

LIFE ESIDIMENI ARBITRATION

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

DATE: 19th OCTOBER 2017 DAY 9

5 **DAY 9 SESSION 1 – 3.**

BEFORE ARBITRATOR – JUSTICE MOSENEKE

WITNESSES:

10 **MRS. DIANNE NOYILE**

REV JOSEPH SPONTY MABOYE

MRS. WILLEMINAH THEJANE

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SESSION 1

ARBITRATOR JUSTICE MOSENEKE: Thank you, you may be seated. In which language do you want to speak?

MRS. DIANNE NOYILE: In English Justice.

5 **ARBITRATOR JUSTICE MOSENEKE**: In English?

MRS. DIANNE NOYILE: Yes please.

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

MRS. DIANNE NOYILE: Dianne Noyile.

10 **ARBITRATOR JUSTICE MOSENEKE**: Dianne. Miss Noyile, we require you to give your evidence under oath. You have an option between affirmation or conventional oath which ends up with so help me God. Which one do you want?

MRS. DIANNE NOYILE: The conventional one.

15 **ARBITRATOR JUSTICE MOSENEKE**: Conventional one. I ask you to swear that the evidence you are about to give will be the truth and nothing but the truth, if so please do raise up your right hand and say; So help me God.

MRS. DIANNE NOYILE: So, help me God.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

ADV. NONTLANTLA YINA: Good Morning Mrs Noyile.

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MRS. DIANNE NOYILE: Good morning madam.

ADV. NONTLANTLA YINA: I am Advocate Nontlantla Lina. I am one of the evidence leaders. I will be asking you a few questions relating to the incidents that happened at Siyabadinga NGO.

5 **MRS. DIANNE NOYILE:** Okay madam.

ADV. NONTLANTLA YINA: Firstly, what was your position at Siyabadinga NGO?

MRS. DIANNE NOYILE: I was a CEO madam.

ADV. NONTLANTLA YINA: Were you the owner of Siyabadinga NGO?

MRS. DIANNE NOYILE: No I was not, I was hired by Siyabadinga.

10 **ADV. NONTLANTLA YINA:** Who was the owner?

MRS. DIANNE NOYILE: The owner of Siyabadinga is Ntombifikile Dlabantu Mabena counsel.

ADV. NONTLANTLA YINA: It's common cause that Siyabadinga was operating at Cullinan Care and Rehabilitation Center, do you confirm that?

15 **MRS. DIANNE NOYILE:** I confirm Counsel.

ARBITRATOR JUSTICE MOSENEKE Sorry, there was an adult moment maybe. Could you just repeat who the owner was?

MRS. DIANNE NOYILE: Ntombifikile Dlabantu Mabena Justice.

ARBITRATOR JUSTICE MOSENEKE Ntombifikile Dlabantu Mabena, thank you
20 Nkosi.

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ADV. NONTLANTLA YINA: Thank you Justice. Madam, its common cause that Siyabadinga NGO was operating from Cullinan Care and Rehabilitation Centre. Do you confirm that?

MRS. DIANNE NOYILE: I confirm that.

5 **ADV. NONTLANTLA YINA:** And its common cause that Cullinan Care and Rehabilitation Centre it's a government facility.

MRS. DIANNE NOYILE: I confirm that Counsel.

ADV. NONTLANTLA YINA: Did you have the lease agreement with Cullinan Care and Rehabilitation Center?

10 **MRS. DIANNE NOYILE:** I did have a lease agreement Counsel.

ADV. NONTLANTLA YINA: As Siyabadinga that is?

MRS. DIANNE NOYILE: As Siyabadinga, yes.

ADV. NONTLANTLA YINA: Was it in writing or in oral?

MRS. DIANNE NOYILE: It was in writing, and it is signed.

15 **ADV. NONTLANTLA YINA:** Do you have a copy?

MRS. DIANNE NOYILE: I do have a copy, but I don't have it with me right now, but I will make sure that you get it Counsel

ADV. NONTLANTLA YINA: Who signed the lease agreement on behalf of Cullinan Care and Rehabilitation Centre?

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MRS. DIANNE NOYILE: It was the then CEO Ms Nyatlo and Ms Rasetsoqe.

ADV. NONTLANTLA YINA: And what was Ms Nyatlo's position?

MRS. DIANNE NOYILE: She was a CEO of Cullinan Rehabilitation Center Counsel.

ADV. NONTLANTLA YINA: And Mr Rasuse?

5 **MRS. DIANNE NOYILE**: I'm not sure but he is in management, I'm not sure of his portfolio.

ADV. NONTLANTLA LINA: And what was the arrangement in respect of rent?

MRS. DIANNE NOYILE: The arrangement was when we get the money from the mental health department; that's when we are going to start paying rent. We were
10 allocated with four wards, and the rent was supposed to be R7000 per month, per ward which equals to R28000 Counsel.

ADV. NONTLANTLA LINA: And did you take the occupation?

MRS. DIANNE NOYILE: We took occupation on the 9th of May madam.

ARBITRATOR JUSTICE MOSENEKE you must add the year please.

15 **MRS. DIANNE NOYILE**: Oh, sorry. 2016.

ADV. NONTLANTLA LINA: Thank you Justice and when was the first installment going to be paid?

MRS. DIANNE NOYILE: The first installment was going to be paid as soon as we received the money from mental health department.

20 **ADV. NONTLANTLA YINA**: No I would refer you ... [interjects]

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ARBITRATOR JUSTICE MOSENEKE: How long was the lease?

MRS. DIANNE NOYILE: The lease it was two years.

ARBITRATOR JUSTICE MOSENEKE: Do you know why it was only for two years?

MRS. DIANNE NOYILE: The reason I was given was that they would review the
5 lease as we are working, they will review the, do I say the conditions or the terms
actually of the lease still applies after two years Justice.

ARBITRATOR JUSTICE MOSENEKE Thank you

ADV. NONTLANTLA YINA: Thank you Justice and when was it signed, the lease
agreement, do you remember?

10 **MRS. DIANNE NOYILE:** I'm not really sure of the date but it was at the end of April.

ADV. NONTLANTLA YINA: Was there, rather let's start with the year. Which year
was this? April of which year?

MRS. DIANNE NOYILE: Oh, 2016. I'm sorry.

ADV. NONTLANTLA YINA: Was there a reason that you could not use any
15 premises other than the state facilities?

MRS. DIANNE NOYILE: Because of the state of the patients that were going to be
discharged to Siyabadinga, around Cullinan there was no other facility that we could
get.

ADV. NONTLANTLA YINA: The evidence that was given here was that you
20 received patients that were discharged from Cullinan Care and Rehabilitation

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Center. Is that so?

MRS. DIANNE NOYILE: That is true Counsel.

ADV. NONTLANTLA YINA: And it was because the reason that they had to discharge those patients, is because they needed to open space for patients who
5 were coming from Life Esidimeni.

MRS. DIANNE NOYILE: That is true madam.

ADV. NONTLANTLA YINA: Now why would they discharge you to an NGO, why would they discharge patients to an NGO, but in their premises?

MRS. DIANNE NOYILE: I would not really know the reason, but what I was told
10 was that because Cullinan has certain capacity that it needs to take of patients, so now if they were taking more and still keeping them under the hospital, then they will be exceeding the capacity of the hospital. That was my knowledge.

ARBITRATOR JUSTICE MOSENEKE Okay. Thank you.

ADV. NONTLANTLA YINA: That's a bit confusing when you are saying they didn't
15 have the capacity because you were using the same wards belonging to Cullinan Care and Rehabilitation Centre?

MRS. DIANNE NOYILE: When I mean capacity Counsel, I mean in terms of the staff that they had in the hospital. The number of staff that they had, they were not going to be able to take another 73 to 100 patients, they were not going to be able
20 to take care of them.

ADV. NONTLANTLA YINA: I see. Now I will refer you to file number 7. There

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should ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: I'm just curious to know what Siyabadinga, what was the business of Siyabadinga before signing this lease in April 2016?

MRS. DIANNE NOYILE: Siyabadinga was operating in Kangala Justice. It had a
5 day care center. It had three centres that it was operating in, and in the same area of Kangala.

ARBITRATOR JUSTICE MOSENEKE: Day care centres?

MRS. DIANNE NOYILE: Day care centres, yes Counsel. Justice, I'm sorry.

ARBITRATOR JUSTICE MOSENEKE: And the day care centres related to adults
10 or to children?

MRS. DIANNE NOYILE: Adults Justice.

ARBITRATOR JUSTICE MOSENEKE: Are were these disabled adults?

MRS. DIANNE NOYILE: It was the disabled as well as the aged, like the old age, the elderly.

ARBITRATOR JUSTICE MOSENEKE: And were any of them in need of psychiatric
15 treatment?

MRS. DIANNE NOYILE: Justice, I will not really be sure because I was not working at Siyabadinga in those centers.

ARBITRATOR JUSTICE MOSENEKE: So you were brought in as CEO only for the
20 CRC project?

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MRS. DIANNE NOYILE: For the project of CRC Justice.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

ADV. NONTLANTLA YINA: Thank you Justice and what experience did you have in respect of the patients that you are going to take care of at Siyabadinga?

5 **MRS. DIANNE NOYILE:** I am a community worker. I have an NGO that is called Siyathemba Nokeng Community Center that we, from 2008 we had home based care, and we had an opportunity to work with Shammah House which is situated in Cullinan, they have mental patients.

ADV. NONTLANTLA YINA: Were you personally involved and for how long?

10 **MRS. DIANNE NOYILE:** Yes I was personally involved, for a period of about eight months or so, I'm not sure.

ARBITRATOR JUSTICE MOSENEKE: What does a community worker do?

MRS. DIANNE NOYILE: A community worker works with the community in terms of home based care, in terms of people who need their IDs.

15 **ADV. NONTLANTLA YINA:** At Shammah for example, what did you do?

MRS. DIANNE NOYILE: Oh, at Shammah. At Shammah, we used to help them with feeding the patients and bathing them and cleaning the facility.

ADV. NONTLANTLA YINA: On what basis? Did you go there randomly, or were you based there?

20 **MRS. DIANNE NOYILE:** Sorry. We were not based there Counsel, but we would

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go two to three times a week.

ADV. NONTLANTLA YINA: I see. Maybe let's move now to the issue of license, volume 7, the volume that is being placed before you. It contains certificates of NGO's that were appointed by the Department of Mental Health Gauteng. Now I
5 have perused them, the licenses. I have perused them and I couldn't find any licence in respect of Siyabadinga. Was there a licence that was issued in respect of Siyabadinga?

MRS. DIANNE NOYILE: It is true Counsel, there is no license for Siyabadinga, but what had happened is that the license that was delivered to us by Ms Hanna
10 Jacobus.

ADV. NONTLANTLA YINA: Who is us? Maybe let's justify the us and the we. Who is us?

MRS. DIANNE NOYILE: To Siyabadinga.

ADV. NONTLANTLA YINA: Yes.

15 **MRS. DIANNE NOYILE:** The license that was delivered to Siyabadinga was the license for the Life Disciples International.

ADV. NONTLANTLA YINA: When was it delivered?

MRS. DIANNE NOYILE: It was delivered on, I just want to be sure of the date. On the 30th of June.

20 **ADV. NONTLANTLA YINA:** Which year?

MRS. DIANNE NOYILE: In 2016.

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ADV. NONTLANTLA YINA: Was there a reason why there was no license issued for Siyabadinga?

MRS. DIANNE NOYILE: When Siyabadinga was receiving patients, we were having meetings with Hanna Jacobus and she has promised that they were busy
5 with our stuff and they were going to issue the license.

ADV. NONTLANTLA YINA: Who is Hanna Jacobus?

MRS. DIANNE NOYILE: She is a, think she, I'm not sure but I think she is a director of Mental Health in Tshwane.

ADV. NONTLANTLA YINA: So where was this meeting?

10 **MRS. DIANNE NOYILE:** The meeting, she came to the centre itself.

ADV. NONTLANTLA YINA: At Siyabadinga?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. NONTLANTLA YINA: When was this?

MRS. DIANNE NOYILE: The first time she came on the 13th of May before we
15 received the patients because we received the first batch of patients, no it was the 8th of May. I'm sorry, because we received the patients on the 9th of May when she came.

ADV. NONTLANTLA YINA: So you received the patients on the 9th you didn't have the license?

20 **MRS. DIANNE NOYILE:** We did not have a licence madam.

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ADV. NONTLANTLA YINA: Yes. So said she was going to deliver the license for Life Disciples International.

MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: And said you can use that license. But were you under
5 Life Disciples?

MRS. DIANNE NOYILE: She delivered the licence because she said they were still fixing it. The reason the licence was delivered on that day, it was because the seniors from the provincial mental health were coming, which it was said the DDG and the MEC was coming. When she delivered the licence, she took it and she put
10 it at the back of my door, my office door and the reason she, and I asked why is she delivering the licence that has another name. She said the DDG and the MEC are coming, they will not, they will not see that it's written Life Disciples. They will just see if there is a licence. So that is how it was delivered to us.

ADV. NONTLANTLA YINA: So, you are saying that Hanna Jacobus went and
15 issued a license on another organization and gave it to you and allowed you to operate using that, and to mislead the MEC and the government officials?

MRS. DIANNE NOYILE: That is what I'm saying Counsel.

ADV. NONTLANTLA YINA: And what was your stance on that? You were the CEO, you were going to run the organization on a license that does not belong to
20 your organization?

MRS. DIANNE NOYILE: Counsel at that time there was a lot of chaos. I did try to

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question her and she said; "*Dianne I told you that I'm going to fix this. I work with this things*", that's a quote.

ADV. NONTLANTLA YINA: But did you apply for a license?

MRS. DIANNE NOYILE: We did send all our documents to the Mental Department
5 of Health

ADV. NONTLANTLA YINA: When was this?

MRS. DIANNE NOYILE: That was in April of 2016.

ADV. NONTLANTLA YINA: You know strange enough that license for Life
Disciples was also not part of the bundle. Do you have a copy of the licence?

10 **MRS. DIANNE NOYILE**: I do have it Counsel.

ADV. NONTLANTLA YINA: Can you make it available?

MRS. DIANNE NOYILE: Yes. Right now Counsel?

ADV. NONTLANTLA YINA: Yes please. If we may request Justice for the copies to
be made whilst we continue with the witness.

15 **ARBITRATOR JUSTICE MOSENEKE**: I cannot resist my curiosity. I want to see
before you make the copies.

ADV. NONTLANTLA YINA: Just a follow up question on that one, where you
registered as an NPO?

MRS. DIANNE NOYILE: Yes, we were registered as an NPO in 2011, Counsel.

20 **ADV. NONTLANTLA YINA**: No the other issue ... [interjects]

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ARBITRATOR JUSTICE MOSENEKE: I'm sorry, and what was your principle area of operation on your NPO certificate, registration certificate?

MRS. DIANNE NOYILE: I'm not sure if I understand you clearly judge.

ARBITRATOR JUSTICE MOSENEKE: And NPO normally has objects. You
5 normally set out your principal objects. NPO to collect art pieces, NPO in ...
[interjects]

MRS. DIANNE NOYILE: Oh, I understand.

ARBITRATOR JUSTICE MOSENEKE: NPO any advance in languages.

MRS. DIANNE NOYILE: Ja, our ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** NPO in training young rugby players.

MRS. DIANNE NOYILE: I understand now Justice.

ARBITRATOR JUSTICE MOSENEKE: Sure.

MRS. DIANNE NOYILE: Our ... [inaudible] our constitution, our objectives were to
have a full time accommodation for intellectually disabled and adult people. So you
15 have a full day care, sorry a day care facility for intellectually disabled person of all
ages.

ARBITRATOR JUSTICE MOSENEKE: Day care facility for ... [interjects]

MRS. DIANNE NOYILE: Disabled, yes. Intellectually disabled of all ages.

ARBITRATOR JUSTICE MOSENEKE: Thank you.

20 **ADV. NONTLANTLA YINA:** When you say that you were running a daycare center,

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Siyabadinga was a day care center at Ikangala, before April 2016. So a day care center, does that mean people will bring in their loved ones or the patients in the morning and take them back in the afternoon?

MRS. DIANNE NOYILE: That what it means Counsel.

5 **ADV. NONTLANTLA YINA**: Yes. Now the other issue that I wanted to refer you to with the issue of license. It is in volume 6, file number 6. Now file number 6 contains various agreements that were entered into between the Gauteng Department of Mental Health with the NGOs that were going to provide services in respect of Life Esidimeni patients.

10 **MRS. DIANNE NOYILE**: Yes.

ADV. NONTLANTLA YINA: I have perused that file. I cannot find the file with the agreement between the department and Siyabadinga. Is there a reason for that?

MRS. DIANNE NOYILE: Can I check the date of the signatures?

ADV. NONTLANTLA YINA: Yes, you may.

15 **ADV. NONTLANTLA YINA**: Is it the same date. Thank you so much.

ARBITRATOR JUSTICE MOSENEKE: No, but the first rump of question is, did you have an agreement into and signed between the Gauteng Provincial Government and Siyabadinga?

MRS. DIANNE NOYILE: No, we did not have Justice.

20 **ARBITRATOR JUSTICE MOSENEKE**: So, what will you be searching for now?

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MRS. DIANNE NOYILE: No, I was searching because I wanted to check the dates, because when we started taking in the patients that is when we were promised that we were going to be given the agreement.

ADV. NONTLANTLA YINA: Your long and short answer is that you did not sign any
5 contract with Gauteng Department of Mental Health.

MRS. DIANNE NOYILE: No, ma'am, we didn't.

ADV. NONTLANTLA YINA: Yes. Just to help you on the dates, on page 1944, the number is on top of the page 1944.

MRS. DIANNE NOYILE: Yes.

10 **ADV. NONTLANTLA YINA**: Are you there?

MRS. DIANNE NOYILE: Yes, I am ma'am.

ADV. NONTLANTLA YINA: Are you satisfied?

MRS. DIANNE NOYILE: Yes I am.

ADV. NONTLANTLA YINA: Yes.

15 **ADV. NONTLANTLA YINA**: Thank you. So the answer was that you did not sign any agreement with the department.

MRS. DIANNE NOYILE: No ma'am I didn't.

ADV. NONTLANTLA YINA: Before and after you have received the patients?

MRS. DIANNE NOYILE: No ma'am I didn't.

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ADV. NONTLANTLA YINA: Now, the service level agreement stipulates the terms and conditions of services that was going to be rendered and the payment that was going to be received from the department. So how were you hoping to know what services you were supposed to render without the agreement?

5 **MRS. DIANNE NOYILE:** The thing is Counsel, during the bringing in of patients into our NGO it was that time of pressure. So we were always being promised that our things will be sorted by Hanna Jacobus and Dr Manamela.

ADV. NONTLANTLA YINA: And you also understand that even the payments in respect of the necessities of the patients depended on the agreement?

10 **MRS. DIANNE NOYILE:** I do understand that ma'am.

ADV. NONTLANTLA YINA: Now in respect of other NGOs, there are audits that were conducted to check if they have the necessary equipment, the necessary staff, the audit's report appears on file number 7. I also didn't find any report in respect of Siyabadinga.

15 **MRS. DIANNE NOYILE:** I would not know number one Counsel who was suppose to do the audit.

ADV. NONTLANTLA YINA: Was the audit done?

MRS. DIANNE NOYILE: No.

ADV. NONTLANTLA YINA: It was not done?

20 **MRS. DIANNE NOYILE:** Ja, it was not Counsel.

ADV. NONTLANTLA YINA: The evidence that is before this tribunal in particular of

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a social worker Daphne Ndlovu who was working at Cullinan Care and Rehabilitation Center, was that you did not have one, doctors or professional nurses at Siyabadinga Do you confirm that?

MRS. DIANNE NOYILE: I do confirm Counsel.

5 **ADV. NONTLANTLA YINA**: And that you did not have a social worker.

MRS. DIANNE NOYILE: I did have two social workers, Counsel.

ADV. NONTLANTLA YINA: Were they part time or full time?

MRS. DIANNE NOYILE: They were full time.

ARBITRATOR JUSTICE MOSENEKE: What are their names?

10 **MRS. DIANNE NOYILE**: Vusi Jansen and Boitumelo ... [interjects]

ARBITRATOR JUSTICE MOSENEKE Vusi Jansen or Johnson?

MRS. DIANNE NOYILE: Mokomane. Jansen as in JA.

ARBITRATOR JUSTICE MOSENEKE Sure, thank you.

MRS. DIANNE NOYILE: And Boitumelo Mokomane.

15 **ADV. NONTLANTLA YINA**: And also that the patients when they were discharged from Cullinan Care and Rehabilitation Centre to Siyabadinga, they were not assessed as it is expected. Were they assessed?

MRS. DIANNE NOYILE: They were not assessed ma'am.

ARBITRATOR JUSTICE MOSENEKE: Why were they not assessed?

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MRS. DIANNE NOYILE: We did not, at Siyabadinga, Justice, we did not have doctors to assess them because of the funding that we did not have or the money that we did not have, and because we were not sure of how much when or if the Department Of Mental Health is going to pay; how much will be allocated to the
5 doctors or let me say to the professionals Justice.

ADV. NONTLANTLA YINA: Dr. Mkhathshwa who used to work at Life Esidimeni for a number of years, who has become accustomed to the need of the patients testified yesterday to the effect that it is a necessity that a facility that is taking care of patients of that sort, should have a clinician and a dietician over and above the
10 staff that I mentioned earlier on. Did you have a clinician at Siyabadinga?

MRS. DIANNE NOYILE: We only had two auxiliary nurses, and two who had done pre-nursing.

ADV. NONTLANTLA YINA: You did not have clinicians?

MRS. DIANNE NOYILE: Yes we did not have clinicians.

15 **ADV. NONTLANTLA YINA:** Did you have a dietician?

MRS. DIANNE NOYILE: No we did not ma'am.

ADV. NONTLANTLA YINA: Now how did you deal with food? How did you make a determination of what to give to patients and on what intervals if you did not have a dietician?

20 **MRS. DIANNE NOYILE:** Two weeks prior to the time of patients discharged to us, we had an opportunity of our healthcare workers and our kitchen staff, going to the

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Cullinan Rehabilitation hospital to kind of get the idea and be given some guidelines of when are they supposed to eat and who, on the patients that were going to come to us who is supposed, who is having salt free diet, who is having ... [interjects]

ADV. NONTLANTLA YINA: So you were using that?

5 **MRS. DIANNE NOYILE:** Yes we were using that Counsel.

ADV. NONTLANTLA YINA: Did you believe that was adequate ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Using what? What is that? Using what?

MRS. DIANNE NOYILE: We were using the information that we got from Cullinan Hospital in the two weeks that the workers were there.

10 **ARBITRATOR JUSTICE MOSENEKE:** And information will be what? Will it be the matter of cooking?

MRS. DIANNE NOYILE: The matter of cooking, the diet, because I've even mentioned that we had I dont know, we had patients that were having soft diet. So when they go to the kitchen they will tell them that when we say soft diet this is what we mean and this is how you cook the food.

15

ARBITRATOR JUSTICE MOSENEKE: I just want to understand what is it that you say your staff learned from the CCRC kitchen staff members.

MRS. DIANNE NOYILE: Can you repeat that Justice?

ARBITRATOR JUSTICE MOSENEKE I want to understand what your staff members learned from the CRC kitchen staff members.

20

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MRS. DIANNE NOYILE: Okay. They've learnt how to cook the food, they've learnt again the intervals that they were supposed to have in between their meals.

ARBITRATOR JUSTICE MOSENEKE: How many meals were you serving?

MRS. DIANNE NOYILE: We were serving three meals and we were having a snack
5 in between.

ARBITRATOR JUSTICE MOSENEKE: Three meals and one snack?

MRS. DIANNE NOYILE: Two snacks Justice.

ARBITRATOR JUSTICE MOSENEKE: Two snacks. As you see, this is quite an important issue.

10 **MRS. DIANNE NOYILE**: Yes.

ARBITRATOR JUSTICE MOSENEKE because you are going to ask how did these patients die.

MRS. DIANNE NOYILE: Yes.

ARBITRATOR JUSTICE MOSENEKE And food is quite an important element in
15 this case.

MRS. DIANNE NOYILE: Yes it is.

ARBITRATOR JUSTICE MOSENEKE: Okay, we'll come back to that. Counsel.

ADV. NONTLANTLA YINA: Thank you Justice. So, you learned how to prepare food and how to give them to patients in two weeks' time. How many patients are
20 we talking about?

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MRS. DIANNE NOYILE: We're talking about, the end we had 73 from Cullinan hospital itself, and we had three that were coming direct from Life Esidimeni.

ADV. NONTLANTLA YINA: So in total it's 76?

MRS. DIANNE NOYILE: Yes ma'am.

5 **ADV. NONTLANTLA YINA:** Do you believe that was enough, or appropriate rather?

MRS. DIANNE NOYILE: At that time I don't know if it was because of pressure, at that we had enough information.

ADV. NONTLANTLA YINA: But what do you think now?

10 **MRS. DIANNE NOYILE:** I don't think, I don't think it was enough.

ADV. NONTLANTLA YINA: Because Doctor ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: How were, sorry Counsel. The 73 that came from CCRC, how and by whom where they identified as patients who ought to come to you?

15 **MRS. DIANNE NOYILE:** They were identified by the hospital itself.

ARBITRATOR JUSTICE MOSENEKE: So CCRC told you who to take into your facility?

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: And the three from Life Esidimeni, by
20 whom and how were they identified?

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MRS. DIANNE NOYILE: The three from Life Esidimeni came on the 1st of July, and they were brought in by Dr Manamela and Matilda Malaza, Frans ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Who is Matilda Malaza?

MRS. DIANNE NOYILE: She is the CEO, no there is a new acting CEO now. She
5 became the CEO after Ms Nyatlu was ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: CEO for CCRC?

MRS. DIANNE NOYILE: CEO for CCRC, yes.

ARBITRATOR JUSTICE MOSENEKE: And who else?

MRS. DIANNE NOYILE: And Mr. France Thobane who is working at the
10 Department Of Mental Health in the province.

ARBITRATOR JUSTICE MOSENEKE: Did they tell you why they bring these patients to you?

MRS. DIANNE NOYILE: Justice it was late afternoon, there was a bus full of people in our yard, and they did not know where to take the patients. They just said can
15 you please take these patients because we don't know where to take them. Dr Manamela was making some phone calls. I'm not sure who she was calling. They did not have Ids. They did not have identifications. We did not know their names or their names or their age, they had nothing. It was just what they were wearing at that time. It was three male patients.

20 **ARBITRATOR JUSTICE MOSENEKE**: Three male patients.

MRS. DIANNE NOYILE: Male, yes.

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ARBITRATOR JUSTICE MOSENEKE and how do you end up with three and not all of those on the bus or in the bus?

MRS. DIANNE NOYILE: Okay. The ones, the others that were put on the bus were put into Anchor of Life NGO which was in the same area.

5 **ARBITRATOR JUSTICE MOSENEKE**: They were your neighbours?

MRS. DIANNE NOYILE: Yes, yes.

ARBITRATOR JUSTICE MOSENEKE: And you were given three?

MRS. DIANNE NOYILE: I was given three Justice.

ARBITRATOR JUSTICE MOSENEKE: Did you choose which patients you wanted?

10 **MRS. DIANNE NOYILE**: I did not choose. As I said before Justice, these patients they did not know where to put them because all of the others were allocated at Anchor, and these three were idling. So they asked me to take these patients I did not just take them. We had a problem of space. So, I said we did not have space for them, where are we going to put them? What are they going to eat because we did
15 not have any money from Mental Health Department; and Dr Manamela said she was going to come and fetch them on the following Monday. If I'm not mistaken it was a Friday that day. So we had to stay with these patients over the weekend, but they were never taken back.

ARBITRATOR JUSTICE MOSENEKE: Why did you take on these patients?
20 Counsel has shown through evidence that you had no license, you had no service level agreement, you had no doctors, you had no clinicians, you had two social

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workers on your evidence. Presumably people who could cook, you had no money, at least from the department. Why did you take on these patients? What was the plan, just open up and tell us, what were you doing? In order to achieve what?

5 **MRS. DIANNE NOYILE:** The Counsel asked me what do I do. I said I'm a community worker. Not that only, I am a pastor as well. I just have the heart of helping, which has put me in this place right now. The achievement was to help these patients that did not have a place to stay, or a person to care of. I did not have money, yes. It was promised by Dr Manamela and Hanna Jacobus that the
10 Siyabadinga issue is going to be sorted.

ARBITRATOR JUSTICE MOSENEKE: Did you have the skill to look after the patients?

MRS. DIANNE NOYILE: I did not have Justice.

ARBITRATOR JUSTICE MOSENEKE: Being a pastor why did you operate over
15 false license?

MRS. DIANNE NOYILE: I did not go and sought after the license. I retaliated when the license was given to me, because I was expecting to get a license that was written Siyabadinga.

ARBITRATOR JUSTICE MOSENEKE: There's a record, the license submitted as
20 ELAH40. Explain why you would operating under false license?

MRS. DIANNE NOYILE: Should I continue justice?

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ARBITRATOR JUSTICE MOSENEKE: Yes please do.

MRS. DIANNE NOYILE: Thank you. I would again say I did not go and pick up the license. It was brought to us, because an official was under pressure of her superiors, and I did not just accept the license.

5 **ARBITRATOR JUSTICE MOSENEKE:** Under what pressure were you? They may have been under pressure, which they have not told us what it was, but under what pressure were you to take on vulnerable people without anything that would help them, why did you that?

MRS. DIANNE NOYILE: I was not under any pressure Justice. As I said in the
10 beginning, I think just being the person who want to just chip in, I chipped in in a wrong place at the wrong time. Thinking that I was helping.

ARBITRATOR JUSTICE MOSENEKE: Why were you chipping in at the wrong place in wrong time? What reason, to achieve what?

MRS. DIANNE NOYILE: I was just trying to help, that was my thinking at that time.

15 **ARBITRATOR JUSTICE MOSENEKE:** Why do want to help when you didn't have the means to help?

MRS. DIANNE NOYILE: I wouldn't have an answer for that Justice to be honest.

ARBITRATOR JUSTICE MOSENEKE: Why didn't you demand the means so that you can help.

20 **MRS. DIANNE NOYILE:** Excuse me Justice?

ARBITRATOR JUSTICE MOSENEKE Why didn't you demand the means so that

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you can help properly?

MRS. DIANNE NOYILE: I did demand the need, the means. I did try to knock at the door of the Mental Health Department to help us.

ARBITRATOR JUSTICE MOSENEKE: Who did you ask?

5 **MRS. DIANNE NOYILE**: I asked Dr Manamela herself, asked Hanna Jacobus, but as I was saying, as I said before, the answer I would get, I want to talk for my NGO. The answer I would be that *"we right now are pushing to take away the patients from Life Esidimeni, the deadline is closer, everything else will be sorted after that"*.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

10 **ADV. NONTLANTLA YINA**: Thank you Justice. Did you have SASSA grants for the patients that you have?

MRS. DIANNE NOYILE: I did Counsel, I had 14 SASSA grants.

ADV. NONTLANTLA YINA: 14?

MRS. DIANNE NOYILE: 14.

15 **ADV. NONTLANTLA YINA**: So finance 76?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. NONTLANTLA YINA: What was the reason that you didn't have in respect of the rest?

20 **MRS. DIANNE NOYILE**: Daphne the social worker of CCRC was busy with the applications of others and we had some other patients who did not have ID's. So

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she was even busy with other applications of the ID documents madam.

ADV. NONTLANTLA YINA: So Daphne the CCRC social worker was also assisting Siyabadinga?

MRS. DIANNE NOYILE: When we came into place, Daphne had already started
5 the process, but when we started taking the patients they discharge patients to us,
then it was hands off from Daphne

ADV. NONTLANTLA YINA: Now other than the 14 grants that you were, or rather
how much was a person per grant? How much were you receiving?

MRS. DIANNE NOYILE: The first month it was R2800 per person.

10 **ADV. NONTLANTLA YINA:** R2 800-00.

MRS. DIANNE NOYILE: R2 800-00 per person.

ADV. NONTLANTLA YINA: The second month?

MRS. DIANNE NOYILE: It was R1800.

ADV. NONTLANTLA YINA: Other than this money that you were receiving from
15 SASSA grants, did you have any sort of subsidy that you were receiving?

MRS. DIANNE NOYILE: I did not have any subsidy, but we were helped by some of
the parents. They donated food and they donated some money as well.

ADV. NONTLANTLA YINA: Was it sufficient to feed 76 patients and to take care of
them and to pay salaries?

20 **MRS. DIANNE NOYILE:** Madam, it was a day to day struggle in terms of taking

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care of the patients. It was a day to day struggle, but having said that we managed to take care of the patients at that time.

ADV. NONTLANTLA YINA: Would you say they were receiving proper food?

MRS. DIANNE NOYILE: I would say they were receiving proper food.

5 **ADV. NONTLANTLA YINA:** Proper nutrition?

MRS. DIANNE NOYILE: Proper nutrition Counsel?

ADV. NONTLANTLA YINA: Now with respect of linen and other stuff, how did you finance that?

10 **MRS. DIANNE NOYILE:** With linen CCRC when they bring, when they brought the patients, they gave us linen and two sorts of blankets for each patient.

ADV. NONTLANTLA YINA: In respect of other stuff, washing machines, the stuff that you needed in the kitchen, that kind of stuff, how did you finance that?

MRS. DIANNE NOYILE: We did have those equipment, we got them from donations Counsel, and we did take from our houses as well.

15 **ADV. NONTLANTLA YINA:** Did you get the donations immediately after you have received the patients? After or before?

MRS. DIANNE NOYILE: Some of the donations we got them before, and some of the donations we got them in between, Counsel.

ADV. NONTLANTLA YINA: Were they money, or assets?

20 **MRS. DIANNE NOYILE:** They were form of assets and food.

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ADV. NONTLANTLA YINA: What type of assets?

MRS. DIANNE NOYILE: We were donated a washing machine, a tumble dryer, a laptop, fridge, those are the ones I can remember right now Counsel.

ARBITRATOR JUSTICE MOSENEKE: And clothing for your patients?

5 **MRS. DIANNE NOYILE:** We got, sorry.

ARBITRATOR JUSTICE MOSENEKE Yes, no you can go ahead. That's the question.

MRS. DIANNE NOYILE: Okay.

ARBITRATOR JUSTICE MOSENEKE I want to know whether clothing, was there
10 clothing and where it came from.

MRS. DIANNE NOYILE: There was clothing Justice. We donated clothes from ourselves. Khumi Huis which looks after intellectual disabled patients in Rayton. They donated a lot of clothes and shoes; ja and then it was churches around and some of them were contracted by community health workers, and they brought the
15 clothes and the shoes Counsel.

ARBITRATOR JUSTICE MOSENEKE: And when did you think you would get any money at all from the department?

MRS. DIANNE NOYILE: We thought we were going to get the money around July or August, because that, we thought it and that is what we were even promised as
20 well.

ARBITRATOR JUSTICE MOSENEKE: Who promised you?

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MRS. DIANNE NOYILE: Dr Manamela.

ARBITRATOR JUSTICE MOSENEKE Hm.

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: And did the money ever come?

5 **MRS. DIANNE NOYILE**: No, nothing came, Justice.

ARBITRATOR JUSTICE MOSENEKE: Up to the time Siyabadinga was closed down, no money had flowed to you?

MRS. DIANNE NOYILE: Nothing Justice.

ARBITRATOR JUSTICE MOSENEKE: And how long was that period from May
10 2016 up to?

MRS. DIANNE NOYILE: Up to the 12 of July 2016 Justice.

ARBITRATOR JUSTICE MOSENEKE: You operated for 3 months?

MRS. DIANNE NOYILE: Just over two months Justice.

ADV. NONTLANTLA YINA: You would not have received the money because you
15 have no contract with the department, do you agree?

MRS. DIANNE NOYILE: Now that you are saying it I agree but at that time promises were made. So I believed at that time that we were going to get the money and that's why we continued with the program, Counsel.

ADV. NONTLANTLA YINA: Mrs De Villiers, one of the family members of the
20 patients who were admitted at Siyabadinga, Jaco Stols, do you remember Jaco

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Stols?

MRS. DIANNE NOYILE: Very well Counsel.

ADV. NONTLANTLA YINA: Testified that the situation was so bad, they had to come up with desperate measures of making sure that their beloved had food and
5 clothes. They also had to contribute.

MRS. DIANNE NOYILE: As I said, some of the family members did contribute. I would not agree that the situation was so bad, because as I said, we did have food, we did have clothes for the patients.

ADV. NONTLANTLA YINA: Did you pay your staff?

10 **MRS. DIANNE NOYILE**: Our staff was not paid Counsel.

ADV. NONTLANTLA YINA: Did they remain for the duration of two and some weeks, months?

MRS. DIANNE NOYILE: They did Counsel.

ADV. NONTLANTLA YINA: What staff did you have other than the two social
15 workers and yourself?

MRS. DIANNE NOYILE: We had two auxiliary nurses, we had two who did pre-nursing, we had 30 community health workers, we had eight staff that was working in the kitchen and we had eight cleaners.

ADV. NONTLANTLA YINA: Now, it is on record that there are patients who died at
20 Siyabadinga NGO, is that correct?

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MRS. DIANNE NOYILE: It is correct Counsel.

ADV. NONTLANTLA YINA: How many patients died?

MRS. DIANNE NOYILE: During our time it is 4 patients that died.

ADV. NONTLANTLA YINA: What did they die of?

5 **MRS. DIANNE NOYILE**: One died, let me see. It was Tian Crouse to be exact, and it was pneumonia.

ARBITRATOR JUSTICE MOSENEKE: Tian Crouse is name of the patient.

MRS. DIANNE NOYILE: Of the patient.

ARBITRATOR JUSTICE MOSENEKE Was it a man or a woman?

10 **MRS. DIANNE NOYILE**: It was a man Justice.

ADV. NONTLANTLA YINA: Yes that's the one and what about the three. The three, what did they die of?

MRS. DIANNE NOYILE: Who is the second one? Then Jan Dieneker.

ARBITRATOR JUSTICE MOSENEKE Dieneker?

15 **MRS. DIANNE NOYILE**: Yes, I think it's Dieneker. I might be under correction Justice.

ARBITRATOR JUSTICE MOSENEKE: Was it a man or a woman?

MRS. DIANNE NOYILE: A man.

ARBITRATOR JUSTICE MOSENEKE: An adult?

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MRS. DIANNE NOYILE: An adult Justice.

ARBITRATOR JUSTICE MOSENEKE: And Mr Crouse was also an adult?

MRS. DIANNE NOYILE: He was an adult Justice. Mr Jan Dieneker was a palliative care patient, this was confirmed by the doctor at Mamelodi hospital.

5 **ADV. NONTLANTLA YINA**: Justice, if I may refer the witness to exhibit ELAH4.

ARBITRATOR JUSTICE MOSENEKE ELAH 4.

ADV. NONTLANTLA YINA: Is the comprehensive schedule of the deceased?

ARBITRATOR JUSTICE MOSENEKE Yes. But you gave us two of the four names, can you remember the other 2?

10 **MRS. DIANNE NOYILE**: Yes, the other two, the other two ... [interjects]

ARBITRATOR JUSTICE MOSENEKE I am sure the Counsel will refer you to the schedule, but can you give me the other two names please?

MRS. DIANNE NOYILE: Yes, the other 2 was Jabulani Mhlongo, as well as Ms Refiloe Sefoka.

15 **ARBITRATOR JUSTICE MOSENEKE** An adult male?

MRS. DIANNE NOYILE: An adult male. Ja, he was an adult and Mrs Refiloe Sefoka.

ARBITRATOR JUSTICE MOSENEKE: Sefoka

MRS. DIANNE NOYILE: Yes Justice.

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ARBITRATOR JUSTICE MOSENEKE She was an adult female?

MRS. DIANNE NOYILE: She is a female Justice.

ARBITRATOR JUSTICE MOSENEKE: Does the patient have exhibit EALH4, does the witness have?

5 **ADV. NONTLANTLA YINA**: We'll pass one just now Justice, thank you.

ARBITRATOR JUSTICE MOSENEKE Okay.

ADV. NONTLANTLA YINA: Madam, that is the schedule that was compiled by the Ombud during his investigation. Now if you turn to the second page of the document, at the bottom you will see columns and rows. Right at the bottom you
10 will see Siyabadinga.

MRS. DIANNE NOYILE: Yes, I do see it Counsel.

ADV. NONTLANTLA YINA: And the names of the patient who died at Siyabadinga.

ARBITRATOR JUSTICE MOSENEKE: Counsel you got to take me there, I missed
15 it.

ADV. NONTLANTLA YINA: That will be the second page Justice.

ARBITRATOR JUSTICE MOSENEKE Yes.

ADV. NONTLANTLA YINA: Just the document is not numbered. Right at the bottom is Siyabadinga.

20 **ARBITRATOR JUSTICE MOSENEKE**: I got it.

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ADV. NONTLANTLA YINA: On this page, there are six patients who died at Siyabadinga, and the seventh one appears on the next page, and the eighth one appears at the bottom of that page.

ARBITRATOR JUSTICE MOSENEKE: Can you see what the Counsel is referring
5 to you?

MRS. DIANNE NOYILE: Yes I see it justice.

ARBITRATOR JUSTICE MOSENEKE You see it, right.

ADV. NONTLANTLA YINA: According to this report which was compiled by the Ombud, eight people died at Siyabadinga, in actual fact it's nine altogether.

10 **MRS. DIANNE NOYILE:** I can see that Counsel, but some of the patients that died were already out of Siyabadinga. I can see the dates which are written here, because in Siyabadinga we left in July. The 12th of July, that was the last day. With Fredericks Els, during that time the CCRS already had brought in the nurses that were taking care of the patients. We were still there but we were not allowed control
15 of the situation.

ADV. NONTLANTLA YINA: Yes, Justice I beg your pardon, it was actually seven on the second page, and then two on the following page after that one, which makes the number to be nine. The point ma'am is that all these patients died during that move from CCRC to Siyabadinga and back, and your evidence is that you did
20 not have professional staff, you were struggling financially, and these people died in the process, and the conclusion of the Ombud is that they died as a result of that process being moved from CCRC to Siyabadinga and back. Do you wish to

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comment?

MRS. DIANNE NOYILE: I really don't have a comment Counsel.

ADV. NONTLANTLA YINA: Specifically the Ombud stated that the majority of patients died from five NGOs, and Siyabadinga is listed as one of them and he
5 stated that the reason that the patients died was that the NGOs had neither basic competence, and you've already testified that you were not competent, is that so?

MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: And you had no experience.

MRS. DIANNE NOYILE: Yes Counsel.

10 **ADV. NONTLANTLA YINA**: And there was no leadership.

MRS. DIANNE NOYILE: Yes Counsel.

ADV. NONTLANTLA YINA: No managerial capacity, do you agree?

MRS. DIANNE NOYILE: No I don't.

ADV. NONTLANTLA YINA: And the NGOs were not fit to take care of the patients,
15 do you agree?

MRS. DIANNE NOYILE: They were not fit because they did not have the resources. That's what I think. If NGOs were well prepared, NGOs were given support in every way, I think NGOs would have been able to take care of the patients.

ADV. NONTLANTLA YINA: If the NGO's were prepared, but ma'am or maybe
20 before I get to that.

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MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: Because it's not clear. Other NGO's testified that they were invited to a meeting wherein they were requested to submit document and that's how they become part of this process, and how did Siyabadinga come to this
5 process.

MRS. DIANNE NOYILE: The only meeting that we were invited in was on the 17 of May.

ADV. NONTLANTLA YINA: Which year?

MRS. DIANNE NOYILE: 2016, and on that day we ... [interjects]

10 **ADV. NONTLANTLA YINA:** But you already had taken the patients because you signed the lease agreement in April.

MRS. DIANNE NOYILE: I'm sorry, it was on the 17th. Let me, can you just give me time to, because ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Yes you are entitled time to think through.

15 **MRS. DIANNE NOYILE:** Thank you so much Justice, it was on the 7th of May where NGOs from Tshwane were invited at the Hatfield Department Of Health.

ADV. NONTLANTLA YINA: 7th May of which year?

MRS. DIANNE NOYILE: 7th May of 2016 Counsel.

ADV. NONTLANTLA YINA: Yes, so that was the time you learnt about the Gauteng
20 health marathon?

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MRS. DIANNE NOYILE: No, that was not the time I learnt about it.

ADV. NONTLANTLA YINA: As Siyabadinga?

MRS. DIANNE NOYILE: As Siyabadinga, yes.

ADV. NONTLANTLA YINA: That was the first meeting that you attended?

5 **MRS. DIANNE NOYILE**: The first meeting that we were supposed to have attended, but on the way there we were called that we were late by Dr, no by Hannah.

ADV. NONTLANTLA YINA: So you did not even attend the meeting of the 7th of May?

10 **MRS. DIANNE NOYILE**: We were not given the opportunity to attend the meeting.

ADV. NONTLANTLA YINA: But how is it that you already signed the lease agreement in April already? You signed the lease agreement with CCRC in April.

MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: So that you could take care of the patients that would
15 be discharged from CCRC.

MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: As well as those that will be coming from Life Esidimeni in April.

MRS. DIANNE NOYILE: In April, yes.

20 **ADV. NONTLANTLA YINA**: Before the 7th of May. Is that so?

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MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: That's a bit confusing. Do you want to explain that?

MRS. DIANNE NOYILE: I do want to explain that.

ADV. NONTLANTLA YINA: Definitely do so, please. Let me unpack it for you. Why
5 did you sign the lease in April? What did you want to achieve in entering into a
lease agreement with CCRC?

MRS. DIANNE NOYILE: We signed the lease in April because we were going to be
given the patients in May.

ADV. NONTLANTLA YINA: Who told you that you will be receiving the patients in
10 May?

MRS. DIANNE NOYILE: We were told by Ms Nyatlo.

ADV. NONTLANTLA YINA: How did it come about?

MRS. DIANNE NOYILE: Okay. I would just want to say our story is a bit
complicated, when we came into the picture of CCRC, I was asked personally to
15 help the LDI, hence the certificate for LDI.

ADV. NONTLANTLA YINA: What is LDI?

MRS. DIANNE NOYILE: Life Disciples International. There is a certificate that I just
gave to you now, yes. I got a call in August 2015 that there is an international
organization that is going to occupy in Cullinan Rehabilitation Care center and take
20 care of the mental intellectual disabled patients.

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ADV. NONTLANTLA YINA: A call from who?

MRS. DIANNE NOYILE: A call I got from sister Nkosi who is the facility manager at ART clinic in clinic.

ADV. NONTLANTLA YINA: Yes. That there is an international NGO that will be
5 taking space, yes.

MRS. DIANNE NOYILE: Yes, but this NGO is not familiar with the area, they want to start hiring the staff but they don't have, since they are not from South Africa, they don't know the how about. As I said in the beginning I'm a community worker, the relationship that I had with Mrs Nkosi is that I had an NGO and in that NGO we
10 were ... [interjects]

ADV. NONTLANTLA YINA: In the interest of time.

MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: Just tell us about the Life Disciples. You were still saying that you got a call. Did you get to speak to them and what happened?

MRS. DIANNE NOYILE: I was asked to send them to find them people who have
15 community health worker knowledge or certificates, and I did that. I forwarded the names to the center up until the beginning of January, which was now 2016. I did not hear anything up until then. Then around the 14 or the 15 January 2016, I'm not sure I'm speaking under correction, I got a call that they were interviewing all the
20 people that I submitted their names.

ADV. NONTLANTLA YINA: So you attended the interview.

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MRS. DIANNE NOYILE: I was asked to come.

ADV. NONTLANTLA YINA: You were offered a job?

MRS. DIANNE NOYILE: I was asked to come and help with the interviews. Yes, I was not offered a job yet.

5 **ADV. NONTLANTLA YINA:** To interview people?

MRS. DIANNE NOYILE: Yes.

ADV. NONTLANTLA YINA: Okay, so what were you interviewing these people for?

MRS. DIANNE NOYILE: For community health workers.

ADV. NONTLANTLA YINA: For what purpose, in relation to what ... [interjects]

10 **MRS. DIANNE NOYILE:** In relationship with the patients that were going to be transferred or discharged from CCRC to this Life Disciples Organization.

ADV. NONTLANTLA YINA: Yes, you help with the interviews, did you hire people?

MRS. DIANNE NOYILE: I helped with the interview, gave recommendations as I could see, and that was it, I left. The following day I got a call from the owner of the
15 Life Disciples asking me to come in. Then he explained now in depth about the patients that were going to come in, and then he explained now in depth about the patients that are going to come from the CRC to them, and they need people and he said to me I would want you to come in and help us in terms of being a board member, and I asked because I have been in the NGO sector, I asked ... [interjects]

20 **ADV. NONTLANTLA YINA:** Did you eventually agree to the part of being a board

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member?

MRS. DIANNE NOYILE: Yes, I did.

ADV NONTLANTLA YINA: Yes, okay so yes. Tell us from there?

MRS. DIANNE NOYILE: Then a week or two later, he came again and he said, he
5 was a CEO of LDI at that time...

ADV. NONTLANTLA YINA: What is his name?

MRS. DIANNE NOYILE: Airwin Wackner.

ADV. NONTLANTLA YINA: Yes.

MRS. DIANNE NOYILE: He was the CEO at the time and he came in and said he
10 was going to get out because he was not getting the information from the
Department Of Mental Health of how is he going to get funds in terms of taking care
of 100 patients that he is being promised, and he was going now.

ARBITRATOR JUSTICE MOSENEKE: Where does all this details get us to
Counsel?

ADV. NONTLANTLA YINA: Yes I want to find out ma'am, the question was very
15 simple. You signed the lease agreement in April, but you only got the information
about the patients or you were going to get the information on the 7th of May, and
you started receiving the patients in May. The question is how did, you don't have a
license, you don't have an agreement with department of mental health.

MRS. DIANNE NOYILE: Yes.
20

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ADV. NONTLANTLA YINA: You don't have premises. How did it come about that Siyabadinga ended up taking patients from CCRC and Life Esidimeni?

MRS. DIANNE NOYILE: I am sorry Counsel I thought we were done. It came about because LDI was not in place anymore, and an NGO was needed to take the place
5 of LDI.

ADV. NONTLANTLA YINA: So you took their space?

MRS. DIANNE NOYILE: Siyabadinga took the space.

ADV. NONTLANTLA YINA: And that is how you got to use their license, is that what you were trying to explain?

10 **MRS. DIANNE NOYILE:** Not at all ma'am, that is not how I got to use their license, The license was brought to me because the DDG was coming. I did not go, I did not collect the license; it was brought to the office.

ADV. NONTLANTLA YINA: Ma'am, just in concluding, you told us today that you didn't have a license at Siyabadinga.

15 **MRS. DIANNE NOYILE:** Yes madam.

ADV. NONTLANTLA YINA: You didn't have contract with the department, you didn't have the skill to take care of the patients.

MRS. DIANNE NOYILE: I agree madam.

ADV. NONTLANTLA YINA: You didn't have the necessary staff. Now it is on
20 record that nine people died as result of an NGO having taken people who were in good hands at CCRC and Life Esidimeni.

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MRS. DIANNE NOYILE: Yes it is in record ma'am, and I think maybe we should look at the patients who died two weeks just after they were moved from CCRC to Siyabadinga.

ADV. NONTLANTLA YINA: And you were using the state facilities for the NGO,
5 you were using someone else's license. Now, when you think about all this things, was it the right thing to do?

MRS. DIANNE NOYILE: I would say in response to that, if I went out, went and get the license, lied about it from the beginning that I have this license and it doesn't belong to me, I would say that was not supposed to happen. But an official of the
10 Department Of Mental Health, knew that this was Siyabadinga. It is not LDI. Brought the license to us, put it on the door, and ... [interjects]

ADV. NONTLANTLA YINA: No, no, no; you've already said that, I mean it's too much of a coincidence that you were also part of Life Disciples. Justice, that will be evidence in chief. Thank you

ARBITRATOR JUSTICE MOSENEKE: Would somebody give the witness the
15 report please of the Ombud please. Thank you Counsel. If you open that report you notice that it was compiled by the Ombud, Professor Malekgapuru Makgoba, can you see that? And you know about it, you've heard about now, haven't you?

MRS. DIANNE NOYILE: I did hear about it Justice.

ARBITRATOR JUSTICE MOSENEKE: And he did interview you, did he?
20

MRS. DIANNE NOYILE: I dont remember.

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ARBITRATOR JUSTICE MOSENEKE You dont remember talking to him.

MRS. DIANNE NOYILE: I don't remember talking to him Justice.

ARBITRATOR JUSTICE MOSENEKE: Well let's go to page 15, the numbers are on the left bottom, there are bullet points that you can see there. Let's start more or
5 less at the middle, May, June, July; the sentence starts there and at the bottom end. It talks about she visited Cullinan, it's Dr Manamela and she visited Anchor and Siyabadinga NGOs, and instructed that both share the unused hospital kitchen, built another cold room, one stove, and put a washing machine, an intervention of nurses was also made. Siyabadinga then took the department to court and was kicked out
10 of the premises. What is that, can you explain that?

MRS. DIANNE NOYILE: We were served on the 12th of July with a court order to get out of the premises. In response to that court order that is when we went to court.

ARBITRATOR JUSTICE MOSENEKE: Who had asked for the court order against
15 you?

MRS. DIANNE NOYILE: Can I check the court order because a copy here?

ARBITRATOR JUSTICE MOSENEKE: Yes. You litigated with the department. I just want to get the details of it, and this appears on the report.

MRS. DIANNE NOYILE: On the 8th of July, we were given a letter that said we
20 must get out of CCRC.

ARBITRATOR JUSTICE MOSENEKE: Letter from whom to whom?

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MRS. DIANNE NOYILE: It was signed by Dr Selebano, but it was delivered by Dr Manamela to me. Then on that very same day ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did the letter provide reason why you had to vacate?

5 **MRS. DIANNE NOYILE:** The letter said we were, can I just check it? The letter said we were not supposed to be giving services to the patients because we were in a nutshell because we were not qualified to do that. So we needed, and it was like we were not known to be in Cullinan. That's what the letter said, and we were asked to leave immediately with all my staff and all my things. At this time it was
10 around five in the afternoon. I was not able to do that.

ARBITRATOR JUSTICE MOSENEKE: And where were the patients?

MRS. DIANNE NOYILE: The patients were in the wards, and at that time there was nobody to take care of the patients.

ARBITRATOR JUSTICE MOSENEKE: All 73 of them?

15 **MRS. DIANNE NOYILE:** All 73 of the patients. I wouldn't say all 73, because we already had deaths. So it's 70, it's 70, we said it's 76 ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Fine, let's not get caught up in the number.

MRS. DIANNE NOYILE: Okay, alright, alright.

ARBITRATOR JUSTICE MOSENEKE: I want to hear about the litigation.

20 **MRS. DIANNE NOYILE:** Yes. The nurses who were there at CCRC were not literally taking care of patients in terms of changing nappies, feeding them and ...

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[interjects]

ARBITRATOR JUSTICE MOSENEKE: Let's go to the letter and Dr Selabano that you must vacate.

MRS. DIANNE NOYILE: Yes.

5 **ARBITRATOR JUSTICE MOSENEKE** Tell me about that.

MRS. DIANNE NOYILE: I'm not sure what it is...

ARBITRATOR JUSTICE MOSENEKE: You received a letter from an HOD of health in Gauteng.

MRS. DIANNE NOYILE: Yes.

10 **ARBITRATOR JUSTICE MOSENEKE** You told us the letter required you to vacate CCRC ward that your NGO was occupying.

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: And I asked what is the reason was given for the requirement that you vacate, and you said the letter says you were not
15 entitled to operate as an NGO at Cullinan. I want you to move on from there and tell us the story of the litigation.

MRS. DIANNE NOYILE: Then I went back to the wards because the letter was delivered in my office as the CEO of the hospital, and I told my staff that we need, some of them were busy changing patients and I just told them that they must leave
20 everything that they are doing, because we need to get out, and then the staff wanted some answers. They wanted some answers to know when did they now

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realise that we're not supposed to take of the patients, whilst we have worked for two months, and the officials were coming in, and then the management that came with us, with me from the CCRC, told the workers that a letter is being given, there is nothing they can do.

5 **ARBITRATOR JUSTICE MOSENEKE**: After the letter?

MRS. DIANNE NOYILE: After the letter

ARBITRATOR JUSTICE MOSENEKE Then you got a court order.

MRS. DIANNE NOYILE: Then we got a court order on the 12th, we did not go out Justice because we needed to, the patients had nobody to take care of them. The
10 staff would come from the 8th up until the 12th, then on the 12th I got a call from Ms Matilda telling me that I need to come to court right now, and I asked why do I need to come to court.

ARBITRATOR JUSTICE MOSENEKE: Who is Ms Matilda?

MRS. DIANNE NOYILE: Ms Matilda was the then CEO after Ms Nyatlo.

15 **ARBITRATOR JUSTICE MOSENEKE**: That's Ms Malaza.

MRS. DIANNE NOYILE: Oh I'm sorry, what did I say?

ARBITRATOR JUSTICE MOSENEKE: You said s Matilda.

MRS. DIANNE NOYILE: I think that's her name, Matilda Malaza, sorry Justice. I told them I can't come to court because I dont have a representative and she said
20 no we are just going to talk, and I said there's nothing to sort out because I already had a letter that is taking me out. To cut a long story short, I contacted Solidarity

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and told them the situation. Then they went into court to represent us. That was on a Friday, if I'm not mistaken. No, that was on the 12th and then I was told that they had a court order.

ARBITRATOR JUSTICE MOSENEKE: It was served on you to require you to leave
5 the premises immediately?

MRS. DIANNE NOYILE: Yes Justice?

ARBITRATOR JUSTICE MOSENEKE: What did they say you did not do that
requires you to go?

MRS. DIANNE NOYILE: They stated the issue of the license as it has been stated
10 here as well. They stated that we did not have the nurses and the doctors, although
it's not written like that, but they just said we did not have staff that was needed.

ARBITRATOR JUSTICE MOSENEKE: And you went back to court represented by
Solidarity, is it?

MRS. DIANNE NOYILE: Yes we did.

ARBITRATOR JUSTICE MOSENEKE: And you wanted to set aside the eviction
15 order, did you?

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Did that succeed?

MRS. DIANNE NOYILE: It did not succeed Justice.

ARBITRATOR JUSTICE MOSENEKE: Why did you resist the eviction?
20

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MRS. DIANNE NOYILE: My thing was that, as I said again we were there for two solid months; the officials of the department came several times, even the MEC came and she told Dr Manamela ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: MEC Qedani Mahlangu visited
5 Siyabadinga?

MRS. DIANNE NOYILE: MEC Qedani Mahlangu visited Siyabadinga.

ARBITRATOR JUSTICE MOSENEKE: What was the purpose of her visit?

MRS. DIANNE NOYILE: The purpose of her visit Justice was to mediate or to find out what was happening between the two NGOs that were now operating in CCRC,
10 which was Siyabadinga as well as Anchor of Life.

ARBITRATOR JUSTICE MOSENEKE: And did she approve of your operations? Did she look around and was she accepting of what she saw?

MRS. DIANNE NOYILE: She did Justice, because in her word she instructed Dr Manamela that she need to get us two big stoves and industrial washing machines.

ARBITRATOR JUSTICE MOSENEKE: Now in the same report, there is a
15 discussion about the deaths that occurred at your premises, and they are placed at 11 in number, and for that I'd like you to go to page, well start with the number, what do you say about that number that 11 people died at your operations?

MRS. DIANNE NOYILE: Justice the other ones I did not hear about them, until at
20 the later stage, the only patients that I knew about were the patients that passed away while I was still there.

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ARBITRATOR JUSTICE MOSENEKE: Look at page 42, it is a simple graph there that's put together by the Ombud.

MRS. DIANNE NOYILE: Okay, thank you.

ARBITRATOR JUSTICE MOSENEKE Have you got it?

5 **MRS. DIANNE NOYILE:** I'm nearly there Justice, I'm sorry.

ARBITRATOR JUSTICE MOSENEKE Numbered at the right bottom ... [interjects]

MRS. DIANNE NOYILE: I am now.

ARBITRATOR JUSTICE MOSENEKE 42, and NGOs are ranked according to the percentage of people who died, the number of people who died is the percentage of
10 the total, and the total then was 118, but if you look at that graph, the fourth highest number of people who died, died at your NGO. Can you see that?

MRS. DIANNE NOYILE: I can Justice.

ARBITRATOR JUSTICE MOSENEKE: In fact 11% of total deaths occurred at where you were working.

15 **MRS. DIANNE NOYILE:** I can see that Justice.

ARBITRATOR JUSTICE MOSENEKE: What do you say to that? Did you think you had what it took to look after these vulnerable people?

MRS. DIANNE NOYILE: It is very sad that this has occurred. I did not, at that time ... [interjects]

20 **ARBITRATOR JUSTICE MOSENEKE:** Can you just confront the question first?

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MRS. DIANNE NOYILE: Yes.

ARBITRATOR JUSTICE MOSENEKE Did you think you have the means to look after them? That is to prevent them from falling into harm, from dying. From deteriorating in their condition. Did you think you had all that to be able to help
5 them?

MRS. DIANNE NOYILE: I did think that at that time Justice.

ARBITRATOR JUSTICE MOSENEKE: How could you have possibly thought that with no license, you have no nurses, you have no money, you have no, you asking around from every corner for everything you needed, you fighting with the
10 department, they think you're no good, even they thought you were no good and you were one of the first to be thrown out in this operation. Why on earth would you hang onto this, 11 people die in your hands? That calls for explanation surely. What is it?

MRS. DIANNE NOYILE: At that time Justice, I really thought I could do it. But as
15 these things are put on the table right now I can see that I was not capable to do it, and it is very sad that lives were lost and I'm part of that.

ARBITRATOR JUSTICE MOSENEKE: I can take you to many parts of this, for instance you had no data on your patients. You can go to page 41 of the report, where they make the point that you did not keep normal bed ... [inaudible] that
20 recorded the state of health of the patients. The medication they were supposed to receive. The conditions in which they were. I mean they couldn't find records to support the care or to show or demonstrate the care that you provided and the

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report is very damning about Siyabadinga.

MRS. DIANNE NOYILE: Justice the data of the patients was kept. You asked me if the ombudsman did interview me or did request any of the documents and I said I don't remember that.

5 **ARBITRATOR JUSTICE MOSENEKE:** Look at page 41 there, the Ombud tells us there was just no figures about the medication and the whole range of things on page 41 of the report. Anyway, Counsel has many more questions to ask you. Counsel. We will have many, many more questions and you should be ready to confront those questions. Counsel?

10 **ADV. ADILA HASSIM:** Thank you Justice. Good morning Ms Noyile.

MRS. DIANNE NOYILE: Good morning Counsel.

ADV ADILA HASSIM: I represent the families of the 55 people who died during the process of the marathon project. I just have a few questions. You were appointed as CEO. The Chief Executive Officer of Siyabadinga, is that correct?

15 **MRS. DIANNE NOYILE:** Yes Counsel.

ADV ADILA HASSIM: Does Siyabadinga has a board?

MRS. DIANNE NOYILE: It does have a board Counsel.

ADV. ADILA HASSIM: Who sits on the board?

MRS. DIANNE NOYILE: It's Pastor Dolo, I'm not sure of all of them.

20 **ADV. ADILA HASSIM:** Okay. How many members?

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MRS. DIANNE NOYILE: It has seven members.

ADV. ADILA HASSIM: Did they exercise any oversight in the running of Siyabadinga?

MRS. DIANNE NOYILE: Mr Dolo did.

5 **ADV. ADILA HASSIM:** Did he express any concerns?

MRS. DIANNE NOYILE: He was concerned of the finances, he was concerned of the food, if we were going to be able to get food for the patients. Ja.

ADV. ADILA HASSIM: Earlier you said there was adequate food and proper nutrition.

10 **MRS. DIANNE NOYILE:** Yes.

ADV ADILA HASSIM: why was your board member concerned about the food?

MRS. DIANNE NOYILE: It was when the program was introduced, he was where and when are we going to get the food, it was before we got the patients Counsel.

ADV. ADILA HASSIM: And you assured him that it will be in order; that the food
15 would be procured and everything will be fine.

MRS. DIANNE NOYILE: Yes I did Counsel.

ADV. ADILA HASSIM: Have you ever run a residential facility before?

MRS. DIANNE NOYILE: Not at all Counsel.

ADV. ADILA HASSIM: You say you had two auxiliary nurses and two people who
20 had pre-nurse training.

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MRS. DIANNE NOYILE: Yes.

ADV ADILA HASSIM: I won't ask what pre-nursing is, I just want to know were they trained to work with mental health care users?

MRS. DIANNE NOYILE: I don't think so Counsel.

5 **ADV ADILA HASSIM:** Did you ask them whether they were trained to work with the mental health users?

MRS. DIANNE NOYILE: Yes I did.

ADV ADILA HASSIM: What was the answer?

MRS. DIANNE NOYILE: With the pre-nursing the answer that I got it was just the
10 introduction of nursing in general, so.

ADV ADILA HASSIM: Were they trained to work with mental health users?

MRS. DIANNE NOYILE: No they were not.

ADV ADILA HASSIM: They were not?

MRS. DIANNE NOYILE: They were not Counsel.

15 **ADV ADILA HASSIM:** You said that you interviewed the community health workers.

MRS. DIANNE NOYILE: Yes, I did.

ADV ADILA HASSIM: For the project.

MRS. DIANNE NOYILE: Yes Counsel.

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ADV ADILA HASSIM: Were they trained to work with mental health users?

MRS. DIANNE NOYILE: They were trained to work mostly with the aged, and the palliatives care patients.

ADV ADILA HASSIM: So they were not trained to work with the mental health
5 users? Yet you recommended their appointment?

MRS. DIANNE NOYILE: Yes I did.

ADV ADILA HASSIM: You spoke about three patients from Life Esidimeni, they were on a bus. They were idling and Dr Manamela said that you need to take them.

MRS. DIANNE NOYILE: Yes madam.

10 **ADV ADILA HASSIM:** And that she would collect them the following Monday?

MRS. DIANNE NOYILE: Yes, she did.

ADV ADILA HASSIM: And you say this never happened?

MRS. DIANNE NOYILE: It never happened.

ADV. ADILA HASSIM: Do you know what happened to these patients afterwards?

15 **MRS. DIANNE NOYILE:** I really don't know because I think a week after that that is when we were kicked out of the facility Counsel.

ADV. ADILA HASSIM: Do you know what happened to any of the patients that were under your care?

MRS. DIANNE NOYILE: Not at all Counsel.

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ADV. ADILA HASSIM: Have you tried to find out and follow up where they are?

MRS. DIANNE NOYILE: I tried, but I was not allowed to because I was told I have no business in finding out about the patients because the patients belonged to the state.

5 **ADV. ADILA HASSIM:** You say that your staff was not paid.

MRS. DIANNE NOYILE: Yes Counsel.

ADV. ADILA HASSIM: Did you say they were 30 community health workers that you employed or 13?

MRS. DIANNE NOYILE: I said 30 Counsel.

10 **ADV ADILA HASSIM:** 30?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. LILLA CROUSE: And two auxiliary nurses.

MRS. DIANNE NOYILE: Yes Counsel.

ADV ADILA HASSIM: And two with pre-nurse training.

15 **MRS. DIANNE NOYILE:** Yes Counsel.

ADV ADILA HASSIM: Eight staff in the kitchen, eight cleaners.

MRS. DIANNE NOYILE: Yes Counsel.

ADV ADILA HASSIM: And two social workers?

MRS. DIANNE NOYILE: Yes Counsel.

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ADV. ADILA HASSIM: So that adds up to 52.

MRS. DIANNE NOYILE: 52 all in all.

ADV. ADILA HASSIM: None of them were paid?

MRS. DIANNE NOYILE: None of them were paid.

5 **ADV. ADILA HASSIM:** Were you paid?

MRS. DIANNE NOYILE: Not at all Counsel.

ADV. ADILA HASSIM: You were contracted to provide a service to the state to care for patients who were dependent on the state, is that correct?

10 **MRS. DIANNE NOYILE:** I wouldn't say I was contracted because I did not sign the service level agreement, all I signed were the discharge forms that came from CCRC.

ADV. ADILA HASSIM: So there was no formal contract.

MRS. DIANNE NOYILE: Yes.

15 **ADV ADILA HASSIM:** As the CEO you deemed that to be fine, not to have a formal contract?

MRS. DIANNE NOYILE: I did not deem it to be fine. As I said before Counsel, I did try to follow it up a number of times, but the response I was getting from the Department Of Mental Health is that they are pressed of time. They have to finish the taking out of the patients in Life Esidimeni. Everything else was going to be
20 sorted. We were even promised some training on the 4th of July, Counsel.

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ADV. ADILA HASSIM: Did you ever say to them I am sorry, but without a contract I can't operate, without a license I can't operate. Did you ever say it's not possible?

MRS. DIANNE NOYILE: I told Hanna Jacobus a number of times that I'm working and I'm not sure if these people that are working with me are going to be paid. I'm
5 not sure if in the long term we will be able to sustain in terms of getting food and all that.

ADV. ADILA HASSIM: So you were concerned then?

MRS. DIANNE NOYILE: I was really concerned Counsel, and the same answer I would get, and I'm sure that is the same answer most NGOs got was that
10 everything will be sorted after the discharge of the patient from Life Counsel.

ADV. ADILA HASSIM: But did you say I will not begin, I cannot begin with no fridge, no washing machine, all of the things that have been listed both by Justice Moseneke and my learned friend. All of those things that you didn't have, did you not say I just cannot begin without that?

15 **MRS. DIANNE NOYILE:** Unfortunately I did not Counsel.

ADV. ADILA HASSIM: Did the department enquire as to the qualifications of your staff?

MRS. DIANNE NOYILE: The only concern that they had as a department was having a qualified sister, which I said to Hanna I cannot hire another person in the
20 staff if I don't know how much we going to get and when we are going to get it.

ADV. ADILA HASSIM: Were they aware that you had not a single staff member

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who was qualified to work with mental health care users?

MRS. DIANNE NOYILE: I would say that they were aware because again I would say they were very concerned or they were questioning me not having a sister. That was the only staff member they were asking about.

5 **ADV. ADILA HASSIM:** Did you provide medication to the patients?

MRS. DIANNE NOYILE: The nurses, the auxiliary nurses were the ones who were giving the medication.

ADV. ADILA HASSIM: And they were registered to dispense medicine?

MRS. DIANNE NOYILE: I don't think they were.

10 **ADV. ADILA HASSIM:** Did you ask?

MRS. DIANNE NOYILE: In my finding out is that the auxiliary nurses are not qualified to give the medication.

ADV. ADILA HASSIM: Correct, they are not permitted to dispense.

MRS. DIANNE NOYILE: Yes.

15 **ADV ADILA HASSIM:** So why did you allow them to dispense medication against the law?

MRS. DIANNE NOYILE: Because COunsel at that time we did not have, we had now we are in this situation of having these patients and these patients need to be given medication. Need to be taken care of and I raised that a number of times with

20 ... [interjects]

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ADV. ADILA HASSIM: But never the less you didn't. When you agreed to that it was not lawful. You agreed that you knew that they were not permitted to but you allowed them to.

MRS. DIANNE NOYILE: I agree.

5 **ARBITRATOR JUSTICE MOSENEKE:** But who permitted you, sorry Counsel. Who gave you the authority to take the patients into your custody? How did that happen? Who said I authorise you to look after these patients?

MRS. DIANNE NOYILE: Justice to be honest I wouldn't say somebody just came and said you are authorised to take care of the patients. I remember that the
10 patients were transferred to us by the hospital and that was made ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Who transferred the patients?

MRS. DIANNE NOYILE: The CEO of the hospital at that time Ms Nyatlo. And that was made known by Ms Nyatlo to Dr Manamela and Ms Hanna Jacobus, hence they came into the organisation a number of times, even when we were having the
15 patients already and I remember ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Who physically brought the patients to you?

MRS. DIANNE NOYILE: The patients were physically brought by the sisters of the hospital CCRC. I think one of them was Sister Mnguni, and the matron of the CCRC at that time Sister Masego, and ... [interjects]

20 **ARBITRATOR JUSTICE MOSENEKE:** Sister who?

MRS. DIANNE NOYILE: Masego.

ARBITRATOR JUSTICE MOSENEKE Masego?

MRS. DIANNE NOYILE: Yes. The first batch of the patients when we received the patient for the first time Mrs Nyatlo was there as well.

ARBITRATOR JUSTICE MOSENEKE: And why did you think, by what authority
5 where you entitled to look after these patients?

MRS. DIANNE NOYILE: At that time I thought ... [interjects]

ARBITRATOR JUSTICE MOSENEKE I'm not talking about a license or something.

MRS. DIANNE NOYILE: Yes.

10 **ARBITRATOR JUSTICE MOSENEKE** Some official who said you are the authorised person to take care of the lives of these people. Who was that? I can change that question. Why do you think you were acting lawfully by receiving the patients? Who gave these people and placed them under your care? By what authority.

15 **MRS. DIANNE NOYILE:** I dont know if I can answer that Judge.

ARBITRATOR JUSTICE MOSENEKE Why did you think you had the right or duty to look after these patients?

MRS. DIANNE NOYILE: I wouldn't say it was a right; I thought, the duty part of it, I thank you for putting it that way. The duty part of I thought that I was helping and
20 because I'm a community worker I chip in and that might not be taken as something that I was supposed to do and right now I'm really thinking that I was not supposed

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to do that Justice.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

ADV. ADILA HASSIM: It stands to reason there was no, I mean if there was no contract there was no open tender. You didn't respond to an open tender.

5 **MRS. DIANNE NOYILE:** No.

ADV. ADILA HASSIM: But on your understanding you were providing services on behalf of the state.

MRS. DIANNE NOYILE: On my understanding, yes.

MRS. ADILA HASSIM: To mental health care users.

10 **MRS. DIANNE NOYILE:** Yes Counsel.

ADV. ADILA HASSIM: And those mental health care workers were dependent on the state?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. ADILA HASSIM: Were you aware of the constitutional rights of the mental
15 health care users under your care?

MRS. DIANNE NOYILE: Yes, I was.

ADV ADILA HASSIM: What were those rights?

MRS. DIANNE NOYILE: I would think a right for proper care, a right for food. A proper diet and protection.

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ADV ADILA HASSIM: And anything else?

MRS. DIANNE NOYILE: Nothing else comes to mind now Counsel, sorry.

ADV. ADILA HASSIM: So were you aware of the obligations you had to respect the rights of the mental health care users and to protect the rights of the mental health
5 care users under your care as Siyabadinga's CEO?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. ADILA HASSIM: But you were not fully aware of the all the rights they were entitled to in constitution, isn't that true?

MRS. DIANNE NOYILE: At this time no Counsel.

10 **ADV. ADILA HASSIM:** You weren't aware then and you're not aware now?

MRS. DIANNE NOYILE: No Counsel.

ADV. ADILA HASSIM: Do you think that in the end you respected or protected the rights of those mental healthcare users?

MRS. DIANNE NOYILE: I think I did respect their rights, because ... [interjects]

15 **ADV. ADILA HASSIM:** But you just said you didn't know what their rights are.

MRS. DIANNE NOYILE: To be loved, that we gave, we had passion, I had a community of health workers or the staff that had so much passion to help the mental patients and we gave them so much love.

ADV. ADILA HASSIM: But they couldn't survive on love and fresh air.

20 **MRS. DIANNE NOYILE:** But there was food. Yes, they couldn't but we did provide

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food, we did provide a comfortable place. The most important thing that we did not provide, was having a qualified staff which I regret now Counsel.

ADV. ADILA HASSIM: Those were questions Justice Moseneke.

MRS. DIANNE NOYILE: Thank you counsel.

5 **ARBITRATOR JUSTICE MOSENEKE**: Have the police been to you?

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Have the police come to you requiring more statements from you?

MRS. DIANNE NOYILE: Yes I've been busy with them throughout the past week.

10 **ARBITRATOR JUSTICE MOSENEKE**: Now, now only? The past week?

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: What did they require from you?

MRS. DIANNE NOYILE: They required the documents such as the NPO certificate, the certificate, the license; they requested the death reports of the patients that
15 passed away. What else did they ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: What death reports did you have in your position?

MRS. DIANNE NOYILE: It was for the four mental health users, which was Sefoka Refiloe, Mhlongo Jabulani, Tian Crouse, and Jan Dieneker.

20 **ARBITRATOR JUSTICE MOSENEKE**: Did any of them undergo post mortem

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examination after they passed on?

MRS. DIANNE NOYILE: I don't think so, I'm not sure Justice.

ARBITRATOR JUSTICE MOSENEKE: What did you do with their bodies once they've passed on in your facility?

5 **MRS. DIANNE NOYILE:** We had two of them that did not have family, we did not have contact of family of any sort, then we called the Cullinan police department and we explained what happened and they took the bodies to the state mortuary.

ARBITRATOR JUSTICE MOSENEKE: And do you know where the bodies are of the two mental health care users whose families you did not have?

10 **MRS. DIANNE NOYILE:** They were taken in a Bronkorstspruit mortuary.

ARBITRATOR JUSTICE MOSENEKE: Did you contact any family member to tell them about the deaths

MRS. DIANNE NOYILE: We did not have any records of them, we tried. We went even to the CCRC itself. They had a number, a number for Jannie Dieneker, but we
15 did not go through. We couldn't contact the family. Tian Crouse there was no contact details, nothing.

ARBITRATOR JUSTICE MOSENEKE: And where is his body now?

MRS. DIANNE NOYILE: I don't know if he was buried but it is at the mortuary in Bronkorstspruit Counsel.

20 **ARBITRATOR JUSTICE MOSENEKE:** Is it still there?

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MRS. DIANNE NOYILE: I really am not sure.

ARBITRATOR JUSTICE MOSENEKE: Counsel. Advocate Crouse.

ADV. LILLA CROUSE: Thank you Justice Moseneke. Ms Noyile I appear for the survivors of this project. Most of the questions that have been asked so I'll be very
5 brief with you. Can you just tell us, do you know why the Life Esidimeni contract was cancelled? Did you, did they tell you at any stage why you had to take these patients in other words?

MRS. DIANNE NOYILE: The information I got was that there were costs that were being cut and Life Esidimeni was charging around R10 000-00 per patient,

10 **ADV. LILLA CROUSE:** Per day, per month, per year?

MRS. DIANNE NOYILE: I'm not sure Counsel. So that is why the license was, not the license the patients were being taken out.

ADV. LILLA CROUSE: So it was a cost issue you were told?

MRS. DIANNE NOYILE: I was told, yes Counsel.

15 **ADV. LILLA CROUSE:** Did you ever raise with them when you realised now you can't cope. That money is not important where lives are concerned?

MRS. DIANNE NOYILE: You know Counsel, right now as we're sitting here, it seems as if it is easy to be in connection or in contact with the people who were running the project. I did try several times to let them know, as we were now
20 running the project and see it's so costly, but the same answer again I will repeat. The same answer was that everything will be sorted out after the discharge of

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patients.

ADV. LILLA CROUSE: So you told them in no uncertain terms that it was a costly exercise?

MRS. DIANNE NOYILE: Yes I did Counsel.

5 **ADV. LILLA CROUSE**: I'm going to refer you to an exhibit ELAH10, if somebody can perhaps provide you with that exhibit. While we're looking for the document, do you know somebody by the name of Pieter de Jager?

MRS. DIANNE NOYILE: Yes I do Counsel.

ADV. LILLA CROUSE: And who is he?

10 **MRS. DIANNE NOYILE**: Peter de Jager was one of the committee members of the families of the patients that were there in our center Siyabadinga.

ADV. LILLA CROUSE: He wasn't part of your NGO itself.

MRS. DIANNE NOYILE: He had, she had a sister that was in our NGO.

ADV. LILLA CROUSE: I'm just going to, well Justice I'm seeing that we're still
15 looking for the document, but could I perhaps continue and not to waste time and just read the first paragraph of the letter?

ARBITRATOR JUSTICE MOSENEKE: Yes please do.

ADV. LILLA CROUSE: Madam, you dont have the letter in front of you, but it's
20 dated the 28th of June 2016. So it was after you received your first patients, but before you were terminated.

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MRS. DIANNE NOYILE: Yes.

ADV. LILLA CROUSE: And it says:

"My name is Peter de Jager and I'm on the Siyabadinga NGO committee, and therefore representing the parents and the guardians of all patients in care of the current NGO Siyabadinga, under management of Dianne Noyile."

5

Would that be an accurate description of who he was?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. LILLA CROUSE: He then raised a few concerns in this letter.

ARBITRATOR JUSTICE MOSENEKE You call them few Counsel?

10 **ADV. LILLA CROUSE:** I was prospering Justice. I would really want to go through them with you.

MRS. DIANNE NOYILE: Okay.

ARBITRATOR JUSTICE MOSENEKE I would give you mine, oh okay.

MRS. DIANNE NOYILE: Thank you very much. I have it Counsel.

15 **ADV. LILLA CROUSE:** You have it?

MRS. DIANNE NOYILE: Yes.

ADV. LILLA CROUSE: Could you just turn to the document, it was basically to the department and to the role players in this department that this letter was written, do you agree?

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MRS. DIANNE NOYILE: Yes Counsel.

ADV. LILLA CROUSE: Now in paragraph 1 on page 1, he says:

"All chronic medication and chronical medication was seized and placed as a responsibility of the NGO, Siyabadinga."

5 Do you agree with that, that your clients did not get proper medical treatment?

MRS. DIANNE NOYILE: Where is that Counsel, I'm sorry? Which paragraph?

ADV. LILLA CROUSE: The first paragraph under please see our combined feedback with regard to the current state of this issue and our concerns and actions thereof, first paragraph. It is in the first paragraph, the fourth line from the bottom of

10 that, fifth line from the bottom..

MRS. DIANNE NOYILE: I can see it now Counsel, Thank you.

ADV. LILLA CROUSE: Do you agree with that?

MRS. DIANNE NOYILE: What was the question?

ADV. LILLA CROUSE: That chronical medication was ceased and placed as the

15 responsibility of Siyabadinga?

MRS. DIANNE NOYILE: Yes the medication was put under us, I don't know if I really understand the question.

ADV. LILLA CROUSE: Did you have, let me just take it a little bit further.

MRS. DIANNE NOYILE: Okay, thank you.

20 **ADV. LILLA CROUSE**: This is chronic medication.

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MRS. DIANNE NOYILE: Yes.

ADV. LILLA CROUSE: Did your patients get any chronic medication?

MRS. DIANNE NOYILE: They did for a period of two weeks because when they came from the hospital they were given the medication for two weeks.

5 **ADV. LILLA CROUSE:** And there after they didn't have any chronic medication?

MRS. DIANNE NOYILE: Thereafter we struggled because we were told that we'll now get the medication from the local clinics. Of which that is what we did, we went to the local clinic which is Refiloe Clinic, and we were told that there is no budget for us. Dr Manamela was called by the CEO of that time Ms Nyatlo, to say that
10 Siyabadinga is struggling, they have patients that are running out of medication, and now we are going to have a problem. Dr Manamela said that was going to be fixed. I was not part of that conversation, I was not in. I'm just talking of what I heard. At that time Mr. Pitsi who works at the Department of Health as well in Tshwane was called as well, but at the end of the day we were told to go the pharmacy, the
15 regional pharmacy in Tshwane. But it was after a struggle Counsel.

ADV. LILLA CROUSE: So just in short, there was a period where ... [interjects]

MRS. DIANNE NOYILE: There was a period that we had about 23, I'm speaking under correction, 23 patients that did not have chronic medication.

ADV. LILLA CROUSE: Yes, but it goes more than chronic medication. It also goes
20 to psychiatric medication.

MRS. DIANNE NOYILE: Yes.

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ADV. LILLA CROUSE: And that's why the local clinic couldn't provide them, you with that. That's why you had to go to the regional hospital.

MRS. DIANNE NOYILE: Yes Counsel.

ADV. LILLA CROUSE: Paragraph 2, I just want to check with you, were you paying
5 R28 000 per month for the four wards?

MRS. DIANNE NOYILE: I was supposed to, I was going to pay that when the Department Of Mental Health had paid, that was the agreement.

ADV. LILLA CROUSE: So you didn't pay?

MRS. DIANNE NOYILE: I didn't pay the amount Counsel.

10 **ADV. LILLA CROUSE:** Then Mr. De Jager says that there is the minimal infrastructure, he refers to the two plate stove to prepare food for 73 patients, what do you say to that?

MRS. DIANNE NOYILE: We did not have two plate stoves, we had a four burner gas stove and we had a four plate of the electric stove Counsel.

15 **ADV. LILLA CROUSE:** Let's just put that at the time. At the time when he wrote this letter, did you have the ... [interjects]

MRS. DIANNE NOYILE: At the time that this letter was written Counsel, those things were already there because the kitchen things were put in the kitchen on the 13th of May 2016.

20 **ADV. LILLA CROUSE:** So that is wrong?

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MRS. DIANNE NOYILE: That is not true Counsel.

ADV. LILLA CROUSE: Okay, and one small washing machine to do all the laundry and linnen?

MRS. DIANNE NOYILE: We had one laundry machine and one dryer at the time of
5 writing of that letter Counsel.

ADV. LILLA CROUSE: Was that sufficient?

MRS. DIANNE NOYILE: It was not sufficient because we did some of the washing
by hands.

ARBITRATOR JUSTICE MOSENEKE: Even the four plate stove, I'm assuming Mr.
10 De Jager was wrong, I mean would that have been adequate for 73 people?

MRS. DIANNE NOYILE: It was a four burner gas stove, this big one with legs
Justice.

ARBITRATOR JUSTICE MOSENEKE: How many plates?

MRS. DIANNE NOYILE: It's four burners, four plates, the one that has legs. I think I
15 have a picture of it in my profile.

ARBITRATOR JUSTICE MOSENEKE: And you say it was enough to cook for 73
people?

MRS. DIANNE NOYILE: It was enough in my opinion Justice.

ARBITRATOR JUSTICE MOSENEKE: You see those people died of hunger most
20 of the them, dehydration and low levels of nutrition the other word. Low levels of

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nutrition and you giving us this hunky-dowry picture of ever thing being right, and all the evidence points to the opposite end. This detail is gone through to demonstrate to you that you did not have enough to look after these people, and you keep on coming back and saying no, it was enough. I dont understand that.

5 **MRS. DIANNE NOYILE**: Justice I did not say everything was well, I think I did admit several times that at that time when the thing was happening, I thought but now sitting and looking at it, I see that things were not done the right way.

ARBITRATOR JUSTICE MOSENEKE: You see, if you had everything you needed, you wouldn't have gone and asked for donations, ask for food, ask for clothes. Is it
10 not quite obvious that you were under-resourced and Mr. De Jager is correct?

MRS. DIANNE NOYILE: I don't dispute everything he had said Justice, I agree even the first paragraph he was saying, and I even explained that we even washed the clothes ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: He didn't have any reason to fabricate all of
15 this.

MRS. DIANNE NOYILE: He did not fabricate anything.

ARBITRATOR JUSTICE MOSENEKE He wrote it in July, I mean why would he make these things up? He's a committee member, he's concerned and takes the time and the energy to write line by line what he observes. The suggestion that he
20 might be untruthful, startles me.

MRS. DIANNE NOYILE: Justice, I ... [interjects]

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ARBITRATOR JUSTICE MOSENEKE Because all the things point towards almost lack of resources.

MRS. DIANNE NOYILE: There was a lot of lack of resources Justice.

ARBITRATOR JUSTICE MOSENEKE: Please go ahead Counsel.

5 **ADV. LILLA CROUSE**: Thank you. Ma'am, if I can turn to paragraph 7 it says:

“Dr Manamela has been involved and reported very aggressive towards staff at Siyabadinga. In a lot of discussions with the CEO of CCRC, and with yourself and no positive outcomes has been founded.”

Is that a true reflection?

10 **MRS. DIANNE NOYILE**: Yes Counsel.

ADV. LILLA CROUSE: Were your staff treated aggressively by Dr Manamela?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. LILLA CROUSE: Can you give us an example?

15 **MRS. DIANNE NOYILE**: I would give you an example of the 18th of June 2016. It was Saturday, at that we were operating in four wards as the lease agreement said, that afternoon Dr Manamela came into the centre and she told my staff that we are only going to use two wards as to from that day.

ADV. LILLA CROUSE: Sorry to interrupt you. Dr Manamela, is it a he or she?

MRS. DIANNE NOYILE: She.

20 **ADV. LILLA CROUSE**: She, yes.

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MRS. DIANNE NOYILE: Did I say he? I'm sorry.

ADV. LILLA CROUSE: No, I'm just wanting to make sure that I've got it right, yes.

MRS. DIANNE NOYILE: Thank you Counsel. She told us there is another NGO that is coming, that's going to take over two wards. The capacity of the wards is 25
5 patients. At that time we only occupied three wards which was we had 73 patients and then he came and he literally moved the patients herself from our, from the ward, from one of the ward to pack patients in one ward. We ended up having around 52 patients in a ward of 25. So that is the example I would use of acting aggressively to the staff. The reason he literally pushed the patients was that ..

10 **ARBITRATOR JUSTICE MOSENEKE:** What do you mean herself?

MRS. DIANNE NOYILE: Herself, physically pushing the patient with a bed, not shoving. But physically taking the patient from the ward into the other ward.

ADV. LILLA CROUSE: And the aggressiveness to your staff, did they try to stop it or why would you say she was aggressive to your staff?

15 **MRS. DIANNE NOYILE:** I would say that because the report I got was that they said she cannot move patients without notifying me or saying anything to me and she said these are the patients of Department of Mental Health. These are our patients. The mental health department has made a decision Siyabadinga is going to use only two wards.

20 **ADV. LILLA CROUSE:** That will be in co-ord with paragraph 7 which says:

"According to Dr Manamela it has been decided with the department of health that

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there will be a second NGO placed on the same premises as Siyabadinga and use the same facilities.”

Then the writer continues:

5 *“Overburdening existing mental health facilities runs the risk of inadequate treatment of patients with acute mental illnesses.”*

Do you agree with that?

MRS. DIANNE NOYILE: I agree Counsel.

ADV. LILLA CROUSE: And then it says:

10 *“Siyabadinga patients is being moved into two wards without proper consent of caretakers, patients or guardians.”*

Do you agree with that?

MRS. DIANNE NOYILE: Yes I agree Counsel.

ADV. LILLA CROUSE: I'm not going to go through the whole of the letter. Could I just ask you, one of the questions that the writer is posing is, who has done a proper investigation to move sexually active patients into a ward with other immobile mental health patients? That's paragraph 6, at the bottom of the second page. Can you comment on that at all?

MRS. DIANNE NOYILE: That was one of our concern Counsel when the patients were packed in one ward, because there was no, I dont know if I may say it ...
20 [inaudible] or there was no saying this one is severe, this one is active. It was just a matter of pushing the payments into one ward. So I would agree with that.

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ADV. LILLA CROUSE: It's a dangerous practice.

MRS. DIANNE NOYILE: Very dangerous.

ARBITRATOR JUSTICE MOSENEKE: Counsel if you have more questions, I intend to take the tea break now. You may proceed after tea.

5 **ADV. LILLA CROUSE**: Thank you Justice.

ARBITRATOR JUSTICE MOSENEKE Okay, we're going to take the tea break and we'll see you when we're back at twelve o'clock.

MRS. DIANNE NOYILE: Thank you.

SESSION 2

ARBITRATOR JUSTICE MOSENEKE: Thank you, you may be seated. There is somebody's tea there. It's going to be knocked over. You are still under your previous oath.

5 **MRS. DIANNE NOYILE:** Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: To tell the truth and nothing but the truth.

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Okay. Counsel?

10 **ADV. LILLA CROUSE:** Thank you Justice Moseneke. Ms Noyile, to hand off with this letter, I was referring to ELAH 10 that is before you. This letter is a plea to the department to please let us speak about what is happening, do you agree with me?

MRS. DIANNE NOYILE: Yes it is Counsel.

ADV. LILLA CROUSE: And do you know until you left 14 days later whether such a meeting was organised?

15 **MRS. DIANNE NOYILE:** It was not organised Counsel

ADV. LILLA CROUSE: Can I understand, when you left, you left your patients behind?

MRS. DIANNE NOYILE: Yes I did Counsel

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ADV. LILLA CROUSE: And who cared for your patients that you left behind? Do you know?

MRS. DIANNE NOYILE: It was said that before we leave there started coming some staff from Weskopies and they said CRC was going to take over Counsel.

5 **ADV. LILLA CROUSE:** Did you formally handover your patients over to Weskopies?

MRS. DIANNE NOYILE: No, I did not, I was not allowed an opportunity to do that, because I was just kicked out counsel.

ADV. LILLA CROUSE: So there was no identification of any of the patients
10 together with what medicine they needed?

MRS. DIANNE NOYILE: Not at all Counsel.

ADV. LILLA CROUSE: And there were no medicine left in any case?

MRS. DIANNE NOYILE: At this point in time, we did receive the medication at the pharmacy. We just received the medication and fetched it on the 7th of July 2016
15 and we were kicked off on the 8th. The letter, we received the letter on the 8th and then we went out of Cullinan on the 12th Counsel.

ADV. LILLA CROUSE: What happened to the medicine, do you know?

MRS. DIANNE NOYILE: No, I don't know anything Counsel.

ADV. LILLA CROUSE: Okay. You said ... [interjects]

20 **ARBITRATOR JUSTICE MOSENEKE:** Did any Doctor prescribe the medicine?

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MRS. DIANNE NOYILE: The medicine that we got from the pharmacy Justice?

ARBITRATOR JUSTICE MOSENEKE: Yes.

MRS. DIANNE NOYILE: Yes. The Dr Manamela arranged for a psychiatrist to come and assess the patients and we took the scripts to the pharmacy. Prior to that
5 if I may Justice, the scripts that were given by the Cullinan Hospital, when we took it to the pharmacy we were told that they were not done right. So they had to come back and the psychiatrist was sent to the centre by Dr Manamela to redo the scripts Justice.

ADV. LILLA CROUSE: One of the things that you said is that some of your patients
10 needed palliative care. Is that right?

MRS. DIANNE NOYILE: Yes, it Counsel

ADV. LILLA CROUSE: Now that is described in the dictionary as specialised medical treatment, would you agree with such a definition?

MRS. DIANNE NOYILE: Yes Counsel.

ADV. LILLA CROUSE: And it's something that you weren't in a position to give. Do
15 you agree?

MRS. DIANNE NOYILE: We had some health care worker who have done the course palliative care. I am not sure if that was enough Counsel.

ADV. LILLA CROUSE: Did any of those patients die?

MRS. DIANNE NOYILE: The ones that needed palliative care Counsel? Yes, that
20 is Dieneker. Ja.

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ADV. LILLA CROUSE: I am just going to take you back a little bit. When you came into Siyabadinga, were your patients in the wards?

MRS. DIANNE NOYILE: No Counsel, they were not. There were no patients.

ADV. LILLA CROUSE: Where did you get your patients?

5 **MRS. DIANNE NOYILE:** The patients came from CCRC Hospitals, into our centre in Siyabadinga

ADV. LILLA CROUSE: That's the same premises?

MRS. DIANNE NOYILE: Yes but it is demarcated by a precast. It has its own, there is one main gate that comes in, but there is a gate that comes into the centre
10 Counsel.

ADV. LILLA CROUSE: How did they get from CCRC to Siyabadinga?

MRS. DIANNE NOYILE: Those one who could walk they were walking and the others were using wheelchair Counsel.

ADV. LILLA CROUSE: Was there a proper handover of each patient?

15 **MRS. DIANNE NOYILE:** I wouldn't say of each patient. Some of them there was a proper Handover. The reason I'm saying there was in some instances no proper handover, because it's because some of them they came with a discharge form, but there was no, there is that other form that the sister who is handing over should sign to say I am sister so and so, handing over to Siyabadinga.

20 **ADV. LILLA CROUSE:** Okay. Let me ask you this in layman's terms. Did the Clinician at your organisation, this is the patient. I ID the patient as so and so. This

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is his diagnosis. This is his medicine. I now hand him over to you. Did such a handover take place?

MRS. DIANNE NOYILE: Yes, it did Counsel.

ADV. LILLA CROUSE: Who was the clinician on your side?

5 **MRS. DIANNE NOYILE**: Not on our side. On the side of the, of CCRC.

ADV. LILLA CROUSE: You didn't have a clinician taking over?

MRS. DIANNE NOYILE: We only have the pre-nurse staff and the auxhiliary nurses.

ADV. LILLA CROUSE: So ma'am what you're saying to me there wasn't a proper handing over whatsoever?

10 **MRS. DIANNE NOYILE**: That is correct Counsel.

ADV. LILLA CROUSE: Thank you.

ARBITRATOR JUSTICE MOSENEKE: I'm sure it will be put to you, but one of the witnesses who testified yesterday looked at the medicine cabinets.

MRS. DIANNE NOYILE: Yes.

15 **ARBITRATOR JUSTICE MOSENEKE**: And she thought it was all mengelmoes. It was all mixed up and there appear to be no proper order and no clear separation identifiable medication.

MRS. DIANNE NOYILE: I wouldn't agree with that judge. We have cabinets that have names of patients and their medication there.

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ARBITRATOR JUSTICE MOSENEKE: But you have nurse who didn't have qualifications to administer medicine?

MRS. DIANNE NOYILE: That I agree with you Judge but the medication was kept in shelve of each patients and it was not mixed Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** Very well. Counsel?

ADV. LILLA CROUSE: Thank you Justice. Was family members allowed into the ward?

MRS. DIANNE NOYILE: Yes. Family members were allowed to come in anytime, even unannounced at Siyabadinga, Counsel.

10 **ADV. LILLA CROUSE:** Just let me make sure you're answering. Were they allowed into the wards?

MRS. DIANNE NOYILE: They were allowed into the ward and they are allowed into the dining area Counsel, as well.

ADV. LILLA CROUSE: Okay. Then just lastly referring to what the Ombud found.
15 The Ombud found that the quality of your care wasn't sufficient. Do you agree with t

MRS. DIANNE NOYILE: As I have said in the beginning or during my testimony, there are things that were not done in a correct manner.

ADV. LILLA CROUSE: So do you agree?

MRS. DIANNE NOYILE: Partly yes, your honour.

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ADV. LILLA CROUSE: And the Ombud found that your managers were not skilled enough to handle the situation. Now looking back, you must agree with that?

MRS. DIANNE NOYILE : I agree Counsel.

ADV. LILLA CROUSE: He also found that the capacity of your caregivers weren't
5 sufficient to deal with the situation. Do you agree with that?

MRS. DIANNE NOYILE: No, I agree Counsel.

ADV. LILLA CROUSE: And that the medicine was not properly administered, administrative. What is the right word?

MRS. DIANNE NOYILE: Administrated.

10 **ADV. LILLA CROUSE**: Yes, or looked after. Do you agree with that?

MRS. DIANNE NOYILE: Looked after, I would ... [interjects]

ADV. LILLA CROUSE: We all know there were a period where there were no medicine so we must agree with that. Don't you agree?

MRS. DIANNE NOYILE: Okay.

15 **ADV. LILLA CROUSE**: And that there was a poor diet. Hearing your testimony we must find that that was right, because you were looking for food.

MRS. DIANNE NOYILE: We were looking for food Counsel and we did get food and we had a lot of food at the centre. Donated by Solidarity. We even have pictures of the food that we had.

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ADV. LILLA CROUSE: You see ma'am I believe that that is what you believe and we've heard about pictures all along, but a picture only captures one moment in time. It doesn't show that there was sufficient the whole time. Do you agree with me?

5 **MRS. DIANNE NOYILE:** I agree Counsel

ADV. LILLA CROUSE: Yes, and then lastly the Ombud found that you had poor record management. Would you agree with that?

MRS. DIANNE NOYILE : I wouldn't agree with that as like I said before, I don't remember the Ombudsman coming and interviewing us or calling us to interview us.

10 So I wouldn't know where did she get those thigs.

ADV. LILLA CROUSE: But let us just put that to the task. You didn't have a proper handover of the patients. You agree with that?

MRS. DIANNE NOYILE: I do agree Counsel.

ADV. LILLA CROUSE: You didn't give the patients and their medicine over, do you
15 agree with that?

MRS. DIANNE NOYILE: I agree.

ADV. LILLA CROUSE: So should we not then agree that there was a poor record management, just on those two simple facts?

MRS. DIANNE NOYILE: On those simple facts I will agree Counsel.

20 **ARBITRATOR JUSTICE MOSENEKE:** Did you keep a bed letter that said, like they do in hospital. At eight am I administered penicillin to Legang Boseneke.

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MRS. DIANNE NOYILE: It was not a bed letter Justice but there was a book they would write when they give the patient their medication.

ARBITRATOR JUSTICE MOSENEKE: Each patient or ... [interjects]

MRS. DIANNE NOYILE: It is just one book.

5 **ARBITRATOR JUSTICE MOSENEKE:** One book?

MRS. DIANNE NOYILE: Yes. For each ward.

ARBITRATOR JUSTICE MOSENEKE: So when they give the patient they wrote down.

MRS. DIANNE NOYILE: For each ward Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** You know madam, your period at Cullinan was during winter, right?

MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: It was winter.

MRS. DIANNE NOYILE: It was winter. It was May, June up to July.

15 **ARBITRATOR JUSTICE MOSENEKE:** I'm sure you're going to hear, Counsel will come very shortly to ask you about it. We were told the wards were cold, very cold.

MRS. DIANNE NOYILE: We had a heater that we used to put on and a kind of aircon heater and we try to make the wards warm for the patients Justice.

20 **ARBITRATOR JUSTICE MOSENEKE:** We are told that the patient did not have adequate clothing?

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MRS. DIANNE NOYILE: Yes, I wouldn't agree with that at all Justice. We have piles and piles of clothes.

ARBITRATOR JUSTICE MOSENEKE: Of donations of clothing?

MRS. DIANNE NOYILE: Yes, yes.

5 **ARBITRATOR JUSTICE MOSENEKE:** We are told that some of the patients in the evenings in particular in winter were seen walking naked outside the wards.

MRS. DIANNE NOYILE: In the evenings, I wouldn't agree with that because after they had their supper, the wards will be closed. No patient was allowed to go out in the evening. In regard with the ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** What about during visiting hours in winter?

MRS. DIANNE NOYILE: They would go out for a walk in the ward. We had one particular patient, Judge, his name is Gideon, I can't remember his surname right now but I will check it, when he came from Cullinan Care centre we were told that he didn't like wearing clothes. We did make her wear shorts at least. That's all that
15 he wanted to wear. When you put a top on him, he will take it out.

ARBITRATOR JUSTICE MOSENEKE: Even in winter?

MRS. DIANNE NOYILE: Even in winter Justice.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ADV. LILLA CROUSE: Justice, I have got no further questions, thank you.

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ARBITRATOR JUSTICE MOSENEKE: No further questions. Advocate Groenewald.

ADV. DIRK GROENEWALD: Thank you very much, Justice. Thank you ma'am. I would like to start with a document name ELAH 9. I don't know if you have it in front
5 of you.

MRS. DIANNE NOYILE: Where is that?

ADV. DIRK GROENEWALD: This is a report that we have been provided with Cullinan Care and Rehabilitation Center. It is a report on the transferring of patients from Life Esidimeni.

10 **MRS. DIANNE NOYILE:** Let me just find it Counsel.

ADV. DIRK GROENEWALD: I will do my best to get the document to you. I think we have a copy here. While we are trying to get it, I can perhaps just read it to you. At page 4 ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Sorry, let me just make the point
15 Obakeng. We need a bundle for witnesses always.

OBAKENG: We are working on it right now.

ARBITRATOR JUSTICE MOSENEKE: You're working on it?

OBAKENG: Yes.

ARBITRATOR JUSTICE MOSENEKE: Ja, please make sure okay. It must
20 always be available of exhibits so that it can be given to witnesses immediately.

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ADV. DIRK GROENEWALD: Thank you. I would like to take you to pages 4 of that document madam. There in bold it's written there:

"Life Esidimeni project discharge and admission processes."

It's stated there:

5 "There was an agreement between a marathon and CCRC LE project teams that they would discharge some functions from CCRC patients to the NGO to create space for patients from LE. The discharged patients were patients that were stable and they were assessed to require further treatment in a less restrictive environment. They were assessed by a medical doctor, psychiatric nurses from
10 CCRC. The following were taken along with the mental health care users on discharge."

Now before we get to that, you agree with me that this paragraph speaks to the patients that were transferred from CCRC to Siyabadinga?

MRS. DIANNE NOYILE: Yes, I do Counsel.

15 **ADV. DIRK GROENEWALD:** Yes, alright. Now I would just like to get your comment on the following issues. They say that the following were taken along with the mental health care users on discharge. Discharge report from the medical doctor. Did you receive that?

MRS. DIANNE NOYILE: We did get a discharge form.

20 **ADV. DIRK GROENEWALD:** Did you get a discharge form, or did you get a discharge report from the medical doctor?

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MRS. DIANNE NOYILE : We got a discharge form.

ADV. DIRK GROENEWALD: Okay, so that is, I'll get to that. The second last one is a copy of an MHCA form 3. This is the discharge form. Do you agree?

MRS. DIANNE NOYILE: Yes.

5 **ADV. DIRK GROENEWALD**: Alright. So we know we can tick that one off.

MRS. DIANNE NOYILE: Yes.

ADV. DIRK GROENEWALD: Second last one on the bottom, you received that. So let's go back to the first one. Discharge report from a medical doctor. Did you receive that from them?

10 **MRS. DIANNE NOYILE**: It is not from the medical doctor, it was from the sisters and it was signed but Mrs Nyatlo, the form that we have.

ADV. DIRK GROENEWALD: So that is the discharge form madam?

MRS. DIANNE NOYILE : Yes

ADV. DIRK GROENEWALD: Just yes or no.

15 **MRS. DIANNE NOYILE**: Yes.

ADV. DIRK GROENEWALD: Did you get the report from a medical Doctor?

MRS. DIANNE NOYILE : No, we didn't Counsel.

ADV. DIRK GROENEWALD: Discharge summary from the psychiatric nurses?

MRS. DIANNE NOYILE: We did get some discharge summary Counsel.

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ADV. DIRK GROENEWALD: Copy of the medication prescription chart?

MRS. DIANNE NOYILE: We did get that. Those are the prescriptions that were turned back and they said they were not right Counsel.

ADV. DIRK GROENEWALD: So the prescriptions were not correct?

5 **MRS. DIANNE NOYILE**: They weren't correct, that is why we had to go back to the pharmacy and fetch them and the psychiatric doctor was told to do the new prescriptions.

ADV. DIRK GROENEWALD: One month supply of prescribed medication?

MRS. DIANNE NOYILE: The medication we got Counsel was for two weeks.

10 **ADV. DIRK GROENEWALD**: For two weeks?

MRS. DIANNE NOYILE: Yes Counsel..

ADV. DIRK GROENEWALD: So that is not correct?

MRS. DIANNE NOYILE: It's not correct Counsel.

ADV. DIRK GROENEWALD: Now ma'am, the same document I'd like you to ...

15 [interjects]

ARBITRATOR JUSTICE MOSENEKE: So from those five items, frankly only one is correct, isn't it?

MRS. DIANNE NOYILE: I agree Justice.

ARBITRATOR JUSTICE MOSENEKE: It is a discharge form. You mean the
20 prescriptions were incorrect?

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MRS. DIANNE NOYILE: Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: The supply was for one week?

MRS. DIANNE NOYILE: Two weeks.

ARBITRATOR JUSTICE MOSENEKE: Two weeks, not four weeks. You may
5 proceed Counsel.

ADV. DIRK GROENEWALD: Thank you Justice. I will like to take you to page 20. I
will like to remind you just the purpose of these proceedings. It's amongst other for
the families to get closure.

MRS. DIANNE NOYILE: Yes.

10 **ADV. DIRK GROENEWALD**: For them to understand what happened to their loved
ones. Why did it happen, how did it happen. So it's necessary for us to get some
facts. Now on this page the last person there, is Kgotso Mpofu.

MRS. DIANNE NOYILE: Yes, I am Counsel.

ADV. DIRK GROENEWALD: Now they say there we represent the family of or
15 family members of Kgotso Mpofu. Now there's a date admitted in CCRC and then
there's a deceased date. He died on the 3rd of August 2016 and then there's
comments and this is comments made by the personnel of CCRC. They say the
following:

20 *"Admitted in CCRC, then discharged to Siyabadinga in satisfactory condition and
readmitted back to CCRC in an extremely emaciated ..."*

My word that I'm struggling with:

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“Condition, finally died in Mamelodi Hospital as a referral from CCRC.”

I would just like to get your comment on that madam, because here the department outrightly blames Siyabadinga for the death of Mr Mpofu. So I would just like to get your view, because the family wants to know what happened to them. They know he didn't die at Siyabadinga, they know he was taken back to CCRC. So let's just take it step for step. Do you know when he was taken back to CCRC?

MRS. DIANNE NOYILE: We left David Mpofu on the 12th of July 2016.

ADV. DIRK GROENEWALD: 12th of July.

MRS. DIANNE NOYILE: Yes Counsel.

10 **ADV. DIRK GROENEWALD:** Okay. That was the last time you saw Mr Mpofu?

MRS. DIANNE NOYILE: Me personally the last time I saw him it was the Saturday before that, because on the Sunday I was not allowed to come in to CCRC.

ADV. DIRK GROENEWALD: Sorry, just come again? Do you say that you visit him the day before he passed away or sorry?

15 **MRS. DIANNE NOYILE:** No, I said you asked if the 12th was it the last date I saw him. I said me personally the last day I saw him, it was the Saturday before the 12th ... [interjects]

ADV. DIRK GROENEWALD: Oh, the Saturday before the 12th, sorry.

MRS. DIANNE NOYILE: Ja. The 10th.

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ADV. DIRK GROENEWALD: So your comments then ma'am he died on the 3rd of August, less than a month but he went back to CCRC. What's your comment in respect of their, that he was in extremely bad condition?

MRS. DIANNE NOYILE: I will disagree for these reasons. When we went to court,
5 we asked that there will be a curator that will go to the premises of Siyabadinga, the then Siyabadinga. Reason being I had a relationship with the parent. After we had left on the 12th, the very same day we were served with a letter, I sent them messages that we were kicked out, and after we have left we received a lot of messages. I received the messages that they got in. The premises were not clean.
10 The children were not looked after, and some of them.

ADV. DIRK GROENEWALD: Sorry, from whom did you get the messages?

MRS. DIANNE NOYILE: One of the parent that I remember correctly it was Christine Lube who had a daughter there, her name is Christine as well. And she ended up fetching her child at CCRC without a pass out. A letter that allows the
15 parent or family member to take out the patient. We have asked that because of the reports that we were getting. We were afraid or concerned that at the end of the day Siyabadinga was going to be blamed. So that is why we went to court and asked for a curator and it was denied Counsel.

ADV. DIRK GROENEWALD: Okay, but ma'am the question still was what is your
20 response? The department says Mr Mpofu came back to us and he was in extremely bad condition

MRS. DIANNE NOYILE : When we left Mr Mpofu was in a good condition.

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ADV. DIRK GROENEWALD: Okay. Now ma'am, similarly if I can take you to ...
[interjects]

ARBITRATOR JUSTICE MOSENEKE: Was he taken to Mamelodi Hospital whilst you were there?

5 **MRS. DIANNE NOYILE**: No Justice

ADV. DIRK GROENEWALD: Can I proceed Justice?

ARBITRATOR JUSTICE MOSENEKE: Yes you may.

ADV. DIRK GROENEWALD: My apologies, thanks.

ARBITRATOR JUSTICE MOSENEKE: Sorry Counsel, I should have alerted you.

10 You may.

ADV. DIRK GROENEWALD: No problem Justice. On page 22 Ma'am. What we know here or what we have been told is that these are the dates that occurred at Siyabadinga. Once again, I will just like to take you through, just like I said that the family members here want clarity from you. The last one there is Thabo Monyane,
15 and I think you know his mother, who will also come and testify at these proceedings. Now it's stated there that he died on the 23rd of August 2016, but that is actually not correct. He died if I am not mistaken on the 12th, but be that as it may. Again it said here:

"Discharged from CCRC to NGO in satisfactory condition and died at Siyabadinga."

20 Now can you just confirm whether or not Mr Thabo Monyane did die at Siyabadinga?

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MRS. DIANNE NOYILE : Mr Thabo Monyane died when we already left at Siyabadinga.

ADV. DIRK GROENEWALD: Do you have any idea, do you know his circumstances?

5 **MRS. DIANNE NOYILE**: I had again I would say this. I had created or forced relationships with the family members of most of our patients who were coming to visit. Thabo's mother always came and his brother to visit. At any time. They even came and feed the patients. When we left Thabo was healthy. Then on the 9th of August, it was women's day, I got a call from Mariam Monyane who is Thabo's
10 Mother. And she was not happy that I did not tell her that Thabo was sick and she didn't even eat at that time. She was not able to eat. We had a chat group, WhatsApp group with the family and at that time Mariam's phone did not have WhatsApp. She lost her phone or something. So, unfortunately when we left it seems she did not get the message that we have left and she went to the hospital
15 because she was sick herself during that period and that is when I explained to her that we are no longer at Siyabadinga. I am not sure, if I am not mistaken, the very same day she went to the Hospital to go and see Thabo and she called me to say and she was crying on the phone that Thabo condition was very bad.

ADV. DIRK GROENEWALD: So he died a month after you left him at CCRC?

20 **MRS. DIANNE NOYILE**: Yes Counsel.

ADV. DIRK GROENEWALD: But you state under oath that when you left Thabo at CCRC, he was in a good condition physically. He was looked after, fed.

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MRS. DIANNE NOYILE: I do Counsel

ADV. DIRK GROENEWALD: But you cannot explain to us what has happened in that month after you left him there?

MRS. DIANNE NOYILE: I have no idea Counsel.

5 **ARBITRATOR JUSTICE MOSENEKE:** What does good condition mean here?

MRS. DIANNE NOYILE: Good condition ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: What disability did he have or what mental health care did he require?

MRS. DIANNE NOYILE : He was

10 **ARBITRATOR JUSTICE MOSENEKE:** Is it a woman?

MRS. DIANNE NOYILE: Sorry, excuse me. He. He.

ARBITRATOR JUSTICE MOSENEKE: It's a man?

MRS. DIANNE NOYILE: Yes. He had, he was short-sighted and had severe mental retardation very sever. He was not able to move, was bedridden but can sit
15 when you make him sit. He liked to play with paper, like when you give him, he does play with paper or tear it, and ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: How could you, okay on what medication was he?

MRS. DIANNE NOYILE: Can I check?

20 **ARBITRATOR JUSTICE MOSENEKE:** Yes.

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MRS. DIANNE NOYILE: Sorry, on this files I don't have Thabo Monyane's file.

ARBITRATOR JUSTICE MOSENEKE: You don't have his file.

MRS. DIANNE NOYILE: Yes.

ARBITRATOR JUSTICE MOSENEKE: Okay.

5 **MRS. DIANNE NOYILE:** I'm sorry.

ARBITRATOR JUSTICE MOSENEKE: Okay. When last did the Doctor see him?

MRS. DIANNE NOYILE: The only Doctor who came in was the one who that was doing the assessment for the prescriptions.

ARBITRATOR JUSTICE MOSENEKE: At the beginning of the admissions?

10 **MRS. DIANNE NOYILE:** It was not at the beginning of the admissions. When the prescription came back and they were not done right, there was a psychiatric doctor who came that assess the patient and did the script and the prescriptions.

ARBITRATOR JUSTICE MOSENEKE: How, what other medical attention did he get, besides the script that was re-done?

15 **MRS. DIANNE NOYILE :** It was your physical therapy

ARBITRATOR JUSTICE MOSENEKE: Did you have OT's on your premises?

MRS. DIANNE NOYILE: We did not have.

ARBITRATOR JUSTICE MOSENEKE: So okay, I want you see, you boldly dispute an assessment that says Thabo was emaciated, he was in bad condition and died.

20 I was trying to test what is the factual platform for such a bold assession.

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MRS. DIANNE NOYILE : I would say because Thabo was joyful as usual. Thabo was eating because that was the other thing I heard from Mariam that when she came in two months, or in the month after I left Thabo was not eating anymore. But she was ... [interjects]

5 **ARBITRATOR JUSTICE MOSENEKE**: Who is Miriam?

MRS. DIANNE NOYILE: It's Thabo's mother Justice.

ARBITRATOR JUSTICE MOSENEKE: And this person who is all well dies within 4 weeks on your version. You have no skills to diagnose, you have no skill to properly look after him. You say mental retardation. You can't tell us on what medication he
10 was and they say he was emaciated and very ill when they took him from your premises. Why is that inaccurate?

MRS. DIANNE NOYILE: Maybe I would, my thing would be when he was in that condition Justice, was he taken to hospital immediately when they took over, because that would maybe shed a light that Thabo was really ill Justice.

15 **ARBITRATOR JUSTICE MOSENEKE**: But you don't have the skills to assess whether he was ill or not. You just don't have them. You know he was smiling a little bit or not smiling. None of your staff people have the ability to assess that. Even the department that got you there under devious circumstances, shut you down because they thought your operation was dangerous. So, why are we
20 struggling like this to understand what happened?

MRS. DIANNE NOYILE: Again Justice, I would again ... [interjects]

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ARBITRATOR JUSTICE MOSENEKE: In two months, we are convinced that Siyabadinga is a dangerous place for patients.

MRS. DIANNE NOYILE: That's not what, my thing was that Siyabadinga was used because of the pressure for the department of mental health. They wanted to take
5 the patients from Life Esidimeni and when they saw that all that was done, then they decided that they will close Siyabadinga without helping as they promised that they would help telling us that they will have trainings on the 14th and again Hanna Jacobus interviewing a nurse, a sister and hiring her under the promise that the Department of Mental Health is going to pay sister Motsweni and she must work at
10 Siyabadinga, which she did. Which she did for the period of two weeks up until we were kicked out.

ARBITRATOR JUSTICE MOSENEKE: Shall we go back to the deaths.

MRS. DIANNE NOYILE: Yes, yes Justice.

ARBITRATOR JUSTICE MOSENEKE: do you know why Thabo died?

15 **MRS. DIANNE NOYILE:** I am not sure Justice

ARBITRATOR JUSTICE MOSENEKE: Counsel.

ADV. DIRK GROENEWALD: Thank you very much Justice. Thank you Ma'am. The long and short is there is a puzzle missing. One month gap, because you're telling us that when you left him there and you're swearing under oath that he was in a fit
20 and proper condition, is that so ma'am?

MRS. DIANNE NOYILE: It is so Counsel.

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ADV. DIRK GROENEWALD: Now again we go on page 23 Jaco Stols. His sister testified here yesterday at these proceeding. Again, we see that the date of death is the 14th of October, 2016. 14th of October 2016. Discharged from CCRC to the NGO in a satisfactory condition and died at Siyabadinga. Did he die at
5 Siyabadinga?

MRS. DIANNE NOYILE: No he didn't Counsel.

ADV. DIRK GROENEWALD: Now why would the department tell us that he died at Siyabadinga?

MRS. DIANNE NOYILE: I think they are the ones that can answer that. I'm not
10 sure of why they said that Counsel.

ADV. DIRK GROENEWALD: You see ma'am, we tried to get that information but that's a difficult process.

MRS. DIANNE NOYILE: If you look Counsel, if you look at the date where Jaco passed, it's three to four months. I'm speaking under correction that Siyabadinga
15 has left already. So he was not at Siyabadinga Counsel.

ADV. DIRK GROENEWALD: Ma'am I just would like to understand. Can you then tell us anything under oath that you have personal knowledge of that can substantiate the argument that Siyabadinga is not guilty, we didn't cause the death of these people, they actually died due to the negligence of CCRC.

MRS. DIANNE NOYILE: As I said I was in the chat group with the parents and when I left we continued communicating. The reports that I got from the parents was
20

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that the situation at CCRC was not good. Hence we went to the court to ask for a curator. So that there could be somebody who can go in there, who is neutral and that failed, and it's a number of incidents. We had a Johan van der Merwe that when he mother took her, now we had left CCRC. When her mother took her home
5 for a weekend, when she got home she was given the medication of another patient. That was put in the chat group as well, and he started peeling on the leg. So ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: And was Mr van der Merwe one of your patients?

10 **MRS. DIANNE NOYILE:** Yes Justice, he was one of our patients

ARBITRATOR JUSTICE MOSENEKE: And did he die?

MRS. DIANNE NOYILE: No he did not die, her mother moved her from CCRC. Moved him from CCRC.

ARBITRATOR JUSTICE MOSENEKE: No, I thought it was one of your patients.

15 **MRS. DIANNE NOYILE:** She was one of our patients when we were still there Justice, but when we moved, when we were kicked out, then her mother moved her, moved him from CCRC, because now CCRC has taken over Justice. If I may continue?

ADV. DIRK GROENEWALD: Yes.

20 **MRS. DIANNE NOYILE:** The other thing that I would like to add on that, is that when, prior to us being kicked out at CCRC, a week before that we were told we

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must stop doing washing, we were told that we must stop giving food to the patients, CCRC will do that and linen and blankets ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Did you stop giving the patients food?

MRS. DIANNE NOYILE: We did from our kitchen, we did giving them food from our
5 kitchen. The food was coming from CCRC. So they said we must stop giving food from our kitchen, us and Anchor of Life, because now we were two NGO's. That happened on a Tuesday.

ADV. DIRK GROENEWALD: Sorry, who gave that instruction?

MRS. DIANNE NOYILE: The instruction was given by the CEO, MS Mathilda.
10 Mallassa and they said they were helping us. They said we must stop using our Linen, because they wanted the patients to have the same linen in the beds and all that. We did stop and first day, which was on Monday, they brought the linen late afternoon around three. The following day there was no linen that was brought. Now we are sitting with patients that have no clean linen and we are told not to put
15 in the clean linen and we went into our store room and we changed the beds with our linen. That is the second day.

ARBITRATOR JUSTICE MOSENEKE: Did some of the patients sleep on the floor?

MRS. DIANNE NOYILE: We did not have patients who were sleeping on the floor
Justice. And then, the food they did bring on time every day. We were told to stop
20 doing washing altogether. The washing will be taken to the laundry. The laundry staff from CCRC will come and pick up the washing. That did not happen. For several days we had blankets, clothes that were piling in the laundry. We had

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clothes and blankets again next to the wards, because we were told that the staff must not touch anything. This was prior to us being kicked out.

ADV. DIRK GROENEWALD: I think the question to that ma'am is what did you do about it?

5 **MRS. DIANNE NOYILE:** I went to the CEO at that time and I told her that we are having a problem, this is a health hazard. We can't have dirty linen around the wards. We can't have dirty linen in the laundry whilst we have staff that can do that and we were told that the machine at the laundry was, the second machine in the laundry was broken, so we were sitting now with dirty linen up until the patients
10 started, not the patients, the care workers and the cleaning staff started doing laundry again, because we were told that we must not have washing just being hanged around. The laundry machine can wash and ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Sorry, what is this detail about?

MRS. DIANNE NOYILE : The detail is about Justice that when we left already the
15 condition of CCRC was starting to change in the side of Siyabadinga. There was a question that how, the Counsel posed that he wants to establish that we were saying that we left the patients there at the centre.

ARBITRATOR JUSTICE MOSENEKE: You just actually told us how bad the conditions were?

20 **MRS. DIANNE NOYILE:** Yes, I did, but ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Under your watch.

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MRS. DIANNE NOYILE: Under my watch, but fighting ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Caused the other people you said.

MRS. DIANNE NOYILE : Yes Justice.

ARBITRATOR JUSTICE MOSENEKE: Aren't those conditions in themselves
5 sufficient to hurry up people's demise, what do you say? Is that ideal conditions?

MRS. DIANNE NOYILE: It was not that was why I was fighting. The one thing that
people need to understand is that, there was that superiority I think from the officials
that you're just an NGO. You cannot tell us what to do or when. You know, when
we started questioning was told that we will close you in a minute. We were able,
10 that was the words of Dr Manamela. We were able to close Life Esidimeni.

ARBITRATOR JUSTICE MOSENEKE: What did you fear to be closed?

MRS. DIANNE NOYILE: Because I was vocal Justice, that shows that I was not
feared to be closed. I was very vocal. Even Hanna Jacobs said that she doesn't
think she will be able to work with me, because I ask a lot of questions.

15 **ARBITRATOR JUSTICE MOSENEKE:** Why did you not one morning in May
already, why didn't you wake up and say I'm not going to continue to do this? It's
another way of asking you ... [interjects]

MRS. DIANNE NOYILE: I ask myself that question every day. I should have done
that.

20 **ARBITRATOR JUSTICE MOSENEKE:** Where would you have got the R28, 000.00
a month to pay the rental?

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MRS. DIANNE NOYILE: The reason I did not start paying the rent there and then ...
[interjects]

ARBITRATOR JUSTICE MOSENEKE: No, where would you have got it?

MRS. DIANNE NOYILE: My hopes were that we were going to get it when we get
5 money from the Department of Mental Health.

ARBITRATOR JUSTICE MOSENEKE: On your calculations and sums, would you
have made a profit every month if they paid you properly?

MRS. DIANNE NOYILE: Profit in which way because a non ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Would you have had enough money to
10 pay for your operating expenses and be left with money in your pocket that you
could call a profit?

MRS. DIANNE NOYILE: A non-governmental organisation is not supposed to
have profits.

ARBITRATOR JUSTICE MOSENEKE: No, you ... [interjects]

15 **MRS. DIANNE NOYILE:** I was not looking for a profit.

ARBITRATOR JUSTICE MOSENEKE: As long as you don't distribute it to
individuals you may have a profit.

MRS. DIANNE NOYILE: My aim was to render a service, not to gain profit Justice.

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ARBITRATOR JUSTICE MOSENEKE: But why did you hang in there, why did you even go to court and litigate to make sure you're not thrown out? I'm trying to get at the route of this.

MRS. DIANNE NOYILE: I understand Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** And you must help me Pastor. Not me.

MRS. DIANNE NOYILE: Yes.

ARBITRATOR JUSTICE MOSENEKE: You must help all these people who are seated here.

MRS. DIANNE NOYILE: I'm trying to do that Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** You ... [inaudible] this operation in the place of some Life Ministry internationally, and you used their license. You give an explanation how it came about and you take on 73 patients.

MRS. DIANNE NOYILE: Yes.

ARBITRATOR JUSTICE MOSENEKE: Everything is not ideal. We have talked
15 about those detail, I don't want to repeat it.

MRS. DIANNE NOYILE: Yes.

ARBITRATOR JUSTICE MOSENEKE: You have clinical people and you have doctors and you have OT's. You have everything that the patients needed, except yourself and your love you tell us.

20 **MRS. DIANNE NOYILE:** Yes.

ARBITRATOR JUSTICE MOSENEKE: Why did you continue doing that?

MRS. DIANNE NOYILE: I continued doing that ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Was it money?

MRS. DIANNE NOYILE: Which money?

5 **ARBITRATOR JUSTICE MOSENEKE:** Why did you leave your operation at Ikangala to come and run this additional project?

MRS. DIANNE NOYILE: I think if it was money I wouldn't even start doing it without the money being paid. It was not at all about money. The only thing ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** What was it about?

MRS. DIANNE NOYILE: It was about helping the community.

ARBITRATOR JUSTICE MOSENEKE: And very quickly you realised it is not happening. They try to remove you, now you go to court and resist being removed. So ... [interjects]

15 **MRS. DIANNE NOYILE:** I was responding.

ARBITRATOR JUSTICE MOSENEKE: So I don't understand that.

MRS. DIANNE NOYILE: At the court Justice, I was responding to the court order because it said I was giving services. I was not allowed to do that and my question, the main thing was that they were coming at the centre. They knew that it was

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Siyabadinga for two full months, when did they realise that I was not suppose to be operating after they have get off the bedding of patients from Life Esidimeni?

ARBITRATOR JUSTICE MOSENEKE: So you continued because you helped them and they are now dumping you?

5 **MRS. DIANNE NOYILE**: I continue because I was helping the patients that did not have anybody to take care of at that time and the reason I'm saying that, is that even when we were kicked out Justice, there were no people who were willing to help the patients. Yes, they did bring the sisters from Weskopies, but can I tell this, the people now that in that time, at that time the sisters were not willing to work.

10 They were sitting outside. The very same caregivers who were kicked out on Friday were still taking care of the patient washing, bathing and feeding them. The only thing they came in to do was giving medication.

ARBITRATOR JUSTICE MOSENEKE: So you did all this for love?

MRS. DIANNE NOYILE: You can say that Justice.

15 **ARBITRATOR JUSTICE MOSENEKE**: And now people have died in negligent circumstances at a place where you were in charge.

MRS. DIANNE NOYILE: Yes they did and it's a very sad thing.

ARBITRATOR JUSTICE MOSENEKE: Do you know what the law says about the duty not to cause another person's death negligently?

20 **MRS. DIANNE NOYILE**: Not really, Justice. I will be lying.

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ARBITRATOR JUSTICE MOSENEKE: Each one of us has a duty not to cause the death of another unlawfully as you were operating and negligently or intentionally. You know that? The law does not allow anybody to kill another negligently or intentionally. It starts in the Bible. Thou shall not kill. It starts there. Do you know
5 that?

MRS. DIANNE NOYILE: I do Justice.

ARBITRATOR JUSTICE MOSENEKE: And what do you say about all this, when people lost their life in clearly very negligent and unlawful circumstances?

MRS. DIANNE NOYILE: It pains me personally that human beings lost their lives. I
10 never even one day woke up and say I'm gonna be going to a certain place and kill people. My wrongdoing was having love for the people, and in that there was, there were things that were not put in place that has caused me to be in this place today.

ARBITRATOR JUSTICE MOSENEKE: And were you sorry about that?

MRS. DIANNE NOYILE: Very sorry. I am very sorry that people lose lives.

15 **ARBITRATOR JUSTICE MOSENEKE:** Would you do that again?

MRS. DIANNE NOYILE: Never, never Justice. If I can turn back the clock I would do that in a minute.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

ARBITRATOR JUSTICE MOSENEKE: Counsel

20 **ADV. DIRK GROENEWALD:** No further question. Thank you Justice

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ARBITRATOR JUSTICE MOSENEKE: Counsel for the state?

ADV. TEBOGO HUTAMO: Thank you Justice. From the questions put by my learned friend and those which emanated from the Justice, the state do not have questions for the witness.

5 **ARBITRATOR JUSTICE MOSENEKE:** Thank you Counsel.

ADV. TEBOGO HUTAMO: Thank you.

ARBITRATOR JUSTICE MOSENEKE: Any re-examination?

ADV. NONTLANTLA YINA: Just one question Justice please. . Ma'am, when you were kicked out, did you still have the 14 SASSA grant cards that you received from
10 CCRC?

MRS. DIANNE NOYILE: Yes, I did.

ADV. NONTLANTLA YINA: What did you do with them, did you return them?

MRS. DIANNE NOYILE: I returned only the ID, the SASSA cards are still with me. I called the CEO at that time, because when I was kicked out all my things were held
15 in CCRC even now. The clothes donated by the parents, community and businesses. Food that rotted and we were only allowed to go to CCRC and fetch it only this year, two months ago. Everything that belonged to Siyabadinga was there.

ADV. NONTLANTLA YINA: Was there, is there a reason why you did not return them?

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MRS. DIANNE NOYILE: Because I asked them to write me an email so that it can be done formally and I asked if I can come and get my things, and Ms Malasa said he was still going to ask her principles ... [interjects]

ADV. NONTLANTLA YINA: Do you know if the patients whose cards, the 14 cards
5 belongs to, if they are still alive?

MRS. DIANNE NOYILE: Nosilosi Foca is not alive, and I returned the SASSA card.

ADV. NONTLANTLA YINA: The ones that you kept are the ones for patients who are still alive?

MRS. DIANNE NOYILE: Yes. The ones that I kept are, yes. Yes. I have never
10 withdraw ever since I left. I was waiting for CCS, I don't know if I'm allowed to answer judge.

ARBITRATOR JUSTICE MOSENEKE: Yes. Yes.

MRS. DIANNE NOYILE: Unfortunately it was a question that was posed by people.

ARBITRATOR JUSTICE MOSENEKE: You never withdraw. It's a relevant
15 answer. Continue.

MRS. DIANNE NOYILE: Yes, I was waiting for CCRC to call me and say here are the, your things and bring us our things. To a point that the ID's that were with me, stayed with me up until this year, and then Mr Ngobu asked for the ID's ...
20 [interjects]

ARBITRATOR JUSTICE MOSENEKE: Yes.

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MRS. DIANNE NOYILE: Ja.

ADV. NONTLANTLA YINA: Justice, if I may?

ARBITRATOR JUSTICE MOSENEKE: Yes.

ADV. NONTLANTLA YINA: You do appreciate that the 13 patients whose cards
5 you are keeping cannot have access to their Sassa grants? Dont you?

MRS. DIANNE NOYILE: I should think that, yes.

ADV. NONTLANTLA YINA: That will be all Justice, thank you.

ARBITRATOR JUSTICE MOSENEKE: We developed a practise here to give every
witness an opportunity to clear their chest. To say ... [inaudible] to the patients and
10 to the country.

MRS. DIANNE NOYILE: If I may have that opportunity.

ARBITRATOR JUSTICE MOSENEKE: I am not obliged to do so but you may do
so.

MRS. DIANNE NOYILE: I would love to do that Justice. Thank you for this
15 opportunity and thank you for this arbitration that they have given us in Siyabadinga
and opportunity to say something. I have already said that I am very sorry and I will
repeat it again. It was never never our intention at Siyabadinga to be part of this
massacre of people dying. If I could turn back the clock I say again, I would do that.
Condolence even we can sit here, we cannot bring your loved ones back to life. I
20 apologise to the families and I apologise to the country as well and this has affected

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me so much, even my kids are affected. I also apologise for that. It was not something that I planned that I will go out and massacre people or kill people.

ARBITRATOR JUSTICE MOSENEKE: I thought you would add that as a country maybe we have to pray to God to give those who have responsibilities the courage
5 to do the right thing, isn't it?

MRS. DIANNE NOYILE: Yes. Most definitely.

ARBITRATOR JUSTICE MOSENEKE: To care.

MRS. DIANNE NOYILE: Most definitely.

ARBITRATOR JUSTICE MOSENEKE: Particularly to care for those who are
10 vulnerable.

MRS. DIANNE NOYILE: Most definitely judge.

ARBITRATOR JUSTICE MOSENEKE: Never to take advantage of them, isn't it? And to do our work diligently every time to produce outcomes. That's the only way we can become a better people and better country, isn't it?

15 **MRS. DIANNE NOYILE:** Definitely Justice.

ARBITRATOR JUSTICE MOSENEKE: Because as we look after the vulnerable, God will certainly look after the important ones. Or those we think they are important. But if we think we can trade on people or tread on them, we will end up with massacres like this. Don't we?

20 **MRS. DIANNE NOYILE:** We do.

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ARBITRATOR JUSTICE MOSENEKE: You are a pastor, shouldn't we be praying like that?

MRS. DIANNE NOYILE: That is my prayer. That is my prayer Justice and that is why I say if I could turn back the clock and I know it's something that I cannot do. If
5 I could be given an opportunity to do it again, now that I know that I know, I wouldn't, but at that time I thought it was doable. That is why I took the responsibility. Unfortunately it ended up like this.

ARBITRATOR JUSTICE MOSENEKE: Enkosi Mama, thank you. Council, we have 15 minutes to the Lunch break, but you are well excused.

10 **MRS. DIANNE NOYILE:** Thank you very much.

ARBITRATOR JUSTICE MOSENEKE: What do you plan to do?

ADV. TEBOGO HUTAMO: Justice Moseneke, for now there are witnesses we have been able to secure from the NGO part. There is still Ms Masondo. We have successfully made, that is an approach to her. She is available to assist, but not
15 this week, only sometime next week and we have agreed with her ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: The chairperson of the Mental Health Review Board?

ADV. TEBOGO HUTAMO: That is the Review Board.

ARBITRATOR JUSTICE MOSENEKE: Yes.

20 **ADV. TEBOGO HUTAMO:** She is available to come and assist. We have agreed that she can come next week, because it's impossible for her to be present this

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week. Seeing that we don't have further witnesses from that part, we have families here, we have discussed and agreed that the families may start now, leading a part of their evidence so that we don't lose a day, we can't wait for these witnesses to avail themselves the following week. So we would offer this witness, proceed with
5 one of the family members and tomorrow it's going to be the same. The family members would testify.

ARBITRATOR JUSTICE MOSENEKE: Very well. Counsel, what do you have to say to that?

ADV. ADILA HASSIM: We are in agreement with that approach. We are ready to
10 call Rev. Maboe.

ARBITRATOR JUSTICE MOSENEKE: I think we should. Let's lead her in chief and we'll adjourn in 18 minutes time and then we can continue. But I think we should push on. Ja.

ADV. ADILA HASSIM: Justice, while Reverend Maboe is making his way to his
15 seat, I have distributed further exhibits that we will use during the course of the various witnesses who we will be leading.

ARBITRATOR JUSTICE MOSENEKE: Thank you Counsel. It is marked ELAH 27. I am surprised that it 27, I thought we have reached 40 already?

ADV. ADILA HASSIM: These were marked before number 40.

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ARBITRATOR JUSTICE MOSENEKE: Oh, they were marked before number 40. I follow. That explains it, thank you. I ask that you put your full names on record Reverend.

REV. JOSEPH SPONTY MABOYE: My full names thank you judge tata Dikgang
5 Moseneke. My full names are Joseph Sponty Maboye.

ARBITRATOR JUSTICE MOSENEKE: I could not even hear the witness. I ask you, is it another one? I have already. Reverend, I ask you to say it again. Your full names.

REV. JOSEPH SPONTY MABOYE: Joseph Sponty Maboye.

10 **ARBITRATOR JUSTICE MOSENEKE:** Yes. Reverend, 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.

REV. JOSEPH SPONTY MABOYE: So help me God.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

15 **ADV ADILA HASSIM:** Thank you Justice.

REV. JOSEPH SPONTY MABOYE: Honourable Judge ad members of the legal team, I just want to ask humbly from you people just to, is it not working?

ARBITRATOR JUSTICE MOSENEKE: Yes, you are being recorded. So we are going to ask you to life your voice a little.

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REV. JOSEPH SPONTY MABOYE: Just, I'm going to ask us at this moment just to bow our heads and pray and ask God's holy spirit to guide us in this gathering, in this process.

ARBITRATOR JUSTICE MOSENEKE: Everybody is happy that the Reverend
5 pray? He is asking an opportunity to pray. Please go ahead Reverend.

REV. JOSEPH SPONTY MABOYE: Let us pray. Heavenly father thank you. You are God of our fathers God of our mothers and grandparents. The God of Jacob. The God of Abraham and Isaac. The God who led Israel out of Egypt. We are in this process God trying to get out the truth from all those who are giving evidence about
10 what has happened. We have travelled a journey up to so far. You have been with us God, and we trust that at the end of time, the truth and justice will be revealed. We thank you God for appoint Justice Moseneke to be our Moses, to lead us through this process. We thank you God for the legal teams from both side. Sections 27 and from the Department and from the government. Give them wisdom
15 Lord that all they are trying to search must be the truth and nothing else. From us we are coming to give witnesses, God we know that you are a God who we say [vernacular 01:04:58] May your grace Lord lead us through this process. May your Holy Spirit lead us through this tunnel. May your Holy Spirit show us the right thing that has to come out in this tunnel, Lord we are walking through darkness. In this
20 tunnel Lord we have hope and believe that at the end of the tunnel there is light. At the end of the tunnel Lord there is life and at the end of the Tunnel Lord there will be Justice.

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Thank you God for this opportunity that you have given us, not only praying for ourselves only. We pray for those who could not attend this Arbitration. We pray for those Lord who are still hurt about what has happened to their families. Many people are broken. Many people are really out of touch about this mentally, 5 spiritually, physically but help us Lord together, that at the end Lord, we should be saying honour and glory belong to you because you are a God who will never forsake us. You have not forsaken our parent. You have not forsaken your people of Israel. You are with them and you are with them until they reach the land of Canaan. We thank you Lord through Christ our Lord, Amen.

10 **ARBITRATOR JUSTICE MOSENEKE**: Counsel.

ADV. ADILA HASSIM: Thank you. Thank you Reverend for those eloquent words. We are to begin your testimony. Can I start with confirming that you are the father of Hendrick Ramtodi Maboye?

REV. JOSEPH SPONTY MABOYE: Yes.

15 **ADV. ADILA HASSIM**: And that he is affectionately known as Billy?

REV. JOSEPH SPONTY MABOYE: Billy, yes. Thank you Counsellor

ADV. ADILA HASSIM: And Billy died on 22nd of July 2016?

REV. JOSEPH SPONTY MABOYE: That is right Counsellor.

ADV. ADILA HASSIM: Was Billy at Life Esidimeni at any point?

20 **REV. JOSEPH SPONTY MABOYE**: Come again?

ADV ADILA HASSIM: Was Billy at Life Esidimeni?

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REV. JOSEPH SPONTY MABOYE: Billy was at Life Esidimeni.

ADV. ADILA HASSIM: For how long?

REV. JOSEPH SPONTY MABOYE: For more than 20 years I think.

ADV. ADILA HASSIM: And how was his condition while he was at Life Esidimeni?

5 **REV. JOSEPH SPONTY MABOYE:** Billy's Life at Life Esidimeni was fine. It was only in 2016 when his condition changed and he was taken to Leratong Hospital where I was told that he has sort of shortage of blood and I took him to Leratong for that test.

ADV. ADILA HASSIM: Which Life Esidimeni Facility was Billy residing in? Which
10 one of them? There is several Life Esidimeni facilities.

REV. JOSEPH SPONTY MABOYE: The conditions in Life Esidimeni was very good and the whole thing was that he was adapted to the situation at Esidimeni.

ADV ADILA HASSIM: Right.

REV. JOSEPH SPONTY MABOYE: And he loved to be there, because why? His
15 cousing ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Was he at Waverly or Randfontein?

REV. JOSEPH SPONTY MABOYE: At Randfontein.

ARBITRATOR JUSTICE MOSENEKE: At Randfontein.

REV. JOSEPH SPONTY MABOYE: Because we are near from Esidimeni. About
20 12 kilometres.

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ADV ADILA HASSIM: Do you live in Randfontein?

REV JOSEPH SPONTY MABOYE: We live in Randfontein, ja.

ADV ADILA HASSIM: Okay. Continue.

REV. JOSEPH SPONTY MABOYE: He was very happy to be there, because his
5 cousin, my sister's daughter was a nurse there, and the other people who knew us
at Motlakeng, they knew him and he loved them and he was always jolly to be
there.

ADV. ADILA HASSIM: He was moved from Life Esidimeni to an NGO. Is that
correct?

10 **REV JOSEPH SPONTY MABOYE:** Come again?

ADV ADILA HASSIM: He was moved from Life Esidimeni to an NGO.

REV JOSEPH SPONTY MABOYE: Yes.

ADV ADILA HASSIM: Do you remember the name of the NGO?

REV. JOSEPH SPONTY MABOYE: The name of the NGO is Bophelong in
15 Hammanskraal.

ADV ADILA HASSIM: In Hammanskraal?

REV. JOSEPH SPONTY MABOYE: Ja.

ADV. ADILA HASSIM: Did you know that he was going to be moved to Bophelong?

REV. JOSEPH SPONTY MABOYE: I can say no I did not know because the time
20 when this people, this grey track, this removal was started I was at Esidimeni to go

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and visit Billy. It was some time in May and so when I got there I saw two big trucks loading people.

ADV. ADILA HASSIM: When was that?

REV. JOSEPH SPONTY MABOYE: In May.

5 **ADV ADILA HASSIM:** In May.

REV. JOSEPH SPONTY MABOYE: But I cannot remember the date well.

ADV ADILA HASSIM: 2016?

REV. JOSEPH SPONTY MABOYE: So ... [interjects]

ADV ADILA HASSIM: 2016?

10 **REV JOSEPH SPONTY MABOYE:** 2016, yes. When I got there, I saw two trucks was just at the gate at the entrance and the poor patients were being taken away from the wards led by Nurses. They were so confused the poor people. Some of them were crying. Some of them were on wheelchairs, and they did not know what is happening at that moment, and they were just running helter-skelter and they
15 were just ... [inaudible] come back, come back, come back. They were ... [inaudible] in their plastics. I don't know what was contained in their plastics. Probably it was their toiletry or whatever and they were so confused the poor people, and they were just like ghosts or sheep going to an auction, and I was so ashamed, I was so hurt to see this move, and I said what is not going to happen to
20 these people, and someone said no, they are going away. They are taken away to places which we at the beginning of the whole process when this grey track, this

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forced removal was initiated by the government. We were there as parents, and we really begged this Dr ... [inaudible]. He said a mouthful about the grey track, and we were really standing on our feet to say no, why do you have to take these people away from this institution? What is wrong with this institution?

5 **ADV. ADILA HASSIM:** When did you first raise your concerns? Were you a member of the family committee?

REV. JOSEPH SPONTY MABOYE: I was not in the committee but all the meetings that were initiated to tell us that this is going to happen I was always there.

10 **ADV. ADILA HASSIM:** The association of family members, were you a member of that association?

REV. JOSEPH SPONTY MABOYE: Ja.

ADV ADILA HASSIM: Yes.

REV. JOPSEPH SPONTY MABOY: Thank you, and you know at the beginning I said at one meeting I said people, we are dealing with people.

15 **ADV. ADILA HASSIM:** When was that meeting, I don't mean to interrupt, but just so that we can be clear. When was the meeting you're referring to now?

REV. JOSEPH SPONTY MABOYE: I think it was sometimes in the beginning of 2016.

ADV ADILA HASSIM: Okay.

20 **REV. JOSEPH SPONTY MABOYE:** Ja, 2016 and I said people, we are dealing with human beings, we are dealing with lives because these people are not just people

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that we can just say they must be moved as easily as all that, because they are God's people. They are created in the image of God, and this image we must respect it and if they are going to be taken away from this institution without knowing where they are going, it's going to hurt us and we said to those people who
5 were initiating the whole thing, said people ... [interjects]

ADV. ADILA HASSIM: Who were those people?

ARBITRATOR JUSTICE MOSENEKE: Thank you Counsel.

REV. JOSEPH SPONTY MABOYE: I think it was the people from the department of health

10 **ADV. ADILA HASSIM:** Do you remember any of their?

REV. JOSEPH SPONTY MABOYE: I cannot remember them and we said to them people, if you are going to take these people away from here, can we be shown where they are going. What these NGO's look like. What conditions are there and they said no, everything is fine, you don't have to worry but we were scared worried.

15 **ADV. ADILA HASSIM:** And Billy was moved, was he moved after that meeting?

REV. JOSEPH SPONTY MABOYE: Billy was probably in the last group that left Life Esidimeni, because I was there in June and ... [interjects]

ADV. ADILA HASSIM: Where were you in June?

REV. JOSEPH SPONTY MABOYE: June 2016.

20 **ADV ADILA HASSIM:** Where were you?

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REV. JOSEPH SPONTY MABOYE: At Esidimeni.

ADV ADILA HASSIM: Okay.

REV. JOSEPH SPONTY MABOYE: I went there to visit him. He was still there and there are still few people there around there. So I brought him some food some
5 drink and he was so happy and every time I went to see him, he will just be saying to me Papa you must behave very well, you must be like Bishop Tutu or Ntate Mandela.

ARBITRATOR JUSTICE MOSENEKE: Why have you not done it Reverend?

REV. JOSEPH SPONTY MABOYE: I don't know but this was the instruction that I
10 got from, ever time I went to Life Esidimeni he will tell me Papa, you must behave very well. Be like Bishop Tutu and Ntate Mandela. They are very good people and he will ask me have you phoned Bishop Tutu. Then I will say no I have not. You must phone Bishop Tutu, speak to him, and then in that to me it was just sort of a joke to me, but it came clear to me at the end, the last time when I went to see him.
15 It was probably the beginning of June. I went to see him and when I got there, I found that the whole place was being under renovation.

ARBITRATOR JUSTICE MOSENEKE: Tell me, what was Billy's disability?

REV. JOSEPH SPONTY MABOYE: Billy was epileptic in a way and he physically he was not well. He was not well, because I think this epileptic started when he was
20 still young. When he was probably in matric. I think one of the photos here will show how he looked like, but he ... [inaudible] and then we took him to different hospitals and I remember very well we took him to Klerksdorp Hospital, because we

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were now in Klerksdorp by then, and to we took him to Tshepong Hospital and they referred him to Sterkfontein. So I brought him to Sterkfontein by then. He started that journey of Sterkfontein. Going from Sterkfontein to ... [inaudible] in Mafikeng. From Mafikeng he came back. He was transferred to Benoni Hospital. He went to
5 most of these psychiatric hospitals.

ADV. ADILA HASSIM: But he was at Life Esidimeni for 20 years?

REV. JOSEPH SPONTY MABOYE: Pardon?

ADV ADILA HASSIM: But he was at Life Esidimeni for 20 years?

REV. JOSEPH SPONTY MABOYE: Ja, so he was in and out of the hospital, but at
10 Life Esidimeni he stayed longer than all the other institutions.

ADV ADILA HASSIM: Alright.

REV. JOSEPH SPONTY MABOYE: So we eventually said now okay, let him remain at Esidimeni.

ADV. ADILA HASSIM: And it was close to your home you said?

15 **REV. JOSEPH SPONTY MABOYE:** It was nearer home and it was easy for us to visit him.

ADV. ADILA HASSIM: And the last, sorry Justice.

ARBITRATOR JUSTICE MOSENEKE: No, no not at all. Finish your last question. I am ready to adjourn. It's almost one thirty. But you can ask that question and
20 then we can adjourn.

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ADV. ADILA HASSIM: We could adjourn now, because it will take us down another path Justice.

ARBITRATOR JUSTICE MOSENEKE: [Vernacular 01:17:52]. We stand adjourned till two thirty.

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SESSION 3

Thursday 19th - DAY 9;

ARBITRATOR JUSTICE MOSENEKE: Thank you, you may be seated. Reverend

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you are still under your previous oath.

REV JOSEPH SPONTY MABOYE: Thank you very much.

ARBITRATOR JUSTICE MOSENEKE: Counsel.

ADV. ADILA HASSIM: Thank you Justice. Reverend, are you ready to continue?

5 I'm here. You're ready to continue?

REV. JOSEPH SPONTY MABOYE: Thank you.

ADV. ADILA HASSIM: There are some photographs in front of you.

REV JOSEPH SPONTY MABOYE: Ja.

ADV ADILA HASSIM: One has got the number ELAH39A. Do you see it?

10 **REV JOSEPH SPONTY MABOYE**: I see it, ja.

ADV ADILA HASSIM: Can you tell us, is this Billy? Is this Billy in the photograph?

REV. JOSEPH SPONTY MABOYE: This is Billy when he was still a teenager.

ADV. ADILA HASSIM: The next photograph is ELAH39B.

REV JOSEPH SPONTY MABOYE: Yes Counsellor.

15 **ADV ADILA HASSIM**: How old was Billy in this photograph?

REV JOSEPH SPONTY MABOYE: I think by then he was still in his early twenties.

ADV. ADILA HASSIM: Third photograph ... [interjects]

REV JOSEPH SPONTY MABOYE: Pardon, because by then he was still at school.

ADV ADILA HASSIM: Okay. ELAH39C. Is this still Billy?

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REV. JOSEPH SPONTY MABOYE: This is still Billy then the sun was setting.

ADV. ADILA HASSIM: When the sun was setting?

REV. JOSEPH SPONTY MABOYE: Ja.

ADV. ADILA HASSIM: And where was this taken?

5 **REV JOSEPH SPONTY MABOYE:** This photo was taken at Bopelong, sort of NGO in Hammanskraal where I found you.

ADV ADILA HASSIM: And when was this photograph taken?

REV JOSEPH SPONTY MABOYE: This was on the 16th of July 2016.

ADV ADILA HASSIM: And who took this photograph?

10 **REV JOSEPH SPONTY MABOYE:** It's my brother's son.

ADV. ADILA HASSIM:: You say just before our adjournment, you said you last saw Billy at LE when you visited Billy in June 2016 and that you weren't told where he was taken. So how did you find him at Bopelong?

REV. JOSEPH SPONTY MABOYE: Counsel, I thank you very much for that
15 question. The end of June, I went to check on him again, because I did not know when will they be going. So when I got to Esidimeni, there was nobody. There were new people there who were renovating the premises and they told me that we don't know anything about the people you are asking about. We are a new company. We are people who are preparing for the drug addicts.

20 **ADV ADILA HASSIM:** Drug addicts?

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REV. JOSEPH SPONTY MABOYE: Ja.

ADV. ADILA HASSIM: So, Billy wasn't there?

REV. JOSEPH SPONTY MABOYE: Billy wasn't there . I asked them do you know the people who were here. They said we don't know anything. You are asking
5 wrong people.

ADV ADILA HASSIM: So how did you track him down?

REV. JOSEPH SPONTY MABOYE: So I went ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Was the facility completely empty? Life Esidimeni in Randfontein, was that facility completely empty when you went there?

10 **REV. JOSEPH SPONTY MABOYE:** Probably because I was just at the gate. At the entrance and they didn't allow me to go in. So I did not know who was there and who was not there, because they said we are not allowing any other people to come here, because we are busy renovating the complex here.

ARBITRATOR JUSTICE MOSENEKE: Thank you

15 **ADV. ADILA HASSIM:** How did you find Billy?

REV. JOSEPH SPONTY MABOYE: From there I got very much worried as of the beginning of July. I did not know where to find Billy and I scouted around, praying every day to say God, show me where Billy is. Show us where Billy is. It was a daily thing, I was haunted. We were haunted and asked my fellow clergy men, the
20 bishop and all the other congregation to please pray so that I can find my son where

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he is. But luckily God being God, on the 13th of July, I was celebrating my 79 birthday.

ADV ADILA HASSIM: 79th birthday?

REV JOSEPH SPONTY MABOYE: Ja.

5 **ADV ADILA HASSIM:** You're 80 years old now?

REV JOSEPH SPONTY MABOYE: Pardon?

ADV ADILA HASSIM: You're 80 years old now. Now you are 80.

REV JOSEPH SPONTY MABOYE: Now I'm an oldie.

ADV ADILA HASSIM: Sorry, I interrupted. Go ahead.

10 **REV JOSEPH SPONTY MABOYE:** Thank you very much Counsel and I said to myself I'm celebrating my 79th birthday, I don't know where my son is. Fortunately God led me to Section 27. I don't remember, I got somebody from Life Esidimeni who said okay we'll help you to trace and find out from the other NGO's where they can find Billy and they phoned around I think, and after a while a phone call came
15 back and when I picked up the phone it was Billy himself. I said Billy, is that you? He said Papa, it's me. Papa it's me. I said thank you my son. This is my best birthday I have had, because I found you and you are alive, and I said where you are.

He said to me Papa, I'm in ... [inaudible] . He could not pronounce Hammanskraal,
20 you see. Then I heard a voice from behind saying Hammanskraal. I said where is that Hammanskraal. He said I don't know but I'm in ... [inaudible]. So the person

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who picked up the phone said to me it's Hammanskraal and we are here at, there's a place called an NGO which is called Bopelo. Okay. So I said okay, thank you very much. We'll see what to do and I phoned my brother's son and said son, we found Billy. He said thank you very much Sir ... [inaudible], we'll try our level best.

5 I'll come and pick you up on Saturday morning because I'm working. So we'll drive to Hammanskraal. He's a young man. He knows all these roads, and then we drove. He picked me up at about half past seven from home. So we arrived in Hammanskraal at about nine. When he entered Hammanskraal we stopped there and tried to connect this place to see, to find out where it is, and how to get there,

10 because they gave us some directions and then we tried to follow those directions but we got lost for a while. Until we came back to a clinic. There's a clinic there. We found out from the clinic and said where is this place Bopelo. It's an NGO where the mentally ill people are kept. They said we don't know it, but try and find out from the people here. So we found somebody who directed us from the clinic

15 and said you take this road, you pass the scrap yard, there's a tuck shop on your left hand side, you turn right and then there is a house, a big house there on your right hand side. Try and find out from there and check whether is it the right place. So we followed that road, because it's you know Hammanskraal it's a village and there are no tarred roads there. It's just a wilderness there.

20 **ADV ADILA HASSIM:** Ja.

REV. JOSEPH SPONTY MABOYE: So we finally got the place. We stopped there and then we asked for entry and they said okay, you can come in. The house it's a beautiful house, as you can see it on that picture there. It's a nice beautiful house in

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front and we knocked in the front door and then we found out an old lady, very old nursing sister. I think she passed her nursing career in the late or in the late thirties.

ADV ADILA HASSIM: 1930's?

REV. JOSEPH SPONTY MABOYE: I think so, because she was old.

5 **ADV ADILA HASSIM:** Because she was very old to you, yes.

ARBITRATOR JUSTICE MOSENEKE: Older than you?

REV. JOSEPH SPONTY MABOYE: Very much so.

ARBITRATOR JUSTICE MOSENEKE: Yes, very much older than you. That's a fair question. I want to get an idea what old means.

10 **REV JOSEPH SPONTY MABOYE:** So then we introduce ourselves and then we told her that we are the Maboye's. We've come to check whether our son is not here. They said okay, have a seat. It's a nice house inside. A beautiful house, and we sat there in the lounge and in the dining room and we explained who we are, where do we come from and they said yes, your son is here, Hendrik Maboye.

15 Okay. Then we asked a few questions and say how did he come here. My sister who is one of the sort of big nurses of some sort, professional nurse, she's in Pretoria. Whether she's running a hospital or it's whatever she's doing there in Pretoria, but here I am not the owner of this institution here. It's sort of home. My sister is the owner and I'm here just to be looking after what is not happening.

20 **ADV. ADILA HASSIM:** Were there other staff?

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REV. JOSEPH SPONTY MABOYE: Ja, she was the only one that we saw at that time, at that moment. She was the only person that we saw that moment. She said to us my sister is running this complex or this institution, and then she comes once in a while. I am as old as I am. I'm only working during the day. There was
5 another young lady there who was introduced to us. She was working during night time. Then we were just questioning ourselves. I was questioning myself that if these two old people, ladies are looking after mentally ill patients, and I asked her how many people are here. She said there are 40 men. 40.

ADV ADILA HASSIM: 40 men?

10 **REV. JOSEPH SPONTY MABOYE:** 40 men. Then I said to myself ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: 40?

REV JOSPEH SPONTY MABOYE: 40. Then I said to myself people like this, they need a good staff. They need men, male nurses or assistants who can help in a situation like this, and then there was only one old male who was also, he looked
15 sort of crazy. He said I'm a Moruti. I'm helping here and I'm always praying for these people. I said okay, thank you very much and then probably he was boasting, because probably Billy was always telling him that my father is a priest and then probably Billy was also telling about Bishop Tutu and so he was saying I'm also a bishop and a priest. I've got my own church here, but I'm always coming here to
20 pray for these people and helping where I can. I then said okay. Then we said the old lady, old staff nurse said I asked them to call Billy to come in and then when Billy came in, he came through the kitchen door from the kitchen side. When I

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looked at Billy I got a shock of my life. He looked ... [inaudible]. He looked more disorientated. He was hungry. He was filthy and he was stinking. This photo here, when I look at him, I can see that the clothes he was wearing were the clothes from Esidimeni.

5 **ADV. ADILA HASSIM:** That's ELAH39C.

REV. JOSEPH SPONTY MABOYE: So I said to myself, we asked the old lady; the old matron and said how are you feeding these people. What do they eat. She said no, they are here. We first asked about their medication. What medication do they have. She said no, when they are not feeling well we take them to the clinic. The
10 clinic that you passed when you came in, and then they give him some tablets and what medication, I don't know what sort of medication they give them, and said so I asked here where are their, have they got their files with them. She said no, some of them came here without files. We don't know what had happened and some of them did not even bring their ID's and it's only one person, one patient that brought
15 his file with his ID and SASSA card. Then I said to the old lady how do you feed them now, because now these SASSA cards I think they are for them to get their monthly pension fund. She said no, we here what we are doing they get, we get contributions from the local shopping complexes. Checkers, Pick 'n Pay. They bring us vegetables, they bring us mielie meal, they bring us sugar, tea and the rest
20 and so that's how we managed to keep them here, and my problem was I did not know when these fellows, these 40 men left Esidimeni.

ADV. ADILA HASSIM: So on the question of food if I may interrupt you, you said Billy was hungry?

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REV. JOSEPH SPONTY MABOYE: Billy looked hungry. Billy looked dehydrated.

He was dry. He could hardly speak and ... [interjects]

ADV. ADILA HASSIM: Could he speak before, could he speak properly before?

Did he have a problem with speech, a speech defect or anything like that?

5 **REV JOSEPH SPONTY MABOYE:** Billy was a jolly person. He could speak, when

at Life Esidimeni when they bring him from the wards to come and see me when I

visited him at Life Esidimeni we were always accommodated in a hall, families. He

will just laugh and hug me and when he just enter there he will say Papa you have

come, thank you very much that you have come and but on that particular day, on

10 the 16th of July, billy was as dumb and found like I don't know. He could hardly say

a word, and so but he that laugh he had to hug me, and then he was shivering

there. I could see that he was going to fall and then we supported him and they said

bring him a chair and they brought him this green chair that he's sitting on, and also

a plastic, a refuge plastic bag to sit on.

15 **ADV ADILA HASSIM:** I see.

REV. JOSEPH SPONTY MABOYE: And they, he was there and said whilst we're

still talking there he said I'm thirsty, I want water and the old nurse said no, no, no

we're not giving you water, because he's wetting himself. He's peeing his trousers

and so on. I could believe that, because how he was stinking with dirt and

20 [vernacular 00:17:11], and ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: [Vernacular 00:17:14]

REV. JOSEPH SPONTY MABOYE: [Vernacular]

ARBITRATOR JUSTICE MOSENEKE: [Vernacular]. The priest says that he had spoken in his home language and he's not allowed to interpret what he has said.

REV. JOSEPH SPONTY MABOYE: Thank you very much judge, and we sat there in that house and the old lady showed us the photos of her sister. The qualified,
5 she was a sort of, she had doctorate in whatever, I don't know. Medicine or whatever, and we felt that we are called inside there and then we said can we sit out in the sun. So ... [interjects]

ADV. ADILA HASSIM: Did you get him anything to drink since he was thirsty or did they refuse to ... [interjects]

10 **REV. JOSEPH SPONTY MABOYE:** No, they didn't bring him anything. He was not given anything to drink, because he say he's wetting himself and that's the end of the story. So we said no, let's go and sit out in the sun and then we went out and took his chair along and then we supported him, put him on this chair outside. It was a bit warmish outside, and he asked me did you bring me some food Papa.
15 Some chips, because he liked chips. He liked bread and coke. I said no, we haven't brought those things, because we are coming to fetch you, because we brought you new clothes. Tekkies, a lumber jacket and jerseys and so on, and then we sat outside there and he said I want something to eat. So I saw somebody there and called him. I said are you the person, he said no I'm always here. Now the crux of
20 the matter was that while we were sitting outside, waiting for the man who was going to buy chips and whatever, the process of starting to renovate was starting on that particular, I don't know whether it started on that particular day or it had already started some days back, because they were putting on security fence. They

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building walls around and these poor fellows, we could not see them properly because they were that side, but this side because we could see them, some of them were on that side at the entrance of the car. Some of them were basking in the sun there, and then ... [interjects]

5 **ADV. ADILA HASSIM**: Are you referring to the other patients?

REV. JOSEPH SPONTY MABOYE: The other patients were just, you know what mental patients are. They will ask you can you give us two rand to go and buy a cigarette. I want something to go and buy, they were just screaming at us you see. One of them was singing there, he was just singing an endless anthem which I
10 cannot remember, but he was singing for the whole time sitting there around us and ... [interjects].

ARBITRATOR JUSTICE MOSENEKE: How were they, were they contained in a particular area?

REV. JOSEPH SPONTY MABOYE: They were confined in that particular area.
15 This was the house here and on the side here, on the side of the house, at the end of the house, they put up a fence or a brick wall and now the brick wall was being built up on the side here so that they cannot jump onto the other property.

ARBITRATOR JUSTICE MOSENEKE: So they were talking to you with a sense in their faces so to speak?

20 **REV. JOSEPH SPONTY MABOYE**: Ja, ja, ja. The fence was a bit higher so that they cannot reach it. It was higher than, the wall was up there and the fence was coming up there, and then ... [interjects]

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ADV. ADILA HASSIM: And then did you get the food for Billy? Did you get the food for Billy?

REV. JOSEPH SPONTY MABOYE: I sent somebody who took a very long time, more than half an hour or quarter of an hour, because you know Hammanskraal
5 they are depednding on tuck shops which I don't know what types of tuckshops are, and then he came back after a while, when we were already worried that that fellow is gone with our money. So fortunately he came back. He came back with a packet of chips and a bottle of coke. The chips were dry. They were old, and so the poor fellow because he was so hungry he just took that plastic and started to, he wanted
10 to eat even the plastic the way he was hungry, and we said to, I said to my cousin, he said to me I want to go to the loo. So they asked him to go right around the house so they open up the gate, so he went right around the house and then he came back. I said I also want to go to the loo, but he said Ramagolo, please. I'm begging you don't go to the back. Don't go to the back of this house. It's horrible.
15 What is happening? He said the garage, these people there are the big garage. There are beds, 40 beds were lined up. There was no privacy. There was no washing basin. There was nothing. It was only those beds and a few blankets I think.

ADV ADILA HASSIM: In the garage?

20 **REV. JOSEPH SPONTY MABOYE:** In the garage. So that's what he said. Ramagolo, I don't want to go and see the mess behind there, but what you could see, there's a pit toilet right at the corner there, which we said to ourselves ...
[interjects]

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ADV ADILA HASSIM: A pit toilet?

REV. JOSEPH SPONTY MABOYE: A pit toilet and then this poor fellows, the patients probably used it and we said to ourselves how can these poor patients use a pit toilet. It's really not safe for them, and we continued with my niece to ask
5 ourselves a lot of questions which we could not get answers. Then we told the old lady that, the old nurse that we are coming to fetch Billy, because we see that he is not well. We are going to take him home. But she insisted that you cannot take Billy away, because the doctor must see him. He must sign some documents and also the social worker must come, sign some documents. So it is not, you are not
10 allowed to take him. I said now really, but really we feel that we must take him away, but she insisted that no you can't. So I said okay, we'll respect you and your profession and your authority. We'll respect that, we won't take Billy away, but we left that place at about something, round about twelve or so, but one thing that hurt us at that time, there was no sign of lunch, because normally at Esidimeni when you
15 go there, Life Esidimeni Randfontein, when you go there round about that time, twelve, they are already on lunch. But you could see that these poor people, these poor patients, did not even have breakfast in the first place. Now it's already that time, eleven o'clock or so to twelve. There was no sign of lunch.

ADV. ADILA HASSIM: Were any snacks offered?

20 **REV. JOSEPH SPONTY MABOYE:** There was nothing. Nothing. So probably Billy was Lucky to have that packet of chips and drink.

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ADV. ADILA HASSIM: And did you ask of Billy what was it like for him there? Did you ask him whether he was getting food and ... [interjects]

REV. JOSEPH SPONTY MABOYE: He was not even quite sure of what they eat, But Esidimeni he will tell you we got bread in the morning, we got tea in the morning
5 we got coffee and at eleven o'clock we are given something to eat and at one o'clock or so we have got our lunch, and then he was really up to himself. But at Life Esidimeni he was just, I cannot say it. So we said now we are going to go. So we left all the clothes that we had for him and we said okay, we are leaving now and we'll probably come back on Monday or we'll hear from you, staff nurse from you,
10 and you will tell us the position, but she said we are going to take Billy to the clinic on Monday and we'll give you the feedback when we come back from the clinic. Then I ask her how do you take them to the clinic. She said no, we are using a bakkie and then those who are sick as Billy is, he will be sitting in front and the rest, the others will be sitting at the back. Okay, no thank you very much. So we left that
15 place with very heavy hearts when we saw that, but I said to my niece, I said to him I don't see Billy living more days than what he see him here, and we left that place with heavy hearts. Saying if Billy is like this, we didn't see the other fellows who probably were like him, but the others that we saw roaming around in the yard, they were there, they were sort of just as you know the mental patients. They are
20 restless, they are not at one place. Some of them were just basking in the sun there.

ADV. ADILA HASSIM: Did you return to Bopelong after that?

REV. JOSEPH SPONTY MABOYE: Let me tell you the journey that we went.

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ADV ADILA HASSIM: Okay, no we're listening.

REV. JOSEPH SPONTY MABOYE: And then on Monday Tuesday, we got a phone call. From Bopelong NGO. They said Billy has been admitted at Jubilee hospital. You need to make it a point to come and see him. His condition is not really so good. So Tuesday Wednesday they phone again and I could not get transport by then and I could not even drive myself, because I have got a hip replacement. So to drive from Randfontein to Hammanskraal, for me it will be really a risk, and so I spoke to one of my neighbours there. He's also a farmer, and then he said no, I can only manage to take you on Friday, because my car is not here and I will wait for my son in law. He's in Mafikeng. He'll come back, probably before twelve o'clock he'll be here and then we can ... [interjects]

JUSTICE DIKGANG MOSENEKE: And when did you go to Jubilee?

REV. JOSEPH SPONTY MABOYE: Judge?

ARBITRATOR JUSTICE MOSENEKE: WHEN did you go to Jubilee HOspital?

REV. JOSEPH SPONTY MABOYE: We went on Friday, on the 22nd on Friday. We left Randfontein at about half past two. That fellow drove so fast through the traffic up to Johannesburg, Pretoria and then we arrived at Hammanskraal at about half past four. When we got there at the gate, the security lady she was so harsh on us.

ADV. ADILA HASSIM: This is at Jubilee hospital?

REV. JOSEPH SPONTY MABOE: Jubilee Hospital.

ADV ADILA HASSIM: Okay.

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REV. JOSEPH SPONTY MABOYE: And then she said to us why do you come at this time? Can't you see that you are late, and I said to her dear security lady, we are, we know the rules of visiting. We cannot be so stupid to come at this time, knowing that it is not visiting time.

5 **ADV ADILA HASSIM:** Yes.

REV. JOSEPH SPONTY MABOYE: We have got a phone call from this hospital of yours to say that we must come and see my son, he's in ward 3 and then but she said you should have come earlier than that. I said I'm not around Hammanskraal, I'm not around Stinkwater around Hammanskraal there those areas. We are not
10 from Pretoria nor Johannesburg. We are right from the Westrand and so we drove so fast at least we are here

ADV. ADILA HASSIM: Did she let you in eventually?

REV. JOSEPH SPONTY MABOYE: Counsellor?

ADV ADILA HASSIM: Did she allow you in eventually?

15 **REV. JOSEPH SPONTY MABOYE:** Fortunately she went and phoned the ward and asked that there are people here who have come to see Hendrik Maboye, so she came back to us and said no you can drive in. Part your car at that end and then come back and look for ward 3. Then we parked our car and then we looked
20 for ward 3. Then when got to ward 3, when we entered I introduced myself to the sister there. I told him that I'm Hendrik Maboye's father. We have come to see him. She also said we are late. Why do you come so late. I say hey sister, we are not from here. We come from far. Not Pretoria, not Skilpadfontein or Stinkwater

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around Hammanskraal here. We come from the Westrand. So she said okay, have a seat. Then she was fiddling on the desk there and I saw Hendrik Maboje's file on the table, on the desk. Then she went in and out. She was not even looking me on my face and then she was just not knowing what she's looking for, and at that point
5 I was just saying to myself I wonder what has happened. Probably she's and then she asked me who came with you. I said no, did you see the tata who is behind me. He is the man that I came with. So she said call him to come in. So we sat there and said to me tata ... [interjects]

ADV ADILA HASSIM: And this was your neighbour?

10 **REV. JOSEPH SPONTY MABOYE:** Ja.

ADV ADILA HASSIM: Okay.

REV. JOSEPH SPONTY MABOYE: And then he said tata I'm sorry you are late and then fiddling around on the files and so on, and said now we are, you are late and I'm sorry to tell you that Hendrik just passed on at half past two. The time we
15 left Randfontein, it was the time when Billy died and I prepared to, I had taken holy communion along with me. I had holy oil to go an anoint him. But when I was told that he is no more, I just said ja. I had no other words and then I said okay sister, thank you very much for your information. We'll go back home and then go and arrange, because tomorrow it's Saturday. There is nothing that we can do. We
20 won't be able to come and collect the body, because the mortuaries are closed, the undertakers are busy and we asked that we can we get his clothing, his pajamas whatever he went with to the hospital and she said no okay, do you want to see

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him? We said yes, definitely we want to see him. I thought she was saying that Billy is already in the mortuary. But most unfortunately or luckily he was still screened in the ward. So she took us around into the ward and then she unscreened the bed and then I saw Billy was no more, and I started praying
5 because I could not anoint him, I could not give him holy communion. I prayed for ... [inaudible] of his soul and offered him to God and then went home. His grandparents ancestors everybody said accept Billy. Lord, accept Billy's soul. May his soul rest in peace and then I said to Billy we are coming to fetch you my son. We'll be coming on Monday and I gave blessing, and we left. We said no, we want
10 to have his belongings. They open up the drawer there. We took out his clothes, his shoes and everything. Then we went back to Bopelong which I didn't call Bopelong. I call it death and when we got there round about five.

ARBITRATOR JUSTICE MOSENEKE: If you don't follow, Bopelong means a place of life and the Reverend says he thought it was a place of death.

15 **REV. JOSEPH SPONTY MABOYE:** That's correct judge, and when we came there we arrived there and it was already winter. Five o'clock, half past five. It's already late. But there was such a, the people were busy there. Very busy. Starting to put up a structure. I don't know what sort of structure was it, but they were busy with this, with the cement and name it all the building materials were
20 there and we could see that these people are now desperate to have this structure on which has not been there, and initially when we went back home on Saturday we said now how can these people accept patients without having prepared for them prior? You cannot take people and say I'm taking these people, there was nothing

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prepared for them. We saw that I don't know what type of beds were there. Whether they had blankets, whether they had whatever, whatever. That a patient needs or an ordinary person like myself in a house or in a home there are basic things that you have to have in a house, but it showed me, shows that these poor
5 people had nothing. Had nothing.

ADV. ADILA HASSIM: Why did you return to Bopelong?

REV. JOSEPH SPONTY MABOYE: Pardon?

ADV ADILA HASSIM: Why did you return to Bopelong?

REV. JOSEPH SPONTY MABOYE: How did I?

10 **ADV ADILA HASSIM:** Why did you go back?

REV. JOSEPH SPONTY MABOYE: Why did we go back?

ADV ADILA HASSIM: Yes, to Bopelong.

REV. JOSEPH SPONTY MABOYE: To Bopelong, we went there because some of his clothes were there at Bopelong. We had to go and collect some of his clothing.
15 Ja, so we went there and when we got there, the poor old nurse was there and she was happy to see us and said we are happy to see you tata Maboye. Billy is in hospital. I said yes, we are from the hospital granny and we came in this afternoon to visit Billy. She said okay we were planning that tomorrow Saturday we'll be going to see him and people will be going to see him in the hospital, and I just looked her
20 in the face and said granny, we are sorry. Billy is no more. She felt so disappointed. She felt so, she felt out of place, and I said to her we have come to

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collect his belonging and then we are going back home. She said no, sorry tata Maboye, we have to, we tell the other fellows at the back, because what we could deduce, what we learnt that the other fellows, his fellow patients, were asking every day since Monday they were asking where is Billy. Where is Billy and then they
5 were told that he's in hospital. They were so worried about his absence from amongst them there, and so we went through the kitchen. What also surprised us when we go through the kitchen, it's an ordinary kitchen of an ordinary house. You know, these extended houses and so the small kitchen there was ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Sorry?

10 **REV. JOSEPH SPONTY MABOYE:** There was a gas stove in that kitchen, there was also big pots there and I also saw a big three legged pot there. Drie voet, and the big one there and that time they were now still busy trying to prepare for supper at that time, past five to six, and then they took us through ... [inaudible], and we could see people were so busy outside there, and we they were so happy to see us
15 and they called, they have been asking ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: They would be the other patients?

REV. JOSEPH SPONTY MABOYE: They were at the back there. Outside.

ARBITRATOR JUSTICE MOSENEKE: They were happy. Who are they who were happy?

20 **REV. JOSEPH SPONTY MABOYE:** The patients.

ARBITRATOR JUSTICE MOSENEKE: The patients.

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REV. JOSEPH SPONTY MABOYE: They were happy to see us because we were introduced to them that I'm Billy's father and they clapped their hands, starting clapping hands Billy, Billy, Billy.

ARBITRATOR JUSTICE MOSENEKE: Billy probably had told them you are the
5 bishop. If not arts bishop.

REV. JOSEPH SPONTY MABOYE: No, they didn't ask me whether I'm the bishop you see. Although Billy used to tell me that when I behave well, I have to go to China to go and be a bishop.

ADV ADILA HASSIM: From China?

10 **REV. JOSEPH SPONTY MABOYE:** Ja. So I'm expectint the good China to go and become a bishop, and so but then all in all the sad news were broken. The lady who is a cook there, who was preparing supper for them, she was so heartbroken. She was so heartbroken. Inside the house she was just crying and then they took us out and then the news were broken that we have come here. This is Billy's
15 father. Billy has just passed on. They started screaming. They started crying. They started praying, and it really touched me to see if people like this, people like this who ... [inaudible] the government throw them out of that wonderful institution, to throw them out into the wilderness, if they can stand up and pray. What was wrong with them to be kept at Esidimeni. What wrong did they commit to be
20 brought out of that institution, and I just sat down and I had no power to see and to hear these people who would think they are mentally crazy, singing and praying. At the end we said I thanked them and then I gave them a blessing and then we went

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out through the kitchen and then the, they gave us some of his belongings and then we drove off home. It was not a nice journey going back home, because I was worried, because I have left the children on their own. My daughter was working and then my grandchildren ... [inaudible] and then I said I'm not going to phone
5 them. The first person which, whom I phoned was this ... [inaudible] Maboye who took me to Bopelong. He was the first person to be phoned and his mother and other family members, I phoned them on our way and I said these others, the children at home I will tell them when we come home. So we arrived home at about eight o'clock and then we went to fetch Tebogo. She was still at work. We picked
10 her up from work and then we didn't say anything to her.

ADV ADILA HASSIM: Who is Tebogo?

REV. JOSEPH SPONTY MABOYE: Tebogo is my daughter. Ja. So when we got there we came in and then I did not break the news myself. Tata Solly who drove me were the one who broke the news and then ja, then we started now saying
15 where to from here. Then not long some of the family members from Motlakeng came. Some of them came from Kagiso. They came just to be with us for that evening, and then we had now to sit down and plan for his funeral, and then Saturday morning I phoned the undertakers. The funeral parlour in Motlakeng. I must come on Monday morning at eight o'clock I should be there to come and make
20 arrangements so that they can go and collect the corpse and then so Sunday we were there. Some of the people came, a few of the family members came. Monday morning by eight o'clock I was at the funeral parlour. I took Billy's ID and other documents and we drove off back to Jubilee Hospital to go and collect Billy and

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then had to sign a lot of documents there. So from there they took us to the mortuary after signing all those documents, and then paid all the fees that were to be paid, and so they took us to, they took the undertakers to the mortuary to take Billy out from the mortuary and after a while they called me and then they opened
5 him. I started praying for him. Started praying for the journey taking him back home, because I could not just take his body home without saying thank you God, we got Billy we are taking him back home, and let our journey be blessed by you. He will be directed by you so that now we reach home safely and then we drove off, but about one o'clock half past one we are at Randfontein, and then because we
10 wanted to get the death certificate immediately so that we can start making the funeral arrangements. Unfortunately when we arrived there the lights were off at the municipality and no offices were working. So we had to wait until Tuesday. Then went back to the home affairs to go and collect the death certificate. Everything went very smoothly. Very smoothly, and on Tuesday we got the death
15 certificate and then we started making arrangements and we prepared for the funeral to be on Friday, because we knew that some of my fellow clergee won't be able to come on Saturday, because the clergee are also busy on Saturdays having their own ritual activities. So we had the funeral on Friday, the twenty, what was it?

ADV ADILA HASSIM: 29th. It's fine tata Maboye. It's fine.

20 **REV. JOSEPH SPONTY MABOYE:** The funeral was on the 29th of July.

ADV. ADILA HASSIM: What do you understand to be the cause of Billy's demise?

REV. JOSEPH SPONTY MABOYE: Pardon counsellor?

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ADV ADILA HASSIM: What do you understand to be the cause of Billy's demise?

REV. JOSEPH SPONTY MABOYE: I think my own understanding and my own assessment we could not be sitting here if these people were left at Esidimeni. Parents, families could be not mourning and crying. All these people, I believe, my
5 belief is that all these people they could still be alive and I don't doubt God, because if it was God's will, this I cannot say this is God's will that these people had to die. God is not so cruel. All these people, even those who have not been buried by now they could still be alive.

ADV. ADILA HASSIM: Is there anything you would like to say to the government
10 before you close?

REV. JOSEPH SPONTY MABOYE: You are asking me a very good and difficult question, because counsellor when we asked to see them, they refused flatly to come and meet us as parents. Then at this time and point, when our hearts are broken, when we are shattered what more can we say to the government? What
15 can we say to them? If it's a government which is for the people, remember very when parliament was opening, the DA said that they must stand up and have a moment of silence to remember our people who have just died, and they refused flatly. Now what can we say to them? But anyway, anyway Jesus when he was on the cross, he prayed. He said Father forgive them. Father forgive them, and
20 because they don't know what they are doing. Even up to now we will pray. Our prayers, we'll be praying daily and timorously, and still they will not be knowing what they are doing. As you can see, what is happening in the country at this time. They don't know what they are doing. We continue to say Father, forgive them.

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If at least, one like Dr ... [inaudible] has said, they persuaded the officials from the health department. No response. No response. A fellow sort of doctor like them, Dr. Manamella and Selabanu and whoever they were, they refused to come and meet with them, but now who are we that they should come and be with us and talk
5 to us.

ADV ADILA HASSIM: Thank you Reverend.

REV. JOSEPH SPONTY MABOYE: If ever, if they were really sorry about what happened, they could have publicised it as the government and say we are sorry as the government for all what has happened, because it is our fault. Our people were
10 put in the positions have caused us this mess, and this word that they always use in their offices, bato pele, it doesn't mean anything to them. If it could be said bato pele, meaning them bato pele mogobone, then we could understand. But they said bato pele, of which they don't care about us.

ADV ADILA HASSIM: ... [inaudible]

15 **REV. JOSEPH SPONTY MABOYE**: I'm telling you Counsel, I'm telling you, it's you ... [inaudible]. Worse things are coming. Worse things are coming for this government. I'm sorry to say it.

ADV. ADILA HASSIM: Thank you Tata Maboye. Justice, that's all for evidence in chief from me.

20 **ARBITRATOR JUSTICE MOSENEKE**: Thank you Counsel. Advocate Crouse?

ADV. CROUSE: Justice, I have no questions. Thank you.

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ARBITRATOR JUSTICE MOSENEKE: Adv. Groenwald?

ADV. DIRK GROENWALD: Justice, we have no questions. Thank you.

ARBITRATOR JUSTICE MOSENEKE: Counsel for the State?

ADV. TEBOGO HUTAMO: Justice, we have no questions for the witness except to
5 express regrets for the event.

ARBITRATOR JUSTICE MOSENEKE: Will you just say that a little louder so that it
gets onto the record.

ADV. TEBOGO HUTAMO: I'm making the submission that ... [interjects]

ARBITRATOR JUSTICE MOSENEKE: Somebody is playing quite good music out
10 there, but can somebody tell them to stop it please?

ADV. TEBOGO HUTAMO: We are saying that we have had the account, we have
no questions to the witness. We regret the events which actually happened, and
indeed it's a lesson not to be repeated, and on those, on that note we will also
continue to pray with the families and everyone else to ensure that like we find
15 peace in this difficult moment.

ARBITRATOR JUSTICE MOSENEKE: Thank you counsel. Re-examination?

ADV. ADILA HASSIM: No re-examination, Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Thank you counsel.

REV. JOSEPH SPONTY MABOYE: Thank you Justice, thank you very much
20 members of the legal teams from both ends. I am going to request again humbly

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from you tata Moseneke, just to commit the souls of these our beloved children, our parents, our brothers and sisters, our aunts, we commit them to the wonderful hands, beautiful hands of God.

ARBITRATOR JUSTICE MOSENEKE: [Vernacular 00:56:22]

- 5 **REV. JOSEPH SPONTY MABOYE:** Father Jesus Christ, you wept at the grave of Lazarus. We are weeping, standing beyond the grace of our family members. Some will still be buried in time to come. Give us strength and power Lord, that as we travel this journey, we may not lose direction. May not lose sight of you. Give more power, more strength to our legal people here. Especially tata Moseneke who
- 10 has been picked up not by us, but by you Lord to be our leader in this journey. Bless him in his retirement as he do his work voluntarily. Lord, we say today here we raise up our hands. We lift up the souls of our brothers and sisters and children to you and said Lord, forgive us, forgive them if they have done anything wrong that they deserve to die in the way that they have died. Lord, thank you very much.
- 15 Your love will continue to be with us. Your love will continue to encompass us. Lord, may their souls rest in peace and rise in glory. Amen.

ARBITRATOR JUSTICE MOSENEKE: Thank you Reverend. You are excused from the witness stand. [Vernacular 00:58:28]. Counsel, what are the intentions at the stage?

- 20 **ADV. ADILA HASSIM:** We have the second witness who is ready to be called, Justice Moseneke.

ARBITRATOR JUSTICE MOSENEKE: Please do.

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ADV ADILA HASSIM: Mrs. Thejane.

ARBITRATOR JUSTICE MOSENEKE: [Vernacular 00:59:40]. I am going to swear her in now. [Vernacular]. The witness is sworn in. Counsel, you may proceed.

ADV. ADILA HASSIM: We are here to talk about Daniel Josiah, who is he to you?

5 **MRS. WILLEMINAH THEJANE:-** He is my brother, the fourth child after me.

ADV. ADILA HASSIM: We have on record that he passed on 8th September, is that correct?

MRS WILLEMINAH THEJANE: When went to Pretoria west hospital we were told he passed on on August 8th.

10 **ADV. ADILA HASSIM:** The death certificate says 8th September.

MRS WILLEMINAH THEJANE: I am not sure about the details of death certificate because when we came to take him we didn't have the certificate, but the doctor told us that he passed on 8th of august

ADV. ADILA HASSIM:: Was Charles a patient of LE?

15 **MRS WILLEMINAH THEJANE:** Yes, he was a patient at LE. He was transferred from Benoni to LE.

ADV. ADILA HASSIM:: What was Charles' medical condition? What was wrong with Charles?

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MRS, WILLEMINAH THEJANE: Charles when he started to fall sick, he fell in Benoni. That is when we learnt that he had stroke, and was he unable to speak or walk.

ADV. ADILA HASSIM:: When did he have stroke? How old was he?

5 **MRS WILLEMINAH THEJANE:** I can't remember how old he was at the time. He was staying with my mum and was in Northern Cape at the time.

ADV. ADILA HASSIM:: How long did he stay in LE?

MRS WILLEMINAH THEJANE: I think he was admitted in 2010-1.

ADV. ADILA HASSIM:: What was his condition at LE? How was he doing in LE?

10 **MRS WILLEMINAH THEJANE:** At LE, he was very quiet, he could not talk but he can hear everything when we talked to him.

ADV. ADILA HASSIM:: Did you visit him regularly?

MRS WILLEMINAH THEJANE: Yes, we used to visit him regularly and sometimes I would ask my cousin to go and visit and give him some clothes and food.

15 **ADV. ADILA HASSIM::** Were you working at that time?

MRS WILLEMINAH THEJANE: Yes, as domestic worker.

ADV. ADILA HASSIM:: What were you earning?

MRS WILLEMINAH THEJANE: R2600

ADV. ADILA HASSIM:: - Does your husband working?

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MRS WILLEMINAH THEJANE: Yes, but not anymore. He is a pensioner.

ADV. ADILA HASSIM:: When you visit Charles at LE, did he recognise you and happy to see you?

MRS WILLEMINAH THEJANE: Yes, he recognised me because when they
5 brought him I could see him smiling.

ADV. ADILA HASSIM:: Were you told Charles would be moved from LE by anybody?

MRS WILLEMINAH THEJANE: No, no one informed me.

10 **ADV. ADILA HASSIM::** How and when did you found that he has been moved?

MRS WILLEMINAH THEJANE: My partner went to visit him on the 18th of September 2016 on Sunday.

ADV. ADILA HASSIM:: Went to visit him where?

MRS WILLEMINAH THEJANE: At LE, that is where he met the security. He was
15 told they were no longer patients there, and the institution is now used as rehabilitation. He asked about where he was transferred and they said they didn't know, but only saw the buses coming to fetch the patients.

ADV. ADILA HASSIM:: So, how did you find Charles?

MRS WILLEMINAH THEJANE: The security gave him a phone number and asked
20 him to call on Monday and there would try and find out about his whereabouts.

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ADV. ADILA HASSIM: Then, what happened?

MRS WILLEMINAH THEJANE: My partner was accompanied by his friend who promised to call and find out about his whereabouts. He called around past nine; they said they are still looking for him, but he did not specify whom he was speaking
5 to. He then called around to 12 on the same Monday and inquired about his ID number.

ADV. ADILA HASSIM: Do you know whom you were speaking to?

MRS WILLEMINAH THEJANE: My partner's friend did not mention who he was speaking to at that time. But at half past 12, when he phoned again, they when they
10 said; 'sorry mama, you brother is on the list of dead.

ADV. ADILA HASSIM: Did you at any point on this day speak to anybody else?

MRS WILLEMINAH THEJANE: No, I did not speak to anyone, I waited for me partner because he was working at the time. So, I waited for him so that we can discuss the way forward.

15 **ADV. ADILA HASSIM:** Where was Charlie taken to?

MRS WILLEMINAH THEJANE: On Monday around 8pm, I got a phone call from another lady called Ethel. She instructed us to come to Pretoria west hospital.

ADV. ADILA HASSIM: Is this the Ethel who testified before this hearing?

MRS WILLEMINAH THEJANE: Yes.

20 **ADV. ADILA HASSIM:** Did you go to Precious Angels?

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MRS WILLEMINAH THEJANE: No, we went straight to Pretoria West hospital.

ADV. ADILA HASSIM:: What date did you go to Pretoria West hospital?

MRS WILLEMINAH THEJANE: It was on the 20th on a Tuesday

ADV. ADILA HASSIM:: 20th September 2016?

5 **MRS WILLEMINAH THEJANE**: Yes. 20th September 2016

ADV. ADILA HASSIM:: What happened when you got there?

MRS WILLEMINAH THEJANE: When we arrived there we found the Social Worker, the nursing sisters and a doctor, but I forgot the names. When we arrived. we were invited into the boardroom. That is when I was told that they were waiting
10 for Ethel to tell us what has happened.

ADV. ADILA HASSIM:: Then?

MRS WILLEMINAH THEJANE: Ethel did not show up. Doctor explained that Charles arrived three days ago and he was very weak. He did not have a file from LE and also his ID and did not know anything regarding his medical history.

15 **ADV. ADILA HASSIM**:: Did the doctor tell you how Charles passed away?

MRS WILLEMINAH THEJANE: No, he did not specify. He only said he died under his care on the 4th day. That is when he encouraged us to be strong. I was accompanied by mother and partner as well as my friend's partner. He told us to go and bury Charles with dignity. He said after the burial I must go to SASSA to
20 investigate if the grant was being cashed in by the hospital or an individual. I asked for the wheelchair I bought for Charles.

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ADV. ADILA HASSIM: Wheelchair which you had bought for him?

MRS WILLEMINAH THEJANE: Yes. He said he did not know anything about it, but they will investigate.

ADV. ADILA HASSIM: Did you get the wheelchair back?

5 **MRS WILLEMINAH THEJANE:** No.

ADV. ADILA HASSIM: Did you speak to Ms. Ethel Ncube?

MRS WILLEMINAH THEJANE: Ethel was not present at the meeting until half past 2. Dr. Said that the mortuary was going to close by past 3pm. He said I must go and identify Charles' body.

10 **ADV. ADILA HASSIM:** Did they tell you why he took so long to tell you that Charles has passed away?

MRS WILLEMINAH THEJANE: No one explained to us.

ADV. ADILA HASSIM: did you ask?

MRS WILLEMINAH THEJANE: They did not tell me. I was surprised because LE.
15 They used to call him Charlie and he was very close to some nurses there. I was surprised that he was transferred without informing us.

ADV. ADILA HASSIM: On what day did you go to the mortuary?

MRS WILLEMINAH THEJANE: We went on the same day with the doctor, Sister Rhakogho Mr Mohale, my mother, my partner and my friend's partner.

20 **ADV. ADILA HASSIM:** Did you identify Charles body?

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MRS WILLEMINAH THEJANE: Yes, we found him on top of a stretcher, his mouth and eyes were wide open. The doctor asked if i was sure he was him. I said yes, it was him because my brother, Charles did not two teeth in the front.

ADV. ADILA HASSIM:: You said you identified by missing teeth?

5

MRS WILLEMINAH THEJANE: Yes, not only that but with the face as well. We knew he was him and I was accompanied by mother as well. The doctor said now that you are satisfied that is him, let us wait for Ethel. We waited for Ethel for about 30 to 45 minutes, but she did not show up.

10 **ADV. ADILA HASSIM::** Why did you need to wait for Ethel?

MRS WILLEMINAH THEJANE: Because the doctor said Ethel was supposed to come and explain to me what happened. When Ethel arrived she did not know what to say to us. She just greeted us and brought out a book.

MRS WILLEMINAH THEJANE: : She took out a booklet. She read from the book
15 and said I must go to the police station to make an affidavit. The doctor took the book and said the book is not applicable to us. The doctor said; 'no, you cannot use this book. As a doctor, I know that when patients are in the hospital, they can only deduct R20 at the hospital which was for insurance. So, in case anything happens, they have insurance. The rest of the money from grant, according to the doctor,
20 must go back to the family. So, that the family can use the money to visit the patients and buy things for the patients.

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ADV. ADILA HASSIM:: Are you referring to disability grants?

MRS WILLEMINAH THEJANE: Yes.

ADV. ADILA HASSIM:: Charles was receiving grants?

MRS WILLEMINAH THEJANE: : We got that information from the hospital we
5 were not privy to that.

ADV. ADILA HASSIM:: What information?

MRS WILLEMINAH THEJANE: I was told by the doctor who was attending to
Charles.

ADV. ADILA HASSIM:: that he was receiving disability grants

10 **MRS WILLEMINAH THEJANE**: yes

ADV. ADILA HASSIM:: Do you know who was collecting the disability grant?

MRS WILLEMINAH THEJANE: Doctor said I must go and investigate after the
funeral who was taking the grant. I went to SASSA in Jagiso and i was told he was
not on the system

15 **ADV. ADILA HASSIM**:: Did you do that?

MRS WILLEMINAH THEJANE: Yes. I went to SASSA in Jagiso and I was told he
was not on the system. I also went to SASSA offices in Warrington in Northern
Cape to check. They told me the same thing that he was not on the system. I asked
why a disabled person was not getting a grant. They said it was because they were

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deducting from them as a group. The doctor told me that the patients were being sponsored by the government

ADV. ADILA HASSIM: Did anybody from the Department Of Health contact you after identifying the body of Charles?

5 **MRS WILLEMENAH THEJANE:** At the time, the doctor said we must not go because the government officials were coming to ask some questions and when they arrive I must ask any question I might have.

ADV. ADILA HASSIM: Did government official arrive and come to talk to you?

10 **MRS WILLEMENAH THEJANE:** No, they did not come. Me and my partners thought maybe they were confused because Charles and I did not share the same surname. My partner advised me to go to the police station with my mother so that my mother could explain and ascertain that I was the sister to Charles.

ADV. ADILA HASSIM: What happened on the 22nd of September 2016?

15 **MRS WILLEMENAH THEJANE:** We got a call from Mr. Lehau. He said to me, please go to Luthuli House.

ADV. ADILA HASSIM: Why?

20 **MRS WILLEMENAH THEJANE:** He said I will get the answer at Luthuli House. I said why Luthuli house? I asked why Luthuli House because that is the headquarter for a political party, not government offices. I also told them I stay far away and do not have money to travel there. Mr. Lehau he was sorry because he was going on leave and would leave me with a sister Rakghogho to assist me.

ARBITRATOR JUSTICE MOSENEKE: From where did Mr Lehau phone?

MRS WILLEMINAH THEJANE: He did not say because he was using a cell phone.

ARBITRATOR JUSTICE MOSENEKE: did they say where he was working?

5 **MRS WILLEMINAH THEJANE:** Yes he said he was working for the Department of Health.

ADV. ADILA HASSIM:: When did you collect Charles' body from the mortuary?

MRS WILLEMINAH THEJANE: Two weeks after, Sister Rakhogho called me and told me she had Charles' ID in her possession. She said I must come to Department
10 of Social development building in Pretoria to collect the ID? We did go there and she gave me the ID. I asked her where was the wheelchair, and she said she will look for it. We drove in her car and went to the mortuary.

ADV. ADILA HASSIM:: - Mrs. Thejane there was a newspaper article that was referred to at this hearing. In the newspaper article, it spoke about the death of
15 Charles and the transportation of his body from the mortuary. It quotes you. Did you recall this?

MRS WILLEMINAH THEJANE: Yes, they were media people who came to my workplace before I met Section 27. When we arrived at the mortuary, I was with sister Rakhogho where I had to sign for the body so that we can take it. They asked
20 if I had an undertaker. I said I did not have any. There was where we had

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disagreement with sister Rakhogho because she was insisting that Masondo must be the one to transport the body.

I asked why she was choosing undertaker for me and she insisted that Masondo must be the one to transport the body. I said to her that you are asking me, you are
5 not instructing. She was insistent on Masondo transporting the body to the Northern Cape. That was why I became agitated and said it means you are making business from my brothers' death? She did not respond and then she left.

ADV. ADILA HASSIM: Did you hear from Masondo?

MRS WILLEMINAH THEJANE: In the evening, Masondo called my partner telling
10 him that he will transport the body. He asked if we have a coffin. He said no I did not have a coffin. He asked how are we going to transport the body without a coffin. He said he would go and look for a coffin and get back to me. Following day, Masondo said he has gotten a coffin to transport the body. He then called my partner to inform about that and they made appointment to meet. And they went with my son.

15 **ADV. ADILA HASSIM:** Did you get the names of the mortuary?

Mrs. Thejane- Yes. Masondo said the name is African queens of queens. I am not sure of the name. Then, they went to Home Affairs in Soweto to get death certificate. Mansondo was challenging us about what we wanted to do with certificate. My partner said if you cannot bury someone without certificate if you do,
20 it means that he is still alive. At that time, we were arranging to fetch my mother in Germiston, so that my partner and my son can go together. Masondo's driver was to go with my son to Northern Cape because they did not have the direction to get

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there. When we arrived at Home Affairs, Masondo's son wrote where the doctor did not fill in - natural cause, whereas the doctor said the case is under investigation. So, they refused to give us the death certificate because the papers do not correlate. We did not have a choice at that time because Charles had died for a
5 very long time by then. So we took his body without death certificate. We were behind the car that was transporting the body. We went to the Warrington mortuary.

ARBITRATOR JUSTICE MOSENEKE: Who was to pay the undertaker for the transportation of Charles' body from Pretoria to Warrington?

Mrs. Thejane- Masondo said he would pay. When we arrived at the Warrington
10 mortuary, they wanted us to explain, but the people who were transporting the body did not want to give any explanation. They just left the body and went back. That is why the wharrgigton undertaker called the social worker because they can't bury the corpse because of lack of information. It was on a Friday, the social worker said they can't bury the corpse over the weekend. She said we must come back on
15 Monday to discuss the way forward.

ADV. ADILA HASSIM:: When was the funeral held eventually?

MRS WILLEMINAH THEJANE: He was buried on the third week on Tuesday after meeting with social worker on Monday. The social worker was from my hometown said to me that we as Africans have our traditions of slaughtering when we are
20 going to bury. She pleaded with us not to do that because the uncle was ill. That was why went to Kimberley for the rituals. The social worker from Warrington gave

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us support she gave us grocery. We buried him on Tuesday and my uncle passed on that same day as we were giving people food.

ADV. ADILA HASSIM: Did your uncle know Charles?

MRS WILLEMINAH THEJANE: My uncle has not seen Charles since he was
5 young because he was raised in the institution.

ADV. ADILA HASSIM: there is a picture in front of you and it has number ELAH7. Is that Charles in that picture?

MRS WILLEMINAH THEJANE: Yes.

ARBITRATOR JUSTICE MOSENEKE: When was the picture taken?

10 **MRS WILLEMINAH THEJANE:** This was taken from his ID in Benoni.

ADV. ADILA HASSIM: In 2002?

MRS WILLEMINAH THEJANE: Yes.

ADV. ADILA HASSIM: Can you share with us what has been the impact of this on you and your family?

15 **MRS WILLEMINAH THEJANE:** It has caused a lot of damages especially to my mother who is 76 years and to me as well.

ADV. ADILA HASSIM: Is there anything you want to say? I know you have been here sitting diligently. You heard some of the government officials Is there anything you want to say to them?

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Mrs. Thejane: There is nothing I can say because what they have done to us is painful. I am left alone. The other two sisters have since passed on. It was only me and Charles left.

ADV. ADILA HASSIM:: Thank you for being so strong and coming to testify. I am
5 very sorry for your loss. Justice, no further question.

ARBITRATOR JUSTICE MOSENEKE: Are you okay to continue? I am going to ask the counsel to ask any question. Listen attentively so that you can answer.

ADV. LILLA CROUSE: Thank Justice. I have no question for the witness.

ARBITRATOR JUSTICE MOSENEKE: Counsel?

10 **ADV. DIRK GROENEWALD:** Thank you Justice, no question.

ADV TEBOGO HUTAMO: No questions, Justice

ARBITRATOR JUSTICE MOSENEKE: It is painful indeed. Thank you for coming. We cannot resolve this if people don't come and talk about this incident. Thank you very much. The proceeding we continue and I hope you hear of the decision at the
15 end.

MRS WILLEMINAH THEJANE: Thank you very much, Justice for assisting us here and for being a reasonable man. My boss said you are a very reasonable man, his name is James Stewart. Thank you.

ARBITRATOR JUSTICE MOSENEKE: Thank you. It is quarter to 5. We are going
20 to be back tomorrow. Can you give us idea of what to expect tomorrow?

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ADV. ADILA HASSIM:: Justice Moseneke, we have further witnesses to call tomorrow. We will begin with Mrs. Mosehua.

ARBITRATOR JUSTICE MOSENEKE: We are going to stand adjourned till tomorrow morning 9.30.