

LIFE ESIDIMENI ARBITRATION

**HELD AT: EMOYENI CONFERENCE CENTER, 15 JUBILEE ROAD,
PARKTOWN, JOHANNESBURG**

DATE: 4th DECEMBER 2017.

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SESSION 1.

BEFORE ARBITRATOR JUSTICE MOSENEKE –JUSTICE MOSENEKE

10

WITNESSES:

LESEGO BALOYI

NOMSA RADEBE

MR. MADITSI

Session 1

ARBITRATOR JUSTICE MOSENEKE: Thank you, you may be seated. Let's start with you Advocate Hutamo. What have been this morning at the high court?

ADVOCATE TEBOGO HUTAMO: Thank you Justice. Dr. Silabano has since 5 launched the urgent application to set aside the subpoena correct was issued and served against him. It was set down for hearing on the 28th of November after argument having been presented before the judge, judgment was reserved to be delivered this morning. We, accordingly attended at court for the handing down of the judgment and the application was dismissed, correct then had the effect that Dr. 10 Silabano had no other basis to object to come before these proceedings. But soon after the judgment having been granted, he then proceeded to make an application for leave to appeal the judgment dismissing his application which was also dismissed. So, where we are and is that Dr. Silabano is expected to present himself before these proceedings tomorrow at 09:00. So, that is where the situation at and 15 we look forward for his attendance in these proceedings.

ARBITRATOR JUSTICE MOSENEKE: Thank you, ell done and congratulations to the team that argued. Well, any comment from any of the Counsel on this issue

ADVOCATE LILLA CROUSE: Nothing from our side, thank you Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Advocate Hassim?

20 **ADVOCATE ADILA HASIM:** Nothing from our side either, thanks Justice.

ARBITRATOR JUSTICE MOSENEKE: Advocate Groenwald?

ADVOCATE DIRK GROENWALD: Nothing from our side, thank you Justice

ARBITRATOR JUSTICE MOSENEKE: Evidence leaders.

EVIDENCE LEADERS: No comment.

ARBITRATOR JUSTICE MOSENEKE: You have no comment. Very well, we will then proceed. We started a little late, I think we have to get on with it. Advocate Crouse?

ADVOCATE CROUSE: Thank you Justice, could we just hand up a few exhibits LO106 is an affidavit by Radebe, LS107 to 110 are photographs. We will refer to them in due course. Then my learned friend is going to lead the next witness. Thank you.

ARBITRATOR JUSTICE MOSENEKE: Very well, exhibits are admitted to the record. Mr. Skibi.

ADVOCATE SKIBI: Thank you Justice, we are calling the next witness, Lesego Baloyi, she will take an oath, she will testify in English, however, there is an interpreter sitting next to her if she has an experience with some problems, the interpreter will offer assistance to her.

ARBITRATOR JUSTICE MOSENEKE: Would you put your full names on record?

LESEGO BALOYI: Lesego Rebecca Baloyi.

ARBITRATOR JUSTICE MOSENEKE: Ms. Baloyi, do you swear that the evidence you are about to give will be the truth and nothing but the truth? And if so, please raise your right hand and say, so help me God.

LESEGO BALOYI: So help me God.

ARBITRATOR JUSTICE MOSENEKE: In which language do you want to testify?

LESEGO BALOYI: I will testify in English, in case words are not there or I don't understand what it is in English, I will go to my mother tongue which is Tswana.

5**ARBITRATOR JUSTICE MOSENEKE**: Setswana?

LESEGO BALOYI: Yes.

ARBITRATOR JUSTICE MOSENEKE: Okay ma. Mr. Skibi

ADVOCATE NZAME SKIBI: Thank you Justice. Ms. Baloyi, where do you reside?

LESEGO BALOYI: I reside in 2724 uMhlaba Street, Ebony Park, Extension 6.

10**ADVOCATE NZAME SKIBI**: Where is that?

LESEGO BALOYI: It's in Tembisa, the side of Midrand.

ADVOCATE NZAME SKIBI: We are going to talk about one of the survivors in the Gauteng Marathon project, Julia Malinzwi Hlatle. How are you related to her?

LESEGO BALOYI: Malinzwi is my sister, she is elder than me.

15**ARBITRATOR JUSTICE MOSENEKE**: What is Malinzwi's surname?

LESEGO BALOYI: Malinzwi Hlatle.

ARBITRATOR JUSTICE MOSENEKE: Malinzwi Hlatle.

LESEGO BALOYI: Yes, Justice.

ADVOCATE NZAME SKIBI: How old is Malinzwi.

LESEGO BALOYI: She will be turning 52 on the 31st of December.

ADVOCATE NZAME SKIBI: Where is Malinzwi now?

LESEGO BALOYI: She is at Life Banang in Mainrief.

ADVOCATE NZAME SKIBI: Malinzwi, is she one of the survivors in the Gauteng 5Marathon project?

LESEGO BALOYI: Yes, she is.

ADVOCATE NZAME SKIBI: Where was she before the Gauteng Marathon Project?

LESEGO BALOYI: She was in life Randfontein.

10**ADVOCATE NZAME SKIBI:** Since when?

LESEGO BALOYI: She has been in Randfontein since 1983.

ADVOCATE NZAME SKIBI: s she admitted a patient at Randfontein Life Esidimeni?

LESEGO BALOYI: Yes.

15**ADVOCATE NZAME SKIBI:** Was she taking any medication?

LESEGO BALOYI: Yes, she is taking medication.

ADVOCATE NZAME SKIBI: All right. Is she able to talk?

LESEGO BALOYI: Yes, but she has limited speech and most of the time she doesn't make sense of what she is saying.

ADVOCATE NZAME SKIBI: Can she be able to walk by herself?

LESEGO BALOYI: Sorry?

ADVOCATE NZAME SKIBI: Is she able to talk, is she mobile?

LESEGO BALOYI: Yes, she is.

5**ADVOCATE NZAME SKIBI:** Did she go to school?

LESEGO BALOYI: Never in her life.

ADVOCATE NZAME SKIBI: What is wrong with Malinzwi? Briefly, just tell us.

LESEGO BALOYI: Her diagnosis?

ADVOCATE NZAME SKIBI: What is her mental health condition?

10**LESEGO BALOYI:** We were told that she is severely mentally disabled.

ADVOCATE NZAME SKIBI: When was she diagnosed with that, perhaps, do you know?

LESEGO BALOYI: She is older than me but what I have heard from my family, when she s one-year-old they realized there was something wrong her.

15**ADVOCATE NZAME SKIBI:** When was she referred to Randfontein Life Esidimeni, do you know?

LESEGO BALOYI: She went in 1983.

ADVOCATE NZAME SKIBI: Okay. At Randfontein Life Esidimeni, was she taking medication there?

LESEGO BALOYI: Yes, she was taking medication.

ADVOCATE NZAME SKIBI: How was her condition after she was at Randfontein Life Esidimeni?

LESEGO BALOYI: At Randfontein, Julia was well cared for. Her condition was far much better because I remember when I was growing up, my sister was very violent. Hence, my parents moved me to go and work in North Western Rustenburg because of the violent situation we experienced at home. Because sometimes she would attack us, we had to run and hide until they calm the situation. So, she was at Life, things became better. She became more calm.

10 **ADVOCATE NZAME SKIBI:** Right, in May -

ARBITRATOR JUSTICE MOSENEKE: I would ask you to repeat her age again, her present age.

LESEGO BALOYI: She is turning 52 years on the 31st of December.

ARBITRATOR JUSTICE MOSENEKE: And I am asking the question because I cannot understand why she would be at Life Baneng which understood to be a sanctuary for young people.

LESEGO BALOYI: Justice, I am not sure. It's because my sister was in Randfontein and then moved to Takalani, then a lot happened at Takalani. And only this year April, I think it was on the 8th or the 7th, I got a call from a social worker telling me that they will be moving her to Life Baneng, is it fine or do we prefer Selby. So, we said Life Baneng because Malinzwi's home is at Zone 9

Meadowlands. So, Baneng is nearer to us. So, that is how we said yes, it's fine. But other than that, we don't know why they choose Baneng.

ADVOCATE NZAME SKIBI: Thank you Justice. Some events unfolded in May 2016 which led some of the patients being moved Randfontein Life Esidimeni. 5Malinzwi, was she still there at that time?

LESEGO BALOYI: Was she still at Life Baneng?

ADVOCATE NZAME SKIBI: Was she at Randfontein?

LESEGO BALOYI: No, she was moved from, okay yes, she was moved from Randfontein in June, in May 2016. Not June, May 2016.

10**ADVOCATE NZAME SKIBI:** Where s she moved to?

LESEGO BALOYI: Takalani, in Soweto.

ADVOCATE NZAME SKIBI: Were you informed about the move when she was to be moved from Randfontein to Takalani?

LESEGO BALOYI: Nobody called us, we never got information that she was being 15moved that day.

ADVOCATE NZAME SKIBI: How did you learn that she was to be moved?

LESEGO BALOYI: When I got to work that Friday, a colleague of mine suggested that she phone a cousin sister who stays in Randfontein because if I can explain what happened before. That week e got information that patients were bein moved 20without family members knowing. So, we were already panicking. So, I was sharing information what was happening about the move with my colleague. Hence, that

Friday she suggested that the cousin sister go to Life Randfontein, enquire about my sister if she was still there. So, she got there, she found my sister on a queue to get on the bus to be transferred. So, she asked the personnel at Randfontein if we were aware that she was moving that day. They said yes, they did phone us. We didn't respond to our phones and they sent messages and we still didn't respond. Honestly speaking, the numbers of my 3 sisters including me where in the records because we where visited her as she doesn't have parents. But, we never got a message, we never got a call. So, it simply means they used a number of somebody we don't know. If they did call.

10 **ADVOCATE NZAME SKIBI:** Then ultimately, did you go and see where she was taken or moved to, that is Malinzwi?

LESEGO BALOYI: We had to go the following day, the Saturday because they moved her on Friday. Because already as we panicked during the week, we were planning to visit her on Saturday to ensure that she was fine. So, we had to drive as early, I think it was before 8 to look for Takalani because number 1, we didn't know where Takalani was.

ADVOCATE NZAME SKIBI: So, nobody told you the physical address of where Takalani was where you sister was moved to?

LESEGO BALOYI: No, even if they were asked by a cousin sister of a colleague that you phone them, you didn't get them, she sent me now, are you going to communicate with her? They promised me yes, but they did not.

ADVOCATE NZAME SKIBI: Yes, the following Saturday and then you visited your sister, Malinzwi at Takalani. Did you manage to see her on that Saturday?

LESEGO BALOYI: Yes, we did. I was with my sister and my baby daughter.

ADVOCATE NZAME SKIBI: Just tell us when you found her, where was she and show was the place where she was taken to, that is Takalani?

LESEGO BALOYI: Number 1, when we got to the gate, security was limited. Yes, it's got a nice gate there, a bigger one but there was only one security at the gate. Maybe I am lying if I say security was not that well. Number 2, visibility of personnel observing mentally challenged patients was not visible. Number 3, it was raining, it was a very cold day. I remember very well because we were having boots and jackets so warm. But unfortunately for her, she was walking barefooted, she was wearing a small tight skirt which was even tattered. So, that is one thing that made us know that, that was not the place to be because if she was in Randfontein nothing of such had ever happened before.

15 **ADVOCATE NZAME SKIBI:** Did you get any warm clothes for her when you found her in that condition?

LESEGO BALOYI: Yes, we did not have a choice but to go to the shops and buy the shoes and jackets for her to be warm.

ADVOCATE NZAME SKIBI: What about food, had she eaten?

LESEGO BALOYI: When she ate, she ate as if she was hungry. I don't know whether maybe she had little food in the morning because I can't say maybe she didn't eat because it was Day 1. But she ate showing that she was very hungry.

ADVOCATE NZAME SKIBI: How was her physical appearance, was she neat?

5**LESEGO BALOYI:** Day 1 was better because I think it was after they were moved, they were still clean. But the clothes that she was wearing, for me they were a concern Justice because she has got a bigger body. So, you can imagine somebody having a bigger body wearing a tight skirt whereby the spare meats where protruding, I don't know whether it is the right term to use. But it was not a
10nice sight to see.

ARBITRATOR JUSTICE MOSENEKE: What was protruding?

LESEGO BALOYI: Haa Justice, the spare meats.

ARBITRATOR JUSTICE MOSENEKE: The spare meats, you are very unkind.
Okay, let's go on.

15**ADVOCATE NZAME SKIBI:** Did you ever have a look at her file to see whether there where some prescription for her or whatever, on that 1st day? We are on the 1st day of your visit.

LESEGO BALOYI: Are you asking if I saw her file?

ADVOCATE NZAME SKIBI: Yes, on that 1st day.

20**LESEGO BALOYI:** When we got to Takalani Day 1, we were told that all the – because they said the professional, professional staff was not there. So, we did not

know whether she had medication, we did not know whether she was transferred with her ID and all that because questions that we asked, they said they can only be responded to on Monday when the professional staff was there. So, it was only the caregivers.

5 **ADVOCATE NZAME SKIBI:** So, you have already told us that you bought some clothes and then did you have a subsequent visit thereafter?

LESEGO BALOYI: Yes, because we were not happy with what we saw we had to visit her. I think we visited her after a fortnight as we were coming from Tembisa, it is a distance to go to Soweto like now and then.

10 **ADVOCATE NZAME SKIBI:** How was she when you visited her the 2nd time?

LESEGO BALOYI: She was not good at all Justice. She smelt, dirtily so. She was wearing clothes that belonged to another patient even though we bought clothes and we had marked them. So, it simply showed that there was no any order of taking care of the patients' clothes because if I am Lesego Baloyi and my clothes are marked Lesego Baloyi and I am wearing Virginia Lehola's clothes then there is something wrong there. And she was forever hungry when we visited her. So, then I could say it simply means she was not getting enough food.

ADVOCATE NZAME SKIBI: Yes, how was her reaction or because you indicated that when she was at Life Esidimeni in Randfontein, her condition improved a lot.
20 How was her condition when you visited her the 2nd time?

LESEGO BALOYI: I remember vividly Justice that the 1st visit she was still bubbly. When she saw us she would jump and call the name of her favourite sister correct

is Mapule because whenever we come she has to ask about her. But as visits, we went to visit her more, she would come in, she would look low. She wouldn't even jump, she would not be excited that she was visited. And one thing that bothered us, she changed in complexion, she became dark. She lost weight drastically so. 5Yes, she was obese, we wanted her to lose weight but not that way. Because now she is having a nice figure but out of hunger.

ARBITRATOR JUSTICE MOSENEKE: [indistinct 0:20:24], if I said it, it would have been politically incorrect.

LESEGO BALOYI: Justice, the issue is 1, when she was in Randfontein, they were 10trying to get her to lose weight but they couldn't. in Takalani, it took them 2 months for her to be that way. So, it really raised eyebrows that it took years for Life Esidimeni to win that battle of her losing weight because of her having high blood. So, they thought that maybe if she reduced her weight it would be far much better. And she is diabetic as well.

15**ADVOCATE NZAME SKIBI:** What did you notice about her dressing or wearing clothes or taking off or values? What is it that you observed or you -

LESEGO BALOYI: That's another concern that I was going to mention Justice. That what we realized again and what hurts me more even now when I have to talk about it is that she was taking off her clothes now. And a concern was that we were 20told by male patients that she is taking off her clothes. And more to say like I said when I began, caregivers were not visible observing them when they were seated together at their leisure times as they were relaxed outside. So, it was a serious

concern for us as a family that what would happen to her as she took clothes off like that. Imagine somebody with a bigger body, 50 years old nude amongst other patients, especially male patients. So, it was a serious concern that I even had to raise that how are they helping her, what triggered that problem. But I never got response to that.

ADVOCATE NZAME SKIBI: How did you learn that she was taking off her clothes?

LESEGO BALOYI: From male patients that had speech because when we got there they would say Julia, mama [indistinct 0:22:35]. Not knowing that my sister is not the mother because our mother passed on in 2011. So, they would tell us your family members used to take off her clothes and they would call her “Julia, your mom is here”. And my mom passed on some years back.

ADVOCATE NZAME SKIBI: Didn't you hear that not even from her female counterparts from the male person.

LESEGO BALOYI: Yes, most of the time when we arrived at Takalani, you will find the males at the 1st gate after the main gate. There would be one patient who is male opening the gate for you and closing. And the males are the ones that like coming to you most of the time especially when they see female visitors. So, e had this specific, I remember him very well, white patient, he would forever tell us about Julia's progress. She didn't eat, she took off her clothes, she did this. Because she knew that if he tells us something about Julia, when we taking out food, we will give him a share. So, he leadership update up even though there were others that were

black that would give us feedback. But most of them were males that told us about her taking off her clothes. That is why it raised a concern. And if I may mention Justice, I remember we ere at a march in October last year, I am the one who presented the memorandum and I asked her about her taking off her clothes -

5 **ARBITRATOR JUSTICE MOSENEKE**: Who are we, who had a march?

LESEGO BALOYI: The family members.

ARBITRATOR JUSTICE MOSENEKE: The family committee.

LESEGO BALOYI: Not only the committee, the family members as well and the people that were supporting us.

10 **ARBITRATOR JUSTICE MOSENEKE**: And it is the same October march we heard about?

LESEGO BALOYI: Yes, it is 2015 October – sorry 2016 because it was moved.

ARBITRATOR JUSTICE MOSENEKE: And from where to where did you march?
Mary Fitzgerald?

15 **LESEGO BALOYI**: To the offices -

ARBITRATOR JUSTICE MOSENEKE: Offices of the department?

LESEGO BALOYI: Yes.

ARBITRATOR JUSTICE MOSENEKE: Whom did you find there?

LESEGO BALOYI: We found Madam Manamela and the other colleagues, I don't
20 remember the other names because I addressed the issue of undressing with her.

ADVOCATE NZAME SKIBI: No, let the interpreter talk, interpret that.

LESEGO BALOYI: Sorry.

INTERPRETER: I found other members, Mrs Manamela.

LESEGO BALOYI: And some I don't remember their names.

5**ARBITRATOR JUSTICE MOSENEKE:** Okay, you may proceed.

LESEGO BALOYI: Yes, so after we handed the memorandum, I spoke to her
aside about my concern about my sister. That is when she said I shouldn't worry
about something that has not happened yet. Because I was worrying about her
safety. What would happen to her if she took off her clothes especially amongst
10male patients.

ARBITRATOR JUSTICE MOSENEKE: So, you spoke to Madam Manamela as a
concern.

LESEGO BALOYI: Yes, Justice I did. And she said I shouldn't worry about
something that hasn't happened yet and they will try and assist Malinzwi to no more
15take her clothes off by making a jumpsuit or a bodysuit that leadership unzip at the
back, so it will take her longer for her to take off her clothes. And then I asked if
there is a therapy that they could use on her, maybe it was a concern of therapy of
her taking off her clothes. And she said they will look at that and assist as well.
What amaze me is that she left Takalani this year in April but from October last
20year, we have even seen one of the jumpsuits that were promised Justice.

ADVOCATE NZAME SKIBI: Thank you Justice. I am going to refer you to ILA7 in front of you, 107, I am sorry. It is a photograph, who took that photograph?

LESEGO BALOYI: It is my sister Lefentse.

ADVOCATE NZAME SKIBI: When was the photograph taken?

5**LESEGO BALOYI:** It was taken when she was still in Randfontein, I can't recall correct year but Malinzwi was still in Randfontein Justice.

ADVOCATE NZAME SKIBI: Was it in 2015 or earlier than that?

LESEGO BALOYI: Yes, I think it is 2015 or beginning of 2016.

ADVOCATE NZAME SKIBI: Where was this taken, this photograph?

10**LESEGO BALOYI:** In Randfontein Life Esidimeni Justice.

ADVOCATE NZAME SKIBI: Who is depicted in this photograph.

LESEGO BALOYI: On the left is my beautiful bubbly sister Malentswe and on the right is me, Lesego Baloyi.

ADVOCATE NZAME SKIBI: And looking at this photograph, she was still having a
15big body, am I correct?

LESEGO BALOYI: Yes, Justice.

ADVOCATE NZAME SKIBI: As you testified earlier that she had a big body or she had weight. So, who is the 2nd person appearing on this photograph?

LESEGO BALOYI: It's me. Lesego Baloyi.

ADVOCATE NZAME SKIBI: Quickly one is your picture in these 2 photographs?

LESEGO BALOYI: Sorry.

ARBITRATOR JUSTICE MOSENEKE: The witness on ELLA107, she is with her sister. She is the person on the right of the photograph.

5**ADVOCATE NZAME SKIBI:** Thank you Justice. So, if you go to ELLA109, do you have it in from the of you?

LESEGO BALOYI: Yes, Justice.

ADVOCATE NZAME SKIBI: When was that photograph taken?

LESEGO BALOYI: 1st day when she arrived at Takalani, that is when we found
10her.

ADVOCATE NZAME SKIBI: No, no, no, 108 madam. ELLA108.

LESEGO BALOYI: Okay, sorry. 108 is when the patients where moved.

ADVOCATE NZAME SKIBI: Who took the photograph there?

LESEGO BALOYI: That photograph was taken by one of the family members.

15**ADVOCATE NZAME SKIBI:** What is depicted in this photograph?

LESEGO BALOYI: Patients are moved, I don't know, I don't see anyone who is a staff member to observe them in the bus there unless maybe they are wearing private clothes because I think they needed somebody accompanying them and observing them in the bus. And we are not sure their belonging maybe there was a

trailer or what. So that at least they have got changing clothes when they get to the destination they were taking them to.

ADVOCATE NZAME SKIBI: So, is Malinzwi depicted in that picture, ELLA108.

LESEGO BALOYI: No, she is not appearing on that one.

5**ADVOCATE NZAME SKIBI**: All right, if you move to ELLA 109, when was that photograph taken? It is a photograph indeed.

LESEGO BALOYI: I am the one that took that photograph, 1st day when I found Malinzwi at Takalani Justice.

ADVOCATE NZAME SKIBI: It was your 1st visit you say.

10**LESEGO BALOYI**: Yes, a day after she was moved from Life Esidimeni Justice.

ARBITRATOR JUSTICE MOSENEKE: So, you say this flared skirt was not hers?

LESEGO BALOYI: No, it wasn't. My sister has a problem of not wanting to wear the clothes that she wore the previous day. So, I am thinking because we found other patients from Life still wearing their tracksuits from Esidimeni. Which simply
15means that it was clothes from yesterday. So, with her maybe they looked for something just for her to wear.

ARBITRATOR JUSTICE MOSENEKE: Om ELLA 9, I see members seated on the tables behind her.

LESEGO BALOYI: Yes, Justice. They were in the dining room.

ARBITRATOR JUSTICE MOSENEKE: And did male and female mental healthcare givers dine at the same place?

LESEGO BALOYI: Yes, Justice. They did.

ARBITRATOR JUSTICE MOSENEKE: Did they sleep in the same wards?

5**LESEGO BALOYI:** With the wards, I don't want to lie, I am not sure. I will be lying because the one when we got there, we were shown that these were their beds where Malinzwi would sleep. But because it was only us visiting at that moment, we don't know whether it was mixed or not. I don't want to lie.

ARBITRATOR JUSTICE MOSENEKE: You know in the past we have had
10evidence of complaints of rape at Takalani.

LESEGO BALOYI: Hence my concern to Dr. Mnamela Justice that I raised that my sister was worse because she was taking off her clothes. Imagine what would have happened. So, if somebody is going to tell you that don't worry about what has not happened yet, that is why I say it really pains me when I go off to think of my sister.
15Look at that body, imagine that person naked amongst other people.

ARBITRATOR JUSTICE MOSENEKE: Did she ever complain about any sexual assault?

LESEGO BALOYI: Like I explained Justice, with her she doesn't have much speech. Her speech is limited, she wouldn't explain to us. But like I am saying, we
20don't know if it had happened. I don't think if it had happened, somebody would have had the guts to say this had happened to your sister.

ARBITRATOR JUSTICE MOSENEKE: And do you know what was the proportion of members and women at Takalani?

LESEGO BALOYI: Sorry, I did not get that.

ARBITRATOR JUSTICE MOSENEKE: What was the proportion of members and 5women when your sister was at Takalani?

LESEGO BALOYI: justice, I don't know.

ARBITRATOR JUSTICE MOSENEKE: But you have never asked if she shared the ward with men.

LESEGO BALOYI: At Takalani, they were so edgy, they never wanted to give us 10information. That is why even the photos, they did not want to take photos of patients because the issue was already on the media. So, they would tell us don't take photos, maybe you will post them. So, when you ask questions, they would never answer questions.

ARBITRATOR JUSTICE MOSENEKE: But where would you see her when you 15visit her? Was there a visiting day somewhere because I get the impression that you never went to her ward.

LESEGO BALOYI: We went on Day 1 because we asked for the loo. So, that is when we passed the ward and then the personnel told us they are sleeping here. She just indicated the beds. But, more than that they never gave us information. 20Like we asked about the ID, we asked about the medication, they did not have answers. They said only during the week you could get that answer. So, the visiting

when they started Justice, we leadership sit in the office. There were sofas there, yah, that is the term that I can use. So, they would sit us there, we wait, then they would bring he. As time went by, they had a passage behind the office. They put chairs there, that is where we sat because I remember it was cold and when we passed going to the bathroom, I enquired about the place not having heaters and what is worse were the wards or the rooms at Takalani is that if I can point up there, in between there is space opening up there. For me, it simply means a lot of cold goes in that room. Hence, I asked about the heaters and they said they were still going to take care of them.

10 **ARBITRATOR JUSTICE MOSENEKE:** So, between the roof, the height of the wall, there would be space which should allow cold, warm air in?

LESEGO BALOYI: Yes, Justice. And there were no heaters. Then when I asked that is when they saw that we asked a lot of questions and the next visit we were taken to the office to sit there and they would take more than 30 minutes because it showed that they were trying to prepare her. Because whenever we visited her, she would be dirty and my sister would bring wipes and try to clean her because she would smell and was dirty and would try to clean her. Hence, then after we complained about her smelling, they would try to prepare her but it was still a problem because she would still come with clothes that were not hers and still not clean enough. You can imagine when you try to visit your loved ones and you can't hug them close enough, it is as if you are embarrassed of your family member because of how she smelt. It was not a good sign at all.

ADVOCATE NZAME SKIBI: So, did you manage to go to her bedroom to see if there were sufficient blankets?

LESEGO BALOYI: We were passing, we went to the bathroom, we were pointed at the bed. It was still there and we couldn't do anything and we were told everything will be explained to us if we come during the week.

ADVOCATE NZAME SKIBI: All right, if you go to ELLA110, it is also a picture of Malinzwi. Who took that picture?

LESEGO BALOYI: It's me at my sister's place because we took her for a visit. My sister was on leave so she decided to take her for a week so that she can go and clean her and maybe when she returns to Takalani she will be better. If you look there, it is at home, not home Takalani but in a house. So, that is my sister's house.

ADVOCATE NZAME SKIBI: Looking at that picture, how do you describe that if you can?

LESEGO BALOYI: She had really deteriorated when it comes to the weight. At home I am the darkest one. This is the darkest complexion you can get at Hlatle's family. But look at her on that picture, I was even a mlungu on her because I was a bit lighter. That is how dark she was. And look at the body, if you can compare the 2 bodies from 107, you can see she was still having her body. But if you look at 110, my sister had drastically lost weight. So, it was not a lovely picture to look at because as I can remember my sister from before, she had a fuller figure, she was light in complexion Justice, she was beautiful. So, 3 months, that is how long it took Takalani for my sister to look like that. Hardly 3 months at a place.

ADVOCATE NZAME SKIBI: Sorry, in correct month did you take ELLA110?

LESEGO BALOYI: It was August.

ADVOCATE NZAME SKIBI: Do you perhaps remember the date, it is a very important date?

5**LESEGO BALOYI:** It was during that week of women's day holiday. That is when my sister took some days and was with her for a few days at home.

ARBITRATOR JUSTICE MOSENEKE: Well, I see a number of other differences between ELLA07 and ELLA110 isn't it, there are obvious differences right. You have the pictures before you?

10**LESEGO BALOYI:** Yes, I do. Those are 2 different people if you look closely at them. And that is what pained us.

ARBITRATOR JUSTICE MOSENEKE: That is besides the complexion.

LESEGO BALOYI: Yes, Justice.

ARBITRATOR JUSTICE MOSENEKE: She's obviously, she has low levels of
15circulation so seemingly, well looking at her hair she is well-groomed isn't it?

LESEGO BALOYI: In which picture?

ARBITRATOR JUSTICE MOSENEKE: 107.

LESEGO BALOYI: 107, it is when she was still at Life Randfontein.

ARBITRATOR JUSTICE MOSENEKE: I am comparing the 2.

20**LESEGO BALOYI:** Yes, Justice.

ARBITRATOR JUSTICE MOSENEKE: Her clothing seem to fit her well.

LESEGO BALOYI: Yes, Justice.

ARBITRATOR JUSTICE MOSENEKE: You can see her eyes, they actually sparkle there, they are alive.

5**LESEGO BALOYI:** Yes, Justice.

ARBITRATOR JUSTICE MOSENEKE: And her eyes have considerably retreated in the sockets in 110, isn't it so?

LESEGO BALOYI: Yes, Justice.

ARBITRATOR JUSTICE MOSENEKE: And she is ell washed up, you can see that 10in 109. The texture of her skin and the way she looks in 110 is quite a different human being, is it not?

LESEGO BALOYI: That is a concern Justice, that is why I am saying it took Takalani to change my sister from that bubbly, sparkling sister that you see on 107. But like I am saying they took her to Takalani in May, my sister because of the way 15she smelt whenever we visited her decided to take her in August, beginning of August. That is how she looked.

ARBITRATOR JUSTICE MOSENEKE: And the one picture she smiles and the other picture not. She actually looks quite worried in 110, ELLA110.

LESEGO BALOYI: Yes, Justice. As I had explained -

20**ARBITRATOR JUSTICE MOSENEKE:** And she has lost a lot of weight.

LESEGO BALOYI: When we visited her, she would jump and call names and be happy we had visited her. But at Takalani, as she withdrew, she was so, I don't know what term to use.

ARBITRATOR JUSTICE MOSENEKE: Did she ever talk to you?

5**LESEGO BALOYI**: Her speech is limited Justice.

ARBITRATOR JUSTICE MOSENEKE (INTERPRETER): And when you took her to come and visit, did she talk to you?

LESEGO BALOYI (INTERPRETER): She doesn't have conversation. She will only say I am going and her I am going, it doesn't mean that she is going somewhere, 10she knows where she is going. The line that she liked using. But when you ask her what's your name, she knows that she is Julia. If you ask her, where is your mother, she will say she is present. That is why I am saying her speech is limited. She won't just tell you that this and this happened. So, she doesn't have much speech.

ARBITRATOR JUSTICE MOSENEKE: Yes, in ELLA10 she looks like somebody 15who had a very dehumanizing experience. If you compare with how ell-groomed and cleaned in ELLA107, do you agree with that?

LESEGO BALOYI: Yes, Justice.

ARBITRATOR JUSTICE MOSENEKE: Anyway continue.

ADVOCATE NZAME SKIBI: Thank you Justice. So, Ms. Baloyi, observing all of 20these photos, ELLA107 and ELLA110, your sister was at Life in Randfontein where she was treated with dignity and she was receiving healthcare. At Takalani,

observing these photos, was she treated with dignity and getting proper medication and looked after well?

LESEGO BALOYI: At Takalani Justice, there was no care for our beloveds because of the pictures that you see because of when we got there most off time. 5The patients were hungry. Not only my sister. Hence, me saying they would come patients to give you a feedback of what was happening so that you can give them something to eat. Whenever you raised a question of medication, nobody responded to such questions Justice that where they getting medication. You will be referred to come during the week, I remember very well that I used to phone the 10social worker, there is a time I phoned several times asking about my sister's ID Justice and I was told that the social worker was on leave. So, if she was on leave nobody could respond to whether my sister's ID was there. So, Takalani hmm hmm.

ARBITRATOR JUSTICE MOSENEKE: Did you hear Dr. Manamela saying Takalani was a top NGO?

15**LESEGO BALOYI:** I did Justice, I was here, I was in this very same room when she said that?

ARBITRATOR JUSTICE MOSENEKE: What do you say to that?

LESEGO BALOYI: In Tswana you don't say an adult lies, but that is not the truth. Takalani is not top, I am going to mention this Justice. I don't know if I am right, but 20at Takalani you will find offence in that yard. You find the elderly, these old age home, you will find the physically challenged patients and they accepted our mentally challenged patients and now they accepted autism kids. For me, it is not

top because you can't mix 5 challenges in one place. That is what I feel that at least they were saying that it is an orphanage, I would understand. But now, imagine like my sister was violent, imagine what she could do to a child if maybe one time their paths crossed. I am telling you Justice, we used to run for our lives and I remember 5at home it was before fields, open fields, it was not open my sister because we would hide ourselves in the bushes until she was calmed down. Whether she calmed down at 9, it was not a problem for our parents because they had to make sure that she was calmed down 1st. Otherwise she would fight everybody in the house. So, imagine such a patient with an elderly who can't maybe walk properly or 10somebody in a wheelchair or a child who is an orphan. That is why I am not only worried about my sister, but those as well that are in that yard. It was a serious concern. So, Dr. Manamela said it is top-notch NGO, it is come down when it comes to Takalanai. It is not a good place for people that can't take care of themselves to be there. What I can tell you Justice is that when you go to Takalani Day 1, the 15caregivers that were there, you could see that they did not know what they were going to do with mentally challenged people. They were not equipped, they were not prepared that they were going – because the questions that you would ask concerning mentally challenged people, they did not even understand them. So, I am saying it is not a top-notch NGO

20**ADVOCATE NZAME SKIBI:** All right, thank you Ms. Baloyi. When was she moved from Takalani?

ARBITRATOR JUSTICE MOSENEKE: Well, before moving her back to some place, you are aware that a number of people, patients died at Takalani?

LESEGO BALOYI: Justice, my sister was at Takalani from May last year up to 11th of April 2017. Never were we told by the personnel at Takalani that

ADVOCATE NZAME SKIBI:

LESEGO BALOYI:

5ADVOCATE NZAME SKIBI:

LESEGO BALOYI: , I mean if there is a funeral especially in our black culture, we do mention that eish it is so painful that we lost a member of the family because these patients are treated as members of the family when we visited them at Randfontein. They knew them very well, they took care of them very well. But I don't
10remember going to Takalani and hearing about that. We started hearing about this when it started coming out in the news that there were deaths at Takalani. Not 1, not 2 but many.

ARBITRATOR JUSTICE MOSENEKE: Why did you join the march?

LESEGO BALOYI: Justice, my father passed away in 1990 he was the one who
15understood my sister's condition. My mother, yes, she was there for my sister until she passed on in 2011 but she was not that strong person. My sister is voiceless. If I didn't joined the march, who would have represented my sister and those who do not have family members that are mentally challenged. So, that is why I would go to work, request at work, I remember there was a march, I hope my manager is not
20watching. I sneaked out at work because they said no, you leave at this time and I felt that I am going to miss out. I had to leave. That is why I joined so that at least maybe we stop the movement but unfortunate enough, it did happen.

ARBITRATOR JUSTICE MOSENEKE: did your sister ever tell you, do you know whether she experienced the dying of any of her colleagues at Takalani?

LESEGO BALOYI: Like I explained Justice, her speech is limited, she doesn't have conversations. She never did.

5**ARBITRATOR JUSTICE MOSENEKE:** Okay, Counsel.

ADVOCATE NZAME SKIBI: Thank you Justice. So, you said that your sister was at Takalani until the 11th of April 2017?

LESEGO BALOYI: Yes, Justice.

ADVOCATE NZAME SKIBI: Where was she moved to after leaving Takalani?

10**LESEGO BALOYI:** She was moved to Life Esidimeni Baneng in Mainrief road.

ADVOCATE NZAME SKIBI: It was after the Ombud had released the report?

LESEGO BALOYI: Yes, Justice.

ARBITRATOR JUSTICE MOSENEKE: There was an outbreak of typhoid at Takalani.

15**LESEGO BALOYI:** I don't understand the question Justice.

ARBITRATOR JUSTICE MOSENEKE: There was an outbreak, we have a report here of an outbreak of typhoid at Takalani.

LESEGO BALOYI: Okay, Justice.

ARBITRATOR JUSTICE MOSENEKE: Did you hear of it?

LESEGO BALOYI: No Justice.

ARBITRATOR JUSTICE MOSENEKE: It is a disease that is caused by deaths.

LESEGO BALOYI: No Justice, I never heard about it. When they were there, like I am saying, information was not disclosed. They did not want us to see other patients. It is just that patients did come to us but they did not want us to see the patients.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

ADVOCATE NZAME SKIBI: Thank you Justice. So, how is your sister now at Baneng?

10**LESEGO BALOYI:** She is much better hen you look at her physically but she is still withdrawn but I remember visiting her last month. She was as if she didn't know us. Shews so lonely but she was with us. We were with my sister that I said she is very fond of Lefentse. But when we arrived she didn't jump Mapule because that is what she usually do and she sat with us for a few minutes, she ate then she wanted to
15leave. So, she is coming but still not there.

ADVOCATE NZAME SKIBI: What effect did it have to your family, this, what happened to your sister?

LESEGO BALOYI: What I can say to you, when it comes to family, we were traumatized about what happened to our sister. You know whenever you heard
20somebody saying my family member had passed away. Before we slept with my sister we would pray on the phone asking ourselves that ill we get a call that ours as

well is no more because of how she looked. The care that she s not getting at Takalani Justice. The other issue is that, I know somebody would say you love your sister, don't talk about finances Justices. It really charged on us when it comes to finances. I remember Day 1 when we visited my sister Justice. I got stuck0 at 5Takalani from around 13:00. We left Takalani at around 7 and remember I was with my daughter. She was not even 3 years old, she was 2 then. And it was raining, it was cold. So, I had to go and buy a car quick. I never bought a car in instalment before, but because of this situation I had to. I was weighing the options that what if I get a call at night that something has happened, you know when they say your 10loved one has passed on, you don't want to wait for morning. You want to go now and see what is happening. Or if they say that the patient is drastically sick and then the visits that we were doing at Randfontein, we had to increase them at Takalani, Justice.

ARBITRATOR JUSTICE MOSENEKE: And what was the distance between 15Tembisa and Randfontein?

LESEGO BALOYI: Justice, I am not good in Maths. But I know that hen I am driving from Midrand to Takalani, I took about 45 minutes. So, we had to increase the visits, we had to buy her clothes when we visited her because we knew that when we get there Justice, she would not be looking presentable or the way we 20would like her to look neatly like us you know. When you visit your loved one and you are wearing nice clothes, you feel ashamed.

ARBITRATOR JUSTICE MOSENEKE: You have given us the answer.

LESEGO BALOYI: Yes.

ARBITRATOR JUSTICE MOSENEKE: It's an extension. I am sure they will ask you more if they want to hear more. But take it from there, I know you would like to buy her clothes and you have already said it right, thank you.

5**ADVOCATE NZAME SKIBI:** Thank you Justice, what do you want to see out of this process happening which would benefit your sister?

LESEGO BALOYI: Not only my sister because we still have the little ones that are challenged like my sister is challenged Justice. History must never repeat itself Justice. We don't want to see this happening. I am working with autism kids, they 10get lost. So, you must observe them all the time.

ARBITRATOR JUSTICE MOSENEKE: Where do you work with autistic children?

LESEGO BALOYI: Here at JHS, Johannesburg Hospital School for Autism

ARBITRATOR JUSTICE MOSENEKE: You work there?

LESEGO BALOYI: Yes. So, I want us to really care for the mentally challenged 15because if the person feels like they want to go out now, they do that. So, let us tighten the care for the mentally challenged people. I hope it is going to happen in future so that history doesn't repeat itself. Other people came here, they told us that their loved ones were lost for days and they got home, so, it shouldn't happen again. Let Justice be served. I don't know how Justice is going to be served. But if it 20means that if somebody is accountable on this, goes to prison, let it happen. I know that people that have passed on wont come back Justice. I know that what has

happened to our sisters like you see the photos of Malinzwi, it is going to take time. Money wont buy it, but anything that can make us to feel better, we need counselling. We don't sleep. Somebody asks you about a picture, you just breakdown. Sometime you are just seated at home, you look at that, you breakdown. So, we need counselling as well. So, what I want to see from this, I hope again, the government will consider a monument so that people that come after us, the people that will be in the government, the monument will remind them that this had happened. So, it shouldn't happen again. I hope that will be considered and maybe I will be content, I am not sure. But, that is what I would like to see happening.

ADVOCATE NZAME SKIBI: Thank you very much, we really appreciate for taking time to come and give evidence. That is all justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you, Advocate Hassim?

ADVOCATE ADILA HASSIM: Thank you Justice. Good afternoon madam.

15 **LESEGO BALOYI:** Afternoon.

ADVOCATE ADILA HASSIM: You said that you participated in the marches, did you interact with the other families at the time of the marches?

LESEGO BALOYI: Yes, Justice

ADVOCATE ADILA HASSIM: How much of an interaction did you have with the other families?

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LESEGO BALOYI: I had a lot until we started to have problem statement that I had to move behind a bit because I was one fund the people that even accompanied the leaders of this move to see the other NGOs. I did travel to Cullinan, I did go to Themba and even in the marches we were so active. And we even had a group 5chat where we shared information. So, I was a part of that.

ADVOCATE ADILA HASSIM: And what was the concern of the other families? What was their main concern?

LESEGO BALOYI: The main concern is that other family members still did not okay where their loved ones were. Others had heard at the deaths and we always 10panicked. Others were experiencing death because it would be announced in the group chat that so and so had lost a loved one. So, and even the care that our beloved were getting at those NGOs, it s a concern for us because we forever spoke about it. And the distance as well because there were other family members that would raise a concern that I am staying in Kagiso and my beloved is in Cullinan 15or wherever. So, the distance was too much for them. So, such concerns were there.

ADVOCATE ADILA HASSIM: So, there were different types of concerns?

LESEGO BALOYI: Yes, Justice.

ADVOCATE ADILA HASSIM: Where you a support for each other>

20**LESEGO BALOYI:** Very much Justice.

ADVOCATE ADILA HASSIM: Through the WhatsApp group or by any other means?

LESEGO BALOYI: The WhatsApp group, if we had to go for a meeting we gave each other lifts, we gave each other consoling messages. It was all about that because we felt that we were having same problems. So, we teamed up.

ADVOCATE ADILA HASSIM: And when you participated in the marches and you handed the memorandum, the did you expect from government?

LESEGO BALOYI: When we started the 1st march, I think it was in February 2016 before the movement Justice. We were requesting that the movement be stopped because we ere concerned where they were taking our patients. We had another concern that will we be told where our loved ones were taken as we were promised that yes, maybe it will take a week or two weeks, they ill phone you, you ill go to see the MGO and then you approve if it will work for you going to visit them or if it's okay for your loved one. But it didn't happen. The other issue we thought your march will convince them really that these people really mean what they say when they say our loved ones are okay. So, renew the contract with Life Esidimeni if it's possible please.

ADVOCATE ADILA HASSIM: You said you were here when Dr. Manamela testified, is that right?

LESEGO BALOYI: Yes, Justice. I was here.

ADVOCATE ADILA HASSIM: And Dr. Manamela said that they consulted. They being various people in the department who were in charge of this project. That they consulted with families during the process. What do you say to that?

LESEGO BALOYI: I don't know, I am not that good with English. I don't know what consultation really means because I remember when entrepreneurs to Shamlala NGO, I was there. And number 1, the fence outside was very low and I mentioned it that it's a concern for the safety of the patients. They would easily escape. And inside as well, it was not good-looking Justice. But it still continued. There were a lot of issues that we raised there. But it still continued. So, I don't know what consultation -

ADVOCATE ADILA HASSIM: My question, let me explain. What Dr. Manamela said was that they had meetings with the families prior to the transfer taking place and throughout the process.

LESEGO BALOYI: Yes, Justice. That is where I am going because they would tell us today that this would be happening. This morning or yesterday evening we get a message, there is going to be a- go and check an NGO. Other people don't have transport. So, that is why I am saying consultation, I don't know. They said we will know after our patients were assessed. We were never even told. We don't know whether they were assessed or not. That is why I said maybe I don't understand what consultation mean but I don't remember it happening that well.

ADVOCATE ADILA HASSIM: Do you feel that your concerns were being heard?

LESEGO BALOYI: No, Justice.

ADVOCATE ADILA HASSIM: And you say your sister was moved to Takalani in May 2016. Is that right?

LESEGO BALOYI: Yes, Justice.

ADVOCATE ADILA HASSIM: Can I ask you to have a look at one of the exhibits, 5ELLA 58? Do you have it?

LESEGO BALOYI: Yes, Justice.

ADVOCATE ADILA HASSIM: Dou see that this is a document that's prepared by the Gauteng Provincial Health Department?

LESEGO BALOYI: Yes, Justice.

10**ADVOCATE ADILA HASSIM:** And the subject is salmonella, typhoid case. Do you see that?

LESEGO BALOYI: Yes, Justice.

ADVOCATE ADILA HASSIM: And it's dated 19 July 2016. So, this is after your sister had already been admitted to Takalani.

15**LESEGO BALOYI:** Yes, she was there Justice.

ADVOCATE ADILA HASSIM: She was already there.

LESEGO BALOYI: Yes, Justice.

ADVOCATE ADILA HASSIM: This document describes incidence of typhoid incidence that occurred at Takalani at the same time that your sister was there. And 20what's important, what I would like to ask you about is, if you turn to page 2 and if

you – the lines are not numbered but if you look at 3 paragraphs from the bottom, can you see the person describes the patient. Patient presented with weakness and looks dull.

LESEGO BALOYI: Yes, Justice.

5**ADVOCATE ADILA HASSIM:** And then 2 paragraphs down just before the heading that says more suspected cases, it says in reference to the same patient whose condition deteriorated, was gasping for air, skin was dehydrated sunken eyes. And there was something about this description that came to my mind when you were talking about your sister. Was her skin dehydrated to you, did it appear 10dehydrated?

LESEGO BALOYI: Yes, it was Justice.

ADVOCATE ADILA HASSIM: And her eyes from the photograph seem sunken. Is that the same impression you had?

LESEGO BALOYI: Yes, Justice.

15**ADVOCATE ADILA HASSIM:** And do you know whether your sister had been admitted to hospital at all during her time when she was at Takalani.

LESEGO BALOYI: No Justice.

ADVOCATE ADILA HASSIM: You were not informed?

LESEGO BALOYI: No, we were never informed.

20**ADVOCATE ADILA HASSIM:** On page 3, the author of this document describes the environment at Takalani under environmental assessment. Do you see that?

LESEGO BALOYI: Yes, Justice.

ADVOCATE ADILA HASSIM: Do you agree with the way in which the environment is described here? Sleeping area for example, 6 patients share a room, not enough personal space, hand washing basins not provided.

5**LESEGO BALOYI:** What I can say Justice like I explained our movement when we visited was restricted. But what I saw where the beds when we went to the bathrooms. So, the washing basins I did not see them.

ADVOCATE ADILA HASSIM: You did not see them, okay. And as far as the dining hall, you did go to the dining hall. Is that correct?

10**LESEGO BALOYI:** Yes, Day 1 we found them at the dining hall.

ADVOCATE ADILA HASSIM: And according to this person, there was a pungent foul smell. In other words, a nasty smell interesting dining hall. Did you have that same experience?

LESEGO BALOYI: Honestly speaking it was Day 1 when we got there. It wasn't
15that bad when it comes to cleanliness of the area because we got there, we sat with them for a few minutes or so. Then that is where they took us to the side I am talking about at the wards or their sleeping rooms.

ADVOCATE ADILA HASSIM: And did you observe whether there was soap or handwashing facilities in the dining hall?

20**LESEGO BALOYI:** I didn't see any where we were seated. They were not visible. If they were there, maybe they were in the other area that I could not see.

ADVOCATE ADILA HASSIM: But not in the dining hall?

LESEGO BALOYI: No, I didn't see anything Justice.

ADVOCATE ADILA HASSIM: And did you visit the kitchen at all?

LESEGO BALOYI: No, we didn't.

5**ADVOCATE ADILA HASSIM:** So, you wouldn't be able to tell us anything about the kitchen?

LESEGO BALOYI: No, Justice.

ADVOCATE ADILA HASSIM: The outcome of this report was that in essence Takalani, the environment was so bad that it contributed to an outbreak of typhoid at
10Takalani and that had to do with the cleanliness at Takalani. Does that surprise you?

LESEGO BALOYI: Looking at how my sister was, it doesn't surprise me. It is a pity that then when I saw my sister, our concern was looking at her we did not even check whether it was a sickness or what. We thought the maybe she was the eating
15well, we thought that maybe she was losing weight moving from one environment from another and basking in the sun. For now, when I see this report I think my sister was affected by it.

ADVOCATE ADILA HASSIM: Do you think that your sister was sick, not just hungry?

20**LESEGO BALOYI:** There were days like I am saying, she will be so withdrawn. She would complain. She likes saying she wants to go to the doctor. So, sometimes

if she is saying I am sick, you would not take her into consideration that much. But it might have happened that we overlooked what she was saying to us.

ADVOCATE ADILA HASSIM: Did she tell you that she was sick?

LESEGO BALOYI: Yes, like I am saying I am sick, I want to go to the doctor. Hence, when she said that to us when we are visiting, we thought that it's her cue, she likes saying that. And then you promise her I will take you to the doctor and then she gets excited that she will be going somewhere. So, maybe one time she told us, she said I am sick because we could see that she was not that happy. Possibly she was that sick. But there were days that we saw that she was not looking that good, she was not that bubbly, she was a different person that we knew.

ADVOCATE ADILA HASSIM: Thank you for making the time to testify today. I don't have any other questions. And I wish Julia well in the future.

LESEGO BALOYI: Thank you.

15**ARBITRATOR JUSTICE MOSENEKE:** Advocate Groenwald?

ADVOCATE GROENWALD: Thank you Justice, we have no questions. Thank you very much.

ARBITRATOR JUSTICE MOSENEKE: Advocate Ngutshana?

ADVOCATE PATRICK NGUTSHANA: Thank you Justice Moseneke. No questions

ARBITRATOR JUSTICE MOSENEKE: Counsel Hutamo.

ADVOCATE TEBOGO HUTAMO: Thank you Justice. Ms. Baloyi, good afternoon.

LESEGO BALOYI: Good afternoon.

ADVOCATE TEBOGO HUTAMO: We would like to extend the regret in the manner which your sister Malinzwi was transferred from life Esidimeni to Takalani. I seem to understand that you indicated that she has now been returned to Life Esidimeni, is that correct?

LESEGO BALOYI: Yes, Justice.

ADVOCATE TEBOGO HUTAMO: We just want to say that through the input that you have given through your testimony, the government is taking that into account in an effort together with the other family members to correct the wrongs of the past which were committed in order to ensure that the interests of the mental healthcare users are being looked after and proper service is given to them. We do not have questions to you but we just want to thank you for making the time to express what you actually went through and what the future should be, thank you.

LESEGO BALOYI: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: You know that you have the right to answer or to respond.

LESEGO BALOYI: I have got one other concern Justice. When our beloved were moved from Life Esidimeni, it was because Life Esidimeni's contract was cancelled, they are so experience. The government cannot afford them anymore. Now April 11th, my sister and the others are moved to Life Esidimeni again, the she is at

Baneng, not Randfontein. So, the concern is this, does the government have a contract with Life Esidimeni now and for how long? So that we know that we are safe. We are not saying that we are going to relax now the at least we know because we don't want to get another information soon that it is expiring again because of the experience. Is it cheaper now? Can government afford it now so that at least we know where we are at the moment.

ARBITRATOR JUSTICE MOSENEKE: There are those who are coming to ask questions from them.

LESEGO BALOYI: I thank you.

10**ARBITRATOR JUSTICE MOSENEKE:** The advocate doesn't give evidence, he makes submissions. We are still waiting for the experts to come and testify here about monetary issues. We will talk about that later.

LESEGO BALOYI: Thank you Justice because I have coughed out because we are having sleeplessness nights. We think that it is going to happen again.

15**ARBITRATOR JUSTICE MOSENEKE:** Now, you are one of the activists who resisted much of the marathon project. What do you think it was all about? What do you think was meant to be achieved by the project? I know you are not the decision maker the you are a human being with eyes and ears and impressions. And after it is all said and done, what was it about?

20**LESEGO BALOYI(INTERPRETER):** Justice Moseneke, I don't know. But looking at -

ARBITRATOR JUSTICE MOSENEKE: She didn't say Justice, she said Ntate which is a good thing to say Father.

LESEGO BALOYI (INTERPRETER): Father Moseneke, I don't know but looking at what happened, I don't know if we were cutting costs because where they going 5somewhere. I don't know because if you are mentally ill you are not that important. I don't know if you can't be treated humanely, you don't have rights in our country? I don't know Father because to me it doesn't make sense. They were sitting there were they were very happy. They looked beautiful. The next day money s a concern. I don't know in a family, there are things that are very needy that you 10cannot compromise them. I think this one was not to be compromised. That is why I say I don't know if it was about money or it was about us not knowing that they are not just like us. We call ourselves normal people, they are just like us.

ARBITRATOR JUSTICE MOSENEKE: You have been to several NGOs in your activism, do you have a view about who might have benefitted financially?

15**LESEGO BALOYI:** That is a tough one Ntate Moseneke.

ARBITRATOR JUSTICE MOSENEKE: You don't have anything to say according to your views, who got money? Who benefitted something like money? Who benefitted in this thing like money-wise?

LESEGO BALOYI: Father Moseneke, there was an NGO we visited in Themba. It 20was not ready for patients. So, I cannot say, I don't know if I can register now and open it now. I don't know if the owner of that place if she gained monetary, she benefitted. I don't know if there is somebody who said you will benefit something if

you register this, you are going to benefit something. I don't know Father. But it is scary because they took risks that they knew that they wouldn't tolerate those risks.

ARBITRATOR JUSTICE MOSENEKE: On what grounds did they take them and for what are they going to benefit or gain?

5**LESEGO BALOYI:** Money, they wanted to benefit. Because if like the patients Day 1 there, actually I don't know if it was Day 1 or what, the lady was complaining that there was no food, she was going to a funeral. She was like a bit hectic. But how do I communicated more than 5-10 people in my house when I know that I can't cater for them. Unless I know that at the end, I am going to benefit something. Because 10they didn't have this concern that the money will be deposited and see what am I going to feed this patient with. And there is an NGO that we visited, and as I said in Tswana, an elderly person does not lie. She said there were no Life Esidimeni patients at her NGO. The tracksuits, maroon and green, we saw it. And she said she didn't get any, she only had patients from her local area. But if you see a Life 15Esidemni tracksuit and you know it, you know there is a patient. And it was not one tracksuit, it was more than 3-4 there.

ARBITRATOR JUSTICE MOSENEKE: So, according to your views these NGOs wanted to gain monetary-wise?

LESEGO BALOYI: That is my thought.

20**ARBITRATOR JUSTICE MOSENEKE:** You have been here for some time now, you know that this is the – your last opportunity to say your final words 4 e release you from your witness stand.

LESEGO BALOYI: I think as a country, we should remember Ubuntu. And not just make drastic decisions because we want to save money but in other instances money is not saved. So, we also as family members, I know that we must also learn ourselves. We must treat the mental patients with dignity. If I will say I am working for the government and I don't understand the principles, then I must just pack my bag and go and do a private business or what. Because principle explained this properly, it is not at money, it is about the person that you must help at the moment. So, with must learn as a country and rectify what happens now. I thank you.

ARBITRATOR JUSTICE MOSENEKE: Thank you madam, you are released.
10 Counsel, you are done Justice?

ADVOCATE NZAME SKIBI: Justice didn't ask if I had any re-examination. The in any case -

ARBITRATOR JUSTICE MOSENEKE: Oh goodness, yes. It is a right that you must exercise. Do you?

15 **ADVOCATE NZAME SKIBI:** No, no, I don't.

ARBITRATOR JUSTICE MOSENEKE: We recall the witness, I beg your pardon.

ADVOCATE NZAME SKIBI: No Justice. I do not have a re-examination. My colleague here Advocate Crousse will take over leading another witness.

ARBITRATOR JUSTICE MOSENEKE: I apologize.

20 **ADVOCATE NZAME SKIBI:** Thank you Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Advocate Crousse.

ADVOCATE LILLA CROUSE: Thank you Justice, we call Nomas Radebe, her affidavit is ELLA106. She will testify in SeSotho. She says that she understands English efficient to hear the question, but she will answer in her home language and she will take the oath.

5**ARBITRATOR JUSTICE MOSENEKE:** Just remind me of the ELLA number again?

ADVOCATE LILLA CROUSE: 106 Justice.

ARBITRATOR JUSTICE MOSENEKE: 106, thank you. Good day madam.

NOMSA RADEBE: Good day justice.

10**ARBITRATOR JUSTICE MOSENEKE:** Your full names please as on record.

NOMSA RADEBE: My name is Nomsa Elizabeth Radebe.

ARBITRATOR JUSTICE MOSENEKE: In which language are you going to testify?

NOMSA RADEBE: I will testify in SeSotho Justice.

ARBITRATOR JUSTICE MOSENEKE: Do you swear that the evidence that you
15are about to give will be the truth and nothing but the truth. And if so please raise your right hand and say so help me God.

NOMSA RADEBE (INTERPRETER): Sworn in.

ARBITRATOR JUSTICE MOSENEKE: Advocate Crouse.

ADVOCATE LILLA CROUSE: Thank you Justice Moseneke. Ms. Radebe thank
20you very much to make yourself available to testify.

NOMSA RADEBE: Thank you Justice.

ADVOCATE LILLA CROUSE: Can I just establish from you, would it be in order
fund I put my questions in English and then you answer in SeSotho.

NOMSA RADEBE: It will be suitable your Justice.

5**ADVOCATE LILLA CROUSE**: Just one housekeeping element, paragraph 1 of
your affidavit refers to an elderly female person. Do you see that? Ms. Interpreter, it
is not necessary to interpret my questions. Thank you.

NOMSA RADEBE: I understand Justice.

ADVOCATE LILLA CROUSE: And you are not an elderly female person?

10**NOMSA RADEBE**: I understand Justice.

ADVOCATE LILLA CROUSE: That we were hoping that your mother will make the
affidavit.

NOMSA RADEBE: I understand Justice, my mom is sick and she cannot walk. I
am here on behalf of my mother.

15**ADVOCATE LILLA CROUSE**: Yes, thank you very much and we apologize.

NOMSA RADEBE: Thank you Justice.

ADVOCATE LILLA CROUSE: Your brother in Mandla David Radebe, is that right?

NOMSA RADEBE: Yes, Justice.

ADVOCATE LILLA CROUSE: Justice Moseneke, maybe just through you if I can
20just ask the interpreter not to interpret my questions. I know she is very efficient.

ARBITRATOR JUSTICE MOSENEKE: I think the arrangement is quite efficient, it is fine. Yes, Ms. Radebe can hear the questions, so she will answer directly. The you have to remain alert to interpret her answer in SeSotho.

ADVOCATE LILLA CROUSE: Thank you Justice. How old is Mandla David
5Radebe now?

NOMSA RADEBE: Mandla Radebe is 45 years Justice.

ADVOCATE LILLA CROUSE: And did he go to school?

NOMSA RADEBE: Yes, he attended school up until Grade 7.

ADVOCATE LILLA CROUSE: What happened to him then?

10**NOMSA RADEBE:** Mandla killed her friend at the age of 16.

ADVOCATE LILLA CROUSE: And then?

NOMSA RADEBE: And then Mandla was sent juvenile until he turned 18 years.

ADVOCATE LILLA CROUSE: And then.

NOMSA RADEBE: Then after he turned 18 years he was sentenced to 29 years.

15**ADVOCATE LILLA CROUSE:** And then he was imprisoned.

NOMSA RADEBE: Yes, Justice.

ADVOCATE LILLA CROUSE: Can you tell us when he was released from prison
more or less.

NOMSA RADEBE: Mandla was released in 2008 Justice under medical parole.

ADVOCATE LILLA CROUSE: And could you tell us what was wrong with him?

NOMSA RADEBE: Mandla was diagnosed under schizophrenic.

ADVOCATE LILLA CROUSE: Can he walk alone?

NOMSA RADEBE: He can walk on his own Justice.

5**ADVOCATE LILLA CROUSE:** Can he feed himself?

NOMSA RADEBE: He can feed himself.

ADVOCATE LILLA CROUSE: Can he talk?

NOMSA RADEBE: He does talk but he doesn't talk things that give sense.

ADVOCATE LILLA CROUSE: So, when he speaks, it doesn't make sense?

10**NOMSA RADEBE:** He doesn't make sense Justice, he just talks anything that goes the other anything round. He doesn't talk anything that makes sense.

ADVOCATE LILLA CROUSE: Does he have any children.

NOMSA RADEBE: He doesn't have children because he spent his whole life in prison from the age of 18 until he was released in 2008.

15**ADVOCATE LILLA CROUSE:** And could you just tell us after 2008 when he was released from prison, what happened to him then?

NOMSA RADEBE: Mandla after 2008, he was a patient at Baragwanath Chris Hani hospital, Sterfontein hospital, up and down, in and put mentally ill.

ADVOCATE LILLA CROUSE: And in 2014, he was admitted to Life Esidimeni. Is that right?

NOMSA RADEBE: Yes, Justice. 2014 he was at Sterfontein, he was transferred to Randfontein Life Esidimeni because of not showing any progress for his mental challenge illness.

ADVOCATE LILLA CROUSE: And how was he treated at Randfontein?

NOMSA RADEBE: Mandla at Randfontein he as very fine when I used to visit him in Randfontein. He was very beautiful and he tried even though – he was a very happy person. He would come to me although he did not speak anything that did not make sense. He would call my name, Nomsa, what did you bring along for me. I have got food for you, toiletries and underwear.

ADVOCATE LILLA CROUSE: Ms. Radebe, he was then moved at a later stage, is that right?

NOMSA RADEBE: I agree Justice.

ADVOCATE LILLA CROUSE: Now, you only knew where he was moved to in August 2016?

NOMSA RADEBE: I agree Justice. To add on that, in June 2016 Justice, I went to make a major operation for vocal chords and I only heard over the TV that Life Esidimeni has been shut down.

ARBITRATOR JUSTICE MOSENEKE: You must tell me of your doctor for vocal chords.

NOMSA RADEBE: I will tell you Father Moseneke. And by June after the vocal chord operation, I couldn't peak for 8 weeks. My voice could not go out after 2 operations. I wanted to find out about Mandla, I could hardly speak over the phone, there is nothing that I could do. Because sir, I am tone who is taking care of Mandla 5at home. It happened my Lord Chief Justice on the 8th of August 2016. I was then better. I called Sterfontein hospital. I spoke to the social worker by the name of Daphne. I am not sure about the name of the social worker, my apology. Let's refer as a social worker from the affidavit.

ADVOCATE LILLA CROUSE: I am going to interrupt you there Ms. Radebe.
10Eventually you found out where your brother was, is that right?

NOMSA RADEBE: Yes, I agree Justice.

ADVOCATE LILLA CROUSE: It took you a day of phoning around.

NOMSA RADEBE: I agree Justice.

ADVOCATE LILLA CROUSE: Where did you find him?

15**NOMSA RADEBE:** The social worker informed me that he is in Suruman in Hamaanskraal Bopelong.

ADVOCATE LILLA CROUSE: And did you then go there?

NOMSA RADEBE: I called Bopelong because the social worker furnished me with the number for Bopelong. I called Bopelong, thy said Mandla is present at that
20institution but when I come for the visit I must call them to confirm that I am coming

to visit Mandla. Chief Justice, I asked myself this question, why when I am supposed to visit Mandla I must call them and confirm, the was happening?

ADVOCATE LILLA CROUSE: Did you go there?

ARBITRATOR JUSTICE MOSENEKE: And where you still staying in Pimville in 5Soweto.

NOMSA RADEBE: Yes, Chief.

ARBITRATOR JUSTICE MOSENEKE: So, that would have been a trip of about the? 120 kilometres?

NOMSA RADEBE: I am not certain about the kilometres but if it is said that it is 10100 kilos from Pimville to Hamaanskraal. My lord, I went on the 11th of September, Hamanskraal Bopelong.

ADVOCATE LILLA CROUSE: Did you find the place easily?

NOMSA RADEBE: It was very hard for me to trace the place, it took me 2 hours to get the place. I enquired from people who did not know about this place called 15Bopelong. I asked from the ZCC Church, from the Bopelong Hall, but people here not familiar, they didn't know the place.

ADVOCATE LILLA CROUSE: Okay, you eventually arrived at the place, is that right Ms. Radebe.

NOMSA RADEBE: I then found Bopelong.

20**ADVOCATE LILLA CROUSE:** Can you just explain to the court how that place looked like, what type of place, what did you find there?

NOMSA RADEBE: Bopelong is a nice place outside, it is a big house, very big. The gate is very small my lord. The hall is small. I asked myself, how can you have a lower gate with mentally ill patients, when they escape, they are going to escape there and that is in a farm or a plot. And then my lord, I entered the house, Chief Justice, 4 elderly ladies, motherly figures, they were 4. Chief Justice, where they took me to the dining room or it is a sitting room, that is where they welcomed me. Chief Justice, they then called Mandla.

ARBITRATOR JUSTICE MOSENEKE: It's fine to say Justice.

ADVOCATE LILLA CROUSE: They called Mandla inside the house still. Before we get there Ms. Radebe, did you see how the rest of the place looked.

NOMSA RADEBE: Yes, I saw the place my Lord.

ADVOCATE LILLA CROUSE: Okay, except for the house, the else was there?

NOMSA RADEBE: I entered the house, it's an open plan. It is single beds with beautiful beds on an open plan hall. I then asked to see the sleeping place of the patients, their bedrooms. One lady, I cannot recall her name, she made a report to me that Tsepiso left with the keys. They unlocked there at the back and I peeped through the gate. I don't know how I can explain this but there were moving up and down.

ADVOCATE LILLA CROUSE: Are you speaking about the mental healthcare users.

NOMSA RADEBE: Yes, I am talking about them Justice.

ADVOCATE LILLA CROUSE: The place that you say that the key wasn't there, is it separate from the main house?

NOMSA RADEBE: It is not separate, it is one house. At the back, it is the room where 40 mental ill patients were housed. I have not yet explained when they brought Mandla to me.

ADVOCATE LILLA CROUSE: Yes, we will get to that. I just want to make sure we understand how the situation looks. So, the room where the people were sleeping were locked? Did you ever see the inside of that room?

NOMSA RADEBE: Justice, they didn't allow me to enter.

10 **ADVOCATE LILLA CROUSE:** And you saw people roaming outside?

NOMSA RADEBE: I agree Justice.

ADVOCATE LILLA CROUSE: Let her speak now when Mandla David Radebe was brought to you. What did you find?

15 **NOMSA RADEBE:** I was with my family, my husband and the kids. When they brought him I screamed and cried, the manner in which he was. Those ladies asked me to be quiet and I told them no I can't, this is hurting. He hugged me, he was very smelly, he was skinny, he was dirty, he had long hair.

ADVOCATE LILLA CROUSE: Long hair.

20 **NOMSA RADEBE:** They didn't cut his hair and they didn't shave his beard. He asked me Nomsa, how did you find me? I told him that I searched for you and I finally found you. He said please take me with you home.

ARBITRATOR JUSTICE MOSENEKE: You know that anytime you feel unwell, we will wait until you feel better. So, just give her medication, whether you are able to go on.

NOMSA RADEBE: I am fine Justice. That is what I saw hurting. We went there in the seating room with very beautiful sofas. I had food in my possession, toiletries, my 1st child is Tumelo and she made a report to me that the other members on the other side are hungry.

ARBITRATOR JUSTICE MOSENEKE: It is a young man isn't it, it's a boy.

NOMSA RADEBE: 15 years.

10 **ARBITRATOR JUSTICE MOSENEKE:** 15-year-old.

NOMSA RADEBE: He said mom, let's give them food. Tumelo gave them bread and cold drink.

ADVOCATE LILLA CROUSE: Just a moment Ms. Radebe, is that the other patients that you are referring to now.

15 **NOMSA RADEBE:** No, it's my son with whom that I was with at the institution.

ADVOCATE LILLA CROUSE: To whom was the food given?

NOMSA RADEBE: He gave it to the mental ill patients.

ARBITRATOR JUSTICE MOSENEKE: That is other than his uncle?

NOMSA RADEBE: Yes, it was his uncle.

ADVOCATE LILLA CROUSE: Could I just perhaps, did you give food to your brother?

NOMSA RADEBE: I gave him food, he was very hungry. He was shaking. His right hand is permanently shaking and he was very worse on that day. And he said
5Nomsa, I am hungry.

ADVOCATE LILLA CROUSE: Ms. Radebe, did you also give food to other patients that wasn't in the sitting room with you?

ARBITRATOR JUSTICE MOSENEKE: Your explanations are telling me the other patients were sitting at the back not at this beautiful house with beautiful sofas.

10**NOMSA RADEBE:** Yes, that is what I am explaining your worship.

ADVOCATE LILLA CROUSE: And what happened when the food were given to them?

NOMSA RADEBE: They fought for the bread and the cold drink also. Tumelo made a report to me, mom, they are fighting for the food. I told him that they will eat,
15they are going to be fine. Mandla pleaded, Nomsa, you are going back with me. I said no, I can't, you were transferred here by Life Esidimeni and I don't okay the situation or the circumstances why they transferred you here. I don't have those powers as your sister. I wanted to take him, even my husband said the state in which Mandla is now in, he is very sick.

20**ADVOCATE LILLA CROUSE:** Ms. Radebe, you said when you saw him for the 1st time that he was skinny. Can you give us an indication, what does that mean?

NOMSA RADEBE: In his entire life he is a size 40. When I found him there at Bopelong, he is a size 28. He was very thin.

ADVOCATE LILLA CROUSE: And you said he was very dirty. Can you explain to us what do you mean by that?

5**NOMSA RADEBE:** If I say he was dirty, the clothes was very dirty, he was smelly.

ADVOCATE LILLA CROUSE: And his beard?

NOMSA RADEBE: It was very big, long. His hair was not cut.

ADVOCATE LILLA CROUSE: Did you ask the people working there what was going on?

10**NOMSA RADEBE:** I ask them my worship. I enquired from them, I asked them and their reply was that they don't have funding. And he uses his own money put of his pocket or her pocket to buy food for them. Justice, it is on a Sunday at about 15:00 in the afternoon. There were no food in the house. I asked the 4 ladies, why don't they cook for them. They said they are going to buy a braai pack from Checkers.

15Justice, I was by then, I lost hope, I didn't have that strength. I ask myself, if this lady says she is going to buy a braai pack, who is going to get food and who is not going to get food? And the manner in which I found Mandla, I could determine that they are not eating.

ADVOCATE LILLA CROUSE: Have you asked the people working there about the 20file or the medical file of Mandla?

NOMSA RADEBE: Yes, Justice. They didn't give me any answer. They said they take them to the clinic by van. They don't have medication at Bopelong, they only take them to the clinic weekly. They don't have their files.

ADVOCATE LILLA CROUSE: Soon after that, or let me go a little back. You really wanted to take Mandla home when you saw him there, wasn't that so?

NOMSA RADEBE: Yes, Justice.

ADVOCATE LILLA CROUSE: What stopped you from doing that?

NOMSA RADEBE: I was afraid of the law because I am also working with the law.

ADVOCATE LILLA CROUSE: And the was your husband's reaction to you wanting to take him home?

NOMSA RADEBE: My husband wanted us to take him home and=but I refused and told him that we must follow the procedures.

ADVOCATE LILLA CROUSE: Madam after that in December 2016, he was moved from there, is that right?

15**NOMSA RADEBE**: Where was he moved to?

ADVOCATE LILLA CROUSE: Bokgang Sterfontein, it is also an NGO.

ARBITRATOR JUSTICE MOSENEKE: Counsel, that was December 2016?

ADVOCATE LILLA CROUSE: Yes. And how was he treated there?

NOMSA RADEBE: When I found him at Bokgang, he as very much better. He was wearing the NGO tracksuits, he was wearing slippers and socks. He was very much better and he was warm, rather than at Bopelong.

ADVOCATE LILLA CROUSE: And thereafter in April 2017, he was then moved, is that right?

NOMSA RADEBE: Yes, Justice.

ADVOCATE LILLA CROUSE: Where was he moved to?

NOMSA RADEBE: From Bokgang hospital to Selby Park hospital currently.

ARBITRATOR JUSTICE MOSENEKE: But tell me about Bokgang, where is it in relation to the premises of Sterkfontein.

NOMSA RADEBE: Justice, Bokgang is inside the hospital. I can't explain this place, Sterkfontein is a big institution. On the left and right there are houses. From the Sterkfontein entrance, that Bokgang is on your right.

ARBITRATOR JUSTICE MOSENEKE: So, you were using some of the residential facilities on Sterkfontein grounds?

NOMSA RADEBE: Yes, Justice.

ADVOCATE LILLA CROUSE: Thank you Justice. Madam, if I can move a little bit forward to Selby Park Hospital where he is currently how is it going now?

NOMSA RADEBE: I almost go very often at Selby Justice. They asked me to bring along toiletries, food and shorts for him and shoes. I do that and visit him. He is very

much better even now he is struggling about his weight and his mental status. He doesn't talk anything that gives sense.

ADVOCATE LILLA CROUSE: He is still not making sense?

NOMSA RADEBE: he has never spoken to me anything that makes sense Justice.

5**ADVOCATE LILLA CROUSE:** Is he still shaking?

NOMSA RADEBE: The right hand is now better.

ARBITRATOR JUSTICE MOSENEKE: If we can ask him, Mandla how is it here at Bopelong, can he speak for himself?

NOMSA RADEBE: I don't know how I can explain this Justice, Mandla cannot recall anything. He can only recall me but the speech, he cannot speak properly.

ADVOCATE LILLA CROUSE: How far is Selby park from your home now?

NOMSA RADEBE: I am not good with kilometres or distance, but Soweto Pimville, Selby Park, maybe Justice can help.

ARBITRATOR JUSTICE MOSENEKE: Selby Park is here

15**NOMSA RADEBE:** Eloff Extension.

ARBITRATOR JUSTICE MOSENEKE: From Pimville, I don't know. Maybe 35-40ks.

ADVOCATE LILLA CROUSE: And his SASSA card and his ID book, do you know where they are?

20**NOMSA RADEBE:** I know Justice where they are.

ADVOCATE LILLA CROUSE: Where are they?

NOMSA RADEBE: At Selby Park with the Social Workers.

ADVOCATE LILLA CROUSE: Ms. Radebe, we can see you are emotional about this. What effect did this whole move have firstly on you and your mother and the rest of your family if you can take us through those?

NOMSA RADEBE: Justice, it affected me holistically, emotionally, it even affected me at work because I am the one who is taking the whole burden of Mandla. My mother is very old, sickly, she can hardly walk right now. I am the one taking care of Mandla.

10 **ARBITRATOR JUSTICE MOSENEKE:** When Mandla was young and ultimately was charged, had he become schizophrenic already?

NOMSA RADEBE: When he was sentenced to prison, he wasn't diagnosed mentally ill. I think spending his whole youth life in prison that caused his mental illness. He was arrested and detained whilst he was at a young age at 16. He was released 2008, and I cannot say for sure how old he was during his release.

ARBITRATOR JUSTICE MOSENEKE: All in all, do you know how long he stayed in prison as an estimation?

NOMSA RADEBE: 19 years.

ARBITRATOR JUSTICE MOSENEKE: and medical parole came out of his mental illness?

NOMSA RADEBE: Mostly when we visited him at the prison, he was in hospital and they said they cannot understand his mental status. His screams alone makes alone makes some noise. My mom was called in to sign in during 2008.

ADVOCATE LILLA CROUSE: Thank you Justice. Could you tell us what effect this 5has had on your mother, how was she affected by this?

NOMSA RADEBE: My mom's life is now at a stop. During October last year, she was very sick. I even thought that she was going to die, what am I going to do due to Life Esidimeni's issues.

ADVOCATE LILLA CROUSE: Ms. Radebe, where your children affected by this at 10home?

NOMSA RADEBE: Can you repeat the question?

ADVOCATE LILLA CROUSE: Yes, the children that visited with you, were they affected by this at all?

NOMSA RADEBE: My kids are affected Justice.

15**ADVOCATE LILLA CROUSE**: In what manner?

NOMSA RADEBE: When we go for a visit they cry when they see their uncle. And the uncle asked me to take him along for a visit for the 24th of December 2017, so he can be with us at home because he said he left home some years back.

ARBITRATOR JUSTICE MOSENEKE: You talked about your 15-year-old son, 20how old are the other ones?

NOMSA RADEBE: Thatho is 13 years, the twins are 2 years old, but Justice the twins are kids, they now see him as uncle, they know nothing. Those who know their uncle is Tumelo and Thato.

ADVOCATE LILLA CROUSE: You were explaining about Mandla asking to come home for Christmas, is that what you were saying?

NOMSA RADEBE: Yes, Justice.

ADVOCATE LILLA CROUSE: And did you take him home?

NOMSA RADEBE: The 24th is not due but I am going to take him along.

ADVOCATE LILLA CROUSE: You are going to take him along this coming Christmas, not the previous one?

NOMSA RADEBE: Yes, this coming Christmas 2017, but I have a problem of taking Mandla because he is too violent. He fights a lot, he breaks windows. He once stabbed my mom on the hand. I want him home but I am afraid, I do have that fear, but I am afraid of him.

15 **ADVOCATE LILLA CROUSE:** Thank you Ms. Radebe. Can you explain what you want to see coming out of these arbitration hearings?

NOMSA RADEBE: What I want to see happening with Life Esidimeni, justice must be served to the health officials, health department officials.

ADVOCATE LILLA CROUSE: Anything else?

20 **NOMSA RADEBE:** If his can happen, these people must be arrested and be placed in jail. They have cost us for those who have lost their families, their kids,

those who are surviving, those who survived are still struggling to get right due to this, they are playing games with our family lives at our expense.

ADVOCATE LILLA CROUSE: Anything else you want to see out of this?

NOMSA RADEBE: What I want to see around the whole of South Africa, the sick people, those who have challenges, the senior citizens, small kids, especially me I am working with kids -

ARBITRATOR JUSTICE MOSENEKE: Where do you work madam?

NOMSA RADEBE: I work at social development.

ARBITRATOR JUSTICE MOSENEKE: The government department of social development.

NOMSA RADEBE: Yes, Justice. Those people must be monitored, they must be taken care of, especially those at Life Esidimeni, they must be taken care of and they must be assessed thoroughly right now where they are. Inspectors must be sent out to go and inspect those NGOs where the surviving patients are. We cannot afford to lose them as we had lost some of our family members. That is my request Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you ever so much. Of course one of – in fact one of my main task is about compensation, if you get money how are you going to use the money?

NOMSA RADEBE: Chief Justice, for the compensation, the money should be used for those who survived and the diseased family because Mandla doesn't know

anything. And that compensation, I will plead with the family to use that money to use in a proper way. And mostly, I will pass my condolences for the bereaved family. I will ask and plead for the family to erect tombstones for the family as a remembrance and as a compensation for the safe. They must make their place nice where they have now been laid to rest with dignity, they must be laid to rest with dignity and respect.

ARBITRATOR JUSTICE MOSENEKE: How should I make sure that the money is in fact used for the survivors? Do you have any suggestions?

NOMSA RADEBE: Justice, it is very difficult because as people we are different and our backgrounds differ. Even our status differs. But I don't know my father, how am I going to answer this, how am I going to respond?

ARBITRATOR JUSTICE MOSENEKE: Thank you lady Counsel, any further questions.

ADVOCATE LILLA CROUSE: No further questions, thank you Justice Moseneke.

15 **NOMSA RADEBE:** Counsel Hassim.

ADVOCATE ADILA HASSIM: Thank you Justice. Good afternoon Ms. Radebe. Did you say you work for the department of social development?

NOMSA RADEBE: Yes, Counsellor?

ADVOCATE ADILA HASSIM: Are you a social worker?

20 **NOMSA RADEBE:** I am a child and youth care-worker.

ADVOCATE ADILA HASSIM: There are a number of government officials who were involved in this project, from the highest leaders to everybody who implemented.

NOMSA RADEBE: Yes, Counsel.

5**ADVOCATE ADILA HASSIM:** If you were involved in this project, would you have felt that you would have been able to say something to your seniors?

NOMSA RADEBE: If I was involved in this marathon project, I am another person Counsellor, I am a person who is very vocal and I don't want wrong things to happen in front of my eyes. If I was there, I would have made an input or suggestion
10before movement of the patients. That they assess before they move the patients. A proper assessment.

ADVOCATE ADILA HASSIM: You mean assessment of the patients or assessment of the NGOs?

NOMSA RADEBE: Counsellor, the assessment of the NGOs

15**ADVOCATE ADILA HASSIM:** Thank you Ms. Radebe, I don't have any further questions for you. I just want to thank you for making the 0time and I wish Mandla well.

NOMSA RADEBE: Thank you Counsellor.

ARBITRATOR JUSTICE MOSENEKE: Advocate Groenwald?

20**NOMSA RADEBE:** Thank you Justice, we have no questions.

ARBITRATOR JUSTICE MOSENEKE: You have no questions. Advocate Ngutshana.

ADVOCATE PATRICK NGUTSHANA: Thank you Justice. There is just one question that I would like to find out from you. If you don't know, please do say so.
5As a caregiver within the social department, on the social development department, are you aware whether any of these NGOs, not specifically this one but any other NGO within the province are receiving subsidies from your department?

NOMSA RADEBE: Can you repeat the question?

ADVOCATE PATRICK NGUTSHANA: Ae you aware of any NGO receiving
10subsidies from your department?

NOMSA RADEBE: I don't know.

ARBITRATOR JUSTICE MOSENEKE: It's a broad question Counsel.

ADVOCATE PATRICK NGUTSHANA: Don't you have an NGO that you work with
as a department?

15**NOMSA RADEBE:** We do work with NGOs Counsellor and NGOs are being funded by the department of social development.

ADVOCATE PATRICK NGUTSHANA: And what do they do those NGOs?

NOMSA RADEBE: Most of NGOs Counsellor work with orphan and vulnerable kids. I can explain HBC what does that mean. It's an NGO that works with families,
20we give food parcels. HBC is orphan and vulnerable children, children affected and infected by HIV And AIDS.

ADVOCATE PATRICK NGUTSHANA: And how do you support them?

NOMSA RADEBE: We give them funding Counsellor, so that the needs of the orphans are met and we as officials we do home Onsite visits. I cannot say on monthly visits, we don't even inform them, we just pop in at the NGO to check if they are doing the right thing for the kids and the money that we fund them with whether they are utilizing them for the kids.

ADVOCATE PATRICK NGUTSHANA: I am sure that before you contract with these NGOs, you register them and there are pre-registration requirements. What will those requirements be?

10 **NOMSA RADEBE:** I agree with you. I don't know the procedure of registering an NPO, my seniors can answer that question.

ADVOCATE PATRICK NGUTSHANA: Then out of those NGOs which you work with, have you not had an occasion that one of the NGOs which we have dealt with here, I am sure you have been listening to the evidence here was also registered
15 with your department?

NOMSA RADEBE: I agree with you Counsellor sometimes I was not present. I cannot say Counsellor because sometimes I am here, sometimes I take leave to be present. I don't know which NGO was it, sorry, which NGO was it?

ARBITRATOR JUSTICE MOSENEKE: You are on the border of relevance. You
20 really are on the border. You have to indicate what you are seeking to achieve. About the official role of this witness who is here on a very specific personal family role.

ADVOCATE PATRICK NGUTSHANA: Yah, no, I know. I wanted to find out if there is no possibility that any of these NGOs were double dipping from the social department she works from.

ARBITRATOR JUSTICE MOSENEKE: We will have to find a witness that can talk to that.

ADVOCATE PATRICK NGUTSHANA: Thank you Justice Moseneke. Nothing further for this witness.

ARBITRATOR JUSTICE MOSENEKE: Thank you. Advocate Hutamo.

ADVOCATE TEBOGO HUTAMO: Ms. Radebe, good afternoon.

10 **NOMSA RADEBE:** Afternoon Counsellor.

ADVOCATE TEBOGO HUTAMO: We would like to thank you for coming through these proceedings and share with us the pain that you went through in relation to the transfer of your brother Mandla. And it is through these testimonies that the government is able to pay attention to those areas that it has failed. And we hope
15 that these arbitration proceedings will lead us to that direction. And we are really sorry for how things occurred but we hope things will be done better. I understand that you have stated that your brother has been relocated To Selby Park hospital

NOMSA RADEBE: Yes, Counsel.

ADVOCATE TEBOGO HUTAMO: And he appears to be recovering although like
20 he is still struggling in other areas.

NOMSA RADEBE: Yes, Counsel.

ADVOCATE TEBOGO HUTAMO: We really wish him a speedy recovery and hope that like he will get well soon and let us all hold each other through this process and we hope to find closure. Thank you for coming through.

NOMSA RADEBE: Thank you Counsel.

5**ADVOCATE TEBOGO HUTAMO:** No questions Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you, any re-examination?

ADVOCATE LILLA CROUSE: No re-examination, thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: You now have the opportunity to say whatever you may choose to say just before you are asked to leave the witness
10stand.

NOMSA RADEBE: I would like to thank Chief Justice Moseneke, Section 27, Legal Aid South Africa, families, my colleagues from social development for giving me support through this path that I was walking in. I also want to remind the world [indistinct], we must practice it especially we as we are worse we as public
15employees for the public servant. We should work for the community. We are not supposed to kill. We must be with our community, protect them give them support especially the mentally ill patient. The government must not chase us because they cannot raise their voice. We are there, the families are there for them. We request that Life Esidimeni tragedy must not repeat itself in the whole of South Africa. I
20thank you Chief Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: I thank you and thank you for coming out. Already everybody has told us how valuable this is. We are trying, we are on a healing path. We are also on a path of what is just and equitable compensation. Where I work we have a scale. Have you seen the symbol of a scale in justice? So, 5Justice to be served when there are serious breaches of right, the scales is like that and those who have the power to make decisions have to try and get the scale to an equilibrium because life ought to be at an equilibrium where we all try and do good. And of goodness is breached, the scale tips and needs to be brought back. So, you are helping to do that and thank you for coming.

10**NOMSA RADEBE:** Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: Your brother must get better. I know something about going to prison at his age and I wish him well. I wish him good luck. I was luckier than him.

NOMSA RADEBE: Thank you Chief Justice.

15**ADVOCATE LILLA CROUSE:** Justice, we have one more witness for today if we may. It is not going to be a very long witness, it is going to be a shorter version I hope. If I may continue.

ARBITRATOR JUSTICE MOSENEKE: Don't keep the witness short for that reason.

20**ADVOCATE LILLA CROUSE:** No, not for that reason. But he will be shorter than the previous two.

ARBITRATOR JUSTICE MOSENEKE: We kind of agreed that we are going to sit late right. So, we should be able to make the time we set for ourselves.

ADVOCATE LILLA CROUSE: Thank you very much, we really appreciate the indulgence to call our witness. We are calling Modianeane Abraham Maditsi. His affidavit is at ELLA101 Justice. He will testify in Sipedi and he will take the oath.

ARBITRATOR JUSTICE MOSENEKE: Mr. Maditsi, good afternoon.

MR. MADITSI: Hello Justice. Good afternoon.

ARBITRATOR JUSTICE MOSENEKE: Would you put your full names on record please.

10**MR. MADITSI:** [indistinct] Modiane Maditsi.

ARBITRATOR JUSTICE MOSENEKE: And in what language do you want to testify?

MR. MADITSI: Sipedi.

ARBITRATOR JUSTICE MOSENEKE: Do you swear that the evidence that you are about to give will be the truth, nothing but the truth, and if so please raise your right hand and say so help me God.

MR. MADITSI: So help me God

ADVOCATE LILLA CROUSE: Thank you very much Justice. Mr. Maditsi, thank you very much for willing to tell your story here. I know that it doesn't come easy to you to speak here.

MR. MADITSI: Thank you Justice.

ADVOCATE LILLA CROUSE: There is a mental healthcare user in your family, is that correct?

MR. MADITSI: Correct.

5**ADVOCATE LILLA CROUSE:** Who is that?

MR. MADITSI: Kgotso Maditsi

ADVOCATE LILLA CROUSE: And how is she related to you?

MR. MADITSI: It's my gran, it's my niece.

ADVOCATE LILLA CROUSE: Your sister's child?

10**MR. MADITSI:** That's correct Justice.

ADVOCATE LILLA CROUSE: Just tell us briefly about your sister, why is she not testifying today?

MR. MADITSI: My sister was affected after Professor Makgoba's report. She ended being diagnosed with cancer. That is why she could not be here at the
15moment, I am representing her.

ADVOCATE LILLA CROUSE: Mr. Maditsi, how old is Kgotso now, your niece?

MR. MADITSI: 40 years.

ADVOCATE LILLA CROUSE: Can she speak?

MR. MADITSI: No, she cannot speak.

ADVOCATE LILLA CROUSE: Can she walk?

MR. MADITSI: She can talk but with somebody's help to balance her?

ADVOCATE LILLA CROUSE: Can she eat on her own?

MR. MADITSI: No, she cannot feed herself.

5**ADVOCATE LILLA CROUSE:** Can she look after herself at all?

MR. MADITSI: No, she cannot,

ADVOCATE LILLA CROUSE: And since when has she been like this?

MR. MADITSI: Since birth.

ADVOCATE LILLA CROUSE: And she has been institutionalised for some time, is
10that not so?

MR. MADITSI: That's correct Justice.

ADVOCATE LILLA CROUSE: It was 1st at the Eaststrand care centre when she was
still a child, is that so?

MR. MADITSI: That's correct Justice

15**ADVOCATE LILLA CROUSE:** And since 2005, she has been Randfontein Life
Esidimeni, is that correct?

MR. MADITSI: Correct Justice.

ADVOCATE LILLA CROUSE: Mr. Maditsi, she was moved at some stage to
Takalani, is that correct?

MR. MADITSI: Correct, she was transferred to Takalani.

ADVOCATE LILLA CROUSE: Now, we know that it happened round about July 2016 and we know that your sister visited her. But I want to talk at the time you went there? What did you find there? Sorry, can I ask you, when did you go there?

5**MR. MADITSI:** Okay, I did not interact with her for a long time. And she had already stated earlier on that my evidence will not be long. We used to pay her visit whilst she was at Esidimeni with family members. It took me long not to accompany the other family members who used to visit her. From Randfontein, she was transferred to Takalani. There ere other 2 visit that family members paid her a visit.

10**ADVOCATE LILLA CROUSE:** Let us get to when you got there, when did you go there Mr. Maditsi.

MR. MADITSI: September 2016.

ADVOCATE LILLA CROUSE: And what did you find?

MR. MADITSI: We were not happy about the child's condition because the 1st 15report, the 2nd report I was present when they gave us that report.

ADVOCATE LILLA CROUSE: Yes, let us go to your September, October visit to Takalani, what did you find there?

MR. MADITSI: We were not happy about the child's condition at Takalani, she was not happy like she was at Randfontein Life Esidimeni. As we see that she was not 20happy and there was nothing about her at that institution, we decided to take her home.

ADVOCATE LILLA CROUSE: Yes, let me just ask you, did she gain weight, did she lose weight, did the weight remain the same?

MR. MADITSI: She had lost weight. She was not happy, she was dirty, it was cold on that day but she did not have warm clothes on her.

5**ADVOCATE LILLA CROUSE:** How was she smelling?

MR. MADITSI: Very bad, you cannot even stand for it. The smell was so bad that you couldn't even stand for it.

ADVOCATE LILLA CROUSE: Thank you, and you said that you decided to take her home on that day.

10**MR. MADITSI:** We decided to take her home, that was our decision.

ADVOCATE LILLA CROUSE: Why did you decide to do that?

MR. MADITSI: There was no care there and you could see she could not survive that situation.

ADVOCATE LILLA CROUSE: Did you have somebody at home to look after her.

15**MR. MADITSI:** There was no one to take care of her at home.

ADVOCATE LILLA CROUSE: Before you took her away from Takalani, did you ask for her medical file, her medicine, things like that?

MR. MADITSI: We asked for her file because we wanted to take her to another institution because here we arrived with her, the doctor would like to know how was
20she diagnosed.

ADVOCATE LILLA CROUSE: And what was the answer to the file?

MR. MADITSI: The answer was when she was transferred to Takalani, she was not transferred with her file.

ADVOCATE LILLA CROUSE: Did they supply any medicine to you?

5**MR. MADITSI:** They supplied us with medication that would only last us only 2 weeks.

ARBITRATOR JUSTICE MOSENEKE: They would be the staff at Takalani? You said you were given medication for 2 weeks, I just want to make it clear on record that it was the staff at Takalani who provided the medicine.

10**MR. MADITSI:** That's correct Justice.

ADVOCATE LILLA CROUSE: Mr. Maditsi, you said that there was nobody to care for her at home, so what did you do?

MR. MADITSI: There was no one to take care of her at home but I took her with me to my house as I have lost my house. We took care of her for a short period but we
15realized that this is a person that we cannot handle her. Eventually we got a family member from Limpopo who could talk to her as I was busy looking for work.

ADVOCATE LILLA CROUSE: Did you have to pay for this family member to care for your niece?

MR. MADITSI: That's correct Justice.

20**ADVOCATE LILLA CROUSE:** How much did you pay the family member?

MR. MADITSI: R3000 per month.

ADVOCATE LILLA CROUSE: And Limpopo is quite far away from where you stay, is that correct?

MR. MADITSI: That's correct Justice.

5**ADVOCATE LILLA CROUSE:** Is it also far away from where your sister stays?

MR. MADITSI: Correct Justice.

ADVOCATE LILLA CROUSE: Now after the Ombuds report came out, have you tried to get a place for your niece again?

MR. MADITSI: We wanted placement for her and when we looked for a place for
10her, we didn't have a file with her, they did not give us her file. Then after, there was
an announcement that from the hospitals in Gauteng that they want to place the
patients from Life Esidimeni.

ADVOCATE LILLA CROUSE: Into hospitals?

MR. MADITSI: Yes.

15**ADVOCATE LILLA CROUSE:** And then?

MR. MADITSI: Thereafter, we went to the health department. We went there and
found one of the officials by the name of Bafana. And then he sent us to the family
committee members who can assist us with the placement. Then we went to
Tobani's health department of Manamela. We tried to put or case to them and
20asked how can we deal with this case. Up until now, we have not finished with the
placement of this patient?

ADVOCATE LILLA CROUSE: Have you spoken to Dr. Manamela at all?

MR. MADITSI: No, we were furnished with their numbers but their phones were permanently engaged.

ADVOCATE LILLA CROUSE: Did you speak to Dr. Manamela's successor?

5**MR. MADITSI:** That's correct Justice.

ADVOCATE LILLA CROUSE: And have you been successful at all?

MR. MADITSI: We are not yet successful but we have started with the process just recently. She said she wanted a transfer letter where she is placed now in Limpopo. The social worker and the doctor had furnished us with a letter.

10**ARBITRATOR JUSTICE MOSENEKE:** Is she at the institution in Limpopo?

MR. MADITSI: No, it is just a local clinic.

ARBITRATOR JUSTICE MOSENEKE: But she still stays at home?

MR. MADITSI: She still stays at home.

ADVOCATE LILLA CROUSE: And are you satisfied that that's the best for her to
15stay in Limpopo at home?

MR. MADITSI: No, not at all Justice.

ADVOCATE LILLA CROUSE: Why do you say this?

MR. MADITSI: We will be very much satisfied if she can be placed like Professor Makgoba's testimony that mental health patients should be placed but we have not
20yet been placed.

ADVOCATE LILLA CROUSE: And your sister, is she well enough to travel to Limpopo?

MR. MADITSI: No, she is not physically well on her body.

ADVOCATE LILLA CROUSE: How has this affected your family?

5**MR. MADITSI:** It affected us badly because some of the family clause, we cannot do them. We could not do some of our rituals because this disturbed us.

ADVOCATE LILLA CROUSE: And how is your sister, how does your sister feel about her daughter being so far away?

MR. MADITSI: My sister as a parent wants her daughter to be placed, and she is 10also physically ill. It affects her negatively.

ADVOCATE LILLA CROUSE: And you said that you are currently not working?

MR. MADITSI: I am currently unemployed.

ADVOCATE LILLA CROUSE: And this caused a financial burden on you?

MR. MADITSI: It affected me very badly financially.

15**ADVOCATE LILLA CROUSE:** Mr. Maditsi, what do you want to see happen through this process of the arbitration?

MR. MADITSI: I wish that there can be a redress with some of the issues that we experienced.

ADVOCATE LILLA CROUSE: What do you want for your niece?

MR. MADITSI: I wish that she can be placed at one of the institution like Life Esidimeni institution because firstly she was being placed there and there was no problem.

ADVOCATE LILLA CROUSE: What do you want for your sister out of this arbitration process?

MR. MADITSI: With the redress issue she can be counselled.

ADVOCATE LILLA CROUSE: And for yourself, what do you want from this process?

MR. MADITSI: I have lost money, I am paying the person who is looking after her. If that money can come back to me, it will be a sort of redress.

ADVOCATE LILLA CROUSE: Is there anything else that you would like to come from this process for the broader public?

MR. MADITSI: What I wish that can happen because during this marathon whatever. It happened because of the privatization. If it wasn't for the privatization, it wouldn't have been like this.

ADVOCATE LILLA CROUSE: So, what do you want to see happen?

MR. MADITSI: I wish that the government can take up this whole thing and not deal with the NGOs and stop privatizing these mental institutions, they must fall under the government.

ADVOCATE LILLA CROUSE: Is there anything else that you want to say sir?

MR. MADITSI: I don't have much to say about it.

ADVOCATE LILLA CROUSE: Thank you Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADVOCATE ADILA HASSIM: Good afternoon Mr. Maditsi. I don't have any questions for you, I just want to thank you for coming and testifying today.

5**MR. MADITSI:** Thank you Justice.

ADVOCATE GROENWALD: Thank you Justice, we have no questions for the witness.

ADVOCATE SKIBI: Thank you Justice, we have no questions for the witness.

ARBITRATOR JUSTICE MOSENEKE: Before you go down your usual route
10Counsel, are you going to deal with the question of the institutionalization of this
young lady in your questions now? If you are not, there are some propositions that I
want to put to you?

ADVOCATE HUTAMO: Good afternoon Mr. Maditsi.

MR. MADITSI: Good afternoon.

15**ADVOCATE:** You have mentioned that after the transferral of Kgotso from Life
Esidimeni, she was transferred to Takalani?

MR. MADITSI: Correct.

ADVOCATE: And after your visit at Takalani, you found the conditions to be
unbearable?

20**MR. MADITSI:** Correct.

ADVOCATE: Which culminated in your decision to move from the institution? And I understand that saying that she is currently at home in Limpopo.

MR. MADITSI: Correct.

ADVOCATE: Where in Limpopo?

5**MR. MADITSI:** At Hakukune.

ADVOCATE: And I have heard if your evidence that you went to the department of health where you made contact with an official called Bafana.

MR. MADITSI: Correct.

ADVOCATE: And you were advised that you needed to make contact with the family committee?
10

MR. MADITSI: Correct.

ADVOCATE: What has been your engagement with this family committee in so far as it relates to the placement of Kgotso in one of the institutions in Gauteng?

MR. MADITSI: Up until now, there is nothing that came up.

15**ADVOCATE:** Have you discussed Kgotso's situation of being at home with the family representatives in the committee?

MR. MADITSI: Yes, I spoke to them Justice.

ADVOCATE: And did you inform them that you wish Kgotso to be placed in one of the facilities which are appropriate for her accommodation?

20**MR. MADITSI:** Yes, I spoke to them?

ADVOCATE: And what has been the outcome of that engagement?

MR. MADITSI: They referred me to the current deputy director, Colby Mareng. Colby Mareng, we place our case on her. What is surprising is that Colby Mareng said she wants confirmation from our side but we have sent all the documents to her. What Colby Mareng said to us, from one province to the other, it could take long. Even more than 3 months. What surprise us, why can't they place her? Because when we took the child from Takalani, it didn't even take 30 minutes because we saw that she could die there. She did not have a file, she is not yet been on the system in Limpopo. When she is supposed to come this side, they tell us about the process that is going to take long. If we can just take 30 minutes from Takalani to home, there hasn't been a process. Now they are telling us about transfer letter. They said the provincial government, inter-provincial transfer is going to take us long. That is where we don't have a hope about them.

ARBITRATOR JUSTICE MOSENEKE: But she is not institutionalized in Limpopo is she?

MR. MADITSI: Yes.

ARBITRATOR JUSTICE MOSENEKE: So, what transfer is required from you? You simply have met with Ms. Colby

MR. MADITSI: I met with Ms. Colby last week. It's a she.

ARBITRATOR JUSTICE MOSENEKE: Okay, so you met with Ms. Colby. And what transfer did she require?

MR. MADITSI: They sent a transfer from the doctor and the social worker. And now she says she wants a transfer to the provincial. The 1st was a transfer letter from that side to here. That was a demand from the Gauteng department. So, the letters arrived this side. So, Colby, they got the letters from Limpopo. They wanted a confirmation. They wanted a confirmation from Limpopo. I don't know what confirmation they are talking about.

ADVOCATE: Mr. Maditsi, you have mentioned that Kgotso was admitted at Life Esidimeni in Randfontein, not so?

MR. MADITSI: Correct.

10 **ADVOCATE:** And she was transferred to Takalani?

MR. MADITSI: Correct.

ADVOCATE: And pursuant to the report of the Ombud and all those mental care health users had to be transferred back to those institutions which are appropriate for their care.

15 **MR. MADITSI:** Correct.

ADVOCATE: And those facilities are within the province of Gauteng?

MR. MADITSI: Correct.

ADVOCATE: Do you have any difficulties if Kgotso is admitted in one of those institutions in Gauteng?

20 **MR. MADITSI:** I agree with you, I wish it can be in that way. I don't have any objection,

ADVOCATE: So, do you consider that case that you wish her to be accommodated in one of the institutions within the province of Gauteng?

MR. MADITSI: Correct, I agree with you.

ADVOCATE: Mr. Maditsi, I will implore upon you to make contact with the family committee that you previously had discussion with.

MR. MADITSI: I met with the committee member and they referred me to the director [indistinct] whom I met and placed my case on her, she is now dragging her feet. I went to the committee members, I don't see any need to go to them because they gave me a guideline. We are just waiting for the child to be placed.

10 **ADVOCATE:** We have heard your wish that if Kgotso can be accommodated in one of the institutions within the Gauteng province and we implore upon the government to take necessary steps to come to the assistance of Kgotso as well as the family.

ARBITRATOR JUSTICE MOSENEKE: You are making a tender to intervene, are
15 you?

ADVOCATE: Indeed.

MR. MADITSI: I would be happy about that, okay.

ADVOCATE: And I should however emphasize that the official that you had spoken to is employed within the province of Gauteng and therefore has no control
20 in matters out of the province. That is why we make the undertaking that assistance should be given to you in relation to those institutions within this province.

ARBITRATOR JUSTICE MOSENEKE: Of course Kgotso was in the province isn't it? She was admitted to a facility in the province.

ADVOCATE: Indeed so.

ARBITRATOR JUSTICE MOSENEKE: And she gets transferred to Takalani, and the evidence before me is that her guardian and uncle feared for her life. He said in so many words, I thought she might die. He says in 25 minutes they made up their minds to take her out of there. And she gets taken to Limpopo because he has lost his job and the possible caregiver is in Limpopo. So, an intervention will really be in the spirit of what we are trying to do, isn't it?

10 **ADVOCATE:** Indeed so Justice.

ARBITRATOR JUSTICE MOSENEKE: Yes, and I appreciate the tender rather than wait for an order within the award because this is a clear case of somebody who should have been placed together with all the other patients when the placement happened.

15 **ADVOCATE:** Well, it appears that there has been no proper communication by family members on behalf of Kgotso together with the department. That is why we say those matters will then need to be cleared up to see how the department can come to the assistance in light of the transfers.

ARBITRATOR JUSTICE MOSENEKE: And Counsel how soon do you think we will
20 hear about this matter?

ADVOCATE: Justice, I can't-

ARBITRATOR JUSTICE MOSENEKE: I have no idea about the procedure and how it works, but I am anxious to accommodate somebody who was institutionalized and who was affected by the marathon project and who now sits with appropriate care. If you could just check, you don't have to give me an answer now, and see what process is at play here and how can we all collectively have this young lady given the care that she deserves.

ADVOCATE: That is correct Justice.

MR. MADITSI: Thank you. Go ahead with the rest of your questions.

ADVOCATE: Justice, there would be no further questions. The questioning was to explore exactly where the problem is lying in so far as her current location.

ARBITRATOR JUSTICE MOSENEKE: I am grateful for that thank you. You will tell us in due course when it can be resolved so that we can at least have these matters sorted out rather than leaving it in the hands of the family committee. Either consulted, that is fine. The objection should always be as you tendered to get this young lady placed appropriately.

ADVOCATE: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE: No further questions, re-examination?

ADVOCATE LILLA CROUSE: Thank you Justice, just one question Mr. Maditsi. My learned friend said there were no proper communication, this lady to whom you spoken to could be Murray, is it correct that she is acting in Dr. Manamela's place?

MR. MADITSI: That's correct.

ADVOCATE LILLA CROUSE: So, that is the most senior person you can complain to?

ARBITRATOR JUSTICE MOSENEKE: You counsel should stay with the proper form of address. Sometimes it is difficult with witnesses but I can insist that you call her whatever she is, Dr. Cotzee or Ms. Cotzee.

ADVOCATE LILLA CROUSE: I am sorry Justice, I think it is Ms. Coetzee.

ARBITRATOR JUSTICE MOSENEKE: Let's stick to that.

ADVOCATE LILLA CROUSE: Coetzee was the previous Minister of Justice. She is Colby Murray.

10 **ARBITRATOR JUSTICE MOSENEKE:** she is Colby Murray I see. I am sorry, I introduced the Coetzee in error, I apologize. Very well.

ADVOCATE LILLA CROUSE: Thank you Justice, I have no further questions.

ARBITRATOR JUSTICE MOSENEKE: You know the procedure here?

MR. MADITSI: Yes, I know.

15 **ARBITRATOR JUSTICE MOSENEKE:** Right at the end we request the person that was testifying to give his view. We are listening.

MR. MADITSI: I would like the committee, the family committee members who directed me and who took the whole initiative, I would also like to thank the legal aid South Africa and Section 27 for the efforts they put on this matter. And up to so far I
20 don't have much to say like I am saying thank you guys. Thank you.

ARBITRATOR JUSTICE MOSENEKE: We thank you sir, you are excused. Well,
17:45.

ADVOCATE: Justice, we don't have any further questions today.

ARBITRATOR JUSTICE MOSENEKE: I was looking at you and thinking you were
5going to be a little more adventurous Counsel. But the day is done. Let's talk a little
about tomorrow, is there anything else to say about tomorrow? We are meeting
here at 09:30 and we will have Dr. Silibano here and we will start with his evidence.
Anything else that Counsel would like to say before we adjourn?

ADVOCATE: Nothing from our side Justice Moseneke.

10**ADVOCATE:** We have nothing to add Justice Moseneke.

ADVOCATE: Until tomorrow Justice.

ARBITRATOR JUSTICE MOSENEKE: We are adjourned till 09:30 tomorrow
morning.