

LIFE ESIDIMENI ARBITRATION

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

DATE: 23RD OCTOBER 2017 DAY 11

5

DAY 11 SESSION 1 – 3.

BEFORE ARBITRATOR – JUSTICE MOSENEKE

10

WITNESSES:

CHRISTINE NXUMALO

MRS. BERTHA MOLEFE

MR CHRISTIAN NGQONDWANE

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SESSION 1

ARBITRATOR, JUSTICE MOSENEKE: Morning Counsel.

ADV ADILA HASSIM: Morning Justice Moseneke. We would like to call our first
5 witness for today and that is Mrs Christine Nxumalo.

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

MS CHRISTINE NXUMALO: In English please.

ARBITRATOR, JUSTICE MOSENEKE: In English very well. I am going to place
10 you under oath. Would you want to do the affirmation or the conventional oath?

MS CHRISTINE NXUMALO: Whichever Judge.

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

15 **MS CHRISTINE NXUMALO:** So help me God.

ARBITRATOR, JUSTICE MOSENEKE: Very well, Counsel?

ADV ADILA HASSIM: Good morning Ms Nxumalo.

MS CHRISTINE NXUMALO: Morning.

ADV ADILA HASSIM: Are you [interjects]

ARBITRATOR, JUSTICE MOSENEKE: First your, full names please? Could you please your full names on the record?

MS CHRISTINE NXUMALO: Christine Theresa Nxumalo.

ADV ADILA HASSIM: What is your relationship to Virginia Machapelah?

5 **MS CHRISTINE NXUMALO**: Virginia is my sister.

ADV ADILA HASSIM: Was Virginia at Life Esidimeni?

MS CHRISTINE NXUMALO: Yes she was at Randfontein.

ARBITRATOR, JUSTICE MOSENEKE: Sorry Counsel you went quickly, Virginia who?

10 **ADV ADILA HASSIM**: Virginia Machapelah.

ARBITRATOR, JUSTICE MOSENEKE: Machapelah thank you.

ADV ADILA HASSIM: It's spelt M-A-C-H-A-P-E-L-A-H.

ARBITRATOR, JUSTICE MOSENEKE: Thank you.

ADV ADILA HASSIM: In front of you, you should have a photograph and it is
15 marked ELAH32.

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: Is Virginia in this photograph?

MS CHRISTINE NXUMALO: Yes she is.

ADV ADILA HASSIM: And who is with Virginia?

MS CHRISTINE NXUMALO: My son and my daughter.

ADV ADILA HASSIM: When was this photograph taken?

MS CHRISTINE NXUMALO: It was in December 2015.

ADV ADILA HASSIM: Where was it taken?

5 **MS CHRISTINE NXUMALO**: It was at Randfontein Life.

ADV ADILA HASSIM: And did you take this photograph?

MS CHRISTINE NXUMALO: Ja I took it with my phone.

ADV ADILA HASSIM: How long was Virginia at Life Esidimeni?

MS CHRISTINE NXUMALO: She was at Life just under 2 years.

10 **ADV ADILA HASSIM**: And can you tell us a bit about Virginia's mental health condition?

MS CHRISTINE NXUMALO: In 2013, she got lost-

ARBITRATOR, JUSTICE MOSENEKE: Was that 2 years from the beginning of the marathon project, or 2 years to when?

15 **MS CHRISTINE NXUMALO**: It was 2 years to the marathon.

ARBITRATOR, JUSTICE MOSENEKE: To the marathon project?

MS CHRISTINE NXUMALO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Thank you.

MS CHRISTINE NXUMALO: In 2013 she got lost in Kimberly because she stayed in Kimberly and when we found her, a decision was made that she must come and live with me, because basically, I was the only one who looked after her because I used to help her and Shineez, so it was an easy option-

5 **ADV ADILA HASSIM**: Who was Shineez?

MS CHRISTINE NXUMALO: Shineez is her daughter, Virginia's daughter. So she came to live with me and when she was here, I took her to doctors and to clinics and stuff, but didn't get help and then we took her to Charlotte Maxeke and she was then kept there for observation, but she stayed there for about 3 months and in that
10 time, they were trying to find out what was wrong with her, because she had never been diagnosed with anything prior to that and tThat is when they told us that she has Alzheimer's and it was a rare kind of Alzheimer that was actually eating away at her brain cells, so basically she was slowly becoming a child again. Then the doctors at Charlotte Maxeke told us that she needs to go to Life, Life Randfontein
15 and then the reason why, is that it was the best place that could actually look after her because she needed 24 hour care.

ADV ADILA HASSIM: So when was she admitted to Life Esidimeni?

MS CHRISTINE NXUMALO: She was admitted to Life I think it was towards the end of 2013.

20 **ADV ADILA HASSIM**: End of 2013 and this photograph was taken December 2015?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: Was Virginia moved from Life Esidimeni?

MS CHRISTINE NXUMALO: She was, she was moved with this Gauteng marathon project.

5 **ADV ADILA HASSIM**: Were you aware that she would be moved from Life Esidimeni?

MS CHRISTINE NXUMALO: Look we were called in for a meeting in 2016, it was a public meeting and in that meeting, we were told that the facility will be closing and from there, we knew it was going to happen-

ARBITRATOR, JUSTICE MOSENEKE: Where was the meeting?

10 **MS CHRISTINE NXUMALO**: It was at the Randfontein facility.

ARBITRATOR, JUSTICE MOSENEKE: At the Randfontein facility?

MS CHRISTINE NXUMALO: Yes and in that meeting, we were told by Gauteng Department of Health that the facility will be closing.

15 **ADV ADILA HASSIM**: Who was there as a representative of the Gauteng Department of Health?

MS CHRISTINE NXUMALO: We had Dr Manamela and we had the HOD Selebano.

ADV ADILA HASSIM: And did you raise any concerns at that meeting?

20 **MS CHRISTINE NXUMALO**: Yes we actually we literally were screaming. Every family member that stood up, protested and I think everybody's concern is that everybody who was at Life, had been through the NGO process, so they knew that

it doesn't work, so for them to close the one facility or the facilities that actually work and send people back to the NGO's, it wasn't realistic.

ADV ADILA HASSIM: And what was the reason that Dr Manamela and Dr Selebano provided to you, to the families for the need to move?

5 **MS CHRISTINE NXUMALO**: In that particular meeting, they said it was because of finance and my question, because I stood up and I said if it is about finance, I mean surely Life can actually assist because it was a long term contract, surely they could come up with figures that would make sense for them and the gentleman from Life stood up and said no, they have been open for negotiations right from the
10 beginning, so it is not their fault.

ADV ADILA HASSIM: Who was the representative of Life Esidimeni?

MS CHRISTINE NXUMALO: To be honest with you, I can't remember his name I would be lying to you.

ADV ADILA HASSIM: And the only reason that was provided was finances?

15 **MS CHRISTINE NXUMALO**: Yes and in that particular meeting, that was it ja.

ADV ADILA HASSIM: And were you told which NGO's would be providing the services instead of Life Esidimeni?

MS CHRISTINE NXUMALO: The names of NGO's never came up at all, they just said, NGO's and they said some were ready to receive patients.

20 **ADV ADILA HASSIM**: And so were you then informed, that was a public meeting to inform all of the families that a move was imminent, is that right?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: So were you specifically informed then about your sister, about the move that was planned for your sister, on which date it was to take place and where?

5 **MS CHRISTINE NXUMALO**: No I got an SMS on the 30th of June that said my sister was being moved to Cullinan and that the facility was closing that very day.

ADV ADILA HASSIM: That Life Esidimeni was closing that day?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: When was the last time you saw your sister?

10 **MS CHRISTINE NXUMALO**: We actually saw her in May of that year.

ADV ADILA HASSIM: In May 2016?

MS CHRISTINE NXUMALO: Ja.

ARBITRATOR, JUSTICE MOSENEKE: Who sent the SMS to you?

15 **MS CHRISTINE NXUMALO**: We don't know Judge, because there was a number that was provided there, but when you phone the number, we couldn't get through.

ADV ADILA HASSIM: So you say that the SMS informed you that she would be moved to Cullinan Care and Rehabilitation Centre?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: So did you call Cullinan to-

MS CHRISTINE NXUMALO: I called several times and every time they would say she's not there. I think it took about 2½ weeks just to get some kind of answer from somebody. I remember there was a White lady that answered at some point and said I should try Siyabadinga or I should try Anchor, but when I asked her what
5 Siyabadinga is and Anchor is, then she said they were the other NGO's on the facility.

ADV ADILA HASSIM: So for 2½ weeks, you were contacting Cullinan Care to try to locate Virginia?

MS CHRISTINE NXUMALO: Yes.

10 **ADV ADILA HASSIM**: And they told you to try those 2 NGO's Siyabadinga and Anchor. Did you contact those NGO's?

MS CHRISTINE NXUMALO: I did, but you never really got through on their telephone lines.

ADV ADILA HASSIM: So how did you find-

15 **MS CHRISTINE NXUMALO**: I just kept phoning Cullinan and eventually I got through to Daphne who was by the way, very rude on the phone and I said to her look, I was told she was sent to Cullinan and I'm calling Cullinan but I'm not getting any answers, so what's going on and then she said to me that she is not here and if anybody was to come through those doors, she would know and she was not on
20 their register.

ADV ADILA HASSIM: She was not on the Cullinan register?

MS CHRISTINE NXUMALO: She was not on the Cullinan register.

ADV ADILA HASSIM: So had she never been admitted to Cullinan?

MS CHRISTINE NXUMALO: Well she didn't say that. She just said she was not on the register.

5 **ADV ADILA HASSIM**: Did she tell you where she could possibly be, where your sister could possibly be?

MS CHRISTINE NXUMALO: No, she did not volunteer any other options.

ADV ADILA HASSIM: And on what date was this conversation?

10 **MS CHRISTINE NXUMALO**: To be honest with you, it was just in that period of 2 weeks from the date that I actually got the SMS.

ADV ADILA HASSIM: So how did you find out where your sister had been moved to?

15 **MS CHRISTINE NXUMALO**: I didn't. I only found out later, I think after fighting with Stephanie on the phone and then she said to me, oh no, she is on the register and then she gave me Dorothy's number, Dorothy from Anchor and then Dorothy-

ADV ADILA HASSIM: When was this?

MS CHRISTINE NXUMALO: It was in that space of trying to find her, because I spent the whole of June just trying to trace Virginia, so it was in the space of July.

ADV ADILA HASSIM: July 2016?

20 **MS CHRISTINE NXUMALO**: Ja.

ADV ADILA HASSIM: Can you tell us what happened next then?

MS CHRISTINE NXUMALO: Well eventually Daphne then said to me that she is in Cullinan, so beginning of August, we were supposed to go and see Virginia and at that time, I had car problems so I had to wait until the end of August to go and see her, so I didn't get to see her.

ADV ADILA HASSIM: Where was your sister?

MS CHRISTINE NXUMALO: Well on the 25th of August, I got a call from Ethel who said to me-

ADV ADILA HASSIM: Ethel who?

MS CHRISTINE NXUMALO: Ethel Ncube and she said to me that my sister had passed and my sister had been with her for 6 weeks.

ADV ADILA HASSIM: 25th August 2016?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: And you say that she said that your sister had been with her? Where exactly?

MS CHRISTINE NXUMALO: She said at Precious Angels.

ADV ADILA HASSIM: Did you then go to Precious Angels?

MS CHRISTINE NXUMALO: Well immediately after she called, we drove to Atteridgeville and I called her saying that we were coming. We drove to

Atteridgeville and when we got there, we had to park outside of Kalefong waiting for her and we kept calling her but she never arrived.

ADV ADILA HASSIM: She informed you of your sisters passing. Did she tell you on what date your sister had passed?

5 **MS CHRISTINE NXUMALO**: She said that she had passed away on the 17th of August.

ADV ADILA HASSIM: So you say you were outside Kalefong Hospital?

MS CHRISTINE NXUMALO: Yes and we waited for her and we called her, because we wanted to obviously identify my sister and also just to see where she
10 had passed.

ADV ADILA HASSIM: So did you actually never visit Precious Angels?

MS CHRISTINE NXUMALO: No she wouldn't, in that entire time she would not give us the address or tell us where it was.

ADV ADILA HASSIM: And where was Virginia if she was not at Kalefong, or was
15 she at Kalefong?

MS CHRISTINE NXUMALO: Well according to Ethel, she was with her and she had been for 6 weeks.

ADV ADILA HASSIM: But once she passed away, was she taken to an undertaker?

20 **MS CHRISTINE NXUMALO**: She was taken to an undertaker called Put You To Rest which has offices in Atteridgeville.

ADV ADILA HASSIM: So is that where you went to locate her?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: How did you know she was at Put You To Rest?

MS CHRISTINE NXUMALO: Well we didn't know, but that first day when we drove
5 there, we never got to see Ethel, we never got any answers, so we had to go back
the next day and the day after and the second day when we went to Atteridgeville,
she had us waiting for, because we got there about 7:00 or 8:00 in the morning and
we waited until about 2:00 in the afternoon.

ADV ADILA HASSIM: What date was this?

10 **MS CHRISTINE NXUMALO**: This was on the 27th of August, so we waited outside
of Kalefong again, waiting for Ethel and she never showed, but instead the
undertakers from Put You To Rest, came to pick us up, well not pick us up, but we
had to follow them to their facility. When we got there, they just told us, well they
wanted to talk about funeral arrangements and I said but we can't do funeral
15 arrangements when I haven't identified my sister yet.

ADV ADILA HASSIM: And so did they tell you where Virginia's body was? Was it
in their possession?

MS CHRISTINE NXUMALO: They said to me that they had moved her to Roslyn
which is not too far from Atteridgeville, so they said we could actually go and view
20 her there.

ADV ADILA HASSIM: Roslyn?

MS CHRISTINE NXUMALO: Rosslyn yes.

ARBITRATOR, JUSTICE MOSENEKE: Who would have said that, the Put You To Rest people?

MS CHRISTINE NXUMALO: Yes Put You to Rest people.

5 **ADV ADILA HASSIM**: So did you then travel to Rosslyn?

MS CHRISTINE NXUMALO: Well we followed the gentleman, but we didn't go to Roslyn. We actually went to a place called Hebron which is quite a distance from- you actually had to pass Soshanguve to get to that place from Atteridgeville. It was quite a distance from where we were.

10 **ADV ADILA HASSIM**: Which province is Hebron in?

MS CHRISTINE NXUMALO: If I'm not mistaken, I think it falls under North West, I think it's part, of North West, I'm not too sure, but it was quite a distance from Atteridgeville.

ADV ADILA HASSIM: And there is a mortuary, you went to a mortuary?

15 **MS CHRISTINE NXUMALO**: It's actually more like a storage facility and that is actually where we got to identify my sister.

ADV ADILA HASSIM: What do you mean it was like a storage facility?

MS CHRISTINE NXUMALO: They didn't do funeral services and stuff, they literally just stored bodies I think for other undertakers.

ADV ADILA HASSIM: What was the name of the funeral home, the undertaker, the mortuary where you had to identify Virginia's body?

MS CHRISTINE NXUMALO: I think its Kotelo Funerals or Undertakers.

ADV ADILA HASSIM: Kotelo?

5 **MS CHRISTINE NXUMALO**: Yes.

ADV ADILA HASSIM: And did you then identify your sister's body?

MS CHRISTINE NXUMALO: Yes I did.

ADV ADILA HASSIM: Were you alone when you did this?

MS CHRISTINE NXUMALO: I was with my husband.

10 **ADV ADILA HASSIM**: And were you able to secure the release of your sister into your custody?

MS CHRISTINE NXUMALO: No I actually struggled to get my sister's body. I had to eventually, because it took me about 5 days just going back and forth. I ended up having to go to the police station and I had to open a case and ask them to
15 assist me in terms of getting my sister's body.

ADV ADILA HASSIM: What was the difficulty?

MS CHRISTINE NXUMALO: Well between Put You To Rest and I'm not sure what the arrangements were with Precious Angels, but they were insisting that I do the funeral service with them and when I said to them I can't, they would not in
20 essence, release the body and I said to them but I have to bury my sister in

Kimberly so how can I make funeral arrangements with them. The only way they could actually allow me to- I had to ask them for a quote and I said we will discuss it at home and ja, that is how I got them to agree to I don't know, because they would not give me anything and also the fact that Ethel, my sister did not have a death certificate as well so that was also the other issue.

ADV ADILA HASSIM: Did you have her ID?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: Virginia's ID?

MS CHRISTINE NXUMALO: No I didn't have the ID.

10 **ADV ADILA HASSIM**: Where was her ID?

MS CHRISTINE NXUMALO: To be honest with you, I don't know. Between trying to phone Cullinan and Dr Manamela and Ethel, just trying to find out where my sister's ID was.

ADV ADILA HASSIM: And was Dr Manamela of assistance to you to try and locate Virginia's identity document so that you could get a death certificate?

MS CHRISTINE NXUMALO: Look the only language that Dr Manamela knew, was if you screamed at her and that was the only way that I could actually get to her. I had to scream at her to say look, I cannot do anything with my sister, I can't even bury her or get a post-mortem done because she's got her ID, because everybody said they don't have their ID, so the only thing I could do, was to scream and shout

at the Department of Health because I thought that they were responsible for this process.

ADV ADILA HASSIM: There are some files next to you.

ARBITRATOR, JUSTICE MOSENEKE: Sorry how did that help, how was a death
5 certificate produced ultimately? If we can just take one step backwards please, you
are doing a good job, but you are right in the line of sight with the witness, sure
thank you.

MS CHRISTINE NXUMALO: Well I had to ask the police to assist me because I had
to open an inquest or open a case with the police station and they had to then go
10 and collect the body. The only way I could actually get the body from Put You To
Rest, was to go with the police and the pathologist then had to come and collect the
body while we were there with the police. That was the only way we could actually
get my sister's body.

ARBITRATOR, JUSTICE MOSENEKE: Did Put You To Rest offer to do the burial
15 for nothing?

MS CHRISTINE NXUMALO: No, they wanted me to actually go through the
process of paying them and they do the service.

ARBITRATOR, JUSTICE MOSENEKE: And where was the CEO of Precious
Angels?

20 **MS CHRISTINE NXUMALO**: She was nowhere. In fact, I spoke to her on the
phone the day she called me and then I think the next day and then after that, it was

just trying to get stuff from her or information from her. I never met her until the day she came to testify, it was literally the first time I saw her.

ARBITRATOR, JUSTICE MOSENEKE: And did anybody satisfy your sister's cause of death? How was that done?

5 **MS CHRISTINE NXUMALO**: Well when I spoke to Ethel what had happened, she said to me that it was a natural death, but the only people who actually got to see my sister, was the paramedics, so she was not seen by a doctor, so other than the report from the paramedics, there was nothing else.

ARBITRATOR, JUSTICE MOSENEKE: And in Hebron, how was your sister kept,
10 where?

MS CHRISTINE NXUMALO: Well we only got to see her on the steel table, so as to how they store the bodies, I can't say.

ADV ADILA HASSIM: Do you recall, you said that there was a quote that Put You To Rest provided for their services. Do you recall what their costs were?

15 **MS CHRISTINE NXUMALO**: To be honest, I didn't actually open it.

ADV ADILA HASSIM: You didn't open it?

MS CHRISTINE NXUMALO: No I didn't open it.

ADV ADILA HASSIM: When you spoke to Ethel on the phone, Ethel Ncube, she called you to inform you of your sisters passing, so she had your contact details.
20 Did she explain to you why she called you so many days after your sister had passed?

MS CHRISTINE NXUMALO: She said she didn't have my contact details.

ADV ADILA HASSIM: How did she get your contact details then?

MS CHRISTINE NXUMALO: She didn't explain how she got them then.

ADV ADILA HASSIM: If you could open File 11 and turn to Page 3781, is this your
5 sister's death certificate?

MS CHRISTINE NXUMALO: Yes it is.

ADV ADILA HASSIM: And you say you were able to eventually procure a death
certificate with the assistance of the police?

MS CHRISTINE NXUMALO: Yes.

10 **ADV ADILA HASSIM**: Which police station came to your assistance?

MS CHRISTINE NXUMALO: It was Atteridgeville Police Station.

ADV ADILA HASSIM: On the death certificate, it cites the date of death as 15
August 2016. You earlier said that Ethel told you she passed away on 17 August
2016, am I correct?

15 **MS CHRISTINE NXUMALO**: Yes.

ADV ADILA HASSIM: But it was in fact the 15th of August, this is clear from the
death certificate.

MS CHRISTINE NXUMALO: It's the 15th of August because how I found the date
of the 15th, was on the paramedics report. I am not too sure how they determined
20 that, but on the paramedics report, it said the 15th and not the 17th.

ADV ADILA HASSIM: It also says on the death certificate, as cause of death, that it is under investigation and there is a case number, a SAPS case number.

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: Has there been a post-mortem conducted?

5 **MS CHRISTINE NXUMALO**: There has been yes.

ADV ADILA HASSIM: Do you have the post-mortem report?

MS CHRISTINE NXUMALO: I have struggled to get the post-mortem and I have never received it.

10 **ADV ADILA HASSIM**: Were you informed what the findings were of the post-mortem?

MS CHRISTINE NXUMALO: Never.

ARBITRATOR, JUSTICE MOSENEKE: How do you know that the post-mortem was performed? Did you look at your sister and see the post-mortem scars in the middle of her chest?

15 **MS CHRISTINE NXUMALO**: Yes because we had to identify her before the undertakers could take her from Garankuwa Hospital, we had to identify her.

ARBITRATOR, JUSTICE MOSENEKE: So before burial, you are quite certain there was a post-mortem examination?

MS CHRISTINE NXUMALO: Yes.

20 **ADV ADILA HASSIM**: If you can turn over the page to Page 3782-

ARBITRATOR, JUSTICE MOSENEKE: Or before you leave the page, have you heard anything about the outcome of Case Number 648082016?

MS CHRISTINE NXUMALO: No Sir.

ARBITRATOR, JUSTICE MOSENEKE: This is more than a year ago.

5 **MS CHRISTINE NXUMALO**: Yes.

ARBITRATOR, JUSTICE MOSENEKE: And you haven't heard from the police?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: Justice Moseneke that is where I'm going now, Page 3782, there is a letter it appears that this letter is written by yourself Ms Nxumalo?

10 **MS N**: Yes.

ADV ADILA HASSIM: To the police?

MS N: Yes.

ADV ADILA HASSIM: And the subject matter of the letter is report of death of Virginia Gwen Makapelah in terms of the Inquest Act 58 of 1959. What made you write this letter to the police?

15 **MS CHRISTINE NXUMALO**: Well because of the difficulty that I had, from the day that I found out that she passed away until the day we fetched her with the police, I struggled, I struggled to get any answers from Ethel and I think for me, the manner in which she acted, worried me because if according to her, my sister died of natural
20 causes, why was she being so- because she was hiding, she wouldn't meet, she

wouldn't discuss, she didn't offer any answers to us and for me, that just said to me that something was wrong and obviously we needed to find out what caused my sister's death, because clearly it was not as natural as she said it was.

ADV ADILA HASSIM: Well let's get there. This letter was written on the 27th of
5 August 2016.

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: In Paragraph 12 of the letter, you say that Ethel further advised me that a post-mortem assessment was conducted and my sister's death was found to be natural.

10 **MS CHRISTINE NXUMALO**: Ja.

ADV ADILA HASSIM: So when did she inform you that the post-mortem had taken place?

MS CHRISTINE NXUMALO: She told me on the phone the day when I drove to Kalefong, when we were on the phone talking to her and she told me that she had
15 done a post-mortem and that the death was natural, but when I got to Put You to Rest, the ladies said to me that she doesn't have any information on Virginia and she doesn't have a death certificate and nothing had been done for Virginia.

ADV ADILA HASSIM: There had been no post-mortem conducted?

MS CHRISTINE NXUMALO: Ja.

20 **ADV ADILA HASSIM**: That was the first time you identified Virginia's body?

MS CHRISTINE NXUMALO: Ja.

ADV ADILA HASSIM: And there were no scars from an autopsy?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: At that point in time?

MS CHRISTINE NXUMALO: At that point, no.

5 **ADV ADILA HASSIM**: Did you get a response to this letter from the police after 27 August?

MS CHRISTINE NXUMALO: Well I had to literally go there every day to try and push them to do something.

ADV ADILA HASSIM: And did they?

10 **MS CHRISTINE NXUMALO**: Well the day when we went to go and fetch her, was basically me going there, because I went there with my husband, my uncle and my cousin to basically get them to do something and it's only then that they actually drove with us to go and get my sister's body.

ADV ADILA HASSIM: And that was to get her body from the Katelo Funeral
15 Home?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: If you turn over the page, to Page 3785, there is another letter from you, is that correct?

MS CHRISTINE NXUMALO: Yes.

20 **ADV ADILA HASSIM**: And it's dated 7 September 2016.

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: And it is addressed to a Warrant Officer Mokari?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: And it says request for referral for inquest into deaths of
5 residents at Precious Angels Home?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: So the first letter that we've just looked at, was a request for
an inquest into the death of your sister?

MS CHRISTINE NXUMALO: Yes.

10 **ADV ADILA HASSIM**: This letter is for a request for inquest into deaths of other
residents at Precious Angels. What made you write this letter?

MS CHRISTINE NXUMALO: The day when we went to fetch my sister with the
police, as we were sitting and waiting for the pathologist to come through, the lady
who owns Mrs Katelo, basically said that I was lucky that my sister had not been
15 there for too long and I asked her what does she mean and she said to me, no there
were 8 other bodies in their facility and also came from Precious Angels. At that
time, we were sitting with the Warrant Officers but they didn't seem to react to what
she had said.

ADV ADILA HASSIM: If you look at Paragraph 3 of your letter, it says on arrival at
20 the funeral home, Ms Katelo the owner of the funeral home advised us that there
were 6 other bodies from Precious Angels. Was it 6 or 8?

MS CHRISTINE NXUMALO: It was actually 8 with my sister and apparently there was a body that was cremated.

ADV ADILA HASSIM: So 8 in total 6 plus your sister 7, plus the cremated body.

MS CHRISTINE NXUMALO: Yes.

5 **ADV ADILA HASSIM**: So can you explain further, she informed you that there were other bodies?

MS CHRISTINE NXUMALO: Yes and that just freaked me out. It freaked me out because it meant that this thing was a lot bigger than what I thought.

ADV ADILA HASSIM: So you identified, if you turn over the page, to 3786?

10 **MS CHRISTINE NXUMALO**: Yes, well basically what I did, when I saw that the police were not reacting to this, I phoned Section 27 and I told them what I had just heard and I said to them we need to do something about this and also I didn't want to cause panic, so I asked Section 27 as to what to do. They actually said that they were going to send an investigator that very time while we were there and as we
15 left, the investigator came in and basically spoke to her and was able to get the names of the bodies that were there.

ADV ADILA HASSIM: Was it a police officer who arrived to investigate?

MS CHRISTINE NXUMALO: No, no it was somebody from Section 27, somebody that they work with.

20 **ADV ADILA HASSIM**: So the names in Paragraph 7, are those the names of the other bodies that were at Katelo Funeral Home?

MS CHRISTINE NXUMALO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: How did you come to know of the names of the bodies?

MS CHRISTINE NXUMALO: It's the investigator from Section 27 that actually was
5 able to get the names.

ADV ADILA HASSIM: In your letter, you request, you say that it appears in Paragraph 10, the deaths appear to be connected to each other and you request that the matter be referred for a joint inquest?

MS CHRISTINE NXUMALO: Yes because I thought if they are coming from
10 Precious Angels and they had been there for 2 months, surely there must be some link to my sister.

ADV ADILA HASSIM: Did you receive a response from the police to this letter?

MS CHRISTINE NXUMALO: Well the Captain from Atteridgeville said to me that he will speak to his superiors about it and then he later called and said to me no his
15 superiors said that the MEC must request this inquest.

ADV ADILA HASSIM: The MEC of?

MS CHRISTINE NXUMALO: Of Health, Qedani Mahlangu and I said to him but how can the MEC request this when she is the cause of this and he didn't have an answer for me.

20 **ADV ADILA HASSIM**: Did anybody approach the MEC to ask her?

MS CHRISTINE NXUMALO: I don't think anybody did.

ARBITRATOR, JUSTICE MOSENEKE: Did the Captain ever write formally in response to this letter?

MS CHRISTINE NXUMALO: No he never did.

ADV ADILA HASSIM: In response to the letter before this, did they respond
5 formally?

MS CHRISTINE NXUMALO: No they never did.

ADV ADILA HASSIM: To neither of your letters, did you get a written response from the SAPS?

MS CHRISTINE NXUMALO: No I never did.

10 **ADV ADILA HASSIM**: Do you know whether post-mortems were conducted in relation to the names listed in Paragraph 7 of your letter?

MS CHRISTINE NXUMALO: To be honest with you I don't know.

ADV ADILA HASSIM: When was your sister laid to rest?

MS CHRISTINE NXUMALO: She was laid to rest on the 3rd of September.

15 **ADV ADILA HASSIM**: And where?

MS CHRISTINE NXUMALO: She was laid to rest in Kimberly.

ADV ADILA HASSIM: And you say that your sister had a daughter?

MS CHRISTINE NXUMALO: Yes Shineez Machapelah.

ADV ADILA HASSIM: Were you ever able to establish how Virginia passed away?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: What happened immediately preceding her death for example?

MS CHRISTINE NXUMALO: I don't know anything from the time she left Life, there
5 is nothing. I was hoping that when Ethel Ncube testified, that we would get some answers, but no.

ADV ADILA HASSIM: You say that the last time you saw your sister was in May 2016 and what was her condition then when you visited her?

MS CHRISTINE NXUMALO: My sister was- when she was moved to Life, she was
10 forgetful, she didn't recognise us and she couldn't pronounce words or say anything, but the last time we saw her, she was able to laugh, she was actually very happy and she even remembered old jokes that we used to I suppose tell each other. She was very, very joyful and she was gaining weight, she was looking really healthy and we were actually very happy when we saw her the last time.

15 **ADV ADILA HASSIM**: And has anybody from the Gauteng Department of Health contacted you since Virginia passed away?

MS CHRISTINE NXUMALO: No, in fact, I am the one who sent Dr Manamela an email to say to her that my sister had died.

ADV ADILA HASSIM: And what was her response?

MS CHRISTINE NXUMALO: Well it was very cold. I don't even remember what she said, but I remember I actually responded to her and saying you know what, she can keep her condolences.

ADV ADILA HASSIM: Did the Gauteng Department offer to pay for the funeral
5 services?

MS CHRISTINE NXUMALO: We got no assistance from the Department of Health, none whatsoever and that is what we told the Premier as well when he called us to a meeting on I think it was the 5th of December.

ADV ADILA HASSIM: 2016?

10 **MS CHRISTINE NXUMALO**: 2016 and we actually told him that now they are coming forward as if they had assisted us and we had been going through all this by ourselves with no assistance from them.

ADV ADILA HASSIM: You say the Premier called you to a meeting on 5 December? Was it just you or were there other family members?

15 **MS CHRISTINE NXUMALO**: No, he announced at the Legislature, that he is going to be meeting with families and we didn't know about that and suddenly after that, we started getting calls saying we are being invited to meetings and a lot of us didn't want to attend because we thought it was very arrogant of them to actually tell us that we are going to be meeting when in actual fact, they had not even spoken to us
20 about it.

ADV ADILA HASSIM: But you did attend the meeting?

MS CHRISTINE NXUMALO: Well I think it was curiosity really, because we wanted to hear what they were going to say.

ADV ADILA HASSIM: Where was the meeting?

MS CHRISTINE NXUMALO: It was at Kgotso House in I think its Main Street in
5 Johannesburg.

ADV ADILA HASSIM: And at that meeting, did you then get an explanation as to why your family members had to be moved from Life Esidimeni?

MS CHRISTINE NXUMALO: No the way they had structured the meeting, it was just like a government event.

10 **ARBITRATOR, JUSTICE MOSENEKE**: It was just like what?

MS CHRISTINE NXUMALO: It was a typical government event where they had banners and they had people attending, but no answers were given to us. They were basically saying they are going to offer us services counselling etcetera and they were going to hold our hand, but they didn't really understand what was going
15 on.

ADV ADILA HASSIM: Did you at that meeting, receive any offer to pay for the funeral services?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: And what was the cost of the funeral services?

20 **MS CHRISTINE NXUMALO**: I don't know, I don't know, I would be lying to you.

ARBITRATOR, JUSTICE MOSENEKE: A rough estimate?

MS CHRISTINE NXUMALO: Probably in the region of about R40 000.

ADV ADILA HASSIM: If you may pull out File 3 and if you could turn to Page 1111, there is a letter from Section 27 dated 16 September 2016 in which Section 27 says
5 they act for you and it's a follow-up request relating to your initial request for a judicial inquest. Were you informed of any response from the police?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: That letter was addressed to the Atteridgeville Police?

MS CHRISTINE NXUMALO: Yes.

10 **ADV ADILA HASSIM**: Can you turn to Page 1117? This is a letter again from Section 27 dated 20 September 2016, 4 days after the first letter. In Paragraph 3, it says since October 2015, all of our clients have been involved in efforts to ensure the protection of rights of mental health care users and it is quite a long letter again urging a response, requesting a response. The letter is addressed this time, to the
15 Minister of Police, the Deputy Minister of Police, the National Commissioner of Police, the Gauteng Provincial Commissioner of Police, the Brigadier stationed at Atteridgeville and Captain Mwansa also stationed at Atteridgeville Police Station. Are you aware of any response from any of these Ministers and Deputy Ministers and Police Officers and Commissioners?

20 **MS CHRISTINE NXUMALO**: No response no.

ADV ADILA HASSIM: And you say that you have never received the post-mortem report?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: I am aware that the post-mortem reports have been
5 requested by your attorneys and not only in relation to Virginia's post-mortem but others and those are still outstanding.

ARBITRATOR, JUSTICE MOSENEKE: Did you tell the Premier about all these efforts when you met in December? Did you say to him we have written to the Commissioner of Police, to the Minister of Police and who else in Atteridgeville, the,
10 Brigadier and the Captain in all their flurry and you have had nothing?

MS CHRISTINE NXUMALO: In that meeting, we actually told him exactly what had been going on, because it wasn't just me who stood up, all the families that were there, stood up and told of their ordeal.

ARBITRATOR, JUSTICE MOSENEKE: Your letter speaks about these deaths at
15 Precious Angels and all the requests about post-mortem investigation, subsequent 2 letters do the same and nothing came back. What did the Premier say?

MS CHRISTINE NXUMALO: Well he really didn't have any answers.

ARBITRATOR, JUSTICE MOSENEKE: But you still had to hold hands and sing?

MS CHRISTINE NXUMALO: No we actually didn't.

20 **ARBITRATOR, JUSTICE MOSENEKE**: Hymns and things?

MS CHRISTINE NXUMALO: No that day I think the Premier realised the extent of the pain, because we didn't spare our feelings in that meeting. I think for the first time, he actually understood for the first time well that we got to tell him just how bad it was.

5 **ARBITRATOR, JUSTICE MOSENEKE**: And how many of you were there representing families?

MS CHRISTINE NXUMALO: I think there were about 20 of us that were there if I'm not mistaken.

ADV ADILA HASSIM: In February 2017, there was a healing ceremony that was
10 held for the families. Did you attend the healing ceremony?

MS CHRISTINE NXUMALO: The healing ceremony was actually as a direct request in that meeting that we had with the Premier on the 5th, so I requested it, because I actually said to them that they need to understand, they need to bring the officials responsible to come and sit and listen to what had happened or what was going on
15 and yes, I did attend.

ADV ADILA HASSIM: Where was the healing ceremony?

MS CHRISTINE NXUMALO: It was at Freedom Park in Pretoria.

ADV ADILA HASSIM: And did the Gauteng Department of Health officials attend?

MS CHRISTINE NXUMALO: Some of them did.

20 **ADV ADILA HASSIM**: Who attended?

MS CHRISTINE NXUMALO: It was obviously the MEC, the current MEC and just a few, but there were more people from Social Development.

ADV ADILA HASSIM: So you say the current MEC?

MS CHRISTINE NXUMALO: The current MEC yes.

5 **ADV ADILA HASSIM**: Was the former MEC present, MEC Mahlangu?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: Was Dr Manemela present?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: Was Dr Salebano present?

10 **MS CHRISTINE NXUMALO**: No.

ADV ADILA HASSIM: Was anybody who was there at the time of the marathon project present to hear from the families and to be part of the healing process?

MS CHRISTINE NXUMALO: To be honest with you, I think there were just a few junior government officials that were there.

15 **ARBITRATOR, JUSTICE MOSENEKE**: And Mr Motsenogi, was he there?

MS CHRISTINE NXUMALO: I am trying to think, I don't recall.

ARBITRATOR, JUSTICE MOSENEKE: You don't remember. But none of the biggies were there, were they?

MS CHRISTINE NXUMALO: No, none of the biggies were there.

ARBITRATOR, JUSTICE MOSENEKE: And the Minister of Health was he there?

MS CHRISTINE NXUMALO: Yes he was there.

ARBITRATOR, JUSTICE MOSENEKE: The Minister of Health was there?

MS CHRISTINE NXUMALO: Yes.

5 **ADV ADILA HASSIM**: And was the Premier there?

MS CHRISTINE NXUMALO: Yes the Premier was there.

ADV ADILA HASSIM: And what was your experience of the healing ceremony?

MS CHRISTINE NXUMALO: It was traumatising and it was traumatising because of the stories that the families told, of what they had gone through, just one trying to
10 find their loved ones, the condition in which they found them, how they had to struggle to just get the bodies released, so it was just so many more of my kind of story in grave detail, so it was very traumatising.

ADV ADILA HASSIM: And what was the response from the officials who were present to the stories of the families?

15 **MS CHRISTINE NXUMALO**: I think a lot of people were shocked. I think very much the same way as the Premier was shocked from the 5th of December, I think everybody who was in that healing session, was shocked at just how bad it was.

ADV ADILA HASSIM: Was there a pastor or a master of ceremonies presiding?

MS CHRISTINE NXUMALO: They had what they call the inter-denomination, so you had a couple of other churches that were there. The master of ceremonies was Lillian Dube.

ADV ADILA HASSIM: And what was her response?

5 **MS CHRISTINE NXUMALO**: She was traumatised, she actually said had she known, she doesn't think she would have actually been there.

ARBITRATOR, JUSTICE MOSENEKE: Sorry excuse my ignorance, who is Lillian Dube?

10 **MS CHRISTINE NXUMALO**: I don't know how to explain who she is. She is an actress.

ADV ADILA HASSIM: An actress?

MS CHRISTINE NXUMALO: Yes, but she is also an ambassador for breast cancer.

15 **ADV ADILA HASSIM**: And were any other events or meetings held between the Department and the families after this healing ceremony?

MS CHRISTINE NXUMALO: We have had a lot of meetings the family committee with the Department and with the Premier's Office and the Department of Health yes.

ADV ADILA HASSIM: And what was the purpose of the meetings?

20 **MS CHRISTINE NXUMALO**: Well basically to one, get them to understand that it wasn't just a few people and the extent of the tragedy and just how families were

struggling to get help and some of them, because in this marathon project, some family members were sent home, they didn't go to these facilities. So we also had to find ways of either reaching them or just trying to assist where we could, so our role was basically just to tell them the extent and how bad it was and who needed
5 help and what we could do.

ADV ADILA HASSIM: Were you offered counselling by the Department?

MS CHRISTINE NXUMALO: Look they have always made counselling available, but we have just never had the time, there was just so much work to be done, just getting to counselling was like taking time away from dealing with the matter.

10 **ARBITRATOR, JUSTICE MOSENEKE**: At the time, did you yourselves, I am talking really December 2016, at this healing meeting, did you yourself know the extent of the devastation?

MS CHRISTINE NXUMALO: Well I had been phoning a lot of the family members. We literally had to fight with the Department to get the list of family members and
15 we struggled, we really, really struggled. By then, I had spoken to quite a few of the families, so I had an idea but when we got to the healing session, we just didn't know how bad it was.

ARBITRATOR, JUSTICE MOSENEKE: Then you didn't know whether it was 60 people 90 or 118 that ultimately we got to and now 143.

20 **MS CHRISTINE NXUMALO**: Well we were still working on the 37 that we had heard via the Premier.

ARBITRATOR, JUSTICE MOSENEKE: So then it was still around 37.

MS CHRISTINE NXUMALO: We were still working on 37.

ARBITRATOR, JUSTICE MOSENEKE: How was the family committee constituted?

MS CHRISTINE NXUMALO: Well from the public meeting that took place in
5 January of 2016, some of us were requested to put our names down as
representatives of the families at Randfontein and it turns out that at the Waverley
Centre as well, that happened, so when we met with the Department, the
representatives met with the Department, so I think it was just a natural progression
that we then became part of the family committee.

10 **ARBITRATOR, JUSTICE MOSENEKE**: You know after the meeting which you will
remember Mr Musunogi also testified about, the Randfontein meeting, did they
come back to you as a committee to say you know we have heard you, we have
heard your protests, we have nonetheless decided that we are going to go ahead?

MS CHRISTINE NXUMALO: We actually attended meetings, they called for
15 meetings at one of their offices in Johannesburg and in those meetings, we actually
told them that it felt like what they were doing, is that they were just basically ticking
blocks to say that they were adhering, but those meetings were in no way,
negotiations or meetings where we could actually change their mind or anything like
that.

20 **ARBITRATOR, JUSTICE MOSENEKE**: And these were meetings with the family
committee?

MS CHRISTINE NXUMALO: It wasn't with the family committee then. It was more with the family representatives.

ARBITRATOR, JUSTICE MOSENEKE: Family representatives and did they say there, that they are going to go on with the marathon project?

5 **MS CHRISTINE NXUMALO**: Well basically they were pushing ahead. There was nothing that we could say or, do that, would actually stop them.

ARBITRATOR, JUSTICE MOSENEKE: And these meetings were when, between January and April?

10 **MS CHRISTINE NXUMALO**: They were between January and March if I'm not mistaken.

ARBITRATOR, JUSTICE MOSENEKE: Did the MEC come to any of those meetings?

MS CHRISTINE NXUMALO: No they were headed or chaired by HOD Dr Selobane and Manamela was in all of, those, yes.

15 **ARBITRATOR, JUSTICE MOSENEKE**: And your position was unambiguous, I mean you were saying to them don't do it.

MS CHRISTINE NXUMALO: Yes and also the timeline that they gave, they wanted to close the facility in March. It was unrealistic, it was very unrealistic.

20 **ARBITRATOR, JUSTICE MOSENEKE**: Did they tell you what plans had they made to find other places for the patients?

MS CHRISTINE NXUMALO: No they didn't. Instead what we as the family representatives said, is that we needed to view, the NGO's. They allowed I think for 3 NGO's to be viewed and then after that, they cancelled and no more NGO's were viewed and then they just pushed ahead.

5 **ARBITRATOR, JUSTICE MOSENEKE**: Do you remember which 3 were viewed?

MS CHRISTINE NXUMALO: No I actually wasn't part of the team.

ARBITRATOR, JUSTICE MOSENEKE: But the family representatives were quite resolute as they were in January 2016.

MS CHRISTINE NXUMALO: Nothing has changed Judge, nothing had changed.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Ja and did you tell the Premier this, that we have been telling your HOD- no before I get there, Mr Matsonogi says that the MEC was present at the meeting in Randfontein.

MS CHRISTINE NXUMALO: No she wasn't.

ARBITRATOR, JUSTICE MOSENEKE: She wasn't there?

15 **MS CHRISTINE NXUMALO**: No she wasn't.

ARBITRATOR, JUSTICE MOSENEKE: Were you at any meeting where she was present?

MS CHRISTINE NXUMALO: No.

ARBITRATOR, JUSTICE MOSENEKE: So to you, the distribution of these
20 patients, I will use that nasty word, to different NGO's came as a surprise did it?

MS CHRISTINE NXUMALO: I actually stopped attending the meetings and I was really angry because I told the family representative that there is nothing that we are going to do that is going to change their mind and I actually decided you know what, I am not going to be part of this anymore and that is when I just literally shut myself
5 out of this whole process and then the next thing I got the SMS saying that my sister was being moved.

ARBITRATOR, JUSTICE MOSENEKE: Thank you, Counsel?

ADV ADILA HASSIM: Ms Nxumalo, were you aware of the litigation that took place in December 2015?

10 **MS CHRISTINE NXUMALO**: I was aware.

ADV ADILA HASSIM: Were you aware of the settlement that was entered into between the parties in that litigation?

MS CHRISTINE NXUMALO: I actually found out after the meeting in Randfontein because I got to meet with Section 27 and they actually had briefed me about that
15 yes.

ADV ADILA HASSIM: So the purpose, were you informed that the purpose of the settlement was to have a meaningful consultation between the Department and the families, so that any transfer that took place of the patients, would happen in a way that protected their rights and in which they would get an equal or better standard of
20 care?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: So these meetings that you were attending were during the period of this settlement agreement. It was after the agreement was concluded and it was when the meaningful consultations were to take place. Were those meetings to you, meaningful consultations?

5 **MS CHRISTINE NXUMALO**: No, there was no consultation. It was we are doing this and this is what we are going to be doing and no matter how many times we protested or how much or how loud we did, they were just not interested. In fact, Dr Silobane said that he was called in by the MEC to close this project as soon as possible, to move with speed.

10 **ADV ADILA HASSIM**: So it was Dr Silobane who attended those meetings?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: Was Dr Manemela at those meetings?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: And you say [interjects]

15 **MS CHRISTINE NXUMALO**: No, no Dr Manemela was at the meeting.

ADV ADILA HASSIM: Do you still have File 3 open before you?

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: Can you turn to Page 1124, this is a transcript from a meeting at the Provincial Legislature, if you look at the top of the page where the page number is, it's dated 13 September 2016 and at this meeting, the MEC was questioned about the marathon project.

20

ARBITRATOR, JUSTICE MOSENEKE: By this meeting, you mean at the Legislature?

ADV ADILA HASSIM: Sorry at the Legislature.

ARBITRATOR, JUSTICE MOSENEKE: The Provincial Legislature?

5 **ADV ADILA HASSIM**: Meeting of the Portfolio Committee. About halfway down the page, there is a paragraph that begins just answering your question, do you see that?

MS CHRISTINE NXUMALO: Yes I do.

ADV ADILA HASSIM: That is the MEC speaking at this point, MEC Mahlangu and
10 she says just answering your question, specifically, out of all the 122 NGO's that have been providing healthcare, mental health to patients throughout the years and only 8 new NGO's that we are talking about, we only received one complaint from one NGO that was not registered properly, operating at the Cullinan Rehab Centre and that NGO has finally been dismissed. So this is 13 September 2016, this is
15 after the meetings that were meant to be consultations with the Department took place, this was after those meetings at which you say you raised concerns, but this paragraph suggests that there was only one concern raised in relation to one NGO. How would you explain that if you can?

MS CHRISTINE NXUMALO: For me, this is just what the Department had been
20 doing all along, trying to create an impression that everything was fine and that NGO's were in place.

ADV ADILA HASSIM: If you turn over the page to Page 1125-

ARBITRATOR, JUSTICE MOSENEKE: Sorry Counsel would the witness, know what the MEC meant when she said they went to court and everywhere else and we have concluded our work on them. What does she mean by that, do you know? It's
5 a pretty arrogant statement isn't it?

ADV ADILA HASSIM: Justice my understanding is that this was the litigation in relation to the closure of Siyabadinga.

ARBITRATOR, JUSTICE MOSENEKE: I see that refers to Siyabadinga. They went to court, means those who had been dismissed.

10 **ADV ADILA HASSIM**: On Page 1125, it is still the transcript of the Meeting of the Provincial Legislature and in the second paragraph, MEC Mahlangu says yes indeed, 36 patients have died in the period and the families have been engaged. The majority of them do not even have families and the Department is working to give them a dignified funeral. We are working with all NGO's and I will continue to
15 meet with them frequently to understand the challenges and also to further give them empowerment on those, I suppose those challenges or something. So there is quite a lot in this paragraph. At this point, the MEC says 36 patients have died which we later learnt through the Ombud's Report, to be incorrect. Is it true that in your understanding, having been involved in the meetings, again I remind you this is
20 September 2016, you had already been engaging with the Department for some time before that, you attended meetings of the families, the family committee

representatives and the Department, is it your understanding, that the majority of the patients did not have families?

MS CHRISTINE NXUMALO: No, that's not true and I think it was just the Department's way of trying to I suppose justify why nothing had been done,
5 because if they can't reach the families, it means they really can't do anything.

ADV ADILA HASSIM: And are you aware through your meetings with the other families whether there were these dignified funerals that took place?

MS CHRISTINE NXUMALO: That entire paragraph is a lie and I think everybody here can testify to that.

10 **ADV ADILA HASSIM**: The MEC also says that she will continue to- well here she says she will continue to work with the NGO's, that paragraph that we have just looked at, but if you look at Page 1126, in the middle of the second paragraph, the MEC says we will continue to work with the families. Did the MEC meet with you?

MS CHRISTINE NXUMALO: No.

15 **ADV ADILA HASSIM**: Are you aware whether the MEC met with any other family members?

MS CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: Mrs Nxumalo can you explain to us what the impact of the loss of Virginia has been on you and your family?

MS CHRISTINE NXUMALO: Virginia had a daughter who had been living with me and just this past weekend, we buried her. She wasn't sick, she just collapsed the first day of the arbitration and she died.

ARBITRATOR, JUSTICE MOSENEKE: I am sorry you have to say that again?

5 **MS CHRISTINE NXUMALO**: My sister's daughter passed away on the 9th of October and she wasn't sick Judge.

ADV ADILA HASSIM: How old was she?

MS CHRISTINE NXUMALO: In fact, the 8th of October which was a Sunday, was her 21st and the very next day she died.

10 **ADV ADILA HASSIM**: Did she attend the arbitration on the 9th, because if you say it was the first day of the arbitration when she collapsed?

MS CHRISTINE NXUMALO: I had asked her to attend with me, but she didn't, she woke up late, so she didn't attend it, but I kind of figured that she wasn't going to attend it. So I actually had to rush out of the hearings to go and attend to this
15 situation.

ADV ADILA HASSIM: And what was the cause? First of all, what was the name of your niece?

MS CHRISTINE NXUMALO: Shineez.

ADV ADILA HASSIM: Shineez Machapelah?

20 **MS CHRISTINE NXUMALO**: Yes.

ADV ADILA HASSIM: And what was the cause of death?

MS CHRISTINE NXUMALO: Well we asked for a post-mortem because it was sudden, but they said that it was natural. So we are waiting for the post-mortem report.

5 **ADV ADILA HASSIM**: But what was the cause? Was it a cardiac arrest?

MS CHRISTINE NXUMALO: We don't know yet, they just said to us it's natural and the report will actually explain what had happened, but when we spoke to the doctor, he couldn't explain what had happened to her.

ADV ADILA HASSIM: What was her health the day before on the 8th of October?

10 **MS CHRISTINE NXUMALO**: She had flu the week before and she was taking medication for flu, but it wasn't serious, it was just coughing, but nothing serious.

ADV ADILA HASSIM: How did Shineez react to the death of her mother?

MS CHRISTINE NXUMALO: She was devastated. She and her mom were very close. I think the only time they got separated, was when she had to be in a facility
15 that was literally the first time that they had been apart. So it was very devastating and I also didn't realise the extent of it, because all I could do, was just to try and make her comfortable and just keep her informed about what was happening and how everything was going, so I thought if I inform her about how far we're getting
20 with this whole arbitration process, then it would give her comfort that something is being done, so that her mom's death is not in vain, but I suppose it was a bit too much for her.

ADV ADILA HASSIM: How did she Shineez react when you couldn't find her mother in the period of time when you didn't know in which NGO she was placed?

MS CHRISTINE NXUMALO: Between me and her, we actually made the calls every single day, we would actually make the calls and we would write down what happened and she didn't have a reaction. It was almost like she was numb, but she knew that we needed to find her and I suppose that is what we were focusing on at the time.

ADV ADILA HASSIM: If you were to be offered counselling by the Department, would you take up that offer?

MS CHRISTINE NXUMALO: To be honest with you, I've been working with SADEC and they have assisted us with counselling.

ADV ADILA HASSIM: SADEC, the Depression and Anxiety Group?

MS CHRISTINE NXUMALO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Did your niece have children of her own?

MS CHRISTINE NXUMALO: No she had just turned 21.

ADV ADILA HASSIM: Is there anything else you would like to say about this experience and its impact on you and is there anything else you would like to say to the government as we try to seek redress for the families?

MS CHRISTINE NXUMALO: It has been a very long road, painful, very long road. Our understanding that when we started the arbitration process, that we were going to get answers, but all the officials, your [inaudible] Ncube, even your Ethel, they

have not offered any answers and that makes me angry. In fact what they were doing rather is that they were protecting themselves, they haven't offered any answers, 2 weeks, we are in the third week now, we are exactly where we were when we started the process and that has not offered us any comfort. I was hoping

5 that Ethel would not come in here and cry her crocodile tears and rather say what had happened to my sister and why she lied about the date of death, not to come and cry and feel sorry for herself. Mosonogi, he hasn't said anything, he was a project leader, he did not say anything, so that makes me really, really angry, because I am nowhere near where I was when we started the process. I don't have

10 any answers and I still don't have my post-mortem, so I don't even know what happened to my sister. So how is this process helping me right now? It's not. So this process is supposed to start the healing process, but it's not and that is what I would like to say.

ADV ADILA HASSIM: Are there any other government officials that you would like

15 to hear from?

MS CHRISTINE NXUMALO: Obviously we want to hear from Dr Manemela, we also want to hear from Qedani Mahlangu, she needs to come and testify, she needs to come and tell us what happened. She needs to come and tell us what happened, she signed off on all of this as the MEC and the HOD as well. They need to tell us

20 what they were thinking, even with us warning them and protesting, we did everything to tell them that they shouldn't, but they went ahead away.

ARBITRATOR, JUSTICE MOSENEKE: How do we you think get rock bottom to how exactly each of the patients died?

MS CHRISTINE NXUMALO: Well Judge-

ARBITRATOR, JUSTICE MOSENEKE: How do we come to know what killed your sister? I share your concern.

MS CHRISTINE NXUMALO: I think for me, if the post-mortem can be made
5 available, that's the first thing, because I would like to know what happened to my
sister, but also people like Ethel Ncube, need to stop telling us what they think we
need to hear and rather tell us that they were not able to feed the families or they
were not able to feed the patients or tell us what happened, because she took on so
many patients and she didn't have the facility, nor did she have the staff to do so.
10 So obviously she couldn't feed those people. She probably didn't even wash them.

ARBITRATOR, JUSTICE MOSENEKE: And you heard every one of them with a
few more coming, heads of NGO's I have been told, but none of them have said to
us this is how the people under my care died. If anything, they have denied that the
conditions could have led to their death?

15 **MS CHRISTINE NXUMALO**: Yes.

ARBITRATOR, JUSTICE MOSENEKE: How do you say we extract that from
them?

MS CHRISTINE NXUMALO: They need to tell the truth Judge, they just need to be
honest. I think for them, they are petrified that they are going to go to jail, so if they
20 tell, that means they are admitting, so they are obviously not going to admit that
they literally took part in the death of people. So they are running away from saying

I did this, I couldn't feed them this day and so and so died, they are not going to say that.

ARBITRATOR, JUSTICE MOSENEKE: Yes so we have heard people, who were actually in charge of the deceased, but virtually every one of them denied that the conditions that they had created, led to the deaths and you say why do you think they do that?

MS CHRISTINE NXUMALO: I don't know.

ARBITRATOR, JUSTICE MOSENEKE: To avoid going to jail you say?

MS CHRISTINE NXUMALO: That's true Judge.

10 **ARBITRATOR, JUSTICE MOSENEKE**: And you add that it doesn't help with the closure?

MS CHRISTINE NXUMALO: It doesn't help because none of us here have actually heard what had happened none of us heard what had happened.

15 **ARBITRATOR, JUSTICE MOSENEKE**: Ja we are yet to know how people died at Takalani right, or at Precious Angels or at Siyabadinga. How do you say we come to get to those exact deaths?

MS CHRISTINE NXUMALO: I suppose the only way would be to offer them amnesty. That would probably be the only thing that would actually get them to say something, because Judge I think it's a natural reaction if you don't want to go jail, you are not going to tell the truth, not if it's going to get you in jail, you're not and I think that is basically how they are reacting.

ARBITRATOR, JUSTICE MOSENEKE: You are really saying all of the NGO's that have come before us, leaders of NGO's that have come before us so far, have been untruthful?

5 **MS CHRISTINE NXUMALO**: I can tell you of the Ethel Ncube and I can tell you that everything she said was a lie. I can guarantee you that. The others, I am sure if you ask the family members whose loved ones who were at those NGO's, they will also tell you the truth about the others. You see even if you were to offer them amnesty Judge, they must never be allowed to run an NGO again.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Why do you think Ethel Ncube agreed to take all of these patients onto her premises? You remember how many times I asked her that? Now I ask you what do you think as, a matter of, hindsight?

15 **MS CHRISTINE NXUMALO**: Judge from what I have learnt through this process, is that this has been going on for a while. I think in fact one of the NGO owners referred to this process as their commodities, the patients as their commodities, so the moving from patients from these facilities to NGO's, it's a business, it was not the fact that they were looking after these loved ones. It was a transaction, so it was never about the patient, it was about how many they could take and I suppose what they could get for them, but it was never about the patients.

20 **ARBITRATOR, JUSTICE MOSENEKE**: And for the government, what was it about? What do you think the government was busy doing?

MS CHRISTINE NXUMALO: They were saving costs because they were trying to cut down the numbers at Life, because I think they paid per patient if I'm not mistaken. So if they could cut down the numbers at Life, they would save.

ARBITRATOR, JUSTICE MOSENEKE: Well they didn't cut down the numbers
5 they shut it down didn't they? They got every single one of the patients there, out.

MS CHRISTINE NXUMALO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: What do you say to the argument that modern practice is to de-institutionalise? Do you institutionalise when you take somebody from Life Esidimeni to another smaller poorer ill-managed institution, e.g.
10 called Precious Angels or Takalani?

MS CHRISTINE NXUMALO: I don't think that is what the policy intended, because you are supposed to move patients to an equally or a similar environment where there is care, where there is professionals and also, they are able to rehabilitate, but what they did with the patients now, it's literally send them to the slaughter house.
15 They literally slaughtered our families because they knew that they could not survive in that environment. I mean Precious Angels, the house where my sister was kept, or where her body was collected by the EMS, she was in a wheelchair she would not be able to access that house, so it was not designed to have patients, let alone patients with mental illness. So I don't think when they sent the
20 patients to these facilities, it was for the betterment of the patients at all.

ARBITRATOR, JUSTICE MOSENEKE: And in effect, it was from one institution to another institution, just a poorer and ill-equipped institution?

MS CHRISTINE NXUMALO: Yes.

ARBITRATOR, JUSTICE MOSENEKE: Do you think people like Ethel Ncube wanted to make money or saw an opportunity to make money?

MS CHRISTINE NXUMALO: Judge what I found out in this process about Ethel, is
5 that Ethel had been friends with some government officials. She seems to have relations with government officials. In fact, what we found out later on, is that the house in Danville and Atteridgeville, if I'm not mistaken, apparently it's either owned by a government official so that is why they were able to give her patients to those 2 facilities. So she had been doing this for a while.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Do you suggest that she might have had a corrupt relationship with a State official?

MS CHRISTINE NXUMALO: I believe so.

ARBITRATOR, JUSTICE MOSENEKE: Why do you believe so?

MS CHRISTINE NXUMALO: Because somehow, when I sent Dorothy from Anchor
15 a message about what had happened to my sister and she responded on SMS saying, I think it was WhatsApp, she said that my sister was moved to Precious Angels because the MEC had actually said that they must be moved to Precious Angels. So obviously if the MEC could recognise Precious Angels, it simply means that there must be some kind of known or some relation that actually allowed that to
20 happen.

ARBITRATOR, JUSTICE MOSENEKE: What else do you think I should do to get to the bottom of the truth?

MS CHRISTINE NXUMALO: I don't know Judge, I honestly don't know. I think the option of amnesty is probably something to consider, but amnesty without them
5 never ever running NGO's again, or even come close to running NGO's, anything that has got to do with other people, looking after people, they must never be allowed that. In fact, they must be blacklisted.

ARBITRATOR, JUSTICE MOSENEKE: Well amnesty would mean that they would never be charged criminally. Is that what you mean?

10 **MS CHRISTINE NXUMALO**: I don't know, but I would like to get the answers, but I also want them charged, so how do we do that? It's like a catch 22, I want them to be charged, I want them to tell the truth, but which is more important I suppose? It is something that the families need to answer.

ARBITRATOR, JUSTICE MOSENEKE: It's a competition between truth and
15 justice.

MS CHRISTINE NXUMALO: Basically yes.

ARBITRATOR, JUSTICE MOSENEKE: Counsel?

ADV ADILA HASSIM: Justice Moseneke if I may just ask one further question arising from your exchange, you say that Ethel was friends with government officials
20 in that one of them owned the house in Danville. Do you know the name of that government official?

MS CHRISTINE NXUMALO: No I wish I knew, I really wish I knew, I don't.

ADV ADILA HASSIM: I suppose we could easily establish that.

MS CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: Justice Moseneke that concludes the evidence in chief. It's
5 past time for an adjournment.

ARBITRATOR, JUSTICE MOSENEKE: Yes we started a little late, so it was
necessary to go through this witness in this way. As you know by now, you are
going to be asked further questions by the other Counsel and followed by re-
examination by the Counsel who called you to give evidence. It is 11:45, we will
10 resume at 12:15 we are adjourned.

SESSION 2

23 OCTOBER 2017 SESSION 2.

ARBITRATOR, JUSTICE MOSENEKE: You may be seated. Thank you. You are still under your previous oath. Adv. Crouse?

5 **ADV CROUSE:** Thank you Justice Monsoneke we have no further questions for this witness.

ARBITRATOR, JUSTICE MOSENEKE: (Inaudible).

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

ARBITRATOR, JUSTICE MOSENEKE: No questions Counsel?

10 **ADVOCATE:** Thank you Justice. No questions for the witness.

ARBITRATOR, JUSTICE MOSENEKE: No questions. Counsel for the state?

CROSS-EXAMINATION BY ADV. TEBOGO HUTAMO: Thank you Justice. Good afternoon Mrs Nxumalo.

MRS. CHRISTINE NXUMALO: Afternoon.

15 **ADV. TEBOGO HUTAMO:**We really thank you for having made the time to give an account of what you have went through. As Government we do understand that an apology on its own is not sufficient and as this proceedings continue Government officials who are present here do take note of the concerns which you have raised. We do regret the passing of your sister Virginia and we are also sorry for the
20 passing of Virginia's daughter Chanise. As Government we want to emphasize that

through this tragedy we take the family members who are effected, we take their concerns very seriously to the extent that the family committees which are, which have been set up are being consulted on matters which affected, consulted on matters relating to the mental health care users. I just want to get an indication if
5 you know the mental health review board?

MRS. CHRISTINE NXUMALO: I am aware of it.

ADV. TEBOGO HUTAMO:That it is responsible for the affairs relating to the institutions which look after the mental health care users.

MRS. CHRISTINE NXUMALO: I am aware.

10 **ADV. TEBOGO HUTAMO:**Are you a member of that board on behalf of the affected family members?

MRS. CHRISTINE NXUMALO: No, I am not.

ADV. TEBOGO HUTAMO:Okay, thank you.

15 **ARBITRATOR, JUSTICE MOSENEKE:** It is counsel's information that there is no more is?

ADV. TEBOGO HUTAMO: I beg.

ARBITRATOR, JUSTICE MOSENEKE: Is it your instructions that Mrs Nxumalo is a member of the board?

20 **ADV. TEBOGO HUTAMO:**Indeed Justice from what have been stated is that the Government is collaborating, it collaborates with the family committees of the affected family members and as an effort to reassure the sociality that that affected

family members are being taken seriously, an effort has been taken by the Government to insure that at least a member from the family committee members is made part of the review board which overlooks the institutions at which the mental health... (Intervenues).

5 **ARBITRATOR, JUSTICE MOSENEKE:** But is the suggestion that there has been an informal appointment of Mrs Nxumalo onto that board?

ADV. TEBOGO HUTAMO: It is... (intervenues)

ARBITRATOR, JUSTICE MOSENEKE: You talking about the statutorily board?

Yes.

10 **ADV. TEBOGO HUTAMO:** Indeed so.

ARBITRATOR, JUSTICE MOSENEKE: Has she been formally appointed to the statutorily board?

ADV. TEBOGO HUTAMO:My instructions are that she on behalf of the effected family members has been nominated to be part of that board so that like she can be
15 an eye on behalf of the effected family members.

ARBITRATOR, JUSTICE MOSENEKE: Nominated or appointed?

ADV. TEBOGO HUTAMO:Appointed.

ARBITRATOR, JUSTICE MOSENEKE: Well let us put it to her. I mean let her respond to that.

20 **MRS. CHRISTINE NXUMALO:** Sorry.

ARBITRATOR, JUSTICE MOSENEKE: So, the proposition is that you have a letter of appointment to become a member of the mental health review board.

MRS. CHRISTINE NXUMALO: Okay, I am a bit. We do have a family committee member who is part of the review board. I did not apply for the position because I
5 thought that it, to be honest with you Judge I think it is, I don't know, I really don't know.

MR MOSENEKE: But the answer is that you are not a member... (intervenes)

MRS. CHRISTINE NXUMALO: I am not.

ARBITRATOR, JUSTICE MOSENEKE: Of the review board.

10 **MRS. CHRISTINE NXUMALO:** No, I am not but a family committee member is.

ARBITRATOR, JUSTICE MOSENEKE: You see if you where I would have immediately asked you about Mrs Mosondo.

ARBITRATOR, JUSTICE MOSENEKE: Do you know her or of her?

15 **MRS. CHRISTINE NXUMALO:** I know of her. I know of her and from the interactions I had with families I know of her.

ARBITRATOR, JUSTICE MOSENEKE: Do you know the name or the person from representatives of family who sits on the review board?

MRS. CHRISTINE NXUMALO: Yes that is Andrew Peterson.

20 **ARBITRATOR, JUSTICE MOSENEKE:** Andrew Peterson?

MRS. CHRISTINE NXUMALO: Yes Sir.

ARBITRATOR, JUSTICE MOSENEKE: It is a Mr Andrew Peterson?

MRS. CHRISTINE NXUMALO: Mr. Andrew Peterson.

ARBITRATOR, JUSTICE MOSENEKE: Counsel there is your answer.

5 **ADV. TEBOGO HUTAMO:** Thank you Justice. Once again we as I have said no
amount of apology will be able to really correct what has occurred. The Government
is committed to engage and do things better and in that process it engages the
affected family members so that things could be done different this time around in
order to avoid the tragedy that the nation has seen and we would just want to thank
10 you for coming through and we hope that this process will facilitate that process of
finding closure. Just to close up, I just want to give an indication that through this
proceedings there will be other senior Government officials from the top being the
minister who will be able to come through and attend to these proceedings in order
to ensure the country that the tragedy is really being take serious and we are
15 moving forward in find closure in respect of this matter. We just want to thank you
for coming through.

ARBITRATOR, JUSTICE MOSENEKE: You are entitled to respond if you so
choose.

MRS. CHRISTINE NXUMALO: I do want to say one thing. It is for the record it is
20 not the Government engaging us. It is us forcing the Government engaging us. So I
think let us just get the right account of what happened because the Government
would not engage us if we did not force them to so ja I think when you read that

statement just say that we are engaging each other rather than Government engaging us because it gives them the impression that the Government is the one driving the process.

ARBITRATOR, JUSTICE MOSENEKE: You are quite correct Mrs. Nxumalo. Let us
5 thank you for that correction and as I have stated that for closure to be found. The
respective parties have to collaborate and work together and which is what the
Government is committed in doing to self the interest of those who are effected and
those who are sure that the matters are being taken serious. Thank you so much.

MRS. CHRISTINE NXUMALO: Thank you.

10 **ARBITRATOR, JUSTICE MOSENEKE:** And of course you were a member and are
a member of the family committee, are you not?

MRS. CHRISTINE NXUMALO: Yes Sir.

ARBITRATOR, JUSTICE MOSENEKE: The family committee has been talking to
the Government quite a bit and this process comes out of the interaction that you
15 have had with Government about your concerns.

MRS. CHRISTINE NXUMALO: Yes Sir.

ARBITRATOR, JUSTICE MOSENEKE: It understand and I think I am here I think I
am happy that I was appointed by the family committee amongst other people.

MRS. CHRISTINE NXUMALO: Yes Sir.

20 **ARBITRATOR, JUSTICE MOSENEKE:** Together with the Government.

MRS. CHRISTINE NXUMALO: Yes Sir.

ARBITRATOR, JUSTICE MOSENEKE: Ja sure. Quite happy to have been appointed by the people.

MRS. CHRISTINE NXUMALO: Thank you Sir.

ARBITRATOR, JUSTICE MOSENEKE: Okay Mrs Nxumalo. Thank you so much.

5 You are indeed release.

MRS. CHRISTINE NXUMALO: Thank you.

ADV ADILA HASSIM: Sorry (Inaudible). May I have one question in re-examination?

ARBITRATOR, JUSTICE MOSENEKE: I beg your pardon. It is your right.

10 **RE-EXAMINATION BY ADV ADILA HASSIM:** I will be very brief. I just wanted to ask you Mrs Nxumalo where you ever a member of the mental health review board?

MRS. CHRISTINE NXUMALO: No.

ADV ADILA HASSIM: And you said that Andrew Peterson as a family committee is a member on the mental health review board?

15 **MRS. CHRISTINE NXUMALO:** Yes.

ADV ADILA HASSIM: Do you know as of when he became a member? It does not have to be the exact date.

Is it... (intervenes)

MRS. CHRISTINE NXUMALO: This year. It is this year.

20 **ADV ADILA HASSIM:** It was subsequent to the disbandment of the old board?

MRS. CHRISTINE NXUMALO: Yes.

ADV ADILA HASSIM: Thank you.

ARBITRATOR, JUSTICE MOSENEKE: That helps. Thank you counsel. We always
no, we always allow our witness to say their final peace their so and so if you like. If
5 you want to say that you this is the moment.

MRS. CHRISTINE NXUMALO: No, I think I said it earlier Judge when we actually
adjourned. I just think we are not getting answers and we really need to get
answers.

ARBITRATOR, JUSTICE MOSENEKE: Ja.

10 **MRS. CHRISTINE NXUMALO:** I am not sure what needs to happen but that is
really my biggest concern now. We were hoping that families did at least start the
closure process through this.

ARBITRATOR, JUSTICE MOSENEKE: And answers on the how of the
death?

15 **MRS. CHRISTINE NXUMALO:** Yes.

ARBITRATOR, JUSTICE MOSENEKE: Ja you have made a good point. We have
heard that. Anything else you want to say?

MRS. CHRISTINE NXUMALO: No. That is all.

ARBITRATOR, JUSTICE MOSENEKE: You are excused. Thank you.

20 **MRS. CHRISTINE NXUMALO:** Thank you.

NO FURTHER QUESTIONS

ARBITRATOR, JUSTICE MOSENEKE: That then gets us back to you counsel.

EXAMINATION BY ADV ADILA HASSIM: Justice Monseneke, we would like to call Mrs Bertha Molefe and Mrs Molefe will be giving her testimony through an
5 interpreter.

MRS BERTHA MOLEFE: Good morning.

ARBITRATOR, JUSTICE MOSENEKE: (Inaudible) You might want to push the table of counsel a bit back so that we can have more space for the witnesses and that table will be adjourned brought a little bit forward. I struggle to get a view of the
10 witness without straining.

MRS. BERTHA MOLEFE: Say your name into the speaker. My name is Bertha Molefe.

ARBITRATOR, JUSTICE MOSENEKE: Do you swore the evidence you are about to give will be the truth, nothing but the truth and if so, raise your hand and say so
15 help me God. I asked for the right hand mam.

MRS. BERTHA MOLEFE: (Inaudible).

ADV ADILA HASSIM: Okay, it's working now. Good afternoon Mrs Molefe.

MRS. BERTHA MOLEFE: Good afternoon counsel.

ADV ADILA HASSIM: Mrs Molefe, can you tell us what your relationship to
20 Sophia Molefe?

MRS. BERTHA MOLEFE: She is my child.

ADV ADILA HASSIM: Was Sophia Molefe at Life Esidimeni?

MRS. BERTHA MOLEFE: No, she was not at Life Esidimeni. She was at a care centre in Witpoortjie and then after care centre Witpoortjie, she was then moved
5 from Witpoortjie to Esidimeni. I was happy with the service at Witpoortjie with the treatment she was receiving at Witpoortjie. Every time I requested her, they would say I must wait for the Dr to come see her first. Every time when I went to fetch her so that I can take her home, they would give me her tablets, they will give me a two week supply and they will say once the tablets are finished I must take her back.
10 They will keep counting when I am only left with one pill, one tablet, they will call me and say I must not sleep without bringing the child back. They were treating her very well at Witpoortjie Care Centre and I was referred to this place by the social worker. The social worker was at Sterkfontein.

ADV ADILA HASSIM: I just want to confirm that when you refer to Witpoortjie
15 you talking about the Life Esidimeni facility in Witpoortjie?

MRS. BERTHA MOLEFE: Yes.

ADV ADILA HASSIM: Thank you. Can you tell us when she was admitted to Witpoortjie?

MRS. BERTHA MOLEFE: I cannot remember because she was from Sterkfontein
20 when she went to Witpoortjie, I am not sure about the dates.

ADV ADILA HASSIM: Was it about five years ago, ten years, one year?

MRS. BERTHA MOLEFE: I think he had already finished four years at Witpoortjie.

ADV ADILA HASSIM: And can you tell us what Sophia's mental health condition was?

MRS. BERTHA MOLEFE: Sophia was diagnosed when he finished school. We did
5 not know that he had this mental illness. He got lost that is where we discovered
that he was mental that she was mentally ill. She got lost and we heard about her
whereabouts somewhere in Natal. I went to report at the John Vorster Police Station
that my child was lost after I reported it at the John Vorster Police Station there was
a white police man by the name of De Brain. He said that he was waiting for the
10 people to go from in town but I will go and fetch for her today. On Saturday evening
I got a phone call but not from my phone from my child phone and I was told that my
child was in Natal. They asked me if I knew Sophia Molefe. I said yes we are
looking for her. They said she was at Arcana Hospital in Natal, she was brought
there by the police. The white man found her in his yard and she called the police
15 so that they can take her to the hospital and then I received a call from Dr Malufe.
The Dr gave her treatment and the Dr told me that I must not take her off that
treatment. The Dr said that that treatment will help her that she will be able to do
things for herself and when she arrived at home she got that treatment for two
months or one month, I cannot remember. Dr Malufe where is he working? He is a
20 Dr from Natal then he relapsed and then I was told that the medication was out of
stock. Yes, I gave (inaudible) because he said he knew Natal and then he went and
fetch her because I did not know Natal. She only went, in fact we only discovered
when she got missing and went to Natal and then she came back from Natal with

that treatment and then after without that treatment, she relapsed and when I inquired at the hospital they said they were out of stock that is why she was taken to Sterkfontein and Sister Salina said why do you want to take her to an institution because when she keeps on taking treatment she will recover.

5 **ADV ADILA HASSIM:** Mrs Molefe, do you know what treatment Sophia was on?

MRS. BERTHA MOLEFE: I forgot but I think there is a card in here. Here is a document here but I cannot see the prescription here.

ADV ADILA HASSIM: Justice Moseneke, if we can please turn to file 11, I think
10 I can identify the document.

MRS. BERTHA MOLEFE: I think I've got it here. It is written Sizo, ai, I cannot see this hand writing. What is that?

ADV ADILA HASSIM: File 11, page 3755. It's a discharge report from the department of health and it is dated 12 May 2016 and in the comment section it
15 says the user was admitted with psychosis mood disorder due to HIV.

MRS. BERTHA MOLEFE: Yes.

ADV ADILA HASSIM: Is that correct Mrs Molefe?

MRS. BERTHA MOLEFE: Yes, that is correct.

ADV ADILA HASSIM: When she was admitted to Witpoortjie, Sophia, how was
20 she doing there?

MRS. BERTHA MOLEFE: She was very well because she could speak to me, she would give me a report back to say that they are treating her very well and she was very happy there and whenever she would give me this feedback every time I went to visit her. Every time when I go, she will go with me up and till the gate and then
5 she will go back and whenever I call the nurses to ask whether she is back they will confirm indeed she is back.

ADV ADILA HASSIM: How often did you visit Sophia?

MRS. BERTHA MOLEFE: I used to go every month during the, at the month end and sometime when I am off like sometimes during the month I will go and visit her.

10 **ADV ADILA HASSIM:** Where do you live Mrs Molefe?

MRS. BERTHA MOLEFE: Snake Park next to Dobsonville.

ADV ADILA HASSIM: So how long would it take you to get to the Life Esidimeni in Witpoortjie?

MRS. BERTHA MOLEFE: The Justice was asking how long it may take. He made
15 an example for instance you take a car to that particular place, how long does it take to get there and then she responded by saying that she was not sure because she used to take taxi's from Brakpan so she was not sure about the travelling time.

ADV ADILA HASSIM: How many taxis did you take?

MRS. BERTHA MOLEFE: Three taxi's.

20 **ADV ADILA HASSIM:** Can you tell us when Sophia passed away? On what date?

MRS. BERTHA MOLEFE: On the 12th of October.

ADV ADILA HASSIM: Let me just jog your memory if you could turn to page 3753 in file 11. Page 3753 is the death certificate.

MRS. BERTHA MOLEFE: Yes.

5 **ADV ADILA HASSIM:** And it notes the date of death as 12th September 2016. That's correct.

MRS. BERTHA MOLEFE: Yes, that's correct.

ADV ADILA HASSIM: The death certificate also says that the cause of death is due to unnatural causes. We will get to that in a moment.

10 **MRS. BERTHA MOLEFE:** Sorry, I thought it was natural causes. Yes, correct.

ADV ADILA HASSIM: So, you said that she was doing well at Witpoortjie Life Esidimeni. Did you know that she was going to be moved from that facility?

MRS. BERTHA MOLEFE: They called me and said that I must come and see Sophia because Sophia was about to be transferred to Life Esidimeni.

15 **ADV ADILA HASSIM:** Transferred from Esidimeni?

MRS. BERTHA MOLEFE: Transferred to.

ADV ADILA HASSIM: So, she was moved from the Witpoortjie Esidimeni to the one in Randfontein?

MRS. BERTHA MOLEFE: Yes.

20 **ADV ADILA HASSIM:** Okay and then what happened?

MRS. BERTHA MOLEFE: I was not happy, I was not happy when she was transferred to Esidimeni. When I got there, she was not well. She was very weak

ADV ADILA HASSIM: And what did they say to you when you got there?

MRS. BERTHA MOLEFE: I don't remember but I remember asking the nursing
5 sister there whether she was ill and the sister responded by saying you don't know
how naughty she is, she is not ill. I was never happy since she was admitted at
Esidimeni. Every time when I visited her, I go she wanted to go with me. Sometimes
she even jumped the fences and tried to escape. She was injured she had some
marks here on the foot that was when I asked what was the cause of those marks,
10 that is when I discovered that she was jumping the fences that is when she told me
that she jumped the fences, I wanted to go home.

ADV ADILA HASSIM: When did, when was Sophia discharged from Life
Esidimeni?

MRS. BERTHA MOLEFE: She gives this form. This form gives the date of
15 discharged 12 May 2016.

ADV ADILA HASSIM: Was Sophia discharged in May 2016?

MRS. BERTHA MOLEFE: Yes.

ADV ADILA HASSIM: And where did she go from there?

MRS. BERTHA MOLEFE: She went home. I went to visit her and I was told that I
20 must come and fetch Sophia and I told them that I did not come here to fetch her, I
was just paying her a visit and they said you must come and fetch her. Do you see

these papers that were there, the centre is going to be closed. So, you must come and take her and I told them that I was going to come there the following week and when I went there the following week I found the nurse which I, the nurse that I spoke to and the student came and gave Sophia to me and I told the student that no

5 I want to see the nursing sister. She said that the sister was not present and I said to her I want a professional nurse. The student asked my why do I insist on seeing the nursing sister. I said I want her to explain about these tablets how must I give her these tablets and I see we only have a few tablets here and I don't know how I am going to do with those few and the other reason which I raised with her was that

10 I want the sister to give me a prescription so that when I run out of the supply I can go to the clinic to ask for medication and then she went out and when she came back she said that the sister was not there that is when I took Sophia and went.

ADV ADILA HASSIM: Mrs Molefe, did any Government official speak to you about the need to discharge Sophia?

15 **MRS. BERTHA MOLEFE:** No.

ADV ADILA HASSIM: And how did Sophia do when she was at home?

MRS. BERTHA MOLEFE: She was too aggressive.

ADV ADILA HASSIM: Was she taking her medication?

MRS. BERTHA MOLEFE: It was the same even if she has taken her medication

20 and when I realized that she was aggressive I just did not know what to do and then I went to check point because I wanted some help. I wanted people to know that I was struggling even if she was discharged I was struggling with her condition and

that interview was (inaudible) on television at 10 O'clock. There were people from mental health unit as well as the HOD. On Thursday, Dr Manamela came. Did they come after the check point program? The program was (inaudible) on Tuesday and they came on Wednesday morning.

5 **ADV ADILA HASSIM:** Was any of the Government officials also part of the check point program, did they speak on the program?

MRS. BERTHA MOLEFE: Like what?

ADV ADILA HASSIM: Where they interviewed?

MRS. BERTHA MOLEFE: No, no one.

10 **ADV ADILA HASSIM:** And, so you still haven't heard from the MEC or from Dr Manamela or anybody else, you had not spoken or heard from them?

MRS. BERTHA MOLEFE: They said they were going to help by taking her to Pretoria.

ADV ADILA HASSIM: Who said that?

15 **MRS. BERTHA MOLEFE:** HOD and Dr Manamela.

ADV ADILA HASSIM: When did they say that? After the check point?

MRS. BERTHA MOLEFE: After that program.

ADV ADILA HASSIM: And did they assist in placing Sophia in an NGO on your request?

20 **MRS. BERTHA MOLEFE:** Come again.

ADV ADILA HASSIM: Did they assist Mrs Molefe in placing Sophia in an NGO in Pretoria as they said?

MRS. BERTHA MOLEFE: No.

ADV ADILA HASSIM: So, she remained at home in your care?

5 **MRS. BERTHA MOLEFE:** Yes.

ADV ADILA HASSIM: Did you have enough medication for Sophia?

MRS. BERTHA MOLEFE: I went to (inaudible) clinic and they said they cannot give me any medication without them seeing the medication without seeing the medication that she was taking from Esidimeni. That is when I went back to
10 Esidimeni, going to ask for a referral to Zola Clinic that's where I met Dr Merwen and then I requested they must send to him that they are refusing to give me a treatment for Sophia Molefe. He looked for Sophia's file for a very long time without locating it... (Intervenues).

ARBITRATOR, JUSTICE MOSENEKE: Just repeat the name of the Dr.

15 **MRS. BERTHA MOLEFE:** Dr Merwe or Dr Merwen, I am not sure. It sounds almost like that. After giving me the prescription and he asked why they didn't give me that paper the prescription and I explained that a student came and gave me my daughter and he apologised, he said sorry to me. He was not aware that they gave me my daughter without medication and then he came with medication and then he
20 gave it to me... (Intervenues).

ARBITRATOR, JUSTICE MOSENEKE: So that one is a male Dr?

MRS. BERTHA MOLEFE: Yes, it is a female Dr. Then I took those prescriptions to Zola Clinic to the doctors and I went with Sophia to fetch her medication. They did give me the medication.

ADV ADILA HASSIM: Did the HOD Dr Selebano talked to you again?

5 **MRS. BERTHA MOLEFE**: No. He mean that they were not even scared after the Check Point program. I don't think they were scared about that because even after I notified them about Sophia having passed on, she passed on around 12 at midnight and they told me that they were coming.

ARBITRATOR, JUSTICE MOSENEKE: Did she pass on at your home?

10 **ADV. ADILA HASSIM**: Did the HOD, Dr Selebano, contact you again?

MS. BERTHA MOLEFE: No. You mean they were not scared even after the checkpoint programme? I don't think that they were scared about that, because even after when I notified them about Sophia having passed on, she passed on at around before 12:00 midnight, and they told me they were coming.

15 **ADV. TEBOGO HUTAMO**: Did she pass on at your home?

MS. BERTHA MOLEFE: No.

ADV. TEBOGO HUTAMO: We have to get that story...(intervenes).

ADV ADILA HASSIM: Can you tell us? Can you tell us what happened to Sophia? How did she die?

20 **MS. BERTHA MOLEFE**: I was at work. I was working for an NGO at Zola Clinic. While I was at work Sophia was at home together with her sister. They called me,

they said Sophia was drunk. I said I know Sophia, I know her situation, I don't think that she can drink alcohol. They said they yes, she is drunk. I said no. And I said to them, I asked them to call an ambulance so that it can quickly take her to the hospital and when you get to the hospital, please call me and tell me which hospital
5 was she admitted to and then I took a taxi to go home. She was asthmatic and that pump was together with her medication, that asthma pump. The medication was put under the washing, the clothing. When I found her, she was sleeping on top of a jacket. When I shook her she did not respond and then I called out I said Sophia and I thought that maybe she had relapsed into her asthma and then when I went
10 where I had put the medication, the tablets. When I looked the tablets where I had put them, I did not find them. I looked for them. I noticed them after, behind my bed, it was like the rats were eating those pills. I took that machine, asthma, and then I started pumping it into her because I was thinking that it was asthma and when I picked her head up, I found that there was foam coming out of her mouth. If you
15 cannot continue, Mrs Molefe, we can give you some time so that you can cool down. And I asked myself why does this foam come out of her mouth. I was trying to pump her because I thought that if it was asthma, I think that it was going to help her. And then I went back to those tablets and when I looked at those pills I realised that Sophia might have eaten some of those pills. Who will put them like that? And
20 then I went outside and onto the street and asked another guy to come and help me. As I was speaking to this boy, I noticed his brother's car, who was speaking to his friend and then I just said just leave the ambulance because I called them a long time ago. They are not arriving, they are not coming. That car looked like your

brother's car, please just call him and tell him that we have an emergency situation and when his brother came he asked me what the problem was. He said let us make quick so that we can go quickly. When we were on our way to the hospital...(intervenes).

5 **ADV. ADILA HASSIM:** Which hospital?

MRS. BERTHA MOLEFE: Leratong Hospital. That is when I received a call from the ambulance, they were asking me about my whereabouts. I said the time I have called you a long time ago, you cannot ask me now where am I. I'm facing big problems and you are still asking me where am I. As we entered the gate, they were
10 behind us and when we arrived at the hospital we met Dr Moleye. Dr Moleye asked me as to what was going on and I said I don't know what is going on. It seems like this child has eaten those tablets. I'm not sure.

ADV. TEBGO: Was your daughter still alive then? That is when you arrived at the hospital.

15 **MRS. BERTHA MOLEFE:** Yes. And when the doctor made his diagnosis, he said she had eaten those tablets and he said she ate those pills and then he told the doctor that she came with those pills from [unclear]. The child was fighting with these tablets, saying those were not her tablets.

ARBITRATOR, JUSTICE MOSENEKE: Well not exactly fighting. Sophia was
20 unhappy with the tablets.

INTERPRETER: Oh my apologies. Thank you, thank you for the correction honourable Justice. Yes, yes thanks for the correction Justice and my apologies for that.

MRS. BERTHA MOLEFE: The doctor asked me what has happened and then I
5 explained. Then the doctor said if she recovers we will take her to the scan. I thought that she was going to recover the way they were treating her at the hospital. They treated her very well, taking care of her.

ADV. ADILA HASSIM: How long was she at Leratong Hospital?

MRS. BERTHA MOLEFE: Two weeks and then she passed on after two weeks. I
10 was very happy thinking that my child was going to recover at Leratong Hospital. She was under good doctors, because every time I go there they will give me feedback and they say that she was recovering, she was starting to talk now. They would sit down with me and then give me advice too, I must go for counselling. It was my very first time seeing doctors like that at the hospital. They were showing
15 that level of sympathy, they showed that they had ubuntu.

ADV ADILA HASSIM: Thank you. Just one moment. Justice Moseneke, for the record, I'd like to refer you to Page 3752 of File 11 which is the Notice of Death that records the cause of death as drug overdose.

ARBITRATOR, JUSTICE MOSENEKE: Thank you counsel, I can see that. 3752?

20 **ADV. ADILA HASSIM:** Yes.

MRS. BERTHA MOLEFE: Do you agree? Yes I do.

ADV. ADILA HASSIM: Mrs Molefe did you, when was Sophia's funeral?

MRS. BERTHA MOLEFE: She passed on on the 12th and she was buried on the 16th.

ADV. ADILA HASSIM: And who paid for the funeral expenses?

5 **MRS. BERTHA MOLEFE:** People after seeing that programme on TV they sympathised with that story. They gave us donations and people from the media also gave us some donations.

ADV. ADILA HASSIM: Did anyone from the Department of Health contact you?

10 **MRS. BERTHA MOLEFE:** No, they only came to the funeral. They did not offer any help whatsoever.

ADV. ADILA HASSIM: Who came to the funeral?

MRS. BERTHA MOLEFE: I saw Salome, Mama Sonto and Freda. Salome comes from Mental Health.

ARBITRATOR, JUSTICE MOSENEKE: What is her last name?

15 **MRS. BERTHA MOLEFE:** I don't know her surname.

ARBITRATOR, JUSTICE MOSENEKE: Just before your counsel proceeds, I must have misunderstood you. After the Checkpoint Programme on television, what did you say about Dr Monamele and Dr Silabane?

MRS. BERTHA MOLEFE: The HOD came on Wednesday morning.

20 **COMMISSIONER:** To your home?

MRS. BERTHA MOLEFE: He came at Zola Clinic Psych Unit. He went to Zola Clinic at Project Mental Health and I work for that project. He asked for the whereabouts of that project and he directed her to that project and then she came there. It was on Wednesday morning and then that is when she promised me that she will come and fetch, they promised me that they will come and fetch Sophia and take her to Pretoria.

ARBITRATOR, JUSTICE MOSENEKE: Did the HOD know that you were Sophia's mother?

MRS. BERTHA MOLEFE: I did not know how he knew me, but I think that maybe that after this programme, the Checkpoint Programme, maybe he enquired and asked others and maybe they told him that no, she works at Zola Clinic.

ARBITRATOR, JUSTICE MOSENEKE: And did he do anything for you in relation to your daughter?

MRS. BERTHA MOLEFE: No.

ARBITRATOR, JUSTICE MOSENEKE: And Dr Manemela did she ever come to your home or to the clinic?

MRS. BERTHA MOLEFE: She came to the clinic. She even looked at Sophia's file to look at whether I was taking her for treatment.

ADV. ADILA HASSIM: And after that visit to the clinic did either Dr Selebano or Dr Manemela contact you again?

MRS. BERTHA MOLEFE: I've never seen the HOD since then.

ADV. ADILA HASSIM: And Dr Manemela?

MRS. BERTHA MOLEFE: Dr Manemela, on that evening after calling them to tell them that Sophia has passed on she said they were going to take me with the car so that we can go to the hospital. They came to fetch me and then we went to the
5 hospital, that is where they left me at the hospital and they left. That was the last time I seen them.

ADV. ADILA HASSIM: Did they know that you were struggling to take care of Sophia?

MRS. BERTHA MOLEFE: I'm not sure. I don't know whether they knew that.

10 **ADV. ADILA HASSIM:** But did they say they had watched the Checkpoint Programme?

MRS. BERTHA MOLEFE: Yes, that is why they came to me.

ADV. ADILA HASSIM: And after the funeral, was there any further contact. You said there were some officials from the Department.

15 **MRS. BERTHA MOLEFE:** No.

ADV. ADILA HASSIM: I know it's very hard for you Ma, but can you tell us what the impact has been on the family? Sophie's death.

MRS. BERTHA MOLEFE: It has effected our whole lives. It was something which we did not expect. I don't know why were they doing this because there are people
20 who are working about mental health. If you are taking care of people who are

mentally ill, you must know that you are taking care of their lives. I am depressed as we speak and I did not have this condition. It is painful indeed in the heart.

ADV. TEBOGO HUTAMO: If the child was at Esedemeni or at any other institution like Esedemeni do you think that the child could have passed on?

5 **MRS. BERTHA MOLEFE:** I have a strong feeling that if she was at another institution she will still be with us, because she was not a naughty child. She was very passionate about education, she likes doing good things.

ARBITRATOR, JUSTICE MOSENEKE: Who ordered this charge from Esedemeni?

10 **MRS. BERTHA MOLEFE:** I never got that answer, because when I asked who said you must close this institution, it was said [unclear] said she was closing the institution...(intervenes).

ARBITRATOR, JUSTICE MOSENEKE: Who is Qedani?

MRS. BERTHA MOLEFE: Miss Qedani[unclear] the former MEC, because she
15 did not have sufficient food for the children. Why didn't she tell us that she was closing down the institution or rather just look for an appropriate institution so that they can be appropriately transferred to that particular place, because if you are looking for a safe place, you're looking for a place where they're going to take place of your child so that she can be safe. I said I know that the child cannot stay
20 permanently at an institution, but when I take her, I must know that I am going to be able to take care of her.

ADV. TEBOGO HUTAMO: Do you know why they didn't take her at other institutions instead they brought her at home.

MRS. BERTHA MOLEFE: They said she was well, she can do anything for herself. She was not like other patients. I said this is my child, I know
5 her...(intervenes).

ADV. TEBOGO HUTAMO: But who said she was well and she could go home?

MRS. BERTHA MOLEFE: It's the nursing sister when I went to visit her, not at the time when she was discharged, because that discharge it was the student who was there.

10 **ADV. ADILA HASSIM:** And the only doctor that you say you spoke to was Dr Melville? Have you had any counselling?

MRS. BERTHA MOLEFE: Yes I did.

ADV. ADILA HASSIM: Who provided you with the counselling?

MRS. BERTHA MOLEFE: At Zola Clinic they provided me with counselling
15 sessions.

ADV. ADILA HASSIM: Is it helping?

MRS. BERTHA MOLEFE: Yes indeed.

ADV. ADILA HASSIM: Would you like to continue?

MRS. BERTHA MOLEFE: Yes.

ADV. ADILA HASSIM: Is there anything else you would like to say about this experience or anything that you would like to say to Government?

MRS. BERTHA MOLEFE: There is nothing that I can say to the Government because I am traumatised as I speak. I'm not against the mental health, I'm against
5 the way in which they operate. If they say they are mental health but they cannot handle these people who are mentally ill, this is extremely painful because they were not able to control and take care of those children who were mentally ill. Today we have gather here as Mothers. We are extremely traumatised about our children and after that they just go away. They turn their backs on us, they have nothing to
10 do with us. That shows that they were not taking care of our children. If they did care about our children, they could have come to us and shown that there was no deliberate intent on their part. They could have come and said that please forgive us, it was not deliberate on our part. I still don't know why they did that. How come that such a thing has happened, because when you are at work there are rules to
15 follow. At work where I work in mental health, they gave us the job description. It means that that job description is false, it's not true. Why didn't they follow those rules in their job descriptions because their job was to take care of these mentally ill patients. I don't know what more else to say because I'm extremely devastated as much as these other parents. Though I'm not educated, but I work with mentally ill
20 children and a child who is mentally ill needs love. You must control him or her with that love that you give to him or her. We re extremely devastated because we are asking ourselves how come does this happen. Why? Why did such incidents

happen to important people like these children who are mentally ill. I have run out of words, because if I can continue talking I can experience...(intervenes).

ARBITRATOR, JUSTICE MOSENEKE: Thank you we are now going to give the counsels the opportunity to ask questions and please listen carefully and respond to
5 those questions.

ADV ADILA HASSIM: Thank you Justice Moseneke. Mrs Molefe I just want to ask, when you had to take Sophia home, did you feel you had any choice in doing so?

MRS. BERTHA MOLEFE: No, I did not have a choice.

10 **ADV ADILA HASSIM:** Prior to you taking her home, did the Department do any home visit at your home to see whether your home was sufficiently secure for her?

MRS. BERTHA MOLEFE: No.

ADV ADILA HASSIM: Did you receive any counselling or training before she came home?

15 **MRS. BERTHA MOLEFE:** No.

ADV ADILA HASSIM: Was there any Social Worker, professional nurse or doctor's name given to you to monitor her at home?

MRS. BERTHA MOLEFE: No,

ADV ADILA HASSIM: Mrs Molefe I saw the video clip that appeared on TV and
20 my observation was that you were very scared of Sophie. Would that be an accurate observation?

MRS. BERTHA MOLEFE: No.

ADV ADILA HASSIM: You were not scared of her? She wasn't aggressive?

MRS. BERTHA MOLEFE: She was aggressive, but I was not scared of her.

ADV ADILA HASSIM: Was she aggressive towards you?

5 **MRS. BERTHA MOLEFE**: Yes, sometimes when she did not want to take her medication.

ADV ADILA HASSIM: Did she assault you in any way?

MRS. BERTHA MOLEFE: No.

ADV ADILA HASSIM: Thank you Justice, I've got no further questions.

10 **ARBITRATOR, JUSTICE MOSENEKE**: Then why did you go to a television series? What did you want to achieve with that?

MRS. BERTHA MOLEFE: Because I wanted help, like I said earlier on, that she went missing so I was afraid that she might go missing so I wanted urgent help at that time, that they can help me to place her at the centre.

15 **ADV. TEBOGO HUTAMO**: So you were hoping that she would be taken to a Government Institution where she would be taken care of?

MRS. BERTHA MOLEFE: Yes that is what I was hoping for, because if like she has gone missing before, then if she went missing this time, where was I going to find her?

ARBITRATOR, JUSTICE MOSENEKE: So going to Checkpoint was a way of screaming out for help?

MRS. BERTHA MOLEFE: Yes so that can get...(intervenes).

ARBITRATOR, JUSTICE MOSENEKE: On you evidence no help came.

5 **MRS. BERTHA MOLEFE:** Yes I did not receive any help whatsoever.

ARBITRATOR, JUSTICE MOSENEKE: Advocate Groenewald?

ADV. DIRK GROENEWALD: Thank you Justice we have no questions for the witness.

ARBITRATOR, JUSTICE MOSENEKE: Counsel?

10 **ADV. TEBOGO HUTAMO:** Just one question. When Sophia was discharged from [unclear] were you given any medical records?

MRS. BERTHA MOLEFE: No.

ARBITRATOR, JUSTICE MOSENEKE: Very well. Counsel for the State?

ADV. TEBOGO HUTAMO HUTAMO: It is very traumatising that you have lost a
15 child and you were not expecting that. As the Government we understand why you are traumatised the way you are now. The way you are talking, it shows that you still loved Sophia very much. We thank you very much for coming here and relaying the incidents that led to Sophia's demise. What I can tell you is that the State is prepared to help in whatever way. We regret what has happened and there is no
20 way that we can go back, because it has happened already, and for that we apologise. The Minister of Health, Dr Motsoaledi and Gauteng Premier are prepared

to help those people who were affected by the incidents which led to this tragedy. We thank you very much. We wish that we can come to a resolution of this problem that we are facing. Thank you very much. You are not obliged, but you have a right to reply as you have heard what the State has said. Yes Justice?

5 **ARBITRATOR, JUSTICE MOSENEKE:** Counsel re-examination?

RE-EXAMINATION BY ADV. LILLA CROUSE: No re-examination Justice.

MRS. BERTHA MOLEFE: I nearly forgot this one Judge, because the ex-MEC, Miss Qedani[unclear] when she saw me on TV he said, because I was speaking in Afrikaans, she said she did not understand Afrikaans and I was like asking myself
10 how was she working with the mentally ill patients when she did not understand Afrikaans. The Judge was asking her where did she find that and she said I was very much hurt, I just wanted to be next to her.

ARBITRATOR, JUSTICE MOSENEKE: No, no. The witness said that I'm so hurt that I wish to come close to her.

15 **INTERPRETER:** She said when she heard that on TV.

ARBITRATOR, JUSTICE MOSENEKE: No, interpreter. The witness says I was so hurt to hear what she said, I wish I'd find the opportunity one day to come close to her. So let's get this on record properly and wrap it up. It's a euphemism for I'm so angry I'd rather not come anywhere close to her.

20 **INTERPRETER:** Yes Judge.

ARBITRATOR, JUSTICE MOSENEKE: Physically. Now Mrs. Molefe is not exactly a small lady so we don't encourage [unclear]. That was a response I was urging her to heal. I was urging her in her mother tongue [unclear]. No she says she will heal but she wouldn't want to get close to the MEC. We'll make sure. Very well.

5 We have come to a point where we're going to take the lunch adjournment now. It's 1:50 I think. Shall we be back at 2:45? I'm quite happy to come back at 2:30 if counsel want to come back any earlier. 2:30?

ADV ADILA HASSIM: I have no objection to coming back at 2:30.

ARBITRATOR, JUSTICE MOSENEKE: Counsel is it good?

10 **ADV. TEBOGO HUTAMO:** No objection.

ARBITRATOR, JUSTICE MOSENEKE: Then we adjourn now for 45 minutes and we are back here at 2:30. Thank you. We're adjourned.

PROCEEDINGS ADJOURNED

15

20

SESSION 3

ARBITRATOR, JUSTICE MOSENEKE: You may be seated. Council.

5 **ADVOCATE ADILA HASSIM:** Justice Moseneke, we'd like to call, Mr Christian Ngqondwane.

ARBITRATOR, JUSTICE MOSENEKE: Can we clear out that table for the witness, please.

10

ADVOCATE ADILA HASSIM: Is the seating any better for you, Justice Moseneke?

ARBITRATOR, JUSTICE MOSENEKE: It is better now. Thank you. Which language do you want to use?

15

MR. CHRISTIAN NGQONDWANE: I think I can challenge English.

ARBITRATOR, JUSTICE MOSENEKE: You'll, you'll, you'll do it in English?

20 **MR. CHRISTIAN NGQONDWANE:** Yes.

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

MR. CHRISTIAN NGQONDWANE: My full name is Christian Ngqondwane.

ADVOCATE ADILA HASSIM: Mm.

5

[Group laughs]

MR. CHRISTIAN NGQONDWANE: Ngqondwane. From Eastern Cape.

10 **ARBITRATOR:** Uhmm, [Group laughs]. You haven't done badly, counsel.

ADVOCATE ADILA HASSIM: [Laughs]

ARBITRATOR: You haven't done badly at all. Mr. Ngqondwane-

15

MR. CHRISTIAN NGQONDWANE: Ngqondwane!

ARBITRATOR: Ngqondwane.

20 **MR. CHRISTIAN NGQONDWANE:** Yes-

ARBITRATOR: Ngqondwane.

MR. CHRISTIAN NGQONDWANE: Ngqondwane, small brain.

[Group giggles]

5 **MR. CHRISTIAN NGQONDWANE:** Very small brain.

ARBITRATOR: I see. Will you please do swear the evidence you are about to give, will be the truth, nothing but the truth and if so, raise your right hand and say so help me God.

10

MR. CHRISTIAN NGQONDWANE: So help me God.

ARBITRATOR: Counsel.

15 **ADVOCATE ADILA HASSIM:** Thank you, Justice. Sawubona, baba

MR. CHRISTIAN NGQONDWANE: Ewe.

20 **ADVOCATE ADILA HASSIM:** Can you tell us what your relationship is with Vuyo Aaron Ngqondwane?

MR. CHRISTIAN NGQONDWANE: My relationship, ladies and gentlemen, with Vuyo Aaron Ngqondwane, he is my firstborn child.

ADVOCATE ADILA HASSIM: And Vuyo at Life Esidimeni?

MR. CHRISTIAN NGQONDWANE: Come again, Counselor.

5

ADVOCATE ADILA HASSIM: Was Vuyo at Life Esidimeni? Was he a patient at Life Esidimeni?

MR. CHRISTIAN NGQONDWANE: Yes, yes counselor.

10

ADVOCATE ADILA HASSIM: And how long was he there?

MR. CHRISTIAN NGQONDWANE: Vuyo was admitted in Life Esidimeni 1992, I cannot recall the month in which he was admitted but a social worker called me at the time to say they have found a place in which they can place my son. Since he was unable to do things for himself. So that was 1992 around October, November.

15

ADVOCATE ADILA HASSIM: 1992? So, he was at Life Esidimeni, for many years?

20

MR. CHRISTIAN NGQONDWANE: Precisely, counsellor.

ADVOCATE ADILA HASSIM: And what was Vuyo's mental condition.

5 **MR. CHRISTIAN NGQONDWANE:** Starting from the beginning. At the time in a
which my son was born, it was a bit difficult. She admitted at the Lerota hospital. On
the 11th of October 1985. It's not an easy delivery for her-

ARBITRATOR: Was it a son or a daughter?

10

MR. CHRISTIAN NGQONDWANE: He was a son the son. He was a he.

[Group giggles]

15 **ADVOCATE ADILA HASSIM:** This she that the witness is referring to, is his wife.

ARBITRATOR: I see.

MR. CHRISTIAN NGQONDWANE: Should I proceed?

20

ADVOCATE ADILA HASSIM & ARBITRATOR: Yes, please.

MR. CHRISTIAN NGQONDWANE: Because of her difficulties in delivering the baby, it was found that something went out before my son could be delivered which was called an umbilical cord. Now I do not, I didn't, I didn't understand what this umbilical cord was meaning. Until such time that I was told that it was a [inaudible] 5 that makes the baby to inhale inside the mother. It was just so unfortunate that it came out first. Which resulted for my wife being unable to can give birth to my baby. In that regard, methods to bring my son or my baby on earth, was nothing other than a caesarean section. So, on the 11th October which of course, in any essence, my wife likes to mention the time in which he was born which is 11 o'clock am.

10

ARBITRATOR: Which year was that?

MR. CHRISTIAN NGQONDWANE: 1985-

15

ARBITRATOR: -Thank you-

MR. CHRISTIAN NGQONDWANE: -Justice.

20 **ARBITRATOR**: Nkosi.

MR. CHRISTIAN NGQONDWANE: So, my son was born on the 11th of October 1985 at 11 o'clock in the morning. Something, at that very same time, they detected

something. He had jaundice in his eyes. Now he had pinkish eyes. Which resulted him being placed in you call an incubator for three weeks, so, in other words, my son was placed in an incubator out for three weeks pending the recovery of his eyes. After that my son was discharged from hospital.

5

I hired a car to go and fetch my son because we had a house at that time, no, no, I didn't have a house. I was still staying at home. I went to collect my son at the hospital. But when we had the—we were with the with the child. Something strange happened to my son.

10

Even if--he was not-- you know when you're sleeping there are people who are snoring, you know there are people and when we're going to bed they snore.

So, my son was like somebody who are sleeping so he was snoring from a moan
15 that means I don't know how long it took for my son to, to keep on snoring, you know, breathing like of course. We took him back to the hospital. That very same year.

From that moment on because there's no doctor, for those nostrils to check, you
20 know. What's happening inside his nostrils perhaps something, something is in-- we don't. So, my son was referred to Coronation hospital, in Westbury, Johannesburg. That is where they detected to see because of that oxygen, that umbilical cord he were never going to make it.

That is what the doctor said at Coronation hospital in Westbury, Johannesburg. We took back our son. From that moment on we—okay, he was undertaking treatments like every, every child at his age. 1986,1987,1988,1989.

5

At the time I said to my wife you know what we had a child firstborn child, he passed on. He was a still born, now we are getting a disabled child, I don't want kids anymore. I mean up with this one. If am going to continue bare--bearing kids of this nature, I'd rather stop giving birth.

10

That's what I said to my wife. She complained. We started again. We got another baby boy. Fresh, in 1990. The 5th of March 1990. We got another baby boy that was my second baby boy. I said: "No, we stop here. We don't take it, anymore[?]." So, that was it but as time goes on. In 1992, I think it was the time, where I was one year old with Standard Bank of South Africa, head office in Simon Street.

15

I was working there, of course. I went on leave in 1992, I was on leave from 1991. I got a call from a social worker at that time, it's a white lady. She said to us she's got a place for us, where we can keep a baby. Because she was heavy this time. My wife couldn't, couldn't, couldn't, couldn't put her could put him back to her back.

20

She--he was a bit heavy. My wife couldn't go anywhere. She was looking after the child. Whatever she wanted to do for herself, she cannot unfortunately but we had to look for a place. In 199-

5 **ARBITRATOR, JUSTICE MOSENEKE:** Could Vuyo walk on his own?

MR. CHRISTIAN NGQONDWANE: He was unable to respond to that, Justice. He was unable to feed himself. He was unable to walk. He was unable to sit on his
10 buttocks. He was just a child. He was unable to do anything for himself. To respond to that, Justice.

ARBITRATOR, JUSTICE MOSENEKE: Mm.

15

MR. CHRISTIAN NGQONDWANE: So, in October, November in 1992, I don't remember, or I don't recall the date. I received a call to say a place for my son has been found.

We are coming to take your son to a place of safety, so that your wife can be able to
20 move around, and you know, do what she has to do. And, a week later that lady she came with a we, with, with a car. They took my son to Millsite[?] hospital. It's a life care centre, also. [Inaudible] the in like in in in at Millsite[?] that's where my son was placed to pause on that.

ADVOCATE ADILA HASSIM: And then when does he go to Life Esidimeni in-

5 **MR. CHRISTIAN NGQONDWANE:** Err, because of the situation where that place
was placed. It was in the bush. It was not easy for a woman to walk alone in that
area. Even now, if Justice doesn't mind he can also go there and see that no
woman can walk there alone. So, I had to accompany my wife all these years.

To see the baby, so it was the bush or a forest, I don't know. Whether to say-

10

[crosstalk, inaudible]

ARBITRATOR, JUSTICE MOSENEKE: Near which town or-

15 **MR. CHRISTIAN NGQONDWANE:** It's between Randfontein and Krugersdorp-

ARBITRATOR, JUSTICE MOSENEKE: Between Randfontein and Krugersdorp?

MR. CHRISTIAN NGQONDWANE: Yes, because when we have to travel by train. I
20 don't have a car, unfortunately. I'm boarding my train or get a taxi to Luipaardsvlei
Station, that is from Kagiso One, to Luipaardsvlei Station.

Then from Luipaardsvlei Station it would be Luipaardsvlei Station, it would be Windsor Mine, it would be Krugersdorp, it would be West Rand and it would be Mill Site. I think is six stations or five stations for me to get there. We walk, you know, in that field. No one is in there, you know, you don't know what, what is it that is going
5 to happen while you are walking that path to see-

ARBITRATOR, JUSTICE MOSENEKE: So, did you have to carry the baby-

MR. CHRISTIAN NGQONDWANE: No,

10

ARBITRATOR, JUSTICE MOSENEKE: -from the station to the-

MR. CHRISTIAN NGQONDWANE: No, to visit, Justice.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Oh, to visit.

MR. CHRISTIAN NGQONDWANE: Yes. So, we were visiting almost every weekend because I was working at the time.

20 **ADVOCATE ADILA HASSIM:** And then he was moved from Millsite-

MR. CHRISTIAN NGQONDWANE: A reason was given to us as a result of the shutting down of that area. That it was a mining complex before it could be converted into a place of safety because it was not only patients like normal hospitals it was a place like Sterkfontein, where my son was placed-

5

ADVOCATE ADILA HASSIM: But, then he was, is it right that, he was moved to Life Esidimeni, a different facility, the one in Roodepoort?

MR. CHRISTIAN NGQONDWANE: After, after Millsite shutdown as a result of the reason they gave us that it was in a mining town so it was-- when it's windy, now you'll understand, the sand would cover up the complex so makes everybody difficulty to inhale. is so he was moved to an area called Robertson in Roodepoort.

15

ADVOCATE ADILA HASSIM: Was he moved to-

MR. CHRISTIAN NGQONDWANE: liberty in Iraq but to be allowed to be in and report I think that's how he was

20

ADVOCATE ADILA HASSIM: But which facility?

MR. CHRISTIAN NGQONDWANE: it also and I think yes and also it's the same, same center.

ADVOCATE ADILA HASSIM: And from there it was he moved again?

MR. CHRISTIAN NGQONDWANE: and then from that moment on his grew up and because of his age he was placed under bombing now has it as it grew up and
5 grew up and grew up. They said no, no, no, no, no, no, we cannot keep your son together responding to us and he's a grown-up man. We have to move him to adult institutions, but this is. Like sitting me- so my son.

ADVOCATE ADILA HASSIM: Yes.

10

MR. CHRISTIAN NGQONDWANE: So, my son. I'm just told. I was never asked whether do I approve or I do not. They took my son to Germiston also a like as if to many who were twenty. My son was taken there without me being informed. One to pay a visit, my wife and I. To go and see our son. They said: No, no, no, no he has
15 been moved he is no longer here he's in Germiston, I thought this is ridiculous you cannot do that to me as I started out as if you can't do that to me. You could have called me and said to me. My son is no longer we feel he is Germiston-

ADVOCATE ADILA HASSIM: Wen was this? When did that happen?

20

MR. CHRISTIAN NGQONDWANE: Unfortunately, I couldn't take any date. But he was a bit older at the time-

ADVOCATE ADILA HASSIM: How old was he?

MR. CHRISTIAN NGQONDWANE: I cannot recall. But once it was over, he was
5 over 21. So, I said I want my son back and he asked me to shoo-shoo. I cannot go--
to I cannot go to Germiston, it's very far for me. My company has shut down. I'm not
working anymore because I was working for Everet group and Sharmo[?]

Oh my company is such that I'm not working anymore. So, I need to get up and you
10 to travel by train. I want my son talk to this introduce, you now. They said to me
what you say I said No I stay in the hiking around Party plus I don't removed
increase or as a result that I was unable to pay my point and question that I had a
point house so. Able to pay it I had to sell my house to move better because.

15 That's what I believe in. So I say I stayed in Randfontein, Motlakeng. Extension 5,
that's where I stay. Now this guy said no arm and they is a place in Randfontein.
Make an application that your son to transfer to Randfontein. I precisely did that. I
applied, within a week my son was placed in Randfontein.

20 **ADVOCATE ADILA HASSIM:** And you don't recall which year that was. Do you
recall which year-

MR. CHRISTIAN NGQONDWANE: No, I don't, Mam.

ADVOCATE ADILA HASSIM: No? So, how long was he in Randfontein?

MR. CHRISTIAN NGQONDWANE: From Randfontein we were able to check him
5 weekly sometimes fortnightly.

ADVOCATE ADILA HASSIM: But how long, how long did he stay at the
Randfontein facility?

10 **MR. CHRISTIAN NGQONDWANE:** It's many years, Ma'am, it's many of years. Like
I said, I do not recall the number of years that he spent in Randfontein.

ADVOCATE ADILA HASSIM: Okay, but you visited him regularly?

15

MR. CHRISTIAN NGQONDWANE: Yes ma'am, because he was nearer to me.
Because Randfontein was currently my hometown.

ADVOCATE ADILA HASSIM: In front of you there should be photographs. These
20 are photographs that you provided to us-

MR. CHRISTIAN NGQONDWANE: Yes.

ADVOCATE ADILA HASSIM: I think it's underneath, not in-- underneath your folder underneath your--yes. There are a series of photographs just suspects and I can marked ELH29A to ELH29F.

5 **ARBITRATOR, JUSTICE MOSENEKE:** I have them think you. If we could begin at ELH29A. When was this photograph taken?

MR. CHRISTIAN NGQONDWANE: Because every year during the Christmas times we went to the Life Esidimeni to ask for our son to come home for holidays. So, at
10 this time every year like I said we usually go out, you know, we have an outing together with him. In other words, we cannot go--we cannot take outings without his present. He's always there with us. I had a car, it's called a Nissan Skyline 2Ltr GL.

[Group laughs]

15

MR. CHRISTIAN NGQONDWANE: So-

ADVOCATE ADILA HASSIM: So, so when was this photograph taken?

20 **MR. CHRISTIAN NGQONDWANE:** This photograph was taken around 2016—that was 2014, the 16th of December.

ADVOCATE ADILA HASSIM: And where was this?

MR. CHRISTIAN NGQONDWANE: This is in Coronation Park, in Krugersdorp.

ADVOCATE ADILA HASSIM: Is this a photograph of your family?

5

MR. CHRISTIAN NGQONDWANE: Yes, yes!

ADVOCATE ADILA HASSIM: Is Vuyo in this photograph?

10 **MR. CHRISTIAN NGQONDWANE**: He's wearing yellow with a white hat. In front of the meat, of course because he likes meat. Yes.

ADVOCATE ADILA HASSIM: 29B. Is a photograph of Vuyo and is that your— Vuyo's mother next to him?

15

MR. CHRISTIAN NGQONDWANE: This is my lovely wife.

ADVOCATE ADILA HASSIM: Your lovely wife?

20 **MR. CHRISTIAN NGQONDWANE**: My lovely wife.

ADVOCATE ADILA HASSIM: when was this photograph taken?

MR. CHRISTIAN NGQONDWANE: It was taken from, it was taken, err in last year.

It was taken around last year.

ADVOCATE ADILA HASSIM: It says-

5

MR. CHRISTIAN NGQONDWANE: 2016.

ADVOCATE ADILA HASSIM: It says on the photograph, there's a note that says

August 2015-

10

MR. CHRISTIAN NGQONDWANE: 2015

ADVOCATE ADILA HASSIM: But you should confirm whether that is correct-

15

MR. CHRISTIAN NGQONDWANE: Yes-

ADVOCATE ADILA HASSIM: Did you take the photograph?

20 **MR. CHRISTIAN NGQONDWANE:** Yes.

ADVOCATE ADILA HASSIM: Where did you take this photograph?

MR. CHRISTIAN NGQONDWANE: It's in, it's in Randfontein, that's where the photograph was taken.

ADVOCATE ADILA HASSIM: Okay.

5

MR. CHRISTIAN NGQONDWANE: Yes.

ADVOCATE ADILA HASSIM: And 29C. And this is now the photograph of Vuyo, with your lovely wife.

10

[Group laughs]

ADVOCATE ADILA HASSIM: Do you know when this was taken?

15 **MR. CHRISTIAN NGQONDWANE:** Yes, it's also in Randfontein. Life Esidimeni.

ADVOCATE ADILA HASSIM: Did you take this photograph?

MR. CHRISTIAN NGQONDWANE: Yes, I did.

20

ADVOCATE ADILA HASSIM: 29D. Is that taken at the same time?

MR. CHRISTIAN NGQONDWANE: It's also my wife. Also in—we were using a cell phone, these photos are from a cellphone.

ADVOCATE ADILA HASSIM: I see.

5

MR. CHRISTIAN NGQONDWANE: Yes.

ADVOCATE ADILA HASSIM: So that was also November 2015.

10 **MR. CHRISTIAN NGQONDWANE**: Yes, ma'am.

ADVOCATE ADILA HASSIM: And the next photograph, 29E. It is-

ARBITRATOR, JUSTICE MOSENEKE: What about 29D?

15

ADVOCATE ADILA HASSIM: We've just done 29D, Justice.

ARBITRATOR, JUSTICE MOSENEKE: You've just done 29D?

20 **ADVOCATE ADILA HASSIM**: Yes.

ARBITRATOR, JUSTICE MOSENEKE: [Xhosa]

MR. CHRISTIAN NGQONDWANE: Oh, thank you very much.

ARBITRATOR, JUSTICE MOSENEKE: He is a good-looking guy.

5 **MR. CHRISTIAN NGQONDWANE**: No, he doesn't look like me.

[All laughing]

MR. CHRISTIAN NGQONDWANE: Yes, it is, is in the same area in Randfontein-

10

ADVOCATE ADILA HASSIM: In Randfontein?

MR. CHRISTIAN NGQONDWANE: Yes, that's where he is.

15 **ADVOCATE ADILA HASSIM**: But now if we go to 29E. Was this taken in July
2016?

MR. CHRISTIAN NGQONDWANE: Yes, in Cullinan Ma'am.

20 **ADVOCATE ADILA HASSIM**: At Cullinan?

MR. CHRISTIAN NGQONDWANE: Yes.

ADVOCATE ADILA HASSIM: If we can go to 29F..

MR. CHRISTIAN NGQONDWANE: Now-

5 **ADVOCATE ADILA HASSIM:** It's dated 30th July 2016-

MR. CHRISTIAN NGQONDWANE: -Now, this is the photo that has made me feel like crying because if you look at all these photo's looking at the condition in which my son looks like. Here he is very peach. This is not his colour, lost weight. I never
10 believed it, I even screamed. I said have you brought me the real Vuyo Ngqodwane, because my son is not of this colour. They said no he is Aaron Ngqodwane.

I said but he's his light, he is light in skin--started light skin--he's not black like me. Why my son is so black? Now if you were to look at this photograph. If you were to
15 look at this photograph. In Randfontein, you look at this photograph in Randfontein. You look at this photograph at Life Esidimeni. They don't correspond. I said why my son is black? Why my son is so pitch black? It is me that is black not my son, my son is light in skin why is he so black? They told me about environmental conditions, in Cullinan. I said where is Cullinan?

20

They said Cullinan, is it in Mpumalanga or in Gauteng? They said no Cullinan is i Gauteng. But there is no way in hardly a month, my son has changed. To this type of colour. This is outrageous. And uncalled for.

ADVOCATE ADILA HASSIM: Mm

MR. CHRISTIAN NGQONDWANE When I come back. I want to see my son back to
5 his light skin colour. Because he's got a light skin colour like his mother, more than
his mother. My son is light is light like this. This is how it looks like, this is how my
last son looks like not like black colour like me.

Not black like me, he is a black man but he's not as black of me. I want my son,
10 when I come back, I want to see the conditions of my son. Back to where it used to
be.

ADVOCATE ADILA HASSIM: So, here you were talking about when he was at
Cullinan

15

MR. CHRISTIAN NGQONDWANE: When he was at Cullinan-

ADVOCATE ADILA HASSIM: When was he moved from Life Esidimeni to
Cullinan?

20

MR. CHRISTIAN NGQONDWANE: He was moved around June 2017—2016. He
was removed in June 2016.

ADVOCATE ADILA HASSIM: Did you know that he would be moved?

MR. CHRISTIAN NGQONDWANE: We were told in 2015 in December, that the facility or the institution over there is--has got no money to can maintain our son or
5 the patients over there. So, they will be moved to N.G.O.s. That's what we are told in December 2015.

ADVOCATE ADILA HASSIM: Who informed--who told you that?

10 **MR. CHRISTIAN NGQONDWANE:** The directors there, you know I cannot recall those people there. The board, the board was there to inform us that Life Esidimeni, is shutting down.

15 **ADVOCATE ADILA HASSIM:** That was in December 2015?

MR. CHRISTIAN NGQONDWANE: Yes Ma'am.

20 **ADVOCATE ADILA HASSIM:** And then before Vuyo was moved from Life Esidimeni to Cullinan, were you told that he is now being moved to Cullinan.

MR. CHRISTIAN NGQONDWANE: They told us that they had moved him to Takalani in Soweto.

5 **ADVOCATE ADILA HASSIM:** Okay-

MR. CHRISTIAN NGQONDWANE: Yes, that very same Saturday in which we were told. We went to Takalani in Soweto near Baragwanath. My son wasn't there. So, we went back and during the course of the week to Life Esidimeni, Randfontein. To
10 say we don't know where our son is. They say he's not there. Can you tell us where our son is?

Now, the receptionist was there then, he said: "No, I don't know nothing. I'm a new member in this institute, as you can see, we are dealing here with drug people.
15 We have no mentally handicapped people but here is the number called these people to find out the whereabouts of your son."

Which are called. Right I called on during the course on the week. When we called during the course of the week, that was. they told me Vuyo was in Cullinan and
20 there definitely sure that because they're already told us, Vuyo is in Cullinan and then to confirm that.

We went to Cullinan on the second of July, because they were moved in June, on the second of July 2016. We went to, to Cullinan to confirm, as to whether my son was there.

5 **ADVOCATE ADILA HASSIM:** And you did find him there.

MR. CHRISTIAN NGQONDWANE: Yes, I did find him in this colour. Yes, in that colour.

10 **ADVOCATE ADILA HASSIM:** -and then

ARBITRATOR, JUSTICE MOSENEKE: Well I've been looking at the pictures. Your son looks quite looked very good. He looked healthy. Forget the colour, look how thin he is.

15

MR. CHRISTIAN NGQONDWANE: Very thin.

ARBITRATOR, JUSTICE MOSENEKE: Look how sickly he looks.

20 **MR. CHRISTIAN NGQONDWANE:** Yes, he is.

ARBITRATOR, JUSTICE MOSENEKE: Look how you look so way from you doesn't look at you with a smile. No, but you worried about the colour only. It is that

this time it's a big contrast I'm wildly different way your son you're throwing me out. But you see when I look at him, the picture I said to you your son is very good looking. He. ELAH29 D. Can you see that? That picture.

5 **MR. CHRISTIAN NGQONDWANE:** Is that picture...yes.

ARBITRATOR, JUSTICE MOSENEKE: The picture looks like that. Look at he's skin, it's healthy, besides it's colour. It is healthy, it's healthy is it not.

10 **MR. CHRISTIAN NGQONDWANE:** Yes, sir.

ARBITRATOR, JUSTICE MOSENEKE: Look at his teeth-

MR. CHRISTIAN NGQONDWANE: Very-

15

ARBITRATOR, JUSTICE MOSENEKE: Can you see these eyes, his teeth are pure white.

MR. CHRISTIAN NGQONDWANE: In Randfontein?

20

ARBITRATOR, JUSTICE MOSENEKE: Yes, and all even look at his eyes. Nice white, big eyes, isn't it. When you go to the last page, you can't see his eyes, you

can't see his teeth. He is very, very thin. And he looks very insecure, do you agree with me?

MR. CHRISTIAN NGQONDWANE: Yes, sir-

5

ARBITRATOR, JUSTICE MOSENEKE: Looking, not even towards the camera.

MR. CHRISTIAN NGQONDWANE: Very shy.

10

ARBITRATOR, JUSTICE MOSENEKE: If I were you I'd be more worried about you the health than his colour

MR. CHRISTIAN NGQONDWANE: I take that as a point of connection, Justice.

15

ARBITRATOR, JUSTICE MOSENEKE: Very well.

ADVOCATE ADILA HASSIM: And the last time in 29A. Is a photograph taken in 20 2014? December time. So, now he's at Cullinan in 2016. Did you, did you collect Vuyo December 2016, for a home stay.

MR. CHRISTIAN NGQONDWANE: Yes, yes counsellor, I did. Because I'm at home currently. Facing unemployment. Thanks God, I was able to sell my house before it could be taken by the, by the bank. And be able to buy a site where I can build a structure for my kids for future occurrences of course. I thank God for that,
5 for giving me that wisdom.

ADVOCATE ADILA HASSIM: So, how long did you take home for and in December 2016.

10 **MR. CHRISTIAN NGQONDWANE:** I took him on the telecast of desire. A Because of the time they were giving us the they were giving us fifteen days to go to have to have him-

ADVOCATE ADILA HASSIM: 15 days?

15 **MR. CHRISTIAN NGQONDWANE:** 15 days, yes, for. If I were to take Vuyo say for example in mid-December, if I take him back in mid-January, then Vuyo is fired. So, I have to adhere to the center conditions of the institution.

ADVOCATE ADILA HASSIM: So, when did--how was he in December 2016, when
20 he was with you.

MR. CHRISTIAN NGQONDWANE: We never went to a park, he was weak, pale pay, Madam, you know. He was not well. And not, he was not well. This are twenty,

we never took a picture, we never took pictures, last year the last time because the time was short. So, we spent the 31st of December, together, for the first time since he was taken to Cullinan, so, we took him only on the 31st of December. In other words, he spent the 31st, the first up until the 15th of January 2017, with us.

5

ADVOCATE ADILA HASSIM: And when did you last see Vuyo?

MR. CHRISTIAN NGQONDWANE: The last time we saw Vuyo, was or the time when we took him back to Cullinan. On the 15th of January 2017.

10

ADVOCATE ADILA HASSIM: When did Vuyo pass away?

MR. CHRISTIAN NGQONDWANE: I received a call on the seventh of February at 08:31. I was told that Vuyo-

15

ADVOCATE ADILA HASSIM: 2017?

MR. CHRISTIAN NGQONDWANE: Yes, I was told that Vuyo went to bed active as we know him. He had nothing, he was never sick. He was never this, he was never that. He was healthy, active you know. But the following day, when you woke, he was no more. Ice cold, I shivered. I was very cold I shivered. what I had like a baby. I said to this woman, who happens to be a social worker. This is disgusting. Severely disgusting, I don't I don't take a story.

My son--you said my son went to bed, actively involved. He was playing, he was doing everything for himself and you tell me, that the following day, today my son is dead.

5

I don't take your story, no, Mr Ngqondwane, I would like to see you, come to Cullinan. A neighbour, I made arrangements with a neighbour. My neighbour took me to Cullinan and I paid R500.00.

10 **ADVOCATE ADILA HASSIM:** R500.00?

MR. CHRISTIAN NGQONDWANE: Yes-

ADVOCATE ADILA HASSIM: Transport-

15

MR. CHRISTIAN NGQONDWANE: Transport to go to Cullinan. To identify as to whether it's truly, my son, is the one that is dead. On my arrival in Cullinan, I made -
- I met a social worker and-

20 **ADVOCATE ADILA HASSIM:** Before you go on had you told your, your wife-

MR NGQONDWANE: But I didn't take it seriously that one because in my mind I thought we were going to get these things from here or the police or the judge. I never expected to be getting this from that guy.

ADV ADILA HASSIM: Do you know which police officer brought it to your home?

5 **MR NGQONDWANE**: He never left any name. Yes, he never left any name.

ADV ADILA HASSIM: When did he bring it to your home?

MR NGQONDWANE: That was after the funeral. I don't know. I don't know whether was it after June, or I don't recall madam.

10 **ADV ADILA HASSIM**: Okay. If you can turn on this ELA41, the first page says 7 of 9.

MR NGQONDWANE: First page?

ADV ADILA HASSIM: The first page says 7 of 9 for some reason, but if you can turn to the page that's marked page 9 of 9.

MR NGQONDWANE: Page 9 of 9, okay.

15 **ADV ADILA HASSIM**: At the bottom. The numbers are at the bottom of the page.

MR NGQONDWANE: Page 9 of 9.

ADV ADILA HASSIM: Ja, so the third page.

MR NGQONDWANE: Is it the third page? Page 9 ... [interjects]

ADV ADILA HASSIM: At the top of the page it says conclusion.

MR NGQONDWANE: I've got page 9 here.

ADV ADILA HASSIM: At the top of the page does it say conclusion?

MR NGQONDWANE: What is it, page 3 of 9?

ADV ADILA HASSIM: Yes, so ... [interjects]

5 **MR NGQONDWANE**: Page 3 of 9.

ADV ADILA HASSIM: Yes. If you look at the top of the page, does it say conclusion?

ARBITRATOR: Well, the exhibit promises nine pages, but it's actually almost six pages. Is yours perhaps 9?

10 **MR NGQONDWANE**: Page 9 of 9.

ARBITRATOR: I see 7 of 9. I see they swapped it around.

ADV ADILA HASSIM: Yes.

MR NGQONDWANE: I got it council.

ARBITRATOR: I see, I've got 9 of 9, thank you.

15 **ADV ADILA HASSIM**: Justice ... [inaudible] does your page say ... [interjects]

ARBITRATOR: Yes, it does.

ADV ADILA HASSIM: And the conclusion reached by the Pathologist is that the features are those of aspiration pneumonia. In other words the analysis led to the

conclusion that the cause of death was aspiration pneumonia. Was that explained to you?

MR NGQONDWANE: No.

ADV ADILA HASSIM: No.

5 **MR NGQONDWANE**: No.

ADV ADILA HASSIM: Can you turn a few pages in. There's a page in the middle of the bundle that says page 1 of 9. They are just out of order.

MR NGQONDWANE: Page 1 of 9.

ADV ADILA HASSIM: It's headed Gauteng Provincial Government, Health Division
10 Forensic Pathology Services and the fourth paragraph it confirms the date on which the post mortem was conducted. 16 February 2017. Do you see that?

MR NGQONDWANE: Yes madam.

ADV ADILA HASSIM: If you turn over the page there's a statement signed by the Pathologist and there's paragraph 1, 2, 3, 4 and in paragraph 4 there's four bullet
15 points and on the third bullet point it says:

"Examination of the stomach content reveals a large piece of orange plastic sheeting resembling what could possibly be part of a plastic bag."

Do you see that?

MR NGQONDWANE: Yes madam.

20 **ADV ADILA HASSIM**: Was that explained to you?

MR NGQONDWANE: No madam.

ADV ADILA HASSIM: And then paragraphs says that the cause of death was determined to be aspiration pneumonia, and then finally if I may ask you to look at page 5 of 9, so if you just turn over.

5 **ARBITRATOR:** You say the doctor never told you about the findings in, on page 2 of 9.

MR NGQONDWANE: No.

ARBITRATOR: Sub paragraph roman four?

MR NGQONDWANE: I never heard anything about the cause of death from any
10 doctor Justice.

ADV ADILA HASSIM: When the police officer arrived, did he explain the contents of the post mortem to your son?

MR NGQONDWANE: No, he didn't. All that he wanted, he said, he asked us questions. That's all he asked us and then after the question has been asked which
15 he asked me and responded, she wanted to see Diale Funeral Parlour. He did not know where the place was. So I said I know where Diale Funeral Parlour is. I said it's in the same township. Do you know where it is? I said no, I can take you there. So I took them to Diale Funeral Parlour.

ADV ADILA HASSIM: But the police officer that brought the post mortem report to
20 your house, you were not there at the time, your son was there?

MR NGQONDWANE: My son was there, yes. The one who came now for questions was Warrant Officer I think Morokume. Ja, Morokume something like that.

ADV ADILA HASSIM: But he wasn't the same police officer that brought the post mortem report?
5

MR NGQONDWANE: I don't know.

ADV ADILA HASSIM: On page 5 of 9 it also has numbered paragraphs. In paragraph 17, this is the report of the Pathologist. Justice, if I may just explain.

ARBITRATOR: Yes, please go ahead. I've seen that. Please ask questions of that.
10

ADV ADILA HASSIM: So all these numbered paragraphs are the findings of the Pathologist as she examined the body from top to toe and in paragraph 17 she comes to the stomach, and she notes:

"The stomach is full of dark slate grey grainy material with numerous peas and what appears to be part of an orange plastic bag or plastic sheet."
15

It would appear from the post mortem report that Vuyo had ingested some foreign material, some strange material. I would like to know whether anybody from the police or anybody from the Department of Health has come to speak to you at all about the cause of death of Vuyo's cause of death.

MR NGQONDWANE: I will be delighted if I can say yes. None of them came to my house, except the social workers and the MMC only.
20

ARBITRATOR: Had you heard this before today from anybody?

MR NGQONDWANE: I just read. I read it. After I received this document, I got through it.

ARBITRATOR: You see, when you look at finding 17 that relates to the stomach,
5 if the Doctor were here I would have asked her the question. What is most probable, did he probably have a plastic bag with numerous peas in it, which he ingested plastic and all.

MR NGQONDWANE: I think he suffocated on that.

ARBITRATOR: Ja.

10 **MR NGQONDWANE:** As far as I'm concerned.

ARBITRATOR: Yes, because we have evidence of people being so hungry that they would eat ... [interjects]

MR NGQONDWANE: Plastics.

ARBITRATOR: Contents and container, all at once.

15 **MR NGQONDWANE:** Anything to ... [inaudible] the stomach ja.

ARBITRATOR: So this is speculative, but if the Doctor were here he would say what on the probabilities do you think Doctor Stuart, how would the pea, the several peas ... [interjects]

MR NGQONDWANE: Be found.

ARBITRATOR: And the plastic be all together in the stomach. I would understand all the time we are told keep plastic away from ... [interjects]

MR NGQONDWANE: Reach of children.

ARBITRATOR: Children, and the reason is if they try to eat something in a plastic,
5 they may very well swallow the contents of the plastic with the container itself. Then
of course you would choke and die. But you're not the person to answer that. I
think a Doctor would probably have to tell us that.

MR NGQONDWANE: Yes Justice.

ARBITRATOR: And have you found out anything more than what we can see on
10 the post mortem report?

MR NGQONDWANE: No, nothing.

ARBITRATOR: No.

MR NGQONDWANE: Nothing Justice.

ARBITRATOR: [Vernacular 01:09:21]

15 **MR NGQONDWANE:** You're correct.

ARBITRATOR: Yes.

MR NGQONDWANE: Yes.

ARBITRATOR: [Vernacular 01:09:38]

MR NGQONDWANE: [Vernacular]

ARBITRATOR: No, thank you. I don't know where the Interpreter is, sorry. It's one of our official languages I've just used, sorry and if somebody needs an Interpreter we must find one. I'm just saying to him you almost put us in a position where we never would have known what killed this young person you loved so
5 much, and he says in pure Xhosa yes indeed you are correct, but he's explained his position. It was painful, and your response was an emotional one.

MR NGQONDWANE: Yes Justice.

ARBITRATOR: And [vernacular 01:10:32]

MR NGQONDWANE: [Vernacular]

10 **ADV ADILA HASSIM:** When was Vuyo laid to rest?

MR NGQONDWANE: I was supposed to lay Vuyo to rest on the 17th of February. Unfortunately we had to be called, the funeral had to be called off, because we had to go to Pretoria Memorial, what is this Freedom Park or Freedom Square, I don't know for a memorial reason. So the date was postponed to the 18th. That is the
15 following day, but there was also a request from the council to say they, we must bury Vuyo during the course of the week so that they also be there as council, government officials and so forth.

ADV ADILA HASSIM: And did they attend?

MR NGQONDWANE: No, we refused. Reason of our refusal to bury Vuyo during
20 the course of the week, was that they had already told family members from Eastern Cape others are nurses, others are we also had the mayor, we also have

police who happened to have requested that they will resume their duties on Monday. So they will come back the very same day, because others were flying all the way from Eastern Cape.

ADV ADILA HASSIM: Yes.

5 **MR NGQONDWANE:** So we had to change the date to say to the council we cannot have that, because the family from Eastern Cape they would like to see when one of the family members is buried. So ... [interjects]

ADV ADILA HASSIM: You chose to accommodate your family rather than the government officials?

10 **MR NGQONDWANE:** Yes Counsellor.

ADV ADILA HASSIM: What was the cost of the funeral? Did you pay for the funeral?

MR NGQONDWANE: It took my pocket out. It took my pocket out. One, it took my pocket out. Two, it traumatised me and my family. Till today my wife can't sleep.
15 She has to sing. Sometimes he goes to bed with a bottle, carrying a bottle of his son. It's, we are not happy at home. We have got nothing. Thanks to the government for the transport to come here, we would never be able to make it unfortunately Justice. Thank you for that. We are dry. Currently even in the bank I've got nothing. I live on handouts. Do not be shocked that I'm wearing a suit and
20 a tie and what what. There's hungry down there. There's hunger down there. Our stomachs are not together. That's the response I can give to you council.

ADV ADILA HASSIM: Is there anything you would like to say that you haven't said on anything you would like to say to the government before you leave the stand?

MR NGQONDWANE: Counsellor, Justice and the house in general, my heart will never be at peace. My heart will never be at peace with QQesani Mahlangu until
5 she comes here and tell us why she had to do this traumatic thing to the citizens of this country. I am a citizen of this country. I'm born and bred in this country. I'll die in this country as a citizen. I will be buried in this country. Qedani must come and explain to me why he had to take my son away from Randfontein. He was well off, he was fat. Take him to CCRC to be killed. I made an explanation to Qedani
10 Mahlangu, number one. Number two, I am not going to feel shame of people who are coming here and spill crocodile tears of the bad things they did for this country. Crocodile tears is what I do not belong into. Because these MGO's they did it out of greed. Wasn't it about money, we would never be talking about the word greed today. They were greedy. Now they come here, before Justice Mosanete. They
15 come and spill crocodile tears. I don't buy that. They did it out of greed. They were happy when the charge were given unto them. They were happy. They never knew what would come after that. I want the law in this country to take its course to those people. I thank you Counsellor.

ARBITRATOR: Siyabonga Council. Advocate Crouse?

20 **ADV CROUSE:** Thank you Justice.

MR NGQONDWANE: Sorry Counsellor. Because she knew what she did was wrong and was against the law of this land, I'm not talking about the law of another

land. I'm talking about the law of this country. She knew what she was doing. She was warned by a number of Doctors of the disadvantages that he was taking. Right now he is being called by Justice to come in here to testify. She's not to be found. The ... [inaudible] Qedani Mahlangu they know, they know because this country, 5 this country is a member of EPOL. They can find him or they can find her anywhere in the world because they are members of an EPOL. I saw the ETV news yesterday. 16h00 bulletin. Qedani Mahlangu left this country on the 29th of July for London. She must come back from London and testify. I saw that on TV, ETV yesterday 16h00 bulletin Justice. She's in London. We want Qedani Mahlangu to 10 be repatriated from London to South Africa and testify before our Honourable Justice Moseneke. I thank you.

ARBITRATOR: [Vernacular 01:18:02]

ADV CROUSE: Thank you Justice. Sir, we just want to ask you. Could you give us a figure what the funeral cost you?

15 **MR NGQONDWANE:** I can go on. From R60 000-00 plus. That's what I spent for the whole procession.

ADV CROUSE: Sir, and we just want to say that we're very sorry for your loss.

MR NGQONDWANE: Thank you.

ADV CROUSE: Thank you Justice.

20 **ARBITRATOR:** Thank you. Advocate?

MR GROENEWALD: Thank you Justice. Sir, I just have one question for you.

MR NGQONDWANE: Any time.

MR GROENEWALD: In front of you there's a document. It's marked ELAH9.
Sorry, just there in front of you.

MR NGQONDWANE: EHL?

5 **MR GROENEWALD**: ELAH9. Sorry, that one. This document, we've been provided with this document. It's a report on the transfers and deaths at CCRC.

MR NGQONDWANE: What page sir?

MR GROENEWALD: Page 22. The first name there on the top, is that your ...
[interjects]

10 **MR NGQONDWANE**: 22 of 25?

MR GROENEWALD: 22, 22 of 25 yes.

MR NGQONDWANE: Yes.

MR GROENEWALD: The first name there, is that your son?

MR NGQONDWANE: Correct sir.

15 **MR GROENEWALD**: Okay. Now we see there on the 25th of January 2016 he was transferred back to CCRC.

MR NGQONDWANE: 20?

MR GROENEWALD: 17. On the 25th of January 2017 he was transferred back to CCRC and on the 6th of February 2017 were recorded the date of his death and
20 then there's a comment:

“Admitted at Anchor from Life Esidimeni. When CCRC took over mental health care users from Anchor, he died at Mamelodi as referred by CCRC.”

MR NQGONDWANE: I’m not aware of that.

MR GROENEWALD: Are you aware of this sir, is this correct, incorrect?

5 **MR NQGONDWANE**: I would be lying under oath. I am lying. I do not know about these two dates.

MR GROENEWALD: You see, because we actually have a number of issues with this document because we know from the Ombudsman’s report as well, that Anchor has already been closed on the 31st of October 2016.

10 **MR NQGONDWANE**: Honourable sir, I don’t even know the name Anchor. It’s not even my ... [inaudible].

MR GROENEWALD: Thank you very much sir. No further questions.

MR NQGONDWANE: Thank you.

ARBITRATOR: But you see ... [inaudible], your evidence is that you spent time
15 with your son up to the 15th of January.

MR NQGONDWANE: Yes sir.

ARBITRATOR: 2017.

MR NQGONDWANE: Yes sir.

ARBITRATOR: [Vernacular 01:21:44]

20 **MR NQGONDWANE**: CCRC sir.

ARBITRATOR: You took him at CCRC.

MR NQGONDWANE: And returned him to CCRC sir.

ARBITRATOR: Did you know at which section of CCRC was he? Like I have asked you earlier, earlier asked you at which section of CCRC was he.

5 **MR NQGONDWANE:** Like you asked me earlier, I said we were only at reception only. We were never taken to where they sleep.

ARBITRATOR: So you could, you were not able to find out whether or not he had been admitted at Anchorwithin ... [interjects]

MR NQGONDWANE: No.

10 **ARBITRATOR:** On the evidence it was supposed to be a sub set or geographically within the premises of CCRC.

MR NQGONDWANE: No Honourable Justice, no.

ARBITRATOR: So you were never informed that in fact your son ... [interjects]

MR NQGONDWANE: I was never informed. Hence I'm saying it's the first time I
15 heard about this Anchorr thing.

ARBITRATOR: Yes.

MR NQGONDWANE: Yes.

ARBITRATOR: The allegation that he died at Mamelodi Hospital ... [interjects]

MR NQGONDWANE: It's a new thing to me.

ARBITRATOR: You never heard of that?

MR NQGONDWANE: It's a new thing to me. It's a new thing to me.

ARBITRATOR: Yes.

MR NQGONDWANE: Let me come in Justice. They're saying he died at Mamelodi
5 Hospital. Again they're saying he was so active, hyper active when he go to bed.
The following day he was gone. Was he at Anchor Hospital or was he at CCRC?
He was at CCRC. He was never at AnchorHospital. Like I'm saying, it's the first
time I heard of this word, AnchorHospital.

ARBITRATOR: Where did you find his lifeless body? Was it at CCRC or ...
10 [interjects]

MR NQGONDWANE: CCRC Justice.

ARBITRATOR: And this little mortuary you talked about.

MR NQGONDWANE: This little hoard mortuary.

ARBITRATOR: The hoard mortuary, okay.

15 **MR NQGONDWANE:** Yes.

ADV ADILA HASSIM: Justice Moseneke, perhaps I could assist. On page 3767 of
the record which is file 11.

ARBITRATOR: Yes, I want to see that because you know that it worried me. I
couldn't bring these things together, okay.

20 **ADV ADILA HASSIM:** 3767.

ARBITRATOR: Where is it? Christian Ngqondwane. Okay, I've got that, and that would be yes.

ADV ADILA HASSIM: The death certificate records the place of death at Cullinan and the date of death is recorded as 7 February 2017, not 6 February 2017 as it is
5 on the table, and then just to be doubly sure, if you turn to page 3772 of the record.

ARBITRATOR: 3?

ADV ADILA HASSIM: 3772.

ARBITRATOR: Can someone come and help me please? Yes Counsellor.

ADV ADILA HASSIM: On page 3772 is the notice of death and in paragraph 4.2
10 it's verified in print, but at 4.2 I'm sorry 4.1 it lists the place of death as Cullinan Rehab Centre.

MR NGQONDWANE: Correct. There is nothing like that. There is nothing like that.

ARBITRATOR: Thank you. It throws a lot of doubt on the information we have
15 before us then about times and places of death, particularly in this matter. Council, I'm back with you. Any further questions?

MALE ADVOCATE: No further questions, thank you Justice.

ARBITRATOR: ... [inaudible]

MALE SPEAKER 2: Just one question. Can you recall the person who informed
20 you of where he, your son died?

MR NQGONDWANE: I could not recall the name of the lady who called me, but fortunately my wife gave me the name. She said her name is Daphne. She is a social worker. I don't know whether is it Daphne Ndlovu or Daphne who, but the name of the social worker is Daphne. It's all that I've got.

5 **MALE SPEAKER 2**: Other than that call, have you had any contact with her either you or your wife or any other person from your house?

MR NQGONDWANE: In conjunction with?

MALE SPEAKER 2: With this Daphne Ndlovu.

MR NQGONDWANE: With what?

10 **MALE SPEAKER 2**: With this Daphne Ndlovu. Did you speak to her subsequent to that call?

MR NQGONDWANE: Yes, yes. In the morning. Hence I say it was 08h31 in the morning.

MALE SPEAKER 2: Okay. Where was that? At the hospital?

15 **MR NQGONDWANE**: CCRC sir.

MALE SPEAKER 2: At CCRC.

MR NQGONDWANE: Yes sir.

MALE SPEAKER 2: Okay, and she was the person who took you through the processes at CCRC or what?

MR NQGONDWANE: Well, because I didn't know the name and I didn't know here.
She was founded by my wife to say ... [interjects]

ARBITRATOR: Is she the one who took you to the small mortuary?

MR NQGONDWANE: Yes, and a sister with red ... [inaudible] I think. She was
5 wearing blue with red ... [inaudible], but the social worker you know normal clothing.

MALE SPEAKER 2: So she and a sister took you to the mortuary?

MR NQGONDWANE: Yes, and also in the mortuary it was not just cold, it was not
just hot and small. It never had soap to wash hands. They complained. Why this
mortuary has no soap to wash hands. We want to wash our hands. There is no
10 soap in this mortuary. There is a container of a liquid soap, but there is no soap in
that container. I just kept quiet as if I didn't hear anything.

MALE SPEAKER 2: And who were complaining about the absence of soap?

MR NQGONDWANE: Themselves.

MALE SPEAKER 2: The social worker and the sister?

15 **MR NQGONDWANE**: Yes sir.

ARBITRATOR: Now that ties in with other evidence we have about how poorly
resourced that facility was. There were a lot of complaints about its resources, but
thank you very much. Council for the state, are you done sorry.

ADV TEBOGO HUTAMO: Yes, I'm done. Thank you.

20 **ARBITRATOR**: Advocate Hutamo.

ADV TEBOGO HUTAMO: Thank you Justice. There are no questions to the witness. If we maybe allowed just to say a word to Mr Nqgondwane. We really regret the traumatic journey that you have experienced. The Minister of Health together with the Premier of Gauteng has set up this process in order to try and see
5 if the truth of what actually happened would be uncovered and is through the collaboration of all parties, affected family members, and this government representatives, that through their effort and through the office of the Arbitrator, that we might find some light with regard to what had actually occurred. We just want to thank you for having the courage to come through and give an account of what you
10 went through. We acknowledge that it is not quite easy. It's very difficult, but we just want to ensure that the wrong things that have occurred are corrected and never to be repeated. We just want to thank you for making yourself available to participate in this process. It's not an easy process, but we just have to do what is necessary in the circumstances. We hope that we'll assist in helping everyone
15 affected by the process to find closure. Thank you so much.

ARBITRATOR: You are allowed to comment. The statement made by council and you are at liberty to respond in the way that you see fit. Again, you're not obliged to respond, but if you want to.

MR NQGONDWANE: At this juncture, the house in general I don't have a
20 comment.

ARBITRATOR: You have no comment, ja sure.

MR NQGONDWANE: And sorry Justice.

ARBITRATOR: Yes.

MR NQGONDWANE: Sorry. Let me rather say I thank the Lord for making this day. This is the day the Lord has made for us to come together.

ARBITRATOR: [Vernacular 01:32:09]

5 **MR NQGONDWANE:** [Vernacular]. You are not just a leader today. The bible says I knew you before you were born. God knew that one day we shall have a man called Justice Moseneke who will be comforting people and who will be loved by people. You have loved people, many years. I don't know you here only. I know you from many, many years with Patricia de Lille. Yes. You are a public
10 figure. You are a public figure. You have been a servant from the moment you were born. You became a servant of the public. We thank you for that Justice. May God bless you. Amen.

ARBITRATOR: Nkosi. Nkosi. You made me blush now like a young person, but [vernacular 01:34:07]. We're at a point where we may release you and let's hope
15 that we will get to some resolution. [Vernacular 01:34:20]. Council, it's four thirty. What do you want to do?

ADV ADILA HASSIM: Can I take an instruction as to whether our witness needs to provide her testimony today or not?

ARBITRATOR: Yes.

20 **ADV ADILA HASSIM:** And if not we can decide how to move forward.

ARBITRATOR: Okay. Do take instructions.

ADV ADILA HASSIM: Justice Moseneke, the witness Nono Moditse is able to return tomorrow to provide her testimony. It is almost four thirty. I don't expect to be, the witness to complete her testimony within half an hour.

ARBITRATOR: Very well Counsellor. I'm minded that we adjourn until tomorrow
5 at 09h30. ... [inaudible] some pressing matter which stands in the way of that. We
adjourn now until 09h30. Now that I find a tasting I think I must go with all the sweet
tastes in my mouth and start afresh tomorrow, but again, thank you so much. We're
going to adjourn till 09h30 tomorrow.