than once?

6 **A. I think it was just the once. It**
7 **might have been one more time, but I don't know if it**
8 **was Social Nav. I can't remember.**

9 121 **Q.** So once, maybe twice?

10 **A. Maybe. That's a huge maybe.**

11 122 **Q.** In paragraph 12, you reference
12 Willow's Place?

13 **A. Yeah.**

14 123 **Q.** You reference it as a daytime
15 drop-in centre, but occasionally they have overnight
16 drop-in. Have you ever actually, whether before or
17 after this affidavit, stayed at Willow's Place?

18 **A. Not for the night, no. I've**
19 **dropped in there just to get, like, food or a drink --**
20 **yes, please -- sorry. I was, like, overheating.**

21 124 **Q.** Take your time.

22 **A. Okay. Yeah, just to get a food --**
23 **like, food or drinks or use the washroom or a shower,**
24 **whatnot, or supply -- yeah, just -- just those --**

25 125 **Q.** Where -- sorry, I didn't mean to
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1 cut you off.

2 **A. It's okay.**

3 126 **Q.** Where are you currently residing?
4 Where are you staying?

5 **A. There's nowhere, like -- like --**
6 **like, regularly that I stay. Like, I -- it's mostly**
7 **just outside. Like, it's the summertime, so...**

8 127 **Q.** So you move from place to place in
9 the summertime?

10 **A. Yeah.**

11 128 **Q.** What about in the winter? Do you
12 stay in one place during the winter?

13 **A. One or two.**

14 129 **Q.** Sorry, did you say one or two
15 places?

16 **A. Sorry, what did...**

17 MS. CROWE: Can you ask the question
18 again, please?

19 BY MR. DIACUR:

20 130 **Q.** No, no, of course. You said that
21 in the summertime you've been moving around, not
22 staying in any specific place. What about in the
23 wintertime? Do you tend to stay in one place during
24 the winter?

25 **A. No, I don't stay in one place.**

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1 **Just, like, in the wintertime, I will, like -- like,**
2 **you know, somebody, like -- like, if it's really cold**
3 **out and somebody invites, like, me over or something, I**
4 **will go. You know?**

5 131 **Q.** So if you have an offer to stay
6 somewhere, you will?

7 **A. Yeah, but it's like -- like, you**
8 **know, it's not usually like "oh, I have a place for you**
9 **to live." It's like -- like, if you need somewhere to**
10 **go, if it's too cold out or whatever. You know what I**
11 **mean?**

12 132 **Q.** Understood. I'd like to move to
13 the chart that you've provided at paragraph 16 of your
14 affidavit, the first affidavit. That's the May 12,
15 2022, affidavit. There's a chart that sets out some
16 timeframes and where you were staying over time. Can
17 you see that?

18 **A. Mm-hmm.**

19 133 **Q.** There's a couple of questions I
20 have for you about it because, in particular, there are
21 a couple of points that I'm not clear on, given a
22 couple of other statements in your affidavit. So I'll
23 explain what I mean. As I understand it, this is a
24 chronology. One of the places that you stayed starting
25 in the summer of 2020 was Ferguson, and you mentioned

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1 that that was called the Tent City? Is that right?

2 **A. Tent City, yes.**

3 134 **Q.** And you stayed from the summer of
4 2020 until October of 2020, and --

5 **A. Yeah.**

6 135 **Q.** -- you mentioned that you left
7 shortly before the clearing of that encampment, which I
8 understand occurred in the middle of October 2020. So
9 is that accurate that you left shortly before that?

10 MS. CROWE: Did you hear the question?

11 THE DEPONENT: Sorry, is that accurate
12 that I -- that I -- I did not hear the question, the
13 full question, no.

14 BY MR. DIACUR:

15 136 **Q.** No, no, that's fine. I understand
16 that the encampment at Ferguson was dismantled in the
17 middle of October 2020, and you indicate here --

18 **A. In the middle?**

19 137 **Q.** -- that you left shortly before
20 that. I just want to make sure that that's accurate.

21 **A. Yeah. I left right -- right at,**
22 **like, the first week of October.**

23 138 **Q.** Okay.

24 **A. So...**

25 139 **Q.** And I understand that advance

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1 notice was given by, among others, the City of Hamilton
2 that that encampment was going to be dismantled. Is
3 that the reason that you departed?

4 **A. No. I had gotten a really bad**
5 **flu.**

6 140 **Q.** So you became ill, and so you left
7 because of that?

8 **A. Yes.**

9 141 **Q.** I notice that you say that the
10 duration of that stay was until October of 2020. The
11 next entry in the chart is the summer of 2021. Can you
12 tell me where you were after October of 2020?

13 **A. After I was -- after 2020? Let's**
14 **see where I was. Where was I? Oh, oh, okay, so I --**
15 **because I was super sick, I had a friend drop me off at**
16 **another one of their friend's houses just so that I**
17 **could get better. Because, like, the weather was**
18 **really cold out and stuff, and I guess, like, with**
19 **stress and everything, like, my immune system couldn't**
20 **handle that, so -- yeah, so I stayed there until I got**
21 **better, and then -- like I said, like, I would just**
22 **walk around to, like, find, like, my friends and -- and**
23 **their camps that they're at, that they're staying at.**

24 142 **Q.** After you left the Ferguson
25 encampment, you recovered from that flu, and then you

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1 stayed in a number of different places with friends?
 2 MS. CROWE: Misty?
 3 THE DEPONENT: Sorry. I'm so sorry.
 4 Sorry, I missed that question.
 5 BY MR. DIACUR:
 6 143 Q. That's okay. I'm just trying to
 7 get the timeframes down. I understand you left the
 8 Ferguson encampment October 2020, that you went to a
 9 friend of a friend's house, recovered from the flu, and
 10 then you were staying with a number of different
 11 friends in a number of different places. Is that
 12 correct? Do I have that right?
 13 A. Yeah.
 14 144 Q. By the summer of 2021, you were at
 15 John and Rebecca Park as set out in the chart. Is that
 16 correct?
 17 A. Mm-hmm, yes.
 18 145 Q. And you mentioned there that you
 19 stayed for a week, and that by-law officers evicted you
 20 and your friend, and you lost some belongings, so I
 21 wanted to ask you about that.
 22 A. Okay.
 23 146 Q. In the summer of 2021, you're at
 24 John and Rebecca Park. Are you given notice that you
 25 need to depart from that park?

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1 A. Because me and my friend -- like,
 2 the tent was only set up -- like, it was under a week.
 3 And so we did not get a notice, but I guess the other
 4 tents that were set up did, but they had never told us
 5 about it. Right?
 6 147 Q. How did you hear about the notice?
 7 A. So the one -- the one night they
 8 had before, like, completely blocked off, and then --
 9 so I had to wait until the next day to -- to return,
 10 and I see that they're starting to pack up. Like, the
 11 two other -- I think there's two other -- two or three
 12 other tents there, and I see that they're all starting
 13 to pack up and -- but we had to leave.
 14 148 Q. And did you do the same? You
 15 packed up things and you departed?
 16 A. Yeah.
 17 149 Q. So after that one week at John and
 18 Rebecca Park, you do say in the chart here, right after
 19 John and Rebecca Park, you went to Beasley Park? Is
 20 that right?
 21 A. Did I say yes out loud?
 22 150 Q. No, sorry, I didn't hear that.
 23 But if that's correct, then please do say yes.
 24 A. Yes.
 25 151 Q. I understand you stayed there for

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1 about a week, but left because you were staying with a
 2 friend in a tent and there was some conflict between
 3 you. Is that right?
 4 MS. CROWE: Did you hear the question?
 5 THE DEPONENT: No, I'm so sorry.
 6 BY MR. DIACUR:
 7 152 Q. You say that right after John and
 8 Rebecca Park you went to Beasley Park?
 9 A. Mm-hmm.
 10 153 Q. You were there for about a week.
 11 A. Mm-hmm.
 12 154 Q. You stayed with a friend, but then
 13 there was some conflict between you. Did you depart
 14 because of that conflict?
 15 A. Yes.
 16 155 Q. And did you go from there back to
 17 John and Rebecca Park or did you go somewhere else?
 18 A. Did I go from there back to John
 19 and Rebecca Park?
 20 156 Q. Yes. So the next entry in the
 21 chart is John and Rebecca Park, fall of 2021. It's
 22 just not clear to me whether you went straight there or
 23 somewhere else in between. So did you go from Beasley
 24 Park to John and Rebecca Park?
 25 A. Yeah, but...

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1 157 Q. I see that you say you stayed
 2 there for about a week, and then there was
 3 dismantlement of an encampment, that the City showed up
 4 with Bobcats to remove belongings, and there was
 5 20 minutes' notice. Is that accurate?
 6 A. For me, yes, because we -- I had
 7 never -- like, we had never gotten an eviction notice.
 8 They didn't come around to tell us that we had any
 9 amount of time that we had to be leaving and -- oh,
 10 sorry. Yeah, so -- so I had -- the person that I was
 11 staying with, they had -- they had gotten hurt badly,
 12 where they had to go to the hospital. So the police
 13 had actually caution-taped the whole park for the whole
 14 night and early morning, so...
 15 158 Q. There was a crime scene at the
 16 park? Is that right?
 17 A. Yeah, kind of.
 18 159 Q. So there was a requirement to
 19 depart because of an active crime scene?
 20 A. Well, I was already out, so -- so
 21 I didn't know. So when I came back to come, like, in
 22 for the night, they had the park, like -- like, roped
 23 off. Right?
 24 160 Q. But that was as a result of what
 25 had happened in the park? Somebody getting injured?

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1 **A. I guess so.**
2 161 **Q.** Then I see next in the chart is at
3 City Hall nightly for a couple of months. I just want
4 to understand that that is the order that these things
5 happened. From John and Rebecca Park, you did go to
6 City Hall and stayed there nightly for a couple of
7 months? Is that right?
8 **A. Mm-hmm.**
9 162 **Q.** And that's up to roughly January
10 of 2022. Do I have that accurate?
11 **A. That would have been the -- the --**
12 **like, the -- yeah.**
13 163 **Q.** You say that since that point,
14 since roughly January 2022 when you left City Hall, you
15 couch surfed and stayed outside in several different
16 locations. In terms of couch surfing, is that just
17 generally a friend letting you stay for a while?
18 **A. Kind of. It's -- well, yeah,**
19 **friends that say, like, "okay, you can come over," and**
20 **whatnot or, like, people that, like, you know -- like**
21 **acquaintances.**
22 164 **Q.** Right. Is that generally just
23 something that's offered to you or do you pay for that?
24 **A. Offered...**
25 165 **Q.** Does somebody just say to you
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1 yeah, you can come and stay for a couple of days, or is
2 it "well, it's going to cost you X dollars to do that?"
3 MS. CROWE: Oops, sorry.
4 THE DEPONENT: So sorry. No, well,
5 it's just they -- like, some -- it depends -- it just
6 depends on who the person is, really.
7 BY MR. DIACUR:
8 166 **Q.** So some do it out of the goodness
9 of their heart and some require payment?
10 **A. Not, like, exactly. Well, I don't**
11 **know. Not exactly payment, just -- like, most -- most**
12 **of the people that, like, invite -- you know, will go**
13 **out of their way to say "oh, I have a place," you know,**
14 **or a friend. Right? And so that's -- like, I don't**
15 **know. After being there for a couple days, like, they**
16 **just -- I don't know, but yeah.**
17 167 **Q.** This couch surfing, has that
18 continued occasionally? Do you still do that?
19 **A. No, not -- not really. Not**
20 **anymore.**
21 168 **Q.** Do you currently have a tent?
22 **A. No.**
23 169 **Q.** Have you spoken to Social
24 Navigator or anyone else about obtaining a tent?
25 **A. I -- not Social Nav, but I had a**
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1 **friend tell me that there are a couple places that you**
2 **can get a tent from.**
3 170 **Q.** Have you looked into that?
4 **A. Like, followed through with it?**
5 **No, no.**
6 171 **Q.** Have you considered using any of
7 your Ontario Works money to purchase a tent?
8 **A. Well, I only get, like, \$300 --**
9 **like, \$340 for the whole month.**
10 172 **Q.** So, no, you haven't considered
11 doing that?
12 **A. No.**
13 173 **Q.** Because --
14 **A. That would not be able to be in**
15 **the budget at all.**
16 174 **Q.** You say in paragraph 23 of your
17 affidavit that enforcement has ramped up by the City in
18 2022. What does that mean?
19 **A. Oh, yeah, well -- okay, so all of**
20 **a sudden, like -- like, the encampment camps were okay,**
21 **but then they started moving us around, like -- like,**
22 **the -- the -- they -- the bill or the law or whatever**
23 **had changed for a little -- like, it was taken away for**
24 **a little bit. Right? So then all of a sudden, the**
25 **police were coming and making it, like -- like, nobody**
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1 **was able to even have a tent anywhere for, like, longer**
2 **than, like, a week or two. And then they were coming**
3 **in and, like, just bulldozing them down like -- you**
4 **know? Like, I had so many friends come back to their**
5 **places and -- and they didn't even know, like, you**
6 **know, that their things would be gone. And they'd be**
7 **out, like, you know, doing their errands and whatever**
8 **they need to do and coming back to nothing.**
9 175 **Q.** So there was a ramp-up by the
10 City, but at most it was every week or two that people
11 were being asked to move around? Is that fair?
12 **A. Yeah, at least, like, you know --**
13 **and sometimes, like -- like, they'd come and -- you**
14 **know, like -- like, we already know that. Like, you**
15 **know?**
16 176 **Q.** In paragraph 24 of your affidavit,
17 you mention that you have not been on any medications
18 or seen a doctor to get treatment for a long time. I
19 understand that this is right around the time that you
20 were seeing Dr. Wiwcharuk. You say that you had not
21 seen a doctor in a long time. Do you mean a doctor
22 other than Dr. Jill Wiwcharuk? Is that right?
23 **A. Yes.**
24 177 **Q.** You mentioned --
25 **A. Where --**
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1 178 Q. Sorry, no, please go ahead. I
2 don't mean to cut you off.
3 A. Like, I did have to go to the
4 hospital, like, once -- or a couple times, but not
5 like -- I don't have, like, a family doctor.
6 179 Q. So is that what you mean, that you
7 hadn't seen a family doctor?
8 A. Yeah.
9 180 Q. You do mention here as well that
10 you used to be on antianxiety medication. This is at
11 the end of paragraph 24. What antianxiety medication
12 had you been taking previously?
13 A. Clonazepam and -- and part of,
14 like, my anti -- one of the antidepressants that I was
15 on was also an antianxiety as well.
16 181 Q. Okay, I understand. You gave me
17 the list of those medications, thank you. Now, in
18 terms of when there were any sort of steps taken to
19 dismantle an encampment or ask people who were encamped
20 to move, that occurred during the daytime. Is that
21 correct?
22 A. Yeah, because that's when they --
23 the City workers are working. Right?
24 182 Q. That's right. And you do mention
25 in paragraph 30 of your first affidavit that, in
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1 March 2021, you were referred to the Hamilton Regional
2 Indian Centre for an intake to get help with housing.
3 A. Mm-hmm.
4 183 Q. You say that "I have not heard
5 back from them." Did you ever hear back from them?
6 A. No.
7 184 Q. Have you made any other attempts
8 to contact the Hamilton Regional Indian Centre?
9 A. I don't remember. Like, maybe,
10 like, once or twice, but I can't, like, fully remember.
11 185 Q. Do you have a preference for
12 contacting an association or a centre like the Hamilton
13 Regional Indian Centre as opposed to others?
14 A. A preference? Like, what do you
15 mean?
16 186 Q. Well, as an Indigenous person, do
17 you prefer to work with an association or a centre like
18 the Hamilton Regional Indian Centre as opposed to
19 someone else?
20 A. Well, they -- I don't know,
21 really. Like, I haven't really worked with any -- any
22 centres, not even really that one, so I guess it would
23 just depend which one -- like, if they actually, like,
24 care. You know? Like, that's why I -- like, Dr. Jill,
25 like, she cared. Like, I really liked -- she has a
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1 spot in my heart. You know?
2 187 Q. Understood. Paragraph 28 of your
3 affidavit, there is a reference to a time "a couple of
4 weeks ago" -- and this is again at John and Rebecca
5 Park. You indicated it was around 11:00 p.m. and the
6 police came by and said the park was closing. I just
7 wanted to ask you about that. A couple of weeks ago,
8 that would have been a couple of weeks before May 12,
9 2022. Do you remember when that actually happened?
10 MS. CROWE: Did you hear the question?
11 THE DEPONENT: Yeah. Do I remember
12 when that actually happened, the park was closing. I
13 do not remember that, no. I can't recall exactly what
14 was -- that was just a long time ago, like...
15 BY MR. DIACUR:
16 188 Q. Do you recall exactly what the
17 police said to you?
18 A. Which one is this on? Sorry, I
19 never -- oh, I remember that day. Yeah, okay. So,
20 yeah, they just -- they just told us that -- so I don't
21 know why this was going on. Oh, yeah, this is when the
22 bill -- this is when the bill landed about the
23 encampments. Right? So the police were coming around
24 and they were just asking -- they were even asking,
25 like, everybody that was in the vicinity, like, their
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1 names and -- you know, like, which -- even if they
2 weren't doing anything wrong. You know what I mean?
3 But -- but either way, yeah, they -- they -- they
4 all -- yeah, we all -- we all -- there were these
5 little benches, but they're square and kind of big,
6 so -- and off the ground, so a tarp can fit, like, over
7 it. Right? And there's no other, like -- like, cover.
8 And we weren't allowed to put tents up at this time, so
9 that's when everybody was just using -- was bringing
10 around tarps and --
11 189 Q. What -- sorry, I didn't mean to
12 cut you off. Please go ahead.
13 A. And -- yeah, they told us that
14 we'd all be arrested if we -- if we didn't head out, or
15 anybody who -- who decided not to, like, leave, then
16 they'd be getting arrested.
17 190 Q. I understand that you can't
18 remember the exact date when this happened, but it's my
19 understanding that there was, in fact, an encampment
20 that was dismantled in John and Rebecca Park towards
21 the end of April 2022. And so the question that I
22 asked about what the police said, I'll ask it more
23 specifically. Did the police say that because the
24 encampment had been cleared, either that same day or
25 very recently, that encampment was not permitted? Do
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1 you recall that?

2 **A. No.**

3 191 **Q.** Do you recall seeing any notices
4 posted regarding an encampment having to be dismantled
5 at John and Rebecca Park around that time?

6 **A. That was at the same time as -- as**
7 **when we had -- like, when I had to take apart the --**
8 **the tent. Like, when I was given 20 minutes' notice,**
9 **that was around then and, like, shortly after that.**

10 192 **Q.** My understanding from the timeline
11 is that that would have been the year before.

12 **A. A year before?**

13 193 **Q.** We can go back up to the chart,
14 but that would have been either in the fall of 2021 --
15 that was the reference to 20 minutes' notice being
16 given -- or in the summer of 2021. Those are the only
17 other references to John and Rebecca Park. My
18 understanding from paragraph 28 is that it was only a
19 couple of weeks before this affidavit was sworn in
20 May 2022 that you were talking about.

21 **A. Yeah, so that would have been**
22 **afterwards.**

23 194 **Q.** Yes. So we're not --

24 **A. That's because the --**

25 195 **Q.** -- talking about that time. We're

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1 talking about --

2 **A. No, that's what I mean. Like, it**
3 **would have been after. So that's when the bill was,**
4 **like -- like, they were still working on the bill to**
5 **get fixed so that we could -- we were allowed to have,**
6 **like, tents and enclosures and stuff, but...**

7 196 **Q.** I had understood from your
8 evidence earlier that you had understood that even
9 after all of that happened, tents and encampments were
10 still permitted for a week or two at a time. That's
11 correct?

12 **A. I don't -- I'm not -- I'm not a**
13 **hundred percent sure. Like, during -- like, because**
14 **that's why we had the -- that's why people were using**
15 **tarps because they weren't allowed to have a tent set**
16 **up for a little while.**

17 197 **Q.** I had understood this to say that
18 you were --

19 MS. CROWE: I think that question has
20 been asked and answered.

21 MR. DIACUR: Which question?

22 MS. CROWE: The question about her
23 understanding of whether or not tents were allowed
24 during this time.

25 THE DEPONENT: That's to my
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1 knowledge --

2 MR. DIACUR: Yes, I understand that
3 that's what she had said previously. I'm trying to
4 clarify, given that she's also said the contradictory
5 thing that they were not. So if she doesn't want to
6 clarify, that's fine. I'm happy to leave it there.

7 BY MR. DIACUR:

8 198 **Q.** We can move to your May 8, 2023,
9 affidavit, which is partially handwritten. Do you have
10 a copy of that in front of you?

11 **A. Yeah.**

12 199 **Q.** So in this affidavit -- which
13 again, it's dated May 8, 2023, the following year --
14 you reference having stayed in several locations. You
15 also reference couch surfing with friends. You mention
16 in tents outside City Hall, Carole Anne's Place, at
17 Philpott Church and off Wellington. You also say you
18 stayed briefly in an encampment off the escarpment but
19 felt very unsafe, so you left.

20 **A. Mm-hmm, yes.**

21 200 **Q.** Is that a complete list of the
22 places that you stayed after June 2022 up to May 8,
23 2023?

24 **A. Well, like, because I -- I -- I**
25 **don't have, like, set places that I stay. Right?**

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1 **So...**

2 201 **Q.** No, I understand. I mean in terms
3 of the list that I've just read out, was that a
4 complete list for the period between June 2022 and
5 May 2023?

6 **A. For the -- yeah, I -- yeah, I**
7 **guess so.**

8 202 **Q.** You say that the escarpment
9 encampment made you feel very unsafe. Why was that?

10 **A. I don't know. I just -- it's just**
11 **too -- too -- it was -- it's just too far away from,**
12 **like -- you know, like, any, like -- like, people. You**
13 **know what I mean? Like, if something were to happen or**
14 **something, then -- well, anything could happen there**
15 **and, like, nobody would know. You know?**

16 203 **Q.** Do other encampments ever feel
17 unsafe to you?

18 **A. Yeah.**

19 204 **Q.** For what reasons?

20 **A. Well, just because it's dangerous**
21 **out here on the streets. Like, I was, like -- like,**
22 **I've been bullied and, like, attacked and, like,**
23 **assaulted and sexually assaulted and -- you know?**
24 **Like, I've had a lot of bad things happen to me, like,**
25 **out here.**

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1 205 Q. So it's the threat and fact of the
2 physical violence that makes you feel unsafe?
3 A. Yeah. And then -- and then when
4 they do that, then they also -- like, they'll -- you'll
5 get robbed for everything. Like, you know? Like...

6 206 Q. I understand that you've been the
7 victim of several crimes. You indicate them in your
8 affidavit. Have you made any reports to the police of
9 those crimes?

10 A. No.

11 207 Q. Is there a reason why?

12 A. It's just not -- like, I -- I --
13 like, I -- I don't know. This has, like, nothing to do
14 with any of this. This was, like, way back when I was,
15 like -- like, young, young, like 19. But I had -- I
16 remember, like, I had -- I had had somebody steal my
17 wallet -- right? -- with all, like, my rent money in it
18 and stuff. And we were in a hotel room, so you would
19 have been -- my wallet was big, so you would have --
20 like, there's cameras and stuff. You know what I mean?
21 So, like, when I did call the police that time, they
22 told me that -- that there's nothing -- like, when it
23 comes to money and something like that, that there's
24 nothing they can really do unless the person decides to
25 give it back.

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1 208 Q. So because you'd been previously
2 told by the police that there's nothing they can really
3 do, that's the reason?

4 A. Well, for the most part, yeah.

5 MR. DIACUR: All right, Counsel, just a
6 moment's indulgence. I think I may be done. I just
7 want to make sure I didn't skip something.

8 --- (Off record)

9 MR. DIACUR: Yes, Counsel, those are
10 all my questions for this witness. Thank you, Misty,
11 for attending and answering.

12 THE DEPONENT: You're welcome. Thank
13 you.

14 MS. CROWE: Thank you. I just need one
15 moment before we get started on redirect.

16 --- Recess taken at 5:08 p.m.

17 --- Upon resuming at 5:09 p.m.

18 RE-EXAMINATION BY MS. CROWE:

19 209 Q. Okay, Misty. We're almost done.
20 Just a few questions. Okay?

21 A. Yeah.

22 210 Q. So I want to go back to
23 October 2020 and the Ferguson encampment. You
24 mentioned that you left before the encampment was
25 dismantled?

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1 A. Mm-hmm.

2 211 Q. When you left, did you know when
3 the City was planning on dismantling the encampment?

4 A. No. Well, I knew that they were
5 planning on doing it, like, soon. Like, I didn't know
6 exactly when, but there was talk of it that they were
7 going to -- like, we were going to need to start
8 figuring out where we're going.

9 212 Q. Okay. I want to talk to you about
10 the first time that you stayed at John and Rebecca.
11 Mr. Diacur asked you about packing up your things from
12 John and Rebecca when you left, and your affidavit
13 indicates that you lost some belongings. Can you
14 explain?

15 A. Where was...

16 213 Q. Let me show you. Here and the
17 next page.

18 A. Oh, yeah, just -- just, like,
19 because we had to, like, get up and leave right then,
20 you know, we -- I think I lost, like -- like, we
21 could -- we just couldn't carry everything with us. Do
22 you know what I mean? Like, so -- like, I lost a lot
23 of clothes and makeup and -- and, like -- like, just,
24 like, my journals, like -- you know? My -- just --

25 214 Q. Anything else that you can think

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1 of?

2 A. Like, I had, like, my purse.

3 215 Q. Was there anything in your purse?

4 A. Well, yeah, like, just -- just
5 normal things that go in your purse, like your wallet
6 and whatnot and -- but, yeah, like -- oh, yeah, I lost,
7 like -- I had just bought a perfume, like, one of my
8 favourite perfumes. That went missing, yeah. But --
9 yeah, I don't know. It was just, like, at that time,
10 like, I had, like -- like, all my makeup was really
11 expensive and -- you know? So just my clothes and
12 stuff, so -- and it just sucked.

13 216 Q. Do you remember what was in your
14 wallet?

15 A. In my wallet? I don't --
16 nothing -- like, probably just gift cards and, like,
17 cash and stuff. Oh, and my debit card. I was -- but
18 I -- I probably would have to replace my debit card,
19 like, at least, like, five times a month, so...

20 217 Q. Okay. I want to take you to the
21 second time you stayed at John and Rebecca. And so you
22 were explaining that there was police or caution tape
23 up at some point. Do you know anything about what had
24 happened?

25 A. No.

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1 218 Q. Did anyone tell you what may have
2 happened?
3 A. At John and Rebecca there was
4 caution tape up? Oh, yeah. That was my -- that was
5 my -- my -- my tent. You know, like, my roommate, I
6 guess, like, in the tent, but I don't know if -- like,
7 because it's just -- but, like, he had gotten injured
8 there, like -- or assaulted by another person with a
9 weapon and ended up in the hospital and...

10 219 Q. Okay.

11 A. Yeah.

12 220 Q. Okay. I want to talk to you about
13 couch surfing. Mr. Diacur had asked who you would
14 couch surf with, and he used the term "friend," and you
15 responded and you said friends or acquaintances. So
16 can you give us some sort of idea of who you would stay
17 with? Not names, but what kinds of people and how
18 would it come that you would couch surf with someone?
19 Did you hear?

20 A. That I would couch surf at -- yes,
21 sorry, I -- I missed that.

22 221 Q. That's okay. How would it happen
23 that you would get an offer, or who are the types of
24 people who would offer you to stay with them?

25 A. Oh, just, like -- well, mostly the
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1 guys that I -- like, guys that I met or people that I
2 had, like, seen around. You know? And -- like, when
3 they come up and talk to me or whatever, they're like
4 "oh" -- you know, they just say, "Oh, you seem nice.
5 You shouldn't be out here," or whatever. "If you need
6 a place to go, you can come to my place."

7 222 Q. Okay. And then Mr. Diacur asked
8 if you would be able to stay for free or if they expect
9 payment, and you responded "sort of." What did you
10 mean?

11 A. Like, well, they -- they -- that's
12 the thing. These people don't tell you, like --
13 like -- like, they say, you know, "if you ever -- you
14 can come stay at my place," or whatever, but they
15 don't -- they don't say, like -- like -- like, "if you
16 want to come rent out a room," you know, "or come stay
17 at my place and rent" or whatever. Like, they -- like,
18 no talk of that or whatever. They don't really -- they
19 don't really say their intentions, I guess. But
20 usually -- and it usually ends up just the -- just men
21 just want to sleep with girls. I don't know. You
22 know? Like, that's what usually it ends up coming down
23 to.

24 223 Q. And then you had started an answer
25 to Mr. Diacur when you were talking about when you
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1 start couch surfing, and you said "after a couple of
2 days," and then you didn't finish.

3 A. Yeah, well, because it's usually
4 after two or three days that they -- I don't know.
5 They -- that guys either, like, proclaim that they have
6 feelings or something, or try to, like -- like, get,
7 like -- you know, either say that we're dating or
8 something. You know? Or -- I don't know. Or try to
9 just -- what ends -- like, you know, like, I -- like,
10 beforehand, like, I tell -- like, I have conversations
11 with these people and I tell them that it makes --
12 like, it frustrates me all the time, that I -- that
13 whenever I go somewhere, that -- that it always ends up
14 being like that. You know? The same thing over and
15 over again, and then they tell me that -- that -- that
16 their place will be a safe place and -- you know, and
17 that they wouldn't do those things, and then they end
18 up doing the same thing.

19 224 Q. And how does that impact you?

20 A. It's just like -- like, I just --
21 well, now I just either -- just don't even answer to
22 any ideas or anything like that. You know? Or I
23 just -- or, like, I -- I will, like, sit there and,
24 like -- like -- "so do you have any intentions?" Like
25 anything else, like -- you know? Like, try to be,
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1 like, upfront because if somebody has secret motives or
2 whatever, it's not...

3 225 Q. You said that you sometimes feel
4 unsafe in an encampment?

5 A. Mm-hmm.

6 226 Q. And you've also slept outside of
7 an encampment under a tarp or unsheltered?

8 A. Mm-hmm.

9 227 Q. What's the difference between
10 living in a tent or living under a tarp?

11 A. What encampment? Nothing's
12 different. It's just -- like, at a tarp, you're not
13 living there. It's just something that you just,
14 like -- like, you're -- because there is a -- for quite
15 a while there where we were always having to, like --
16 because you couldn't put up a -- you couldn't put up a
17 tent. Right? So when that bill ended or whatever, you
18 weren't allowed to put up a tent. And they said, like,
19 all the way down, like -- you know where Wild
20 Waterworks is? Like those type of -- that's what they
21 were telling us. So we were, like, you know, no. So
22 everybody was carrying around, like, just a tarp or
23 umbrellas or whatever they had. Right? And then if it
24 rained, then you, like -- then you'd, like, set that
25 up. Right? But in encampments, like, that -- that --
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1 they grow. Like, it becomes a -- like, a frequented
 2 place for people. Right?
 3 228 Q. What do you mean?
 4 A. Well, just because people are
 5 friends and -- you know what I -- like, it's just a --
 6 it becomes a little -- even if it's mini communities.
 7 You know? Like, because the encampment -- like, now
 8 you have to be, like, five tents or whatever, up to
 9 five tents. So if you have, like, five different
 10 people in them, or if, say, you're rooming with one or
 11 whatever, those people have friends, so then their
 12 friends stop by. Right? And then -- yeah, like, it --
 13 it's a bunch of little communities and little areas.
 14 You know? And -- but, like, still, people on the
 15 streets are, like, dangerous. You know? Like, almost
 16 everybody is, like, carrying, like, a weapon or, like,
 17 you know, a pole or something. You know?
 18 229 Q. Between a tent and using a tarp or
 19 an umbrella to stay outside, what do you prefer?
 20 A. Me? I -- I don't -- like -- like,
 21 if it's raining or something, like, I would rather --
 22 for me, I would just go -- rather, like, just find
 23 somewhere that I know, like, I'm not going to --
 24 because even being under a tarp, like, then
 25 everything -- like, you can't have your things on the
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1 --- Whereupon proceedings adjourned at 5:25 p.m.
 2 I HEREBY CERTIFY THE FOREGOING
 3 to be a true and accurate transcription
 4 of my shorthand notes
 5 to the best of my skill and ability.
 6
 7
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(Electronically signed on August 23, 2024)

Lydia Pak, Court Reporter
 Computer-Aided Transcription

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1 ground without them getting wet still because the rain
 2 moves. You know what I mean? So I'd just rather go
 3 find somewhere that's, like, still going to be dry that
 4 you can -- you know? Yeah, that or whatever, until the
 5 rain ends or until it lightens up, and then you run to
 6 the next spot, but -- yeah, I've had to -- like, I
 7 don't carry, like, very many things with me anymore
 8 just because I can't. For one, I can't. It's too
 9 heavy and too much to be bringing around everywhere. I
 10 mean, like, even, like, leaving things at, like,
 11 friends' apartments or whatever, it's just -- they have
 12 friends and -- and -- I don't know. People steal
 13 and...
 14 230 Q. Okay. Last question. You said
 15 that your reason for not reporting things to the police
 16 was that they might not be able to do anything about
 17 it. Are there any other reasons?
 18 A. Well, for one, like -- like,
 19 you -- well, out here, you get called, like, a rat or a
 20 snitch or whatever, and then people probably come after
 21 you to -- you know?
 22 MS. CROWE: Okay. Thank you very much,
 23 Misty. Those are my questions.
 24 THE DEPONENT: Okay.
 25
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TAB 56

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**ASHLEY POFF, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD et al.**

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF COREY MONAHAN
(Sworn May 12, 2022)

1. I, COREY MONAHAN of the City of Hamilton in the Province of Ontario, MAKE OATH AND STATE:
2. I am a 45 year old man.
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 \$672.00 per month from ODSP for basic needs. 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. I have been on the access to housing wait list for what feels like 15 years and am still waiting for public housing.
5. I have been homeless my entire life except for small periods in a rental here and there.
6. My medical conditions include mental health (Fetal Alcohol Syndrome and ADHD), and substance use disorders. I also broke my back when I was 18 years old. As a result of my back condition and sleeping without a bed for so many years I always wake up in physical pain and it is very difficult for me to walk some ways and even brush my hair some days. The physical pain I experience contributes to my substance abuse because I am essentially self-medicating to alleviate the pain.

7. I have been homeless on and off for most of my adult life. The last housing I had was in 2021. I was housed for one year, when the landlord forged a notice to vacate and I was evicted. The Sheriff attended and kicked me out. I was completely blind-sided and did not have anything packed. I was immediately homeless and sitting in the back alley way of the house with nowhere to go. I stayed at the budget hotel hoping that I would find a new rental unit and I didn't and I ran out of money. I moved to Carter Park when I could no longer afford the hotel. I had erected a tent in Carter Park and three days after, the police and bylaw attended the park with trucks and bobcats to evict everyone and tear down their tents and throw out belongings. In response I packed my things and left to avoid interaction with the authorities and risk arrest or my possessions disposed.
8. I have stayed on and off in a tent at several different locations in Hamilton. For the past ten months, I have mostly stayed in tents. The following chart is a breakdown of the locations and general timeframes:

Location	Timeframe	Duration of stay	Outcome
Carter Park	2021	3 days	Evicted by By-Law officers
Gage Park (greenspace)	Late 2021	Three months	Evicted by By-law officers
Gage Park (parking lot)	Early 2022 until mid March 2022	Three months	Evicted by By-law officers
Ferguson	Back and Forth – 2021/2022	Days/weeks	Evicted by By-law officers
Various parks/Carter Park/Train Tracks	Present	Varies from days to a week	Evictions by by-law

9. David Buckle and Cole Gately, formerly of the City's Encampment Response Team under the previous Encampment Protocol, used to come by to check on me while I was at Gage Park. I have known David Buckle since I was 15 years old. They tried to get me inside, but the only available space was a dorm room at Mission Services. I do not do well in institutional settings.
10. I am not comfortable in shelters. I do not like sharing a shower and I don't do well in groups of strangers. I have a history of substance use. While I have a dependence on marijuana, I try to stay away from harder street drugs. Abstinence is very difficult in shelters, where drug use is all in your face.
11. Even though I am not comfortable in shelters, I do my best to stay inside. I stayed in Good Shepherd in March of this year for 3 days. I was doing arts and crafts and staff took issue with me using a knife to cut open a water bottle. I got in an argument with them and I was kicked out.

12. I then went to Salvation Army and stayed for a week. But I felt myself losing control and starting to lash out. Staff removed a safe that I had on my bed without my knowledge. I got angry and started arguing, and was banned for 30 days.
13. I also stayed at Mission Services this year. I left after 3 days because of the alcohol use in the shelter. I have Fetal Alcohol Syndrome and am trying to stay away from alcohol.
14. I find the erratic behaviour of those around me to be de-stabilizing. I do better in my own tent where I have some control over who is around me.
15. One of the first rules in shelters is that no drugs are allowed. I have a marijuana dependence, and it is also helpful to control my ADHD. I cannot use marijuana in the shelter and as a result I am at greater risk of destabilization when I am staying there and being kicked out for erratic behaviour.
16. I am more physically at risk in shelters because I do not do well with crowds of strangers because it destabilizes me. I have gotten into several fights in communal living settings.
17. I had three tents demolished by by-law within one month. I had nothing left. The City removed my belongings each time. Seeing your home disappear and the little possessions that I have is upsetting and psychologically draining because you feel kicked while you're down and you always have to try to start over again.
18. I have received tickets for being in public spaces, but this has not happened since Covid-19.
19. It would be nice to be able to stay in one spot instead of moving all over the place because it is hard to move all of my belongings day after day, and to not know from one day to the next where I am going to stay because I feel safer. I can control who is around me. When I stay in one location I can sleep much better. It was easier to concentrate and just feel healthier. When I have stayed in a tent in one location without being routinely evicted, I was the most stable I had been in years. I felt like I had control over myself and my space and was less physically and emotionally drained compared to when I am constantly packing and moving all over the place.
20. Being unable to stay in one location is very difficult. I can't sleep properly and hardly ever sleep. Moving all of the time is physically draining and psychologically draining.

21. Overall impact of evictions is that it is very traumatizing, emotionally draining, dysregulating, upsetting, physically draining and stressful.

22. Often times I have so many possessions that it is difficult to carry it away with me to relocate when by-law and police arrive with their trucks and bobcats. I have both returned to my space to see my life, "house" and possessions removed. More often than not though I am unable to remove everything I need and will leave with what I can and avoid watching the evictions and tear downs because watching it happen is too traumatic for me and adds to my sense of hopelessness. I do not know how people can be ok with doing this to us.

SWORN BEFORE ME in the City
of Hamilton, this 12th day of May, 2022


Corey Monahan


A Commissioner, etc.

TAB 57

Court File No. CV-21-00077817-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

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

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF Wesley Monahan

I, Wesley Monahan, of the City of Hamilton in the Province of Ontario, Affirm and say:

1. Since June 2022 have stayed in the following locations: Wesley / Wesley parking lot, John A. Macdonald, Central Park (end of railroad), Beasley Park (April 2022).
vine/bay
 this encampment has a large loud speaker that would tell of us
2. Victoria Park - I've been there since mid-April 2023.

I was asked to move my tent in January 2023 from the location on Vine outside of the HUB as I was kicked out of the Salvation Army shelter due to unfair practices at the shelter. When I was told to move, more tents appeared. During this move, I lost many belongings such as phone and computer as well as my tent.

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


- loss of belongings - phone x3, computer
- loss of fingernails
- shoulder dislocation while moving tent
- ran over foot with buggy

5. I am currently at Victoria Park in an encampment there. Having to be told I need to move is very exhausting

AFFIRMED AND DECLARED)
before me at the City of Hamilton,)
in the Province of Ontario,)
this 25 day of April, 2023.)



A Commissioner etc.



TAB 58

1 Court File No. CV-21-77187
2 ONTARIO
3 SUPERIOR COURT OF JUSTICE
4
5 B E T W E E N:
6 KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH,
7 MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL,
8 CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER,
9 CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS,
10 ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,
11 SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and
12 PATRICK WARD
13 Applicants
14
15 and
16
17 CITY OF HAMILTON
18 Respondent
19
20 --- This is the Cross-Examination of CORY MONAHAN, an
21 Applicant, herein, on his Affidavits Sworn the 12th day
22 of May, 2022, and affirmed the 25th day of April, 2023,
23 taken via videoconference on the 15th day of August,
24 2024.
25

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INDEX OF UNDERTAKINGS

Undertakings are noted by "U/T" and are found on the
following pages: NONE

INDEX OF REFUSALS

Refusals are noted by "R/F" and are found on the
following pages: 15.

INDEX OF ADVISEMENTS

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

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1 APPEARANCES:
2 Sharon Crowe For the Applicants
3 Wade Poziomka
4 Curtis Sell
5 Nnonyechi Okenwa
6 Michelle Sutherland
7
8 Bevin Shores For the Respondent
9 Jordan Diacur
10
11 ALSO PRESENT:
12 Liz Marr Summer law student
13
14
15
16
17
18
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1 --- Upon commencing at 11:16 a.m.
2 CORY MONAHAN: Affirmed.
3 CROSS-EXAMINATION BY MR. DIACUR:
4 1 Q. Sir, would you please state your
5 full name for the record?
6 A. **Cory Robert Roscoe (ph) Monahan.**
7 2 Q. May I refer to you as Cory?
8 A. **Yes, sir.**
9 3 Q. I may also call you sir. Is that
10 okay or is there another --
11 A. **Whatever is fine with me.**
12 4 Q. Okay. Well, I may call you sir as
13 well.
14 A. **That's fine.**
15 5 Q. Your date of birth is April 26,
16 1976? Is that right?
17 A. **Yes.**
18 6 Q. I think that makes you 48 years
19 old. Is that right?
20 A. **Yes, sir. Yes, sir.**
21 7 Q. There are two affidavits that I
22 have some questions for you about.
23 A. **Of course.**
24 8 Q. And potentially another couple of
25 documents that are about you. The first of those

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1 affidavits is dated May 12, 2022. I want to make sure
 2 that you have a copy of that.
 3 **A. Yeah, right in front of me.**
 4 9 **Q.** Okay. I can also put it up on my
 5 screen. The second affidavit is dated April 25, 2023.
 6 I just want to make sure you have that as well because
 7 I'll be referring to it.
 8 MS. CROWE: April 25, 2023?
 9 MR. DIACUR: I believe that's the date.
 10 Just let me confirm that. I could have that wrong.
 11 Yes. So the other one is the largely handwritten one.
 12 It says it's sworn April 25, 2023, commissioned by
 13 Emily O'Keefe.
 14 THE DEPONENT: The day before my
 15 birthday?
 16 MS. CROWE: I think --
 17 MR. DIACUR: Yes, the day before your
 18 birthday.
 19 MS. CROWE: Unfortunately, I don't
 20 think that we have that one.
 21 MR. DIACUR: I can also put that one up
 22 on the screen. I can make it as large as needed.
 23 MS. CROWE: Yes, please.
 24 MR. DIACUR: Okay. I'm not going to
 25 come to that for a bit anyway.

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1 MS. CROWE: Okay.
 2 BY MR. DIACUR:
 3 10 **Q.** We can address the first one. The
 4 affidavit that you do have in front of you, sir, have
 5 you reviewed that recently?
 6 **A. Yes.**
 7 11 **Q.** Can you confirm for me that the
 8 contents remain accurate?
 9 **A. Of course.**
 10 12 **Q.** There's no changes that you'd like
 11 to make to that?
 12 **A. Not that I can see.**
 13 13 **Q.** Cory, how long have you lived in
 14 Hamilton?
 15 **A. My entire life.**
 16 14 **Q.** Born in Hamilton, resided here --
 17 **A. St. Joseph's was my place of**
 18 **birth.**
 19 15 **Q.** Where are you currently residing?
 20 **A. No fixed address.**
 21 16 **Q.** Understood. You're presently
 22 unhoused, living --
 23 **A. Yes, in a tent.**
 24 17 **Q.** In a tent? Where is the tent
 25 located?

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1 **A. City Hall, kind of off the street**
 2 **from City Hall.**
 3 18 **Q.** Do you know if it's located in a
 4 green space, a park, or on a sidewalk? What's the
 5 location?
 6 **A. Sidewalk. I had to move there**
 7 **because my mother was trying to find me. The only**
 8 **place that she could possibly find me is if I'm able to**
 9 **be seen.**
 10 19 **Q.** Okay. So that makes it easier for
 11 your mother to locate you?
 12 **A. Yes.**
 13 20 **Q.** Where does your mother live?
 14 **A. East Hamilton.**
 15 21 **Q.** Does she have a house?
 16 **A. Her and her husband have a**
 17 **one-bedroom apartment.**
 18 22 **Q.** How long have you been located
 19 there near City Hall?
 20 **A. Four days.**
 21 23 **Q.** Where were you before that?
 22 **A. Carter Park, the recreational**
 23 **centre on the north side.**
 24 24 **Q.** I know where that is. How long
 25 were you there?

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1 **A. About a week. Before that, I**
 2 **was -- I had crashed on my friend's couch because it**
 3 **was too hot for the dog outside, so I found alternative**
 4 **residence for the puppy. And in order for everybody to**
 5 **be safe, I had to move in with him too.**
 6 25 **Q.** What's the dog's name?
 7 **A. Duke. He's three.**
 8 26 **Q.** You've had Duke his whole life?
 9 **A. No. I rescued him.**
 10 27 **Q.** Rescued him from where --
 11 **A. About a year ago. Yeah, they were**
 12 **going to put him down.**
 13 28 **Q.** From a dog shelter you obtained
 14 him?
 15 **A. No, no, no, from a breeder, but**
 16 **the breeder was having problems with him, so they gave**
 17 **him to me since I'm pretty well known for hard-case**
 18 **dogs, that I can train them well.**
 19 29 **Q.** So you've been training dogs for a
 20 long time?
 21 **A. Oh, yeah, yeah, a good 20 years at**
 22 **least.**
 23 30 **Q.** Is Duke the only dog that you have
 24 currently?
 25 **A. Yes.**

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1 31 Q. You said you had him for about a
 2 year. Did you have a dog before that?
 3 A. **I haven't had a dog in ten years**
 4 **before that. I had a bad incident where I lost a puppy**
 5 **because of the pit bull ban. And she was my favourite,**
 6 **so it kind of got me bad.**
 7 32 Q. Did that happened about ten years
 8 ago?
 9 A. **Yeah.**
 10 33 Q. And so the friend that you moved
 11 in with --
 12 A. **Yeah, he --**
 13 34 Q. You said that you crashed there.
 14 How long did you stay with him?
 15 A. **About a month. And he changed his**
 16 **mind and decided to get his own dog, so I had to move**
 17 **my dog out because he doesn't get along with other**
 18 **dogs.**
 19 35 Q. Prior to crashing with the friend,
 20 where were you staying?
 21 A. **In a tent everywhere, couple days**
 22 **here, couple days there.**
 23 36 Q. So you've been moving a tent
 24 around for a long period before that? Is that fair?
 25 A. **It's not like I -- I get told to**
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1 **move, but I don't wait for the City to come to move me.**
 2 37 Q. Understood. But you've had the
 3 same tent for a while? I suppose that's --
 4 A. **Yep, yep.**
 5 38 Q. And you've been moving it around
 6 when it's indicated to you that you should?
 7 A. **Yeah. If I get asked to leave, I**
 8 **leave.**
 9 39 Q. The friend that you stayed with
 10 for a period, was anything paid to that friend in
 11 exchange?
 12 A. **Of course.**
 13 40 Q. You paid some rent?
 14 A. **Oh, yeah.**
 15 41 Q. Do you recall where the friend was
 16 living?
 17 A. **King and Sherman -- no, Main and**
 18 **Sherman -- no, King and Sherman. What is it? 196 King**
 19 **Street East, Apartment 36, I believe.**
 20 42 Q. Got it. Can you share the
 21 friend's name with us?
 22 A. **Phil.**
 23 43 Q. How long have you known Phil?
 24 A. **Six years. That's the only reason**
 25 **I trusted him around my dog.**
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1 44 Q. Are there any other friends that
 2 you've crashed with or couch surfed with?
 3 A. **Over the years, I've -- not since**
 4 **COVID, though.**
 5 45 Q. Before COVID, that was something
 6 you could do but not since?
 7 A. **Well, it seems like everybody is a**
 8 **little more paranoid to let people stay over after**
 9 **COVID.**
 10 46 Q. So is that true, any couch surfing
 11 that happened before COVID?
 12 A. **Oh, yeah. Yeah, right before**
 13 **COVID I was doing that. And as soon as COVID hit, it**
 14 **was over. The landlords came down hard on the people**
 15 **that rented the places, and people who rented the**
 16 **places asked me to leave.**
 17 47 Q. In terms of the places that you've
 18 stayed, that you've been moving from and to, have they
 19 typically been parks?
 20 A. **Oh, yeah, definitely.**
 21 48 Q. I know that you're staying
 22 currently behind City Hall on a sidewalk --
 23 A. **Yeah. That --**
 24 49 Q. -- but have you ever done that
 25 before?
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1 A. **Pardon me?**
 2 50 Q. Have you ever done that before --
 3 A. **No, no, I've never done that. No,**
 4 **I've never done that before.**
 5 51 Q. Before now, in the last four days,
 6 you've been encamped in a tent in parks in various
 7 places?
 8 A. **Yeah, definitely.**
 9 52 Q. Aside from the period where you
 10 were couch surfing with a friend?
 11 A. **Right. It's been very sporadic.**
 12 **It's not good for my dog or me. I need some stability.**
 13 53 Q. In terms of where you're located
 14 now, I understand it's so your mother can locate you.
 15 Does she provide support to you? Does she provide any
 16 food or other goods to you?
 17 A. **No, no, she's just providing**
 18 **emotional support.**
 19 54 Q. Does she come to visit you?
 20 A. **Yeah, on a regular basis.**
 21 55 Q. Is it every day or every other
 22 day?
 23 A. **Yeah, pretty much. Whenever she**
 24 **can find me. It's really nice to be cared about.**
 25 56 Q. There's no prospect of you being
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<div>13</div> <div>1 able to stay with your mother?</div> <div>2 A. They live in a one-bedroom</div> <div>3 apartment. There's already two of them, and then</div> <div>4 there's me and my dog, so it's like -- I don't think</div> <div>5 that's a good idea.</div> <div>6 57 Q. Do you have any siblings?</div> <div>7 A. No. Well, yeah, but none that I</div> <div>8 know.</div> <div>9 58 Q. Do you have any other family</div> <div>10 members in Hamilton?</div> <div>11 A. My adopted mother is still here,</div> <div>12 her entire family, my dad's family, but I don't know</div> <div>13 any of them because, well, I was the black sheep. I'm</div> <div>14 almost 50 now, so I can't be, like, asking them for</div> <div>15 handouts. It just doesn't seem right.</div> <div>16 59 Q. The mother that you referenced who</div> <div>17 comes to see you, that's your natural mother?</div> <div>18 A. Yes.</div> <div>19 60 Q. And were you adopted as a baby?</div> <div>20 A. Yeah, at three weeks old.</div> <div>21 61 Q. Did you have any sort of</div> <div>22 relationship with your adopted family?</div> <div>23 A. Not until now. What do you</div> <div>24 mean -- what? I'm sorry.</div> <div>25 62 Q. Well, I understand your natural</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>	<div>138 15</div> <div>1 relevant.</div> <div>2 THE DEPONENT: I'm 48 --</div> <div>3 MS. CROWE: Can I suggest that you ask</div> <div>4 questions that are more directed in that way as opposed</div> <div>5 to trying to get him to disclose the nature of his</div> <div>6 relationships?</div> <div>7 MR. DIACUR: No. I think it's</div> <div>8 perfectly relevant to ask him questions about the</div> <div>9 nature of the relationship with his family. I'm not</div> <div>10 going to agree to limit the questions that I ask on</div> <div>11 that subject. It's relevant. The questions are</div> <div>12 relevant.</div> <div>13 R/F MS. CROWE: I'm going to object, and I</div> <div>14 think the questions should be "What are your options?</div> <div>15 Can you stay with family?"</div> <div>16 MR. DIACUR: Well, we have to establish</div> <div>17 who they are and what his relationship is to them</div> <div>18 before we can ask those questions. I don't think</div> <div>19 there's anything improper about laying that groundwork.</div> <div>20 MS. CROWE: Okay.</div> <div>21 BY MR. DIACUR:</div> <div>22 67 Q. The question is, when is the last</div> <div>23 time that you saw your adopted mother?</div> <div>24 A. A year and a half ago.</div> <div>25 68 Q. That was due to COVID? You</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>
<div>14</div> <div>1 mother comes to visit you --</div> <div>2 A. Yeah, but before -- before, like,</div> <div>3 COVID, I had a regular relationship with my adopted</div> <div>4 family. My adopted mom and me are very close. We're a</div> <div>5 lot alike and, yeah, we still talk on a regular basis.</div> <div>6 This -- my birth mom is all new. This is -- yeah, it's</div> <div>7 all new.</div> <div>8 63 Q. So you have a standing long-term</div> <div>9 relationship with your adopted family?</div> <div>10 A. Yes.</div> <div>11 64 Q. And you've just recently become</div> <div>12 better acquainted with your birth mother?</div> <div>13 A. Exactly.</div> <div>14 65 Q. When was the last time --</div> <div>15 A. It was in the last --</div> <div>16 66 Q. Sorry, go ahead.</div> <div>17 A. It was in the last, like, couple</div> <div>18 weeks. I saw her last night.</div> <div>19 MS. CROWE: Mr. Diacur, these questions</div> <div>20 are very personal. Can you explain the relevance,</div> <div>21 please?</div> <div>22 MR. DIACUR: Well, of course. We're</div> <div>23 testing his evidence about having no other place to go</div> <div>24 than encamping. The questions about his family, their</div> <div>25 residences and their ability to support him are clearly</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>	<div>16</div> <div>1 brought that up when you were discussing --</div> <div>2 A. Yeah, I haven't -- I haven't been</div> <div>3 going around because of COVID. She's 75 now. I don't</div> <div>4 want her to --</div> <div>5 69 Q. Does your mother reside in the</div> <div>6 city?</div> <div>7 A. Yeah. She has COPD, so I can't go</div> <div>8 around because --</div> <div>9 70 Q. Does she have a residence in the</div> <div>10 city?</div> <div>11 A. Of course. She has a one-bedroom</div> <div>12 apartment on the mountain.</div> <div>13 71 Q. Sir, I'd like to take you now to a</div> <div>14 document that was created about you by a Dr. Jill</div> <div>15 Wiwcharuk. Do you know who that is?</div> <div>16 A. Of course.</div> <div>17 72 Q. I'd like to show it to you. It's</div> <div>18 attached to an affidavit that she has sworn. I'll put</div> <div>19 it up on the screen, but let me know if you have a hard</div> <div>20 copy that you can refer to.</div> <div>21 A. I got one right here in front of</div> <div>22 me.</div> <div>23 73 Q. This is a letter on the Shelter</div> <div>24 Health Network letterhead dated May 31, 2022. Do you</div> <div>25 have that?</div> <div>Nimigan Mihailovich Reporting Inc.</div> <div>(905) 522-1653</div>

1 **A. Yeah.**
2 74 **Q.** It's marked as Exhibit A to the
3 affidavit of Jill Wiwcharuk?
4 **A. Dr. Jill's a nice lady.**
5 75 **Q.** I understand that you have met
6 with Dr. Jill Wiwcharuk.
7 **A. Yeah, on many occasions.**
8 76 **Q.** When was the last time you saw
9 her?
10 **A. This would have been it.**
11 77 **Q.** So in May of 2022?
12 **A. Yeah.**
13 78 **Q.** She's a physician. Has she ever
14 given you any --
15 **A. She's a public health nurse.**
16 79 **Q.** I understand that she's a
17 physician. She identifies herself as a doctor in this
18 letter --
19 **A. Well, she is, but then -- she's a**
20 **public health doctor, sorry.**
21 80 **Q.** Got it. No, no, understood. Has
22 she ever provided any medical treatment to you?
23 **A. Of course.**
24 81 **Q.** Just --
25 **A. My --**

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1 82 **Q.** Sorry. Just as a clarification,
2 this letter references you and your date of birth, but
3 I believe there may be a typographical error in your
4 name. You spell your name C-O-R-E-Y; correct?
5 **A. No.**
6 83 **Q.** That's not correct?
7 **A. There's no E in my name.**
8 84 **Q.** Okay. I just want to clarify
9 something, then. If you could go to your first
10 affidavit dated May 12, 2022. I'll put it up on the
11 screen.
12 **A. Yeah, I know. There's obviously**
13 **an error there.**
14 85 **Q.** I just want to confirm. The typo
15 or the error is in the affidavit --
16 **A. Yeah.**
17 86 **Q.** -- not in Dr. Wiwcharuk's letter?
18 **A. No, no. She's my doctor. She**
19 **knows how to spell my name properly.**
20 87 **Q.** Okay. Just to be clear again,
21 this affidavit, May 12, 2022 --
22 **A. It has an E in it, but there**
23 **shouldn't be one.**
24 88 **Q.** No, I understand that's an error,
25 but I had asked you previously if there were any errors

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1 in this document. Are there any other errors you're
2 aware of in this document?
3 **A. Well, you would know better than I**
4 **would. You've obviously been even -- been preparing**
5 **for this a lot better than I have.**
6 89 **Q.** What have you done in terms of
7 preparation for today?
8 **A. Staying alive.**
9 90 **Q.** I understand you've reviewed this
10 document recently?
11 **A. No. I've looked it over, but I --**
12 **I'm not a lawyer. I don't know what you guys expect of**
13 **me.**
14 91 **Q.** I'm just asking. This document,
15 which was prepared in your name and signed by you,
16 sworn to by you, when was the last time that you
17 reviewed this before today?
18 **A. I don't know. I have no idea.**
19 92 **Q.** You don't recall reviewing this
20 document before today?
21 **A. Well, of course not. I haven't --**
22 **it was yesterday.**
23 93 **Q.** So you reviewed this document
24 yesterday?
25 **A. Yeah. It was read to me.**

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1 94 **Q.** I just want to clarify. There is
2 no other error in this document that you're aware of?
3 **A. Reviewing the -- the -- the**
4 **document was done as somebody read it to me, so there's**
5 **no way I could have told you that there was a typo or**
6 **not, because it was read to me.**
7 95 **Q.** Understood. So the document was
8 read to you, you listened, you confirmed that it was
9 accurate?
10 **A. Right.**
11 96 **Q.** Thank you. Turning back to
12 Dr. Wiwcharuk's letter, Dr. Wiwcharuk references some
13 notes that she has referred to throughout this time,
14 notes that indicate -- or one note dated March 9, 2022.
15 This is in the first paragraph. Do you see that?
16 **A. Yeah.**
17 97 **Q.** Do you know what notes she's
18 referencing?
19 **A. She has a notebook that she takes**
20 **notes in.**
21 98 **Q.** So these are her notes?
22 **A. Oh, no, no. This is in addition.**
23 **I also explained to her that I was frustrated that I**
24 **can't get into a shelter, and that's what the note --**
25 **what she means by notes. "He also says."**

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1 99 Q. I understand that she's
 2 referencing written documents. She refers --
 3 A. No --
 4 100 Q. -- to one --
 5 A. -- no, it's not a written -- there
 6 is no written document. She's just stating that I
 7 also -- I also said -- that's what she means by that.
 8 101 Q. So she's recording things that you
 9 told her?
 10 A. Yes. My -- my other -- yeah,
 11 yeah, that I wasn't able to get into any shelters
 12 because I have been kicked out, and I have a dog now,
 13 and all kinds of things. That wasn't at this time,
 14 though.
 15 102 Q. She also references the health
 16 care practitioner who saw you. She says "at that
 17 time." I believe that's a reference back to March 9,
 18 2022. She references a different health care
 19 practitioner. Do you know who that is?
 20 A. There's only two places that I've
 21 been.
 22 103 Q. Okay --
 23 A. The Hub, the doctor at the Hub or
 24 the doctor at the Wesley Centre.
 25 104 Q. So this would be a doctor or a
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1 different health care practitioner either at the Hub or
 2 at the Wesley Centre?
 3 A. Yes.
 4 105 Q. And it does reference that she was
 5 able to help secure a bed for you at Mission Services
 6 Men's Centre --
 7 A. Yeah, I stayed for quite a while,
 8 actually, but then I was --
 9 106 Q. Is that true that a health care
 10 practitioner assisted you with getting that shelter?
 11 A. Well, I don't know if she assisted
 12 me. She more, like, pointed me in the right direction.
 13 107 Q. How long did you stay at Mission
 14 Services Men's Shelter at that time?
 15 A. Maybe three weeks. Like, you
 16 know, they have an alcoholics program there, and I was
 17 born with fetal alcohol syndrome, so I can't really be
 18 around that kind of thing. It causes me great grief
 19 and internal pain. It makes it hard for me to keep my
 20 anger management managed.
 21 108 Q. Dr. Wiwcharuk says here that she
 22 knows that you suffer from opioid use disorder,
 23 stimulant use disorder, and she states "I am convinced
 24 that he has undiagnosed mental health issues." Is that
 25 true that you've been diagnosed with opioid use and
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1 stimulant use disorder?
 2 A. No. There's no diagnosis, but I
 3 do use.
 4 109 Q. There's never been a medical
 5 diagnosis of --
 6 A. I don't know -- I think that -- I
 7 don't understand how -- what would a medical diagnosis
 8 of that be.
 9 110 Q. Has a physician told you that you
 10 have those conditions?
 11 A. No.
 12 111 Q. Has a physician ever offered you
 13 treatment for those conditions?
 14 A. No, but --
 15 112 Q. Have you -- sorry.
 16 A. Sorry, you go ahead.
 17 113 Q. Okay. Have you ever received any
 18 treatment for any mental health condition?
 19 A. Not -- no mental health. I'm -- I
 20 have been diagnosed with fetal alcohol syndrome. I've
 21 been diagnosed with attention deficit hyperactivity
 22 disorder. I've been diagnosed with attention deficit
 23 disorder. ODD is oppositional defiance disorder.
 24 These all stem from my -- my alcoholic -- alcoholism as
 25 a baby.
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1 114 Q. Have you ever sought treatment for
 2 those conditions?
 3 A. Yeah. Well, I was under treatment
 4 throughout my entire school. I graduated twice.
 5 115 Q. Did you ever speak to
 6 Dr. Wiwcharuk about those mental health conditions?
 7 A. No, because I was under the
 8 understanding that most of that stuff buried itself
 9 with age.
 10 116 Q. Who told you that?
 11 A. Well, the -- my childhood doctor
 12 told me that most of this stuff goes away with age.
 13 117 Q. You haven't shared that with any
 14 medical practitioner since then?
 15 A. I do, but they're under the
 16 impression that it also goes away with age. Because
 17 there's a difference between ADD and adult ADD. And
 18 then there's ADHD, and then there's adult ADHD. I was
 19 diagnosed as a child, so it's just regular childhood,
 20 and that stuff goes away, but I believe that I still
 21 have adult symptoms. So -- but, no, I haven't been
 22 diagnosed yet, but I guarantee that I will because I'm
 23 on ODSP for it.
 24 118 Q. Dr. Wiwcharuk also references near
 25 fatal opioid overdoses --
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1 **A. Oh, yeah.**
2 119 **Q.** -- that's required multiple doses
3 of naloxone --
4 **A. Yes.**
5 120 **Q.** -- and emergency care?
6 **A. Yes, on two or three different**
7 **occasions.**
8 121 **Q.** Do you recall when those occasions
9 were?
10 **A. Four years ago.**
11 122 **Q.** That's the most recent?
12 **A. Yeah.**
13 123 **Q.** All right. I'd like to turn to
14 your first affidavit. That's the one you have a copy
15 of in front of you, May 12, 2022. I'm just going to
16 jump there myself. Paragraph 3 -- you just referenced
17 that you receive ODSP. Is that still correct?
18 **A. Yes.**
19 124 **Q.** Is that monthly?
20 **A. Yes.**
21 125 **Q.** You referenced that the mental
22 conditions are the disability that qualifies you for
23 ODSP --
24 **A. Not only that -- not only that,**
25 **but I've also broken my back and both of my ankles, and**
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1 **I've had multiple concussions as well.**
2 126 **Q.** Right. That's referenced later in
3 your affidavit. All of that is what's qualifying you
4 for ODSP?
5 **A. Yes, sir. I tried to retrain, but**
6 **my ADHD symptoms made it almost impossible.**
7 127 **Q.** I understand that you have made --
8 and you reference this in paragraph 4 -- an Access to
9 Housing application. Is that true?
10 **A. Yeah, yeah.**
11 128 **Q.** I understand that that was
12 submitted --
13 **A. That was 12 years ago.**
14 129 **Q.** Well, I understand that an Access
15 to Housing application was submitted in July of 2020.
16 Does that sound right --
17 **A. More recently, yes.**
18 130 **Q.** I understand that you were housed
19 at an address, 28 Madison Avenue, in Hamilton?
20 **A. Sure. Yes, I was.**
21 131 **Q.** That was from October 2020 to
22 November 30, 2021. Is that right?
23 **A. Yeah, yeah. My landlord was**
24 **breaking into my apartment when I wasn't home, and then**
25 **she -- and then she forged a promise to vacate and gave**
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1 **it to the sheriff who promptly evicted me.**
2 132 **Q.** Understood. I'll have a couple of
3 questions for you about that. The Madison Avenue, was
4 it an apartment?
5 **A. Yeah, it was a room in a house.**
6 **Her name was Sabine (ph).**
7 133 **Q.** And was that obtained as part of
8 the Access to Housing application? Is that how you --
9 **A. No, I had a -- I had a housing**
10 **worker from Wesley Centre who was working on finding**
11 **me -- applying for apartments for me.**
12 134 **Q.** Understood. But that was due to
13 the Access to Housing application that you filled
14 out --
15 **A. No. I think it was a separate --**
16 **a separate thing, like just a housing worker.**
17 135 **Q.** Okay. So you had a separate case
18 worker working with you?
19 **A. Yes.**
20 136 **Q.** You say in paragraph 4 that you've
21 been on the Access to Housing wait list for what feels
22 like 15 years.
23 **A. Well, it has been because that was**
24 **when I first applied, and then they lost track of me.**
25 137 **Q.** Right. Well, that's the question
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1 that I have for you. How often have you been housed in
2 the last 15 years?
3 **A. I'd say half the time.**
4 138 **Q.** Is that relatively short-term each
5 time or are there periods where you've been housed for
6 a long period of time?
7 **A. There have been a few periods**
8 **where I've been housed for a year here, a year there,**
9 **and then there have been times when I've not gotten**
10 **along with my roommates, so I just left. But up until**
11 **recently after COVID, I have never, ever, ever had a**
12 **problem finding a place to sleep on a couch of a friend**
13 **of mine until COVID. Because the landlords have too**
14 **much power now.**
15 139 **Q.** That's a change you've noticed
16 since COVID began?
17 **A. Oh, huge change since COVID began.**
18 140 **Q.** I understand that you've also
19 worked with Mission Services to try to obtain housing.
20 Is that right?
21 **A. Yes.**
22 141 **Q.** So you've had a case worker at the
23 Wesley Centre?
24 **A. Yeah. They're the ones that ever**
25 **did anything.**
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1 142 Q. You've also had a case worker at
 2 Mission Services? Is that true?
 3 A. They tried to set me up with the
 4 same landlord in the same house.
 5 143 Q. That's a question that I have for
 6 you. I understand that Mission Services, in December
 7 of 2021, made arrangements for housing. You're saying
 8 that's with the same landlord as before?
 9 A. Yes, yes. They actually had me do
 10 an appointment down in the east end at one of the --
 11 what do they call it -- a section for people that can't
 12 take care of themselves. There's inhouse doctors.
 13 They have rooms but that are shared.
 14 144 Q. A residential care facility? Is
 15 that what you're referring to?
 16 A. That's exactly what -- yes, that
 17 would be it.
 18 145 Q. So they set you up with a
 19 residential care facility --
 20 A. And I went -- I went to the
 21 appointment and they denied me.
 22 146 Q. I just want to be clear. Was that
 23 with the same landlord as the Madison
 24 Avenue apartment --
 25 A. No, no, it wasn't. It wasn't.
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1 But they did try to do that too. Because she's a very
 2 well-known landlord.
 3 147 Q. On what basis was the residential
 4 care facility declining to house you?
 5 A. I don't -- I didn't really ask. I
 6 was kind of upset because it was kind of a guarantee,
 7 at least I thought it was, so I just --
 8 148 Q. They just said no --
 9 A. Instead of causing issues, I just
 10 decided to just take the high road.
 11 149 Q. The City of Hamilton maintains
 12 written records when individuals interact with the
 13 City-funded homelessness-serving system. Are you aware
 14 of that?
 15 A. No.
 16 150 Q. Would you sign an authorization
 17 permitting records relating to you maintained as part
 18 of those notes to be disclosed in this litigation?
 19 A. I need to discuss that with my
 20 lawyer.
 21 151 Q. We'll provide an authorization for
 22 you to consider it.
 23 A. Thank you.
 24 152 Q. In all fairness, I should note
 25 that I understand that at the time that shelter was
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1 offered to you in December 2021, those notes may show
 2 that Mission Services noted that when the time came for
 3 you to move in, you did not attend.
 4 A. Oh, well, yeah, that's also true.
 5 It's kind of hard to keep an apartment when you don't
 6 have a phone or a way to get to the -- to the
 7 appointment.
 8 153 Q. I just want to be clear. You --
 9 A. I was -- I was late. I was late.
 10 I was not unattending. I go to Mission Services all
 11 the time. I was living right by there. But they had
 12 access to housing rooms, short-term and long-term rooms
 13 where you pay for rent, but you're still not allowed to
 14 have any kind of company or anything, actually, but you
 15 still get to eat.
 16 154 Q. I understand that there are also
 17 short-term shelter options available, but --
 18 A. Right.
 19 155 Q. -- just about this time,
 20 December 2021, residential care facility, a spot is
 21 offered. As I understand --
 22 A. I went to the -- I went to the
 23 appointment. I sat there and we had the -- the
 24 meeting, and then I got back to the Salvation Army and
 25 they told me that I was denied. It was kind of weird,
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1 too, because one of the nurses that works there is a
 2 friend of mine's wife. That might have been why.
 3 156 Q. You indicated that you attended
 4 late. How late did you attend --
 5 A. Oh, no. No, no, no, no, no. That
 6 was -- that was the Mission Services one. The one that
 7 I got from the Salvation Army for this residential care
 8 facility was -- I wasn't late for the appointment at
 9 all. I made it. I took a bus there. I was there
 10 with -- with bells on. I sat down, had the
 11 appointment, then left, then got back to the shelter,
 12 and they told me that I didn't get it.
 13 157 Q. I think I understand now. I think
 14 we're talking about two different times --
 15 A. And what you're talking about was
 16 the inhouse rooms that they had at the actual facility.
 17 They gave me a choice to move into one of the houses --
 18 or one of the rooms that they had in the building.
 19 158 Q. I see. So Mission Services
 20 offered you shelter at the Mission Services location --
 21 A. Yes, with my own private room, but
 22 I'd still have to keep a curfew, no visitors. I'd pay
 23 rent and -- yeah, it just didn't seem right to me.
 24 159 Q. Okay. I understand now. Mission
 25 Services offers you that shelter --
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1 A. Yeah.
 2 160 Q. -- and you did not intend to
 3 accept that shelter --
 4 A. No, it didn't seem right to me.
 5 161 Q. And then on a separate occasion
 6 via Salvation Army --
 7 A. Right.
 8 162 Q. -- there was a meeting --
 9 A. At a --
 10 163 Q. -- at a residential care facility?
 11 A. Yes, yes.
 12 164 Q. Okay. When did that happen?
 13 A. I'd say about a year ago now,
 14 maybe about six months, actually. No, no, it was about
 15 a year ago, right before I got my dog.
 16 165 Q. Was it in the summer last year?
 17 Does that sound right?
 18 A. Just around the middle of summer
 19 last year, yes, I believe so.
 20 166 Q. Your recollection is you were
 21 given no reason why that residential care facility
 22 wasn't available to you?
 23 A. No. There was rooms available.
 24 They just didn't give it to me.
 25 167 Q. Was there any follow-up via
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1 Salvation Army, to your knowledge?
 2 A. Oh, yes, of course. The ladies
 3 that work at the Salvation Army do a really good job.
 4 It's really hard to deal with today's landlords.
 5 168 Q. Turning to paragraph 6 in your
 6 affidavit, you mention medical conditions. You also
 7 reference what you told me earlier that you broke your
 8 back when you were 18 years old?
 9 A. Yup.
 10 169 Q. How did that come to pass?
 11 A. I fell off a roof four storeys
 12 high.
 13 170 Q. Was that for work? Or what was
 14 the reason that you were on the roof?
 15 A. It was accidental.
 16 171 Q. What was the reason you were on
 17 the roof?
 18 A. Oh, I lived there.
 19 172 Q. Okay. Were you doing maintenance?
 20 A. Yes.
 21 173 Q. Did you receive medical care at
 22 that time?
 23 A. I did a year and a half in the
 24 hospital.
 25 174 Q. And you recovered from that --
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1 A. Completely. But with -- obviously
 2 not -- there's no recovery from a back injury like that
 3 completely. But as good as possible? Yeah, I
 4 recovered.
 5 175 Q. Turning to paragraph 7 of your
 6 affidavit -- this is at the top of the second page --
 7 you reference that, as of the time of this affidavit in
 8 2022, the last housing you had was in 2021 --
 9 A. Yup.
 10 176 Q. -- and you reference what you told
 11 me earlier, the landlord forged a note as to vacate?
 12 A. Yes.
 13 177 Q. This was the Madison Avenue --
 14 A. Yes, yes.
 15 178 Q. -- apartment?
 16 A. Yes. Right before the end of the
 17 fall this happened, so just as winter was coming.
 18 179 Q. Upon the sheriff attending, you
 19 say that you were kicked out by the sheriff. Where did
 20 you go?
 21 A. I went to the Budget motel.
 22 180 Q. Where is that Budget motel that
 23 you went to?
 24 A. Sanford and King.
 25 181 Q. Again, in fairness, I understand
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1 that there was some contact with the City-funded
 2 homelessness-serving system at that time and that you
 3 advised them that you were evicted from the unit you
 4 were in --
 5 A. Mm-hmm.
 6 182 Q. -- due to damage to the unit.
 7 Does that sound familiar?
 8 A. What unit? What are you talking
 9 about?
 10 183 Q. We're talking about the Madison
 11 Avenue property.
 12 A. There was no damage. She made up
 13 whatever she wanted to, just to get me out. The reason
 14 that I was evicted was because she forged my name on a
 15 promise to vacate, and then put the date down as that
 16 date and then handed it to the sheriff.
 17 184 Q. I understand that that's your
 18 evidence. But in fairness, I understand that there are
 19 records that indicate that there was damage to the unit
 20 that --
 21 A. Can I see the -- is there photos?
 22 185 Q. I'm sorry?
 23 A. Is there photos?
 24 186 Q. I don't know. What I'm telling
 25 you is what I understand --
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37

1 **A. Yeah, okay. Well, they can say**
2 **whatever they want to say --**
3 187 **Q.** -- and I've asked for an
4 authorization to disclose documents. But does it sound
5 familiar to you that there was an allegation that there
6 was damage --
7 **A. No.**
8 188 **Q.** -- to the unit?
9 **A. No.**
10 189 **Q.** I understand that they were also
11 told that guests that were invited to the unit by you
12 were using drugs on the property. Does that sound
13 familiar to you?
14 **A. My son, my child, he has some**
15 **problems.**
16 190 **Q.** Is that true that your son was a
17 guest in the unit and was using drugs there?
18 **A. I believe that he was, yeah.**
19 191 **Q.** And I also understand that this
20 was during COVID lockdown. Is that true?
21 **A. Well, yes. My son had nowhere to**
22 **go, so I had him move in with me.**
23 192 **Q.** I also understand that you had a
24 case worker at that time, and I'm referring now to the
25 time of your eviction from the Madison Avenue unit --
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38

1 **A. I had to fire her because she was**
2 **handing over my money without my permission.**
3 193 **Q.** I understand that she attended at
4 the time that you were given notice to vacate and she
5 spoke to you then. Is that true?
6 **A. I explained to her that I**
7 **wasn't -- I did not agree with this notice to vacate.**
8 **I did not sign this document, and I was not in any way**
9 **ready to move out, but they still proceeded with**
10 **eviction.**
11 194 **Q.** How long did you stay at the
12 Budget motel or hotel?
13 **A. Six months.**
14 195 **Q.** It was your ODSP income that was
15 used to pay for that?
16 **A. No. COVID payments.**
17 196 **Q.** You received CERB? Is that right?
18 C-E-R-B?
19 **A. Yup.**
20 197 **Q.** And that was used to pay for the
21 Budget hotel?
22 **A. Yup.**
23 198 **Q.** Do you recall what you were paying
24 in order to stay there?
25 **A. \$2,000 a month.**
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144 39

1 199 **Q.** I understand from that Budget
2 hotel you moved to Carter Park. Is that true?
3 **A. I had no choice, and that only**
4 **lasted three days.**
5 200 **Q.** From 28 Madison, you go to the
6 Budget hotel for six months. From the Budget hotel,
7 you go to Carter Park for three days?
8 **A. Yeah, and then I went to Gage**
9 **Park.**
10 201 **Q.** And then to Gage Park. Before
11 that happens, before you leave Carter Park, you mention
12 here that police and by-law attended at Carter Park?
13 **A. Oh, yeah. There was --**
14 202 **Q.** There was advance notice given
15 that the people encamped there had to depart? Is that
16 true?
17 **A. I have no idea. I was only there**
18 **for three days.**
19 203 **Q.** But you were told before police
20 and by-law attended --
21 **A. No, not me --**
22 204 **Q.** -- that you were going to be
23 vacating?
24 **A. I had no idea.**
25 205 **Q.** Were others in the park, to your
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40

1 knowledge, given that advance notice?
2 **A. I guess so. People said that**
3 **there was after the fact, but I had no prior notice.**
4 206 **Q.** When police and by-law attended,
5 that was during the daytime?
6 **A. It was still dark out, but it was**
7 **morning.**
8 207 **Q.** And you were able to pack your
9 possessions and depart?
10 **A. Well, I had only been there for**
11 **three days, so my camp had not been established much.**
12 208 **Q.** That's a yes? You were able to
13 pack your possessions and depart --
14 **A. Oh, easily, and I took a cab to**
15 **Gage Park.**
16 209 **Q.** So there is a chart in your
17 affidavit at paragraph 8 that sets out some timelines.
18 Carter Park, 2021, three days, then to Gage Park, and
19 there's a green space period, three months, and then a
20 parking lot period, three months. Is that true?
21 **A. Yup.**
22 210 **Q.** Was that continuous? You moved
23 from the green space at Gage Park to the parking lot at
24 Gage Park, or were you somewhere else in between?
25 **A. No. I was -- I was in Gage Park**
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1 all winter.

2 211 Q. You say that you were evicted by
3 by-law officers from the green space. Were you told to
4 leave the green space in Gage Park by by-law officers?

5 A. No, by Dave Buckle.

6 212 Q. So by David Buckle, okay. I will
7 come to him in a moment because he's referenced in the
8 next paragraph.

9 A. Yeah.

10 213 Q. So it was David Buckle from the
11 City --

12 A. Yeah.

13 214 Q. -- who told you that you had to
14 leave the green space?

15 A. Me and David get along quite well.

16 215 Q. So you departed from the green
17 space and went to the parking lot? Is that --

18 A. Yes, yes.

19 216 Q. And you stayed there for a further
20 three months?

21 A. Well, until the end of the winter.

22 217 Q. And you say there you were evicted
23 by by-law officers again. Was that Mr. Buckle who
24 attended --

25 A. Well, I wasn't evicted. I was
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1 bulldozed out of there.

2 218 Q. I'm sorry. Were you asked to
3 leave by Mr. Buckle at that time again?

4 A. No, no. They just showed up and
5 bulldozed me.

6 219 Q. So this is during the period that
7 you were in the parking lot?

8 A. Yes.

9 220 Q. You're saying that bulldozers
10 attended at that time?

11 A. Well, the Caterpillars, the little
12 mini ones.

13 221 Q. What notice was given to you that
14 you needed to depart?

15 A. I don't know. Not as far as I
16 knew, but apparently there was some notice given.

17 222 Q. Do you recall how that was done?

18 A. Through paperwork that was left on
19 the doorstep. I never got it, but somebody else did.

20 223 Q. There was a notice posted?

21 A. As far as I know, but I wasn't --
22 I didn't receive it. Somebody else did.

23 224 Q. So you were told by someone else
24 encamped?

25 A. That there was notice given, yeah.
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1 But I was a little late.

2 225 Q. Were you able to pack up your
3 possessions and depart?

4 A. No.

5 226 Q. What possessions did you lose at
6 that time?

7 A. Everything I owned.

8 227 Q. What did that include?

9 A. How do you -- how do you state an
10 entire life?

11 228 Q. Well, did it include a tent?

12 A. Multiple tents, multiple bikes,
13 multiple -- like, everything, everything I owned.

14 229 Q. Were you present in the parking
15 lot when this occurred?

16 A. No, no.

17 230 Q. Where were you when this happened?

18 A. I don't know because I don't know
19 when it happened.

20 231 Q. So you left the Gage Park parking
21 lot and returned at some later time, and in the interim
22 your property was removed?

23 A. Yes, and thrown out.

24 232 Q. And you're not sure when that
25 happened?

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1 A. Well, no, because I wasn't there
2 when it happened.

3 233 Q. But you spoke to others about
4 notice that was posted. Did you speak to anyone else
5 about when it happened?

6 A. No. They were all gone by then.

7 234 Q. Do you recall how long you weren't
8 present in the parking lot at Gage Park?

9 A. Over the weekend.

10 235 Q. So it could have occurred at any
11 point over a weekend?

12 A. Yeah. I only went out on the
13 weekends because I knew that the City didn't work on
14 the weekends, but apparently this date they were there.

15 236 Q. Do you recall where you went for
16 the weekend?

17 A. I was at a friend's room at the
18 Y -- or at the Salvation -- no, wait. I was at the
19 Budget Inn, actually, that weekend with a girlfriend.

20 237 Q. So sometimes you would go back to
21 that Budget hotel?

22 A. Well, yeah. It wasn't me paying,
23 though. I'd rather stay in a hotel room than a tent
24 any day.

25 238 Q. So a hotel room is better?
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1 **A. It's not worse.**
2 239 **Q.** Well, you say that you would
3 prefer it --
4 **A. I can take a shower.**
5 240 **Q.** Are there any other reasons why
6 you would prefer a hotel room rather than a tent?
7 **A. Heat, beds. Yeah, it's a**
8 **building. Who doesn't want to live in a building?**
9 241 **Q.** When the Gage Park parking lot was
10 cleared --
11 **A. I would much rather live inside**
12 **than outside.**
13 242 **Q.** Understood. When the Gage Park
14 parking lot was cleared, this chart indicates that the
15 next place you went was Ferguson --
16 **A. Yeah, but that was 12 hours -- I**
17 **was there for 12 hours, and they took my stuff again.**
18 243 **Q.** So you went from the Gage Park
19 parking lot over to the Ferguson encampment? Is that
20 true?
21 **A. In -- no. I built my own**
22 **encampment at first, and then I -- I went to the Hub to**
23 **get my ID that had -- that had been mailed there, and**
24 **brought it back to my camp. I went to the store, came**
25 **back, and my entire camp was down.**

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1 244 **Q.** Where did you encamp at Ferguson?
2 **A. In the back, in between King and**
3 **Main.**
4 245 **Q.** Is that in an alley or on a
5 sidewalk?
6 **A. No. I was in -- I was in a**
7 **garden.**
8 246 **Q.** Is it a private property?
9 **A. No.**
10 247 **Q.** So it was in a park?
11 **A. It was Ferguson Station.**
12 248 **Q.** So in the garden at Ferguson
13 Station?
14 **A. Yes.**
15 249 **Q.** And were you told that you
16 couldn't remain there?
17 **A. They didn't even reach out to me.**
18 **They just took my stuff.**
19 250 **Q.** Were you present when they took
20 your things?
21 **A. No. I showed up at the end of it**
22 **while they were driving away.**
23 251 **Q.** And where were you in the interim?
24 **A. I told you. I was over at the Hub**
25 **getting my -- no, I went to the Hub, got my**

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1 **identification and dropped it off at my camp, and then**
2 **I went to go get something to eat. And on my way back,**
3 **one of the Social Navigators stopped and said, "Cory, I**
4 **think they took your stuff from Ferguson Station." I**
5 **showed up and it was all gone.**
6 252 **Q.** From that location, Ferguson
7 Station, the next place that's listed is just various
8 parks, Carter Park and train tracks.
9 **A. Yeah, up in the air for a while.**
10 253 **Q.** So you moved around --
11 **A. I gave up.**
12 254 **Q.** -- quite a bit during that period?
13 **A. I had just given up.**
14 255 **Q.** In terms of various parks, though,
15 do you recall where you were staying or is it just a
16 number of parks and you can't remember where?
17 **A. I just -- I didn't care anymore.**
18 **I just slept wherever I slept. I lost about 15 pounds.**
19 256 **Q.** During that period?
20 **A. Yeah. I wasn't taking care of**
21 **myself.**
22 257 **Q.** The next paragraph, paragraph 9,
23 you mention David Buckle. How do you know David
24 Buckle?
25 **A. He was my Wesley worker when I was**

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1 **young.**
2 258 **Q.** You mention that you've known him
3 since you were 15 years old?
4 **A. Yeah, he was my first Wesley**
5 **worker.**
6 259 **Q.** So he was a case worker out at the
7 Wesley Centre that you had spoken to at that --
8 **A. Yes, at Alternatives for Youth and**
9 **Wesley. He was the case worker at the time.**
10 260 **Q.** I understand that David Buckle and
11 Cole Gately, who you mentioned formerly of the City's
12 Encampment Response Team, tried to get you inside at
13 Mission Services. Were you offered a space at Mission
14 Services at that point?
15 **A. That was all bullshit. They**
16 **didn't try anything. They were just trying to get me**
17 **to move.**
18 261 **Q.** I just want to confirm when this
19 happened. Was it at the point when you were in various
20 parks from time to time after you left the Ferguson
21 Station?
22 **A. I don't even know what you're**
23 **talking about, sir. I have no idea.**
24 262 **Q.** I'm just trying to clarify that
25 exact thing. In paragraph 8 --

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1 **A. Yeah, I don't know --**
2 263 **Q.** -- there is a chart that says
3 where you went. There were places that you went over
4 time. And then --
5 **A. Since I don't --**
6 264 **Q.** -- David Buckle and Cole Gately --
7 **A.** -- know, there's no way I can
8 clarify it.
9 **COURT REPORTER: Sorry, I can't hear**
10 **either of you --**
11 **BY MR. DIACUR:**
12 265 **Q.** So you're not sure when David
13 Buckle and Cole Gately tried to get you into a room at
14 Mission Services?
15 **A. They didn't try. They just stated**
16 **that they were.**
17 266 **Q.** It does say that they tried to get
18 inside, but the only available space was at Mission
19 Services. That's suggesting that they tried --
20 **A. It was bullshit.**
21 267 **Q.** Is that true?
22 **A. No. It's just bullshit, talking**
23 **out their asses, trying to make it look like they care,**
24 **but they don't.**
25 268 **Q.** I'm confused. If available space
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1 was noted and --
2 **A. Yeah, and when I get there -- and**
3 **when I get there --**
4 269 **Q.** -- you say you do not do well in
5 institutional settings, were you offered a space or
6 not?
7 **A. And when I -- I went there, and**
8 **when I got there, there was no space. This happens on**
9 **a regular basis.**
10 270 **Q.** So you recall, then, going to
11 Mission Services --
12 **A. On multiple occasions --**
13 271 **Q.** -- and you were told there were no
14 spaces? Well, was that accurate --
15 **A. -- I show up --**
16 272 **Q.** -- David Buckle and Cole Gately --
17 **A. It has nothing to do with those**
18 **guys. Those guys were just -- they're not even**
19 **affiliated with Mission Services. I go to Mission**
20 **Services -- this is how they do it. "You come back at**
21 **ten o'clock, please." I come back at ten o'clock.**
22 **They have nowhere to put me. I go out on the streets**
23 **for the night. They put more people out on the streets**
24 **than -- than landlords do. They're supposed to take**
25 **people off the streets.**
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1 273 **Q.** You say in paragraph 9 "I do not
2 do well in institutional settings." Is that the reason
3 why you have declined available space at Mission
4 Services in the past?
5 **A. I haven't, though. I've gone**
6 **there, and then things get screwed up because they**
7 **don't want people there. They want -- what they want**
8 **is they want turnover. Turnover gets them more money.**
9 **The longer you stay there, the less money they make off**
10 **of you.**
11 274 **Q.** The statement "I do not do well in
12 institutional settings" --
13 **A. I don't. I've been in jail**
14 **before.**
15 275 **Q.** When was the last time that you
16 were incarcerated?
17 **A. Fifteen years ago.**
18 276 **Q.** Is the reason why at any time in
19 the past that you have declined spaces in a shelter was
20 due to the fact that you do not do well in
21 institutional settings?
22 **A. Well, it's mostly because I don't**
23 **like the way it feels like jail.**
24 277 **Q.** So it is the case that in the past
25 there has been space in a shelter available to you --
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1 **A. Well, no.**
2 278 **Q.** -- and you had said no --
3 **A. I have a dog.**
4 279 **Q.** -- "I do not do well in
5 institutional settings"?
6 **A. I have a dog. There's no way that**
7 **I can take it at any kind of shelter setting, no. They**
8 **won't even offer it anymore. There's no pets --**
9 280 **Q.** So it's not completely the case
10 that you don't do well in institutional settings --
11 **A. There are --**
12 281 **Q.** -- it's also the fact that you
13 have a dog?
14 **A. There are absolutely no**
15 **pet-friendly shelters in Hamilton at all.**
16 282 **Q.** If you look at paragraph 10 of
17 your affidavit, you indicate "I am not comfortable in
18 shelters."
19 **A. Yeah, I agree. I don't like**
20 **taking showers in front of people. I don't like**
21 **strangers around me.**
22 283 **Q.** Is that what you've told me
23 already, that it reminds you of being incarcerated?
24 **A. Exactly.**
25 284 **Q.** You mention also that you have a
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<p>53</p> <p>1 history of substance abuse, that you try to stay away</p> <p>2 from harder street drugs. "Abstinence is very</p> <p>3 difficult in shelter where drug use is all in your</p> <p>4 face."</p> <p>5 A. Yeah, it is. It's, like, rampant.</p> <p>6 285 Q. My understanding is that drug use</p> <p>7 is not permitted in shelters --</p> <p>8 A. Sure, they say that, but at the</p> <p>9 same time, Mission Services has an alcoholics program</p> <p>10 there where you get a drink every hour. That's stupid.</p> <p>11 286 Q. In what way --</p> <p>12 A. Bunch of drunk people.</p> <p>13 287 Q. In what way is drug used in the</p> <p>14 shelters?</p> <p>15 A. Well, they don't allow it, but</p> <p>16 it's not -- it's like -- if they're allowing people to</p> <p>17 drink, then they're allowing people to do drugs.</p> <p>18 Right? Alcohol is the worst of all the drugs.</p> <p>19 288 Q. I think we might be confusing two</p> <p>20 things. We're referring here to drug use. You refer</p> <p>21 to harder street drugs --</p> <p>22 A. What do you consider drugs?</p> <p>23 289 Q. Well, exactly. That's my question</p> <p>24 for you. What do you include in that? Are you</p> <p>25 including just alcohol or are you including --</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p>148 55</p> <p>1 296 Q. So you prefer to --</p> <p>2 A. I don't -- I don't allow anybody</p> <p>3 there that does things that I don't agree with.</p> <p>4 297 Q. So you prefer to encamp alone? Is</p> <p>5 that right?</p> <p>6 A. Not necessarily alone, but I like</p> <p>7 to pick and choose where I live. Because if I don't</p> <p>8 make the decision, then somebody else is, and I don't</p> <p>9 like that. It's so easy to make the wrong decision</p> <p>10 when you're trying to organize a group of people.</p> <p>11 298 Q. In paragraph 11 of your affidavit</p> <p>12 you reference Good Shepherd as well. I believe that's</p> <p>13 the first time they've come up during our discussion.</p> <p>14 You've mentioned Mission Services and Salvation --</p> <p>15 A. This is the first time that the --</p> <p>16 that a shelter had actually put me back out on the</p> <p>17 streets.</p> <p>18 299 Q. So you were at Good Shepherd, one</p> <p>19 of their facilities, in March of 2022 for --</p> <p>20 A. For a matter of six hours.</p> <p>21 300 Q. It was not three days? It was six</p> <p>22 hours?</p> <p>23 A. Yeah. I got there, and I went</p> <p>24 downstairs. I was making -- doing arts and crafts with</p> <p>25 a water bottle, trying to make a bong, and then they</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>
<p>54</p> <p>1 A. Well, no, alcohol is not a street</p> <p>2 drug. It's legalized by the government, so it makes it</p> <p>3 okay.</p> <p>4 290 Q. When you say drug use is in your</p> <p>5 face in shelters, you're including alcohol in that?</p> <p>6 A. Of course I am. I was fetal</p> <p>7 alcohol syndrome as a child. Still am.</p> <p>8 291 Q. Is any harder street drug use in</p> <p>9 your face --</p> <p>10 A. Well, yeah, it is because I'm</p> <p>11 there. The people that are addicts, they do drugs.</p> <p>12 It's just the way it is. The ones that are alcoholics,</p> <p>13 they do -- they drink alcohol.</p> <p>14 292 Q. How do shelters enforce their</p> <p>15 rules against drug use in the shelters?</p> <p>16 A. They kick the people back out on</p> <p>17 the streets.</p> <p>18 293 Q. And you've seen that occur?</p> <p>19 A. Like I said, they put more people</p> <p>20 on the streets than landlords.</p> <p>21 294 Q. Is there drug use in encampments,</p> <p>22 sir?</p> <p>23 A. Not if it's your own.</p> <p>24 295 Q. What does that mean?</p> <p>25 A. I start my own encampments.</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>	<p>56</p> <p>1 walked -- the lady walked up and took my knife right</p> <p>2 off the table in front of me and walked away like she</p> <p>3 was stealing it. And she made some false accusations</p> <p>4 that I had slurred some racial slurs towards her, which</p> <p>5 was -- there's no way that I would do that. I'm</p> <p>6 absolutely opposite of racist -- racist -- excuse me --</p> <p>7 but --</p> <p>8 301 Q. Was it your knife?</p> <p>9 A. Hmm?</p> <p>10 302 Q. Was it your knife --</p> <p>11 A. Of course it was my knife. Of</p> <p>12 course it was my knife. They don't allow weapons and</p> <p>13 stuff. But in the criminal court of Canada, weapons</p> <p>14 are only weapons if they're being used as such or if</p> <p>15 the intent is to be used as a weapon. Other than that,</p> <p>16 it's just a tool.</p> <p>17 303 Q. What kind of knife was it?</p> <p>18 A. It was a jackknife.</p> <p>19 304 Q. How large?</p> <p>20 A. Like a folding knife, like a</p> <p>21 pocketknife.</p> <p>22 305 Q. Sure. And how large?</p> <p>23 A. No bigger than my hand, but I have</p> <p>24 a big hand. About 5 inches, 6 inches.</p> <p>25 306 Q. Was the reason given to you why</p> <p>Nimigan Mihailovich Reporting Inc. (905) 522-1653</p>

1 you were no longer --

2 **A. Because we're not allowed to have**

3 **weapons, she said. And I -- I insist that the criminal**

4 **court in Canada says that any tool is only a tool until**

5 **it is intended as using it as a weapon. Your intent --**

6 **if you intend to use it as a tool, it's only a tool.**

7 **It's not a weapon.**

8 307 **Q.** Do you agree that having rules

9 against carrying knives --

10 **A. I think it's a great idea. But I**

11 **don't think that anybody should walk up to you, take**

12 **something off the table in front of you and walk away**

13 **with not even a question or a statement whatsoever.**

14 308 **Q.** Paragraph 12, you say "I then went

15 to Salvation Army and stayed for a week." Is this

16 directly after you left Good Shepherd?

17 **A. I can't -- I wasn't staying**

18 **outside at that time because it was -- I had no**

19 **preparations for outdoor living at that time.**

20 309 **Q.** Do you recall that this was in

21 March of that same year, 2022, when you went to

22 Salvation Army and stayed for a week?

23 **A. ADHD and dates and stuff, they're**

24 **no good with me. But, yeah, if I written it down, then**

25 **it's the way it is.**

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1 310 **Q.** When you say the Salvation Army,

2 is that the Booth Centre that's in downtown Hamilton?

3 **A. Yes.**

4 311 **Q.** You mention here that you felt

5 yourself losing control and starting to lash out.

6 **A. Yeah, yeah.**

7 312 **Q.** And what does that mean --

8 **A. I was having some --**

9 313 **Q.** In these circumstances, what did

10 you do?

11 **A. I left.**

12 314 **Q.** In terms of lashing out, what does

13 that mean? Were you violent?

14 **A. No. My anger management is under**

15 **control now. But, yeah, I might have -- I might**

16 **have -- I might have gotten verbally aggressive.**

17 315 **Q.** And you also say here staff

18 removed a safe that you had on your bed?

19 **A. Yeah.**

20 316 **Q.** You were carrying a safe?

21 **A. No. I just had a safe on my bed,**

22 **because you kind of have to there.**

23 317 **Q.** Is this something that's provided

24 to you at the Booth Centre?

25 **A. No, no, it was mine.**

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1 318 **Q.** What was in the safe?

2 **A. Nothing at the time.**

3 319 **Q.** Did you have any other possessions

4 that you brought with you?

5 **A. Well, I usually have a whole bunch**

6 **of stuff, but at the moment I had just been robbed of**

7 **everything I own. That's why I went and got the safe.**

8 320 **Q.** Do you recall if you were violent

9 at that time?

10 **A. I've always had issues with anger**

11 **management, but I don't think I was violent at the**

12 **time. I haven't lashed out with violence in a long**

13 **time.**

14 321 **Q.** Do you recall the last time that

15 you did?

16 **A. No. I'm 48 years old. This is --**

17 **that's child's play.**

18 322 **Q.** In paragraph 13 of your affidavit,

19 you say that you stayed at Mission Services. You say

20 "this year" meaning 2022.

21 **A. Yeah, I was there for a little**

22 **while.**

23 323 **Q.** And you say you left after three

24 days because of the alcohol use in the shelter. That's

25 what you were referring to earlier?

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1 **A. Yeah, yeah. They have people**

2 **drunk in the middle of the night, running around the**

3 **building. It's impossible -- it gives me a headache.**

4 324 **Q.** In paragraph 14, you say "I do

5 better in my own tent where I have some control over

6 who is around me." Is it the case that you sometimes

7 prefer encamping because --

8 **A. No, I prefer to have my own**

9 **apartment.**

10 325 **Q.** I understand --

11 **A. I don't have my own apartment.**

12 **I'd like to have my own control.**

13 326 **Q.** I understand. But I think you

14 might be anticipating my questions, so let me ask it.

15 Is it the case that sometimes you prefer encamping --

16 **A. No.**

17 327 **Q.** -- because there are no rules to

18 follow in an encampment?

19 **A. No. It's not about no rules.**

20 **It's about following my rules.**

21 328 **Q.** So you get to set the rules in an

22 encampment --

23 **A. Yeah, and I get to enforce them,**

24 **too, as to where they pick and choose the rules and the**

25 **people that they want to enforce them to.**

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1 329 Q. So you prefer to set your own
2 rules. That's accurate?
3 A. **Not even, no. It's -- I prefer to**
4 **follow the rules, and everybody has to be equally --**
5 **equally expected to follow the rules just as much as**
6 **everybody else. You can't pick and choose who to**
7 **follow the rules and who can't. It's like -- not --**
8 **that's not the way it goes. Everybody has to follow**
9 **them equally, and they -- they play favourites at the**
10 **shelters.**

11 330 Q. In an encampment you get to set
12 the rules?

13 A. **I get to, yeah, and I get to**
14 **enforce them too.**

15 331 Q. In paragraph 15 --

16 A. **And I don't play favourites.**

17 332 Q. Understood. In paragraph 15, you
18 mention that you have a marijuana dependence?

19 A. **Had a marijuana dependence. I**
20 **beat it.**

21 333 Q. That's now no longer the case?

22 A. **Yeah, no, no.**

23 334 Q. And you say "I cannot use
24 marijuana in the shelter" --

25 A. **Yeah, I don't use anymore anyways.**
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1 335 Q. Okay. So that's no longer any
2 barrier?

3 A. **No. It's legal now, anyways, so**
4 **it doesn't matter.**

5 336 Q. You use the word "destabilization"
6 in this paragraph. What does that mean to you?

7 A. **My life, like, gets out of**
8 **control.**

9 337 Q. Does it mean losing your temper?

10 A. **No. I haven't lost my temper in a**
11 **long time. I took nine years of martial arts to**
12 **control my temper.**

13 338 Q. You're trained in martial arts?

14 A. **Yes, sir.**

15 339 Q. In which martial art?

16 A. **Judo.**

17 340 Q. Paragraph 16, you say "I am more
18 physically at risk in shelters because I do not do well
19 with crowds of strangers because it destabilizes me. I
20 have gotten into several fights in communal living
21 settings."

22 A. **I have in the past.**

23 341 Q. So when was the last time that you
24 were in a fight in such a setting?

25 A. **They really don't turn out to be**
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1 **fights. They're like -- just everybody yells and talks**
2 **and then walks away.**

3 342 Q. When was the last time that you
4 were in a fight like that?

5 A. **Like, what do you mean? Just an**
6 **argument?**

7 343 Q. Well, you're referencing fights in
8 this paragraph --

9 A. **Yeah, but, like, fights as in**
10 **physical violence or as in conversing? Like -- like,**
11 **physical or not physical?**

12 344 Q. Well, that's my question to you.
13 What does "fights" mean in this paragraph?

14 A. **Well, it's just arguments, really.**
15 **I should have picked my words better.**

16 345 Q. So you don't mean that there was
17 any physical confrontations --

18 A. **No. No, no.**

19 346 Q. In paragraph 17, you reference
20 three tents demolished by by-law within one month. Was
21 that during the period that's referenced in the chart
22 where you were moving a number of times over -- you
23 know, Carter Park, Gage Park, Ferguson --

24 A. **No, it was -- it would have**
25 **been --**

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1 347 Q. -- or was that more recent?

2 A. **It would have been Ferguson, Gage**
3 **Park. No, it was the first -- the first -- yeah, it**
4 **was, like, the first time that I was out. Those are**
5 **all older.**

6 348 Q. Where do the tents come from?

7 A. **I bought them.**

8 349 Q. So you would buy a tent --

9 A. **Canadian Tire, Walmart.**

10 350 Q. Then a tent would be lost; it
11 would be replaced? Is that how that went?

12 A. **I'd have to go get a new one.**

13 351 Q. In paragraph 18, you say you've
14 received tickets for being in public spaces.

15 A. **Yeah.**

16 352 Q. It says "but this has not happened
17 since COVID-19." Is that still true?

18 A. **I haven't had a ticket in a long**
19 **time.**

20 353 Q. Do you recall who was giving you
21 tickets?

22 A. **The Hamilton -- City of Hamilton**
23 **Enforcement officer.**

24 354 Q. By-law Enforcement?

25 A. **Yes.**

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1 355 Q. Do you recall what the tickets
2 were for?
3 A. What do they call it? No, I
4 don't. Trespassing.
5 356 Q. Have you ever received a trespass
6 notice?
7 A. Sure. Those are recent, though.
8 357 Q. They would say that you can no
9 longer remain in a particular place, and if you do,
10 there might be consequences?
11 A. That was recently, though. They
12 didn't do that before.
13 358 Q. And this reference that it's not
14 happened since COVID-19, does that mean before the --
15 A. Things have changed. Since it
16 ended, since they made this new -- this new
17 encampment -- what do they call that -- the new
18 encampment rules.
19 359 Q. Got it. When you say this has not
20 happened since COVID-19, you mean since the end of
21 COVID-19 --
22 A. Since the new encampment rules,
23 yes.
24 360 Q. Okay. I'm moving down now to the
25 last paragraph, paragraph 22. You say "oftentimes I
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1 have so many possessions that it's difficult to carry
2 it away with me."
3 A. Yeah.
4 361 Q. You again reference by-law and
5 police trucks and Bobcats. Earlier when you
6 referenced --
7 A. They still do that.
8 362 Q. I understand. I'm just saying,
9 earlier you referenced Bobcats as the bulldozers that
10 you were talking about? Is that true?
11 A. Yup. Yes, sir.
12 363 Q. Have you ever received notice that
13 an encampment was going to be dismantled?
14 A. Yes.
15 364 Q. And then left material behind when
16 you left?
17 A. Yes. Well, they -- they tell us
18 to leave anything that's garbage behind.
19 365 Q. And have you done that?
20 A. Of course.
21 366 Q. Have you ever been told that the
22 property that is left behind will be removed as
23 abandoned or as garbage?
24 A. Well, what they wanted us to do,
25 anything that we didn't need, we would just leave it
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1 behind and we were just following their instructions.
2 367 Q. And you've done that?
3 A. Yeah, of course. Who wouldn't?
4 You want to carry everything around? Even garbage?
5 No.
6 368 Q. Have you ever made the decision to
7 leave behind things that are not garbage --
8 A. No. No, no. That's also a matter
9 of your opinion, what garbage is and what isn't.
10 Because one man's garbage can be another man's
11 treasure.
12 369 Q. Have you ever decided that it
13 would be too difficult to move all of your possessions
14 and left goods behind that would then be disposed of?
15 A. No. I would leave people behind
16 to watch them, and then come back later. But it's
17 turned out that way, though, sometimes.
18 MR. DIACUR: All right. So we've come
19 to the point of the second affidavit that we've
20 received, Counsel. I'm going to put it on the
21 screen --
22 THE DEPONENT: But the second affidavit
23 is after the...
24 MS. CROWE: We have a -- sorry,
25 Mr. Diacur. Just one moment. We're going to show him
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1 that handwritten one.
2 MR. DIACUR: You found it, Counsel?
3 MS. CROWE: We did find it, yes.
4 MR. DIACUR: Okay, great. That's no
5 problem. Please, I'm happy to have him review it.
6 THE DEPONENT: The second affidavit was
7 done during the encampment camp rules, after the new
8 encampment rules?
9 MS. CROWE: I can't speak to that right
10 now, but we're going to have you take a look at it.
11 Okay?
12 THE DEPONENT: Okay.
13 MS. CROWE: If you could just give him
14 a moment to read it over, please.
15 MR. DIACUR: Not a problem. It's
16 brief. That's fine.
17 THE DEPONENT: Yeah, I remember that.
18 Six weeks in the middle of winter, kicked out of the
19 Salvation Army, out in the tent, 30 degrees below.
20 BY MR. DIACUR:
21 370 Q. You've had a chance to review this
22 now, sir?
23 A. Yes, sir. I vividly recall the
24 incident.
25 371 Q. In paragraph 1 of this second
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1 affidavit, April 25, 2023, there are a number of other
 2 locations that we haven't discussed yet. You reference
 3 a parking lot at Vine and Bay, John A. Macdonald. Is
 4 that a park or a school?
 5 **A. John A. Macdonald is at Vine and**
 6 **Bay.**
 7 372 **Q.** So that is the same location?
 8 **A. Yeah.**
 9 373 **Q.** Central Park, end of railroad?
 10 **A. Railroad Avenue, which is a block**
 11 **away from there.**
 12 374 **Q.** Right. Yeah, I know that area
 13 pretty well. I'm just trying to confirm all of the
 14 locations that you've indicated. And then --
 15 **A. They were just trying to push me**
 16 **down into the belly of the -- of the new place where**
 17 **they were putting everybody. I wouldn't -- I wouldn't**
 18 **have it.**
 19 375 **Q.** There's a reference to Wesley or
 20 the Wesley parking lot?
 21 **A. Yeah.**
 22 376 **Q.** And Beasley Park, and you say
 23 April 2022 for Beasley Park --
 24 **A. I never did stay in Beasley Park**
 25 **long.**

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1 377 **Q.** How long did you stay there?
 2 **A. Only overnight.**
 3 378 **Q.** You say that this encampment has a
 4 large loudspeaker.
 5 **A. Yeah, yeah, that's why I didn't**
 6 **stay long.**
 7 379 **Q.** That's a reference to Beasley
 8 Park?
 9 **A. Yeah.**
 10 380 **Q.** Who was operating the loudspeaker?
 11 **A. The security company.**
 12 381 **Q.** And what would they say?
 13 **A. I can't remember exactly, but it**
 14 **was a warning that anybody that was caught on this**
 15 **property would be woken up and kicked off.**
 16 382 **Q.** So a security company had a
 17 loudspeaker that would repeat that?
 18 **A. Yeah. Well, no, it was a live**
 19 **person on the other end.**
 20 383 **Q.** Did security personnel visit the
 21 park regularly?
 22 **A. Yes, because it was under**
 23 **construction at the time.**
 24 384 **Q.** Was this loudspeaker brought with
 25 them or was it somewhere --

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1 **A. Yes, it was the construction**
 2 **company.**
 3 385 **Q.** Oh, it was the construction
 4 company?
 5 **A. Yes.**
 6 386 **Q.** You were advised that it wasn't
 7 possible to remain on an active construction site? Is
 8 that fair?
 9 **A. No. We weren't even near the**
 10 **construction site, but it still kept waking us up.**
 11 387 **Q.** All of these locations you say
 12 since June 2022 -- and this is sworn in April of 2023.
 13 Are these the only locations that you stayed in during
 14 that period?
 15 **A. Yeah. Yeah, pretty much.**
 16 388 **Q.** But you do mention --
 17 **A. I was -- it was only because --**
 18 389 **Q.** -- Victoria Park. In fairness,
 19 you mention Victoria Park as well. That was also one
 20 of the areas?
 21 **A. Yeah, it was only short-term I was**
 22 **staying at the Salvation Army, kind of permanently,**
 23 **semi-permanently there. And I had just been put on a**
 24 **suspension for -- for -- I can't remember exactly --**
 25 **for misconduct of some sort, and they put me out in the**

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1 **streets in the middle of winter.**
 2 390 **Q.** Right. So this is paragraph 3 of
 3 your affidavit. You say you were asked to move your
 4 tent in January 2023 from the Vine location outside of
 5 the Hub, and you reference being kicked out of the
 6 Salvation Army due to unfair practices at the shelter.
 7 In fairness, I understand that the Salvation Army
 8 reported that you had accused someone of stealing your
 9 drugs at the Booth Centre at that time. Is that true?
 10 **A. Yup, it's true. I found them and**
 11 **that's when I got kicked out.**
 12 391 **Q.** Who did you suspect of the theft?
 13 **A. I'd rather not name names.**
 14 392 **Q.** But you found them?
 15 **A. Yeah.**
 16 393 **Q.** What did you do to them?
 17 **A. I put them in my pocket and then**
 18 **got kicked out.**
 19 394 **Q.** What does that mean, put them in
 20 your pocket?
 21 **A. I took my drugs back and put them**
 22 **in my pocket, because we found them.**
 23 395 **Q.** Did --
 24 **A. As soon as I found them, then they**
 25 **kicked me out.**

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1 396 Q. Did the person who had them --
 2 A. **They were not present at the time.**
 3 397 Q. Oh, I see. I understand that
 4 you've refused to re-attend at the Salvation Army Booth
 5 Centre since that time. Is that true?
 6 A. **No. I've been back and forth.**
 7 398 Q. You mention here that you moved
 8 your tent in January of 2023 from Vine and Bay to
 9 outside the Hub. You were physically able --
 10 A. **It's just safer there.**
 11 399 Q. You were physically able to pack a
 12 tent and move it?
 13 A. **Yeah.**
 14 400 Q. You say here that you lost a phone
 15 three times and a computer? Is that true?
 16 A. **Yeah, on a regular basis. I**
 17 **haven't been able to keep a phone or a computer in the**
 18 **last three years.**
 19 401 Q. You say --
 20 A. **And I've boughten one -- almost**
 21 **every month I buy one.**
 22 402 Q. Right. And you say that this is
 23 an impact of ongoing encampment evictions?
 24 A. **It's a -- and thievery.**
 25 403 Q. So it's not necessarily an impact
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1 of ongoing encampment evictions? It's theft?
 2 A. **It is. It's both.**
 3 404 Q. So it's not necessarily --
 4 A. **Because I'm not sanctioned -- it's**
 5 **because I'm not in one spot, that I'm moving around and**
 6 **my stuff is all in one thing, that it's very easy for a**
 7 **thief to grab my stuff out of my buggy.**
 8 405 Q. Understood. And you would go and
 9 buy a phone and a computer every month you're saying?
 10 A. **I'd have to because I need to have**
 11 **Internet access. In order to find a place or to get a**
 12 **hold of my mom or to get a hold of anybody, I need**
 13 **Internet access. So that means I need some sort of**
 14 **electronic device that'll get me online.**
 15 406 Q. Understood. Paragraph 4, you say
 16 "loss of fingernails." How did that occur?
 17 A. **Frostbite.**
 18 407 Q. You suffered frostbite. Have you
 19 received medical treatment for frostbite?
 20 A. **I -- I did it myself. I know how**
 21 **to deal with it. I was a boy scout for nine years.**
 22 408 Q. Have you gone to a hospital for
 23 frostbite?
 24 A. **Yes, of course.**
 25 409 Q. How often does that happen?
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1 A. **Only once or twice. I don't**
 2 **usually get frostbite, but I did get it that year.**
 3 410 Q. Have you ever been admitted to
 4 hospital for such injuries?
 5 A. **No. That's extreme, extreme**
 6 **frostbite. You don't really need to get admitted**
 7 **unless your, like, whole hand goes black.**
 8 411 Q. You mention here that you
 9 dislocated your shoulder while moving your tent. When
 10 did that happen?
 11 A. **Yeah. That was when the -- the**
 12 **City Enforcement was waking us up every day and making**
 13 **us move. I would wake up angry because they would be**
 14 **yelling at me, and then I would end up hurting myself**
 15 **because I would be moving myself too rapidly.**
 16 412 Q. Have you received medical
 17 treatment for your dislocated shoulder?
 18 A. **Yes.**
 19 413 Q. When did that happen?
 20 A. **I don't know. It would have been**
 21 **at the Hamilton -- or at the Hub.**
 22 414 Q. So when you moved from Vine and
 23 Bay to outside of the Hub?
 24 A. **Yeah.**
 25 415 Q. And has that healed, the
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1 dislocated shoulder?
 2 A. **Yeah, yeah. I feel pretty good**
 3 **now, actually.**
 4 416 Q. You also reference someone or
 5 maybe yourself ran over your foot with a buggy?
 6 A. **Oh, yeah.**
 7 417 Q. Was that somebody else or was
 8 that --
 9 A. **No, that was me. That was me.**
 10 **Yeah, that was me.**
 11 418 Q. How did that happen? Can you tell
 12 me?
 13 A. **First thing in the morning, trying**
 14 **to move my stuff.**
 15 419 Q. So it was as part of the move?
 16 A. **Yeah.**
 17 420 Q. Did you receive any medical
 18 treatment arising from that to your foot?
 19 A. **Yes, I received care from the Hub.**
 20 421 Q. Has that healed?
 21 A. **Yes.**
 22 422 Q. Have you ever entered a methadone
 23 program?
 24 A. **Never.**
 25 423 Q. Have you ever been referred to
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1 one?

2 **A. No.**

3 424 **Q. Has a doctor --**

4 **A. I'm able -- I'm able to quit and**

5 **control my opiate addiction issues with -- on my own.**

6 **Like, the last time I quit, I quit for ten years, and**

7 **that worked fine. I was -- I was alone for too long**

8 **and got very bored and started up again.**

9 425 **Q. Have you ever been referred to a**

10 **detox facility by the doctor?**

11 **A. No.**

12 426 **Q. Have you ever seen a Dr. Rachel**

13 **Lamont?**

14 **A. Maybe. Yeah, yeah, I believe so.**

15 427 **Q. Do you recall when that might have**

16 **been?**

17 **A. Recently.**

18 428 **Q. Have you seen her more than once?**

19 **A. I don't believe so.**

20 429 **Q. Do you recall what she did for**

21 **you, if anything?**

22 **A. No. I have a very, very tough --**

23 **I can't recall memories off the hop like that.**

24 430 **Q. While you were staying outside the**

25 **Hub after moving from Vine and Bay --**

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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.

7 [Electronically signed on August 25, 2024]

8 Lydia Pak, Court Reporter

9 Computer-Aided Transcription

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1 **A. Yeah.**

2 431 **Q. -- did your drug use increase?**

3 **A. No. Actually, it decreased**

4 **because I wasn't around anybody doing drugs.**

5 432 **Q. Was there an encampment outside of**

6 **the Hub or was it just you?**

7 **A. Just me.**

8 **MR. DIACUR: Just a moment's**

9 **indulgence, Counsel. I think I may be finished. I**

10 **just want to make sure I didn't inadvertently miss a**

11 **question. I'll just take one moment.**

12 **MS. CROWE: Okay.**

13 --- (Off the record)

14 **MR. DIACUR: Yes, thank you. Those are**

15 **all of my questions for this witness. Thank you, sir,**

16 **for attending and answering.**

17 **THE DEPONENT: Awesome.**

18 **MS. CROWE: Thank you. I just need a**

19 **couple of minutes, please.**

20 **MR. DIACUR: No problem at all. Can we**

21 **go off the record?**

22 --- Recess taken at 12:39 p.m.

23 (Deponent exited during recess prior to re-examination)

24 --- Whereupon proceedings adjourned at 1:09 p.m.

25

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TAB 59

<div><div>CORY MONAHAN - 80</div><div>1Court File No. CV-21-77187</div><div>2</div><div>3ONTARIO</div><div>4SUPERIOR COURT OF JUSTICE</div><div>5</div><div>6B E T W E E N:</div><div>7</div><div>8KRISTEN HEEGSMa, DARRIN MARCHAND, GORD SMYTH, MARIO</div><div>9MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL, CHRISTINE</div><div>10DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER, CASSANDRA</div><div>11JORDAN, JULIA LAUZON AMMY LEWIS, ASHLEY MACDONALD, COREY</div><div>12MONAHAN, MISTY MARSHALL, SHERRI OGDEN, JAHMAL PIERRE,</div><div>13LINSLEY GREAVES and PATRICK WARD</div><div>14Applicants</div><div>15</div><div>16- and -</div><div>17</div><div>18CITY OF HAMILTON</div><div>19Respondent</div><div>20</div><div>21--- This is the Continued Cross-Examination of CORY</div><div>22MONAHAN, an Applicant herein, on his affidavits, sworn</div><div>23May 12, 2022 and April 25, 2023, taken via Zoom</div><div>24videoconference, on Friday, the 30th day of August,</div><div>252024.</div><div>NIMIGAN MIHAILOVICH REPORTING INC.</div><div>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</div></div>	<div><div>CORY MONAHAN - 82</div><div>1</div><div>2TABLE OF CONTENTS</div><div>3</div><div>4INDEX OF EXAMINATIONS:PAGE NO.</div><div>5</div><div>6CORY MONAHAN; Previously affirmed.....83</div><div>7RE-EXAMINATION MS. CROWE:.....83</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div><div>25</div><div>NIMIGAN MIHAILOVICH REPORTING INC.</div><div>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</div></div>
<div><div>CORY MONAHAN - 81</div><div>1APPEARANCES:</div><div>2SHARON CROWEFor the Applicants</div><div>3</div><div>4BEVIN SHORESFor the Respondent</div><div>5JORDAN DIACUR</div><div>6</div><div>7MICHELLE SUTHERLANDCommunity Legal Clinic of</div><div>8York Region</div><div>9</div><div>10</div><div>11Also Present:</div><div>12Jojo JohnsonArticling Student,</div><div>13Gowling WLG (Canada) LLP</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div><div>25</div><div>NIMIGAN MIHAILOVICH REPORTING INC.</div><div>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</div></div>	<div><div>CORY MONAHAN - 83</div><div>1--- Upon commencing at 3:52 p.m.</div><div>2CORY MONAHAN; Previously affirmed.</div><div>3RE-EXAMINATION MS. CROWE:</div><div>4433Q. Okay, Mr. Monahan, I just have a</div><div>5few questions that are a follow-up to the exam that</div><div>6took place a couple of weeks ago, some of the things</div><div>7that you discussed with Mr. Diacur, okay?</div><div>8A. Okay.</div><div>9434Q. So the first is, have you</div><div>10discussed opioid use with any doctors?</div><div>11A. No.</div><div>12435Q. Okay. And what about overdoses?</div><div>13A. What about overdoses?</div><div>14436Q. Have you discussed your overdoses</div><div>15with any doctors?</div><div>16A. Only paramedics.</div><div>17437Q. Okay.</div><div>18A. And the social navigators.</div><div>19438Q. Do you know what a stimulant use</div><div>20disorder is?</div><div>21A. Like ADHD?</div><div>22439Q. Well, what's your understanding of</div><div>23what a stimulant use disorder is?</div><div>24A. Well, a disorder that is treated</div><div>25with stimulants.</div><div>NIMIGAN MIHAILOVICH REPORTING INC.</div><div>Hamilton, Ontario - nmreporting.ca - (905) 522-1653</div></div>

1 440 Q. Okay. So, you mentioned that
2 there was a room in Mission Services that was offered
3 to you at some point.
4 A. Yes.
5 441 Q. Do you remember when that was?
6 A. It was in the middle of the summer
7 last summer, I believe, or maybe the summer before
8 that.
9 442 Q. So the middle of summer either
10 2023 or 2022?
11 A. Yeah, I can't exactly remember, it
12 was a while ago.
13 443 Q. Okay. And so Mission Services,
14 what kind of facility is that?
15 A. It's a -- well, it's not there
16 anymore, but it's drop in and housing for homeless, and
17 they have treatment for alcoholism there.
18 444 Q. And --
19 A. So basically everybody is drunk.
20 445 Q. Okay. And why isn't it there
21 anymore?
22 A. Oh, they moved it from Jane Street
23 North, because of the change in the area, to Victoria
24 and King.
25 446 Q. And do you know if you were

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1 expected to pay rent?
2 A. Oh, yes.
3 447 Q. Do you know how much?
4 A. Around 400.
5 448 Q. Do you know how long you're
6 allowed to stay there?
7 A. It's an 11-month program.
8 449 Q. How many months?
9 A. Eleven.
10 450 Q. And you indicated that it didn't
11 feel right to you; why didn't it feel right?
12 A. Well, I don't like being around
13 alcoholics.
14 451 Q. Why is that?
15 A. Well, I was born fetal alcohol,
16 and I try to stay away from that kind of thing.
17 452 Q. Okay. You mentioned that David
18 Buckle and Cole Gatley had offered you a dorm at
19 Mission Services, what does a dorm --
20 COURT REPORTER: I'm sorry, Ms. Crowe,
21 your audio was cutting out in that question, if you
22 could repeat it.
23 MS. CROWE: Sure.
24 BY MS. CROWE:
25 453 Q. David Buckle and Cole Gatley had

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1 offered you a dorm room at Mission Services --
2 A. No, not dorm, it's a -- it was a
3 private room with the chance to -- like, you can use it
4 for 11 months and pay rent, and then, and then get back
5 into the community like that. I can't remember the
6 exact word that they used -- transitional, it's called
7 "transitional housing," and the rooms are -- that's
8 what the program is called.
9 454 Q. Is --
10 A. But I missed my appointment by
11 about half an hour to pay the rent and I lost a chance
12 at that.
13 455 Q. Okay. You talked about one time
14 getting service restricted from Good Shepherd because
15 you were doing arts and craft?
16 A. I was making a bong.
17 456 Q. Right. And you mentioned that you
18 were using a pocket knife --
19 A. Yes.
20 457 Q. -- that was about the size of your
21 hand.
22 A. Yes.
23 458 Q. So I want to clarify, what was the
24 size -- and you said it was about 5 or 6 inches?
25 A. Yeah, it was just a regular pocket

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1 knife, like nothing special.
2 459 Q. What was the size of the blade?
3 A. Like, no, no bigger than my hand.
4 460 Q. So the blade was the size of your
5 hand --
6 A. Yes.
7 461 Q. -- or the entire knife was the
8 size of your hand?
9 A. No, the blade -- from here to
10 here, the blade was no bigger than that. I'd say two
11 and a half, three inches.
12 462 Q. Okay. Thank you. You mentioned
13 that you were restricted from the Salvation Army in
14 2023?
15 A. Mm-hmm.
16 463 Q. Do you remember for how long?
17 A. Uh, what month?
18 464 Q. About a month?
19 A. What month was it?
20 465 Q. Oh.
21 A. I can't remember, because in 2023,
22 I believe that it was in the wintertime, I was
23 restricted for eight weeks, in the middle of winter.
24 466 Q. Okay. And then you mentioned that
25 at some point during the encampment evictions, the City

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1 was waking you up every day and you said first thing in
2 the morning; do you know what time?

3 A. Sometimes it wasn't even light out
4 yet.

5 467 Q. I'm sorry?

6 A. Sometimes it was still dark.

7 468 Q. Okay. Do you have any idea of a
8 timeframe though?

9 A. I can't really be sure because at
10 this moment, I don't know what time the sun came up.

11 MS. CROWE: Okay. Okay, thank you, Mr.
12 Monahan, those are my questions.

13 THE DEPONENT: Thank you.

14 --- Whereupon proceedings adjourned at 3:59 p.m.

15 I HEREBY CERTIFY THE FOREGOING
16 to be a true and accurate
17 transcription of my shorthand notes
18 to the best of my skill and ability.
19
20
21

22 _____
23 Dayne Snell, Court Reporter
24 Computer-Aided Transcription
25

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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 4

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