

IN THE SUPREME COURT OF BRITISH COLUMBIA  
(BEFORE THE HONOURABLE MR. JUSTICE VOITH and JURY)

Vancouver, BC  
September 6, 2019

BETWEEN:

HIROKO D. CRAWFORD also known as DONNA CRAWFORD

Plaintiff

AND:

PROVIDENCE HEALTH CARE, DR. ANNA NAZIF

Defendants

AND:

NICHOLAS OSUTEYE, PROVIDENCE HEALTH CARE, DR. ANNA  
NAZIF

Third Parties

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PROCEEDINGS AT TRIAL  
(Day 4)  
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COPY

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PROCEEDINGS AT TRIAL  
SEPTEMBER 6, 2019  
(DAY 4)

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September 6, 2019  
Vancouver BC

(Day 4)

(PROCEEDINGS COMMENCED AT 10:04 A.M.)

THE CLERK: Order in court. In the Supreme Court of British Columbia at Vancouver this 6th day of September 2019. Calling the matter of Crawford versus St. Paul's Hospital, My Lord.

THE COURT: Yes, thank you.

THE BAILIFF: The jury, My Lord.

(JURY IN)

NICHOLAS OSUTEYE,  
Third Party, recalled.

EXAMINATION IN CHIEF BY MS. KOVACS:(Cont.)

Q Now, Mr. Osuteye, we left off yesterday listening to the audio of your arrest. And it was a long audio recording and it ended with you being placed in a paddy wagon; is that right?

A Yes, that's accurate.

Q And we heard the doors closed in the audio. What happened next?

A I was still -- or I had been talking to myself, and then I was taken down to the police station, I believe, and I was photographed and fingerprinted and they drew some blood. And then I had an interview with -- I think it was a police detective and she asked me some questions. She asked me some -- some questions and I told her -- for some reason I told her that I did it to get deported, which makes no sense because I'm a Canadian citizen and I can't be deported. And then she asked me to show her what happened, so I demonstrated what I did to -- to the victims. And then I made some wild -- some wild -- some wild statements about the University of Alberta, I think. And then they brought me a pizza. I ate a couple of slices, and then I left with some detectives, and they let me have a cigarette, and then I was taken to a holding cell where I was in the cell and I was just ray -- ray -- ray -- just ray -- racing thoughts and talking to myself in

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the cell. And then I was taken to jail. I just want to step back a bit and dissect some of what you've just told us. And, first of all, you said that you were taken -- and a number of photographs were taken of you?

A Yes.

Q All right. Can I have you turn to tab 38. So tab 38 is already marked as Exhibit 16. And you briefly referred to it yesterday. I take it many, many photos were taken of you at the pretrial centre?

A I think so, yes.

Q For, who knows, bail. And this was one of them?

A I think that -- yes, I think this was right -- right after the arrest, yes.

Q Do you remember these photographs being taken?

A Hardly, no.

Q Just looking at your face in this photograph, do you have any recollection of still talking, you know, or responding to voices during this process, during the process of --

A I think I was, yes. I can't recall.

Q And this is, of course, how you were arrested is simply in your underwear?

A Yes.

Q But you were wearing clothes at the time that you struck and kicked and stomped on these women; right?

A Yes, I was.

Q So if we turn the page over to tab 39, my understanding we have Cst. Mike Dewar coming to speak to the evidence that was gathered at the scene, but my assumption is that some of this was your clothing and what was found in your pockets. Can you identify each item in this photograph?

A The grey one is my -- is my U -- is my U of A hoodie. The jeans I was wearing with my belt. Coat I had gotten from the shel -- from the shelter in Calgary. Green -- yellow shirt, sunglasses, gauze, condoms, lube, a notebook which I had written, like, with those pho -- pho -- phone numbers and notes in, and lighters. And the other -- and there's a note here, and I'm not sure what the -- what the pamphlet is. And sunglasses.

Q And sunglasses. So far left corner is a grey hoodie and you can't see any logos on it, but you

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said that's a University of Alberta hoodie?

A I think so, yes.

Q So you were still wearing that at the time of these attacks?

A Yes.

Q And you mentioned condoms and lubes. There are a number of them there. Why were you carrying those?

A I think I picked those up when I went to the health centre to get my prescription refilled. I just picked them up because they were free.

Q Were you sexually active at this time?

A I had fooled around with one girl who I smoked a joint with.

Q Beyond that, though --

A No.

Q -- you weren't using these condoms regularly?

A No.

Q And the notebook you said had some phone numbers in it?

A I think some notes -- some notes -- some notes and phone num -- num -- num -- numbers, yeah, but I can't remember.

Q All right. And the note which you can kind of see is folded and right beside your sunglasses there on the right side of the photograph, if we turn the page over, there's three photographs at this tab, and there's a closer view of the -- what I propose to call your pocket contents?

A M'mm-hmm.

Q And again you can see the note there with lined paper?

A Yeah.

Q All right. And then if we turn the page over again to page 3 of this tab, that notepaper appears to have been unfolded. Do you see that?

A Yes.

Q Do you remember this note?

A No, I don't.

Q That's not your handwriting I take it?

A No, it's not my handwriting.

Q And it says Strathcona Mental Health Team, 330 Heatley Street. Do you know where that is?

A No.

Q You have no idea where that is?

A I have no idea where that was.

Q And there's a phone number there?

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A Yes.

Q And there's an asterisk, "if voices come back or get worse"?

A Yes.

Q Do you have any idea who wrote this?

A No.

Q Any recollection of who gave it to you?

A No.

MS. KOVACS: My Lord, I wonder if we can have this marked as the next exhibit.

THE COURT: The whole of the tab; yes?

MS. KOVACS: Yes.

MR. MEADOWS: No objection, My Lord.

THE COURT: All right. Is it 17, Madam Clerk?

THE CLERK: Exhibit 18, My Lord.

THE COURT: 18. Thank you.

**EXHIBIT 18: Colour copy photograph of various items belonging to Nicholas Osuteye including clothing and condoms; common book of documents tab 39**

MS. KOVACS:

Q Now, Mr. Osuteye, were you carrying any of your risperidone at the time of the attacks?

A I think I may have been. I cannot recall. I think I was.

Q Earlier yesterday you told us that you gave some of the packs to the shelter?

A Yes.

Q Did you keep some of them on yourself?

A I think I did, yes. I kept some on me.

Q All right. And we don't see those in these photos. Do you recall if they were full or -- do you have any recollection of what they looked like?

A I don't think I took any other risperidone -- of the risperidone, so I think they were full.

Q Now, when you undressed on the street down to your underwear, did you empty your pockets or did what was in your pockets stay in your pockets?

A I don't recall.

Q Now, you had said as well that you were interviewed by a female police officer?

A Yes.

Q All right. And you said you planned this -- is that right -- and you wanted to be deported?

5  
1 A Apparently from those records that's what I said.  
2 I know I said I wanted to be deported, but --  
3 Q Sorry. I just want to know what you remember  
4 saying. So you remember saying you wanted to be  
5 deported?  
6 A Yes.  
7 Q You don't recall saying anything else?  
8 A No.  
9 Q Do you recall ever saying to the police officer  
10 that you had planned these attacks?  
11 A No, I don't.  
12 Q You have no recollection of that?  
13 A No.  
14 Q Had you planned these attacks?  
15 A No, I did not plan these attacks.  
16 Q You talked about having racing thoughts. Were  
17 you still responding to voices when you were at  
18 the jail?  
19 A Yes, I was.  
20 Q Were those voices saying anything to you?  
21 A If it was the typical -- if it was the typical  
22 voi -- voi -- voi -- voices I hear, it is may --  
23 I don't know specifically, so I can't answer that  
24 specifically.  
25 Q And yesterday you told us a lot about how you  
26 would often put the heel of your palm against  
27 your ear --  
28 A Yes.  
29 Q -- and sort of talk into it. Were you doing that  
30 after your arrest?  
31 A Yes, I was.  
32 Q Now, how soon after the attacks did you see  
33 anyone from your family?  
34 A It was in the courtroom -- it was in the  
35 courtroom when I was brought in for the first  
36 hearing and -- and my -- and my -- and my -- and  
37 the court -- court -- and the courtroom was full  
38 and my -- and my mom and my brother were -- were  
39 in the courtroom.  
40 Q So your mom and your brother. Which brother?  
41 A I think Brian.  
42 Q How did you feel about seeing them?  
43 A I -- at that time I didn't care. I was -- I was  
44 in a courtroom just standing there. I -- I had  
45 a -- there was a lawyer there and he was saying  
46 stuff, but I was -- I didn't care they were  
47 there.

6  
1 Q How many days after your arrest was this,  
2 roughly?  
3 A I probably -- the day after? The day after I  
4 think.  
5 Q So within 24 to maybe 48 hours?  
6 A I think so, yes.  
7 Q Were you still suffering from symptoms at that  
8 time?  
9 A Yes, I was.  
10 Q Did you still believe in what you described  
11 yesterday as a conspiracy against you?  
12 A Yes.  
13 Q And you felt your family was in on that?  
14 A Yes.  
15 Q Now, I want to take you to tab 40. And there's  
16 really three pages of documents here, and you'll  
17 see at the top it's a Form 15 *Mental Health Act*  
18 nomination of near relative. Do you see that?  
19 A Yes.  
20 Q Do you know what this form is? Is this your  
21 handwriting?  
22 A Yeah -- yeah -- yeah -- yeah -- yes, it is.  
23 Q Now, I see in the bottom right it's dated in  
24 handwriting the --  
25 A Oh, the part with Mercy Osuteye is not mine.  
26 This handwriting sort of looks lie -- lie -- like  
27 mine, but I don't think it's mine.  
28 Q I see. But the signature, is that yours?  
29 A Yes.  
30 Q It's a signature of patient and it says  
31 "N. Osuteye." That's yours?  
32 A Yes.  
33 Q And to the right of that it says the 15th of May,  
34 2013?  
35 A Yes.  
36 Q And do you recall filling out this form or  
37 signing it?  
38 A Vaguely, yes.  
39 Q So now, this is six months after the events;  
40 right?  
41 A Yeah.  
42 Q Do you recall consenting to nominate your mother  
43 to assist you in these proceedings?  
44 A Yes, I did.  
45 Q And why was that?  
46 A I was returning back to sanity in that I had been  
47 -- in that -- in the jail and the forensic -- in

7  
1 the jail, the -- jay -- jay -- jay -- jail I  
2 stayed, they had began to give me risperidone and  
3 at the Forensic Hospital they gave me  
4 risperidone, so I was on risperidone for about  
5 six months straight after.  
6 MS. KOVACS: My Lord, if I can have that marked as the  
7 next exhibit, Exhibit 19.  
8 THE COURT: Yes.  
9 MR. MEADOWS: Yes.  
10 THE COURT: Exhibit 19.  
11 THE CLERK: Exhibit 19, My Lord.  
12  
13 **EXHIBIT 19: Three-page BC Ministry of**  
14 **Health and Ministry Responsible for Seniors,**  
15 **Form 15 *Mental Health Act*, Nicholas Osuteye,**  
16 **dated 15/05/2013; common book of documents**  
17 **tab 40**  
18  
19 MS. KOVACS:  
20 Q Mr. Osuteye, was your mother supportive of you  
21 during this process?  
22 A Yes, she was. She was amazingly supportive in  
23 that they -- in that her and one of my brothers  
24 would come down and visit once every couple of  
25 weeks while -- while -- while -- while -- once a  
26 month they would fly down or drive down to  
27 Port -- to Port Co -- Port Co -- Port Coquit --  
28 Port Coquit -- quit -- quit -- quit -- quit --  
29 quitlam, and they were absolutely support --  
30 support -- supportive.  
31 Q And Port Coquitlam is where you were incarcerated  
32 at the Forensic Psychiatric Hospital?  
33 A Yes.  
34 Q And you were awaiting your trial?  
35 A Yes.  
36 Q And at some point, though, my understanding is  
37 that you entered into what's called an agreed  
38 statement of facts in the criminal proceedings?  
39 A Yes, I did.  
40 Q All right. And that was with your lawyer?  
41 A Yes, it was.  
42 Q And what was the result of that?  
43 A I -- I went to court and I was presented with an  
44 agreed statement of facts. They just basically  
45 explained and laid out that I did the attacks and  
46 I agreed to that. I signed it and a judge  
47 declared me not criminally responsible. There

8  
1 was no trial.  
2 Q So you were found not criminally responsible due  
3 to mental disorder; right?  
4 A Yes.  
5 Q You weren't set free after that, though?  
6 A No, I wasn't. I was in -- I was returned to  
7 the -- I returned to the forensic psy -- psy --  
8 psy -- psychiatric hospital where I stayed in  
9 Port Coquitlam for about -- until about  
10 October -- September/October 20 -- 20 -- 20 --  
11 20 -- 2014, and then I was -- and then I was  
12 transferred to Alberta hospital in Edmonton in  
13 2014 where I stayed until 20 -- 20 -- 20 -- 2016;  
14 so about three and a half years I was in a  
15 hospital.  
16 Q Three and a half years in hospital?  
17 A Yes.  
18 Q Now, I want to take you to tab 42. Tabs 42 and  
19 43 give us a bit of documentation about what you  
20 just told us. So tab 42 appears to be a British  
21 Columbia review board disposition. You see that  
22 at the top?  
23 A Yes, it is.  
24 Q And it appears to be a two-page document. The  
25 second page looks to be called a Form 49 warrant  
26 of committal. Do you see that?  
27 A Page 2?  
28 Q Yes.  
29 A Yes.  
30 Q So if you look at page 1, it says in the  
31 paragraph -- the first paragraph:  
32  
33 On October 21, 2013, Nicholas Alexander  
34 Osuteye was found not criminally responsible  
35 on account of mental disorder.  
36  
37 So that was the date that that happened?  
38 A Yes.  
39 Q All right. And it says on account of -- on three  
40 counts of attempted to commit murder and one  
41 count of mischief and one count of assault  
42 contrary to -- and they've got the *Criminal Code*  
43 sections.  
44 A Yes.  
45 Q So those were the charges that you faced; is that  
46 right?  
47 A Yes.

9  
1 Q Three counts of attempted murder?  
2 A Yes, it was.  
3 Q And a count of mischief and a count of assault.  
4 Do you know what those were in respect of?  
5 A I think the assault was when I kicked in the car  
6 window, and the mischief I don't know what that  
7 was.  
8 Q All right. And then two paragraphs below --  
9 well, one paragraph below that, it says that  
10 there's been a hearing before the review board on  
11 November 28th of 2013. Do you remember that  
12 hearing?  
13 A Yeah.  
14 Q And below that it says the review board orders  
15 and directs that the accused be detained in  
16 custody and reside in the Forensic Psychiatric  
17 Hospital and subject to a number of conditions.  
18 Do you see that?  
19 A Yes.  
20 Q All right. And then if you look to page 2 which  
21 is the warrant of committal, it looks like four  
22 paragraphs down it says "this is therefore to  
23 commend you in Her Majesty's name" and it gives  
24 the address of the Forensic Psychiatric Hospital  
25 which is 70 Colony Farm Road in Port Coquitlam.  
26 A Yes.  
27 MS. KOVACS: My Lord, if I can have that marked as the  
28 next exhibit, please.  
29 MR. MEADOWS: No objection, My Lord.  
30 THE COURT: That would be Exhibit 20.  
31 THE CLERK: Exhibit 20, My Lord.  
32  
33 **EXHIBIT 20: Two-page British Columbia**  
34 **Review Board reasons for disposition in the**  
35 **matter of Nicholas Alexander Osuteye, taking**  
36 **effect November 28, 2013; common book of**  
37 **documents tab 42**  
38  
39 MS. KOVACS:  
40 Q Mr. Osuteye, we're now going to turn to tab 43,  
41 and this appears to be a British Columbia review  
42 board reasons for disposition?  
43 A Mine's blank.  
44 THE COURT: Counsel, mine is blank.  
45 MS. KOVACS: Oh, they are, of course, because we  
46 haven't filled them yet. One moment, please.  
47 My Lord. Here we go. This is going to be tabs

10  
1 43 and 44. That's 43, and that's 44. Thank you.  
2 THE COURT: Ms. Kovacs, are copies for the record and  
3 myself in those materials?  
4 MS. KOVACS: I think they're actually in that. My  
5 apologies, My Lord.  
6 THE COURT: That's okay.  
7 MS. KOVACS:  
8 Q So we can all have tab 43 in front of us.  
9 Mr. Osuteye, you have that in front of you? It  
10 says "British Columbia Review Board" at the top?  
11 A Yes.  
12 Q And it says, "Reasons for disposition in the  
13 matter of Nicholas Alexander Osuteye"?  
14 A Yeah.  
15 Q And there's a hearing held at the Forensic  
16 Psychiatric Hospital?  
17 A Yes.  
18 Q And you recall that hearing?  
19 A Yes, I do.  
20 Q All right. And there are a number of pages  
21 included, and everybody should have nine pages.  
22 You can see that there are some reasons set out  
23 and a summary of the injuries at paragraphs 3, 4,  
24 5 with respect to the three victims of the  
25 attacks?  
26 A Yes.  
27 Q And then in paragraph 6, it references an agreed  
28 statement of facts. So these details and more  
29 are contained in the agreed statement of facts  
30 filed in provincial court and found in Exhibit 6,  
31 which we don't have, unfortunately, in this  
32 document. And there's a lot blacked out, but at  
33 page 5, paragraph 17 at the top?  
34 A Yeah.  
35 Q It says:  
36  
37 His current diagnosis is schizophrenia-type  
38 disorder, either paranoid schizophrenia or  
39 schizoaffective disorder.  
40  
41 Do you recall being diagnosed with either one or  
42 the other?  
43 A Dr. -- Dr. Diovich [phonetic] -- Di -- Di -- Di  
44 -- he said I had schizoaffective disorder, yes.  
45 Q Is that different than schizophrenia, or do you  
46 understand what --  
47 A Schizoaffective disorder, from what I understand,

11  
1 means you're prone to what's called episodes --  
2 what's called -- of manic behaviour.  
3 Q Manic behaviour?  
4 A Yes.  
5 Q Do you understand what "manic behaviour" is?  
6 A Yes, in a way, yes.  
7 Q Can you explain what your understanding of it is?  
8 A My understanding of manic behaviour is when you  
9 go into, I guess, a psychotic state and you don't  
10 have -- and you have no -- what's it called --  
11 what's it called -- little con -- con -- control  
12 inside and you tend to lash out.  
13 Q And the second part of that paragraph says:  
14  
15 His illness is also associated to substance  
16 abuse which compounds the diagnosis.  
17  
18 What did you understand that to mean?  
19 A That -- I understood that to mean that mari --  
20 that mari -- that mari -- that marijuana -- pot  
21 and street drugs were destabilizing effect on me  
22 and that if I consume -- if I consumed them,  
23 that -- that they would destabilize my mental  
24 state.  
25 Q Aside from the pot that you were smoking prior to  
26 these events, had you done any other street  
27 drugs?  
28 A I had tried crack cocaine in Vancouver, yes.  
29 Q Do you know when?  
30 A Probably the first week or -- first two weeks  
31 when I arrived in Vancouver.  
32 Q Only once?  
33 A Only once.  
34 Q Turn to page 7, paragraph 29. It says the  
35 accused's mother, Mercy Osuteye, attended the  
36 hearing with one of her sons -- her other sons.  
37 So she was there for that hearing?  
38 A Yeah, she was.  
39 Q And at paragraph page 8, it looks like she spoke  
40 at the hearing; is that right?  
41 A Yes.  
42 Q And the bottom paragraph not blacked out. It  
43 says:  
44  
45 After taking into account the criteria --  
46  
47 In a relevant section of the *Criminal Code*.

12  
1 -- we determine that the accused should be  
2 subject to an order detaining him in custody  
3 to be reviewed within 12 months.  
4  
5 A Yes.  
6 Q So you weren't being let out at this stage?  
7 A No.  
8 Q But if you turn over to page 9, the very last  
9 page of this section, it says:  
10  
11 Based on the evidence and the positions of  
12 the parties --  
13  
14 THE COURT: Sorry. There is no page -- there it is.  
15 Sorry. I was looking at the wrong number. My  
16 apologies. Thank you.  
17 MS. KOVACS:  
18 Q -- the board recommends that the accused be  
19 transferred to Alberta at the earliest  
20 appropriate opportunity.  
21  
22 Do you recall the board telling you that?  
23 A Yes.  
24 Q And when did that transfer actually happen?  
25 A That transfer happened in September of 2014.  
26 MS. KOVACS: All right. My Lord, if I can have that  
27 marked as the next exhibit, please.  
28 MR. MEADOWS: No objection, My Lord.  
29 THE COURT: It's Exhibit 21, then.  
30 THE CLERK: Exhibit 21, My Lord.  
31  
32 **EXHIBIT 21: Nine-page BC review board**  
33 **reasons for disposition re Nicholas Osuteye,**  
34 **dated November 28, 2013; common book of**  
35 **documents tab 43**  
36  
37 MS. KOVACS:  
38 Q Mr. Osuteye, we have one more, tab 44. You'll  
39 see the first page is a letter addressed from  
40 you -- or to you dated February 9th, 2016. And  
41 the logo at the top says "Alberta Review Board,  
42 Office of the Chairman." That's the letterhead?  
43 A Yes.  
44 Q So by this point you're in Alberta?  
45 A Yes, I am.

13

1 Q All right. And you were staying where in  
2 Alberta?  
3 A At the Alberta Hospital facility.  
4 Q Can you tell me a little bit about your stay  
5 there?  
6 A My stay there I began on a closed unit. It was  
7 called the maximum unit. I was transferred to  
8 the what's called minimum secure -- secure --  
9 secure -- security unit about three -- three,  
10 four months after. And a few months after that,  
11 I was given un -- I -- I -- I was given  
12 supervised outings out into the commune -- out in  
13 the community. We would go to the -- we would go  
14 to the -- we would go to the library or for  
15 coffee. Or I -- or else I worked in the store  
16 there just for a bit of extra money and I would  
17 go with the staff to go get supplies. I worked  
18 in the car -- in the car wash and recycling place  
19 there where I would sort recycling and I washed  
20 cars. And I also worked in the thrift -- thrift  
21 clothing store where -- where the patients would  
22 get clothes -- clothing donations. And then after  
23 about eight months, I was given un -- I was given  
24 unsupervised outings and I would go to the  
25 library, I'd go to the mall. I might go grab a  
26 coffee, just as I -- just to get out of -- just  
27 to get out of the hospital. I was given at  
28 first -- unsupervised pass to go home and see my  
29 mom. And I would go home and see my mom and stay  
30 overnight, and eventually those were unsupervised  
31 where I would go by -- go by my -- go by myself  
32 all the way to my mom -- mom -- mom's place for a  
33 day or two and then I would come back to the  
34 hospital.  
35 Q Now, page 2 is a notice of a hearing. Do you see  
36 that?  
37 A Yes.  
38 Q And the hearing date was February 18th, 2016?  
39 A Yes.  
40 Q And was held at the Alberta Hospital Edmonton,  
41 Helen Hunley Forensic Pavilion. Is that where  
42 you were staying?  
43 A Yes, it was.  
44 Q And if you turn over to page 3, these appear to  
45 be a letter to the Alberta review board, and it  
46 sets out, first of all, summary of the charges  
47 that you had faced?

14

1 A Yeah.  
2 Q And then it's got a description of the index  
3 offences at the bottom, and it says:  
4  
5 On the 21st of October, 2013, counsel for  
6 the Crown and counsel for the accused  
7 Nicholas Alexander Osuteye agreed to the  
8 following statement of facts.  
9  
10 And then there are a number of pages and  
11 paragraph numbers 1 through 36, in italics. Do  
12 you see that?  
13 A Yeah.  
14 Q Based on your brief review, does that look like  
15 the facts that you agreed to in the criminal  
16 proceedings?  
17 A Yes, it does.  
18 Q And then if we turn to page 7, which is page 5 in  
19 the top right corner, third paragraph down, it  
20 talks about the court process leading to the NCR  
21 finding and since, and it says:  
22  
23 On the 29th day of August, 2014, Nicholas  
24 Alexander Osuteye was transferred in the  
25 province of British Columbia to the province  
26 of Alberta. So that's when the move  
27 happened.  
28  
29 A Yes.  
30 Q So we earlier heard that the decision to move you  
31 back happened in November of the previous year  
32 but took until August to actually move back?  
33 A Yes.  
34 Q And during that period of time did your mom  
35 continue to visit you?  
36 A Yes, she did.  
37 Q Page 10, bottom right corner. It's mostly  
38 blacked out, but there's some information on your  
39 psychiatric medications at that time.  
40 Paliperidone (Sustenna). Do you see that?  
41 A Yeah.  
42 Q And how was that being administered to you?  
43 A Through -- that was an injection.  
44 Q And is that still the same medication you're on  
45 now?  
46 A I'm on pal -- I'm on -- I'm on paliperidone  
47 travesta, I think, now. It's a three -- it's a

15

1 three -- it's a three-month -- three-month  
2 injection. Like, this injection here, what's  
3 called 7 -- 7 -- 75 was -- was -- was a  
4 one -- one -- one-month injection, and the one  
5 I'm on now which -- which -- which -- which began  
6 six months ago is a three-month injection.  
7 Q When's the last time you got the injection?  
8 Sorry.  
9 A Three months ago. I was actually supposed to  
10 get -- get -- get -- get that today, but because  
11 of this trial I called the fax where I go to get  
12 my injection and they said it's fine but just get  
13 -- get -- get -- get -- get the -- get the  
14 injection on Monday before work, and that it  
15 won't make a big difference. It won't make a  
16 difference.  
17 Q Okay. Good. If you can turn to page 11, bottom  
18 right corner. It says:  
19  
20 We are now arranging for him to be  
21 discharged from hospital and moved into his  
22 mother's home.  
23  
24 A M'mm-hmm.  
25 Q And below that it says:  
26  
27 In order to facilitate the transition, the  
28 treatment team met with both his mother and  
29 brother just prior to Christmas.  
30  
31 So I take it there was a lot of planning that  
32 went into your move home?  
33 A They had talked with my family and just explained  
34 to them what -- what they expect, and they talked  
35 with me and explained to me what they expect of  
36 me and that it's like I -- in that I sleep at my  
37 mother's house, I -- I -- it's okay to go out  
38 once in a bit, like, go out to a night --  
39 night -- nightclub with friends and dance, but I  
40 can't consume alcohol, I can't consume drugs,  
41 yeah, and take my medication.  
42 Q And page 12, it says:  
43  
44 Overall, then, the treatment team feels that  
45 Mr. Osuteye is ready for this next step of  
46 approved accommodation in the community and  
47 most likely will do well in that situation.

16

1 Did you feel ready for that next step?  
2 A Yes, I did.  
3 Q How did it feel to go home?  
4 A It felt good. It felt good to be out of the  
5 hospital and to be able to try to put my life  
6 back into a more semblance of normalcy. Not  
7 just -- just not -- not just what's normalcy in  
8 my mental state but what's normalcy in being able  
9 to find work. Being -- being -- being able to  
10 just go -- go out with -- what's it called -- go  
11 out -- go out unescorted -- go out unescorted --  
12 unescort -- unescorted, being able to not to have  
13 to fit -- ride -- a pass -- to have to go to the  
14 mall felt good.  
15 Q And page 13 there's a brief paragraph there that  
16 you had a high level of support from your family.  
17 Did you feel that as well?  
18 A Pardon?  
19 Q Page 13?  
20 A Yes.  
21 Q You had a high level support from your family?  
22 A Yes, I did.  
23 Q And at page 14, which is last paragraph or the  
24 last page, there's some recommendations that  
25 you're also permitted to travel?  
26 A Yes.  
27 Q With some conditions?  
28 A Yes.  
29 MS. KOVACS: All right. My Lord, if I could mark that  
30 as the next exhibit, please.  
31 THE COURT: Yes.  
32 MR. MEADOWS: No objection, My Lord.  
33 THE COURT: Exhibit 21.  
34 THE CLERK: Exhibit 22, My Lord.  
35 THE COURT: 22.  
36  
37  
38 **EXHIBIT 22: 14-page Alberta review board**  
39 **letter to Michael Osuteye re assessment**  
40 **report, dated February 9, 2016; common book**  
41 **of documents tab 44**  
42  
43 MS. KOVACS:  
44 Q Now, Mr. Osuteye, we're going to try not to break  
45 our binders here when we do this, but I'd like  
46 you to flip back to tab 2, please. Can you tell  
47 me what this is?

17  
1 A This is my resume.  
2 Q Have a brief look at it, can you tell me if this  
3 is your most up-to-date resume?  
4 A No, it's not. Since -- since then I have --  
5 since then I have completely did my -- my --  
6 my -- I have completed my -- my master's degree,  
7 and I've enrolled in an MBA program.  
8 Q So you completed a master's degree in what?  
9 A In business education at Athabasca University,  
10 and I've enrolled in an online MBA at E -- at  
11 ENEB school of business.  
12 Q So you're doing online schoolwork and trying to  
13 get another master's?  
14 A Yes.  
15 Q What do you hope to achieve career-wise?  
16 A Pardon?  
17 Q What do you hope to achieve career-wise?  
18 A Right now I'm trying to find a job with a  
19 university or college and that I don't have a --  
20 of -- of -- of -- I don't have -- I don't have a  
21 bachelor's of education, so I can't teach from  
22 elementary to high school. But I'm trying to  
23 find a job with a university -- university or  
24 school in Alberta in terms of their -- in terms  
25 of their admin department; so like -- so like a  
26 program director or a vice -- vice -- vice -- or  
27 work my way up to a vice -- vice -- vice chair.  
28 Right now I'm enrolled in the online training  
29 course to teach ESL through the Catholic school  
30 board and -- yeah.  
31 Q Okay. And are you working?  
32 A Yes. I work at the Army and Navy -- at the Army  
33 and Navy -- Navy -- Navy department --  
34 department store as an office assistant and  
35 customer service.  
36 Q So are you actually working in a store then or in  
37 an office?  
38 A I do both. I was hired on so that my -- so that  
39 the office -- the office -- the office manager  
40 can have the weekends off. So I was working --  
41 working in the office seven days a week and leave  
42 on the floor, but with -- but with the current  
43 restructuring of the store right now, I've been  
44 moved to just to weekends and more floor work.  
45 Q When did you start that job?  
46 A At the end of April 2016. So beginning of May,  
47 just at the end of April.

18  
1 Q So not long after you were discharged from  
2 hospital?  
3 A About -- I was discharged from hospital at the  
4 end of February, I believe, and I began to work  
5 there about a month afterwards.  
6 Q So you've been there now for over three years?  
7 A Yes.  
8 Q Earning a paycheque?  
9 A Yes.  
10 Q Mr. Osuteye, aside from career goals, what are  
11 your present plans for the future?  
12 A My present plans for the future -- fu -- fu -- future  
13 besides career goals and school, to one day  
14 get -- to one day get -- to one day get -- what's  
15 called -- to get married, buy a house, have kids,  
16 travel when I can.  
17 MS. KOVACS: Thank you, Mr. Osuteye. Those are my  
18 questions for you.  
19 THE WITNESS: Okay. Thank you.  
20  
21 **CROSS-EXAMINATION BY MR. MEADOWS:**  
22 Q Good morning, Mr. Osuteye.  
23 A Hello.  
24 Q I realize this is a difficult process, so if you  
25 need to take a break or anything at any time,  
26 just let me know.  
27 A Okay, I will.  
28 Q Okay. So just going over your background just to  
29 make sure that the jury is aware. And I know  
30 that my friend did cover it, so I'll try and go  
31 quickly through those parts that were covered  
32 yesterday.  
33 THE COURT: Let me just ask this question. Can the  
34 jury see the witness? Thank you. I just want to  
35 make sure. I couldn't tell. Thank you. Go  
36 ahead, please.  
37 MR. MEADOWS: All right.  
38 Q So you came to Canada when you were around four  
39 years old; is that right?  
40 A About three and a half, four years old, yes.  
41 Q And you attended kindergarten in Edmonton?  
42 A Yes.  
43 Q So sometime -- and what year was that?  
44 A Oh.  
45 Q '81 or '82?  
46 A About what's called '81 we arrived. About what's  
47 called '81 we arrived and I attended kindergarten

19  
1 about '82, '83.  
2 Q Now, I understand that sometime between your ages  
3 of 10 and 12, sort of around 1987, 1989, you  
4 began to hear voices every now and then and had  
5 some speeding-up thoughts; is that correct?  
6 A I don't recall that, no.  
7 Q You don't recall that?  
8 A No.  
9 Q And you don't recall that they were episodic,  
10 just a few hours at a time but they were just  
11 quiet?  
12 A I know around the age of 10 and 12 I was quite  
13 depressed at times, yes.  
14 Q But you don't recall having quiet voices or  
15 sounds at that time?  
16 A No.  
17 Q All right. Did you tell your mother about your  
18 depression and the thoughts?  
19 A No.  
20 Q You didn't have any problem --  
21 THE COURT: Sorry. I think -- just to be clear, I  
22 think he said he doesn't recall the thoughts. So  
23 the depression he accepted; the other I don't  
24 understand the witness to have accepted, if I  
25 understood the witness correctly.  
26 MR. MEADOWS:  
27 Q So you don't recall that you had some racing  
28 thoughts when you were 10 or 12?  
29 A I don't recall. I may have, but I don't recall.  
30 Q And you had no problems at elementary school or  
31 high school?  
32 A I was bullied a little, and I did have one  
33 suicide attempt when I was younger.  
34 Q And when was that?  
35 A Oh, probably when I was 10 years old.  
36 Q Did you ever tell any of your treating physicians  
37 about that suicide attempt, your later treating  
38 physicians?  
39 A No.  
40 Q Why not?  
41 A Oh, yeah, I think I may have told the physician  
42 at Alberta Hospital, yes.  
43 Q Do you know which physician?  
44 A Dr. Friend.  
45 Q Pardon me?  
46 A Doc -- doc -- doc -- Dr. Friend.  
47 Q Dr. Friend?

20  
1 A And then -- and then -- and then also told  
2 Dr. Riley, I think, when he assessed me at the --  
3 at the jail.  
4 Q So that was after the attack that's at issue in  
5 this lawsuit?  
6 A Yes.  
7 Q You told Dr. Riley about that?  
8 A Yes.  
9 Q But you never told any of your other treating  
10 physicians other than Dr. Friend?  
11 A Not that -- not that -- that -- not that I can  
12 recall, no.  
13 Q Okay. Thank you. During high school you had a  
14 regular social life, you went to parties, you had  
15 friends; is that correct?  
16 A During high school I really didn't go to parties  
17 because I lived quite a ways away from those in  
18 high school -- oh, in high -- in high -- in  
19 high -- in high school. I went to one or two of  
20 the parties here and there, but it wasn't a  
21 regular thing.  
22 Q You had friends, though?  
23 A Yes. Some friends, yes.  
24 Q And at that point you mentioned that you were  
25 stuttering and that you started stuttering early  
26 on; is that correct?  
27 A Yes.  
28 Q Your whole life?  
29 A Yes.  
30 Q And you took some treatment for that in -- you  
31 know, before high school and during high school?  
32 A Before high school and after high school,  
33 university.  
34 Q All right. Now, moving forward quite a bit to  
35 sometime around 2003/2004, or perhaps it was  
36 before that, I understand that in the second year  
37 of your undergrad you started to have racing  
38 thoughts and hearing voices again. That's my  
39 understanding. Is that correct?  
40 THE COURT: Sorry. I'm just not going to accept this.  
41 You say "again." There's no evidence that it  
42 happened once it may come.  
43 MR. MEADOWS: Yes.  
44 THE COURT: So far he hasn't accepted that. So the  
45 inclusion of "again" --  
46 MR. MEADOWS: Yes.  
47 THE COURT: -- is not established; right?

21  
1 MR. MEADOWS: All right.  
2 THE COURT: As I understand it, the witness has  
3 accepted that that might have happened. That  
4 doesn't give rise to a yes.  
5 MR. MEADOWS: All right.  
6 THE COURT: So what you have thus far is no memory of  
7 it, and now you've come to a second stage that  
8 it's quite appropriate to ask about that again.  
9 MR. MEADOWS: All right.  
10 THE COURT: But there's no basis for which to suggest,  
11 as I understand the evidence thus far, that this  
12 is repetitive.  
13 MR. MEADOWS: Okay. All right.  
14 THE COURT: So let's hear the question again, please.  
15 MR. MEADOWS: All right.  
16 Q So in your second year of undergrad, is it true  
17 that you started having racing thoughts?  
18 A It wasn't racing thoughts I would say. It was --  
19 I was sort of depressed because -- because I was  
20 unsure about my speech therapy.  
21 Q You were unsure about your speech therapy?  
22 A Yes.  
23 Q Okay. All right. And did you -- and when you  
24 say you were unsure about your speech therapy,  
25 what did you mean?  
26 A It was just the stress of having to reduce my  
27 rate in front -- in front of others. Despite the  
28 fact I had been in speech therapy before, I was  
29 just unsure on how I sounded.  
30 Q All right. And you felt you were depressed as a  
31 result of that?  
32 A Yes.  
33 Q And did you seek any medical attention for that?  
34 A I think I may have went into the University of  
35 Alberta counselor's office once and broke down  
36 crying and then short -- and then shortly after,  
37 I left.  
38 Q And did that session -- or that feeling of  
39 depression, did that last approximately eight  
40 months?  
41 A It may have, may have, yes. It may have or may  
42 not have.  
43 Q But you were able to keep up with your studies;  
44 is that correct?  
45 A Yes, I was.  
46 Q Okay. 2005 you completed your undergraduate  
47 degree; is that correct?

22  
1 A Yes.  
2 Q All right. And you enrolled in a master's  
3 program at that point?  
4 A That is correct.  
5 Q And you were looking for a government job; that's  
6 what you were hoping to get?  
7 A Yes.  
8 Q And you were living in residence at that point?  
9 A I was living at the -- during my -- during my --  
10 during my -- my -- my degree, I had moved out of  
11 the fraternity house and I was living in a  
12 private house with five other people -- with four  
13 other people.  
14 Q And you joined a fraternity?  
15 A Yes.  
16 Q And you had a good connection with the members?  
17 A Yes, I did.  
18 Q And in fact you were elected as the house  
19 manager; is that correct?  
20 A Yes.  
21 Q And over this time you were working at various  
22 restaurants?  
23 A Yes.  
24 Q But then you started to develop some issues with  
25 sleep; is that fair to say?  
26 A Yes, yes. I was called -- in my -- in my  
27 master's degree, yes.  
28 Q All right. And you also felt that you were under  
29 a lot of stress?  
30 A Yes.  
31 Q And that led you to stop with the master's  
32 degree?  
33 A Yes.  
34 Q So in approximately 2010, you moved home -- 2006?  
35 I'm sorry.  
36 A Yes.  
37 Q And at that point you thought you would get a  
38 job?  
39 A Yes.  
40 Q And you worked at Goodwill for some point?  
41 A Yes, I did.  
42 Q But you preferred to be in the intake portion of  
43 Goodwill rather than dealing with the customers  
44 in front; is that right?  
45 A Yes, I did.  
46 Q And were you also on employment insurance over  
47 this time?

23  
1 A I was on employment insurance -- what is it  
2 called -- after I got let -- let go from the  
3 Goodwill, yes.  
4 Q After you got let go. Okay. Do you remember  
5 when that was?  
6 A Oh, that was right after the good -- that was  
7 right after the Goodwill; so within a month after  
8 the Goodwill.  
9 Q After a month. Okay. And at this point were you  
10 having any problems, that you noticed any  
11 problems with racing thoughts?  
12 A I would sometimes have some -- what's called --  
13 what's called -- some ray -- some ray -- ray --  
14 ray -- racing thoughts and I did feel a bit  
15 par -- paranoid at times, yes.  
16 Q When you say "a bit paranoid," what do you mean  
17 by that?  
18 A Just suspicious of people.  
19 Q And were you suspicious of anyone in particular?  
20 A No one in particular, no. Just in general.  
21 Q And this is before your father died; is that  
22 correct?  
23 A A little bit before, yes.  
24 Q And your father died in 2008?  
25 A Yes, he did.  
26 Q And that was very difficult for you?  
27 A Yes, it was.  
28 Q And did you notice a significant change in your  
29 own health at that point?  
30 A Yes, I did.  
31 Q And I understand that you started sleeping on the  
32 couch at that point; is that right?  
33 A Yes.  
34 Q And did you have any discussions with your mother  
35 or your brothers about your -- the change in your  
36 health?  
37 A They -- they -- they -- they just asked me what I  
38 was doing. If I was talking to myself, I would  
39 say I was singing. They would -- they -- they'd  
40 always ask me -- what's it called -- what's it  
41 called -- what's it called -- if anything was  
42 wrong, stuff like that.  
43 Q Okay. And at times did you explain the talking  
44 to yourself as speaking out loud to help your  
45 stuttering?  
46 A Yes.  
47 Q And is that an explanation you gave to quite a

24  
1 few people?  
2 A Some -- sometimes, yes.  
3 Q And did you, in fact, do that, talk to yourself  
4 to help with your stuttering?  
5 A Once in a while I did, yes, but not often.  
6 Q Now, yesterday we heard about an incident ...  
7 THE COURT: You can go ahead. Thank you.  
8 MR. MEADOWS: All right.  
9 Q We heard about an incident in 2009 where you went  
10 to the airport, and at that point in time you  
11 sort of just went to the airport on a whim; is  
12 that correct?  
13 A Yes, that's true.  
14 Q And your brother ended up picking you up; is that  
15 right?  
16 A Yes.  
17 Q And do you recall that you had been having  
18 difficulties with your mental health prior to  
19 that time?  
20 A Yes.  
21 Q And did your family speak to you about those  
22 concerns?  
23 A I think my bro -- I think my brother man --  
24 man -- managed once to go to the hospital and I  
25 just -- and I just -- and I just walked away  
26 from -- from -- from -- from him.  
27 Q So your brother raised with you that you might be  
28 having problems with your mental health and that  
29 you should go to the hospital; is that correct?  
30 A Yes.  
31 Q But you kept those concerns from your mother?  
32 A Yes.  
33 Q But in actual fact, although you walked away from  
34 your brother, you did actually go to the  
35 hospital; isn't that right, before going to the  
36 airport?  
37 A I don't recall. I may have; I may not have. I  
38 don't recall.  
39 Q Well, if I can ask you to turn to tab 4 of the  
40 binder.  
41 A Yes.  
42 Q This is what we've marked as Exhibit 8. I think  
43 my friend took you to this yesterday?  
44 A M'm-hmm.  
45 Q This is a document from the University of Alberta  
46 and it's an outpatient chart?  
47 A M'm-hmm.

25  
 1 Q And it's dated January 6th, 2009, which I  
 2 understand is the day before you went to the  
 3 airport; is that correct?  
 4 A Yes.  
 5 Q All right. So at that point in time you went to  
 6 the hospital on your own; is that right?  
 7 A Yes.  
 8 Q And do you recall this visit?  
 9 A Not really, no.  
 10 Q Now, just looking at the note, it says that -- in  
 11 the part under "do not write in this area," it  
 12 says "hasn't had a full night's sleep times two  
 13 weeks." And then two lines down from that it  
 14 talks about "high-pitched noises in house and  
 15 can't find source"; is that correct?  
 16 A Yes.  
 17 Q And even further down what is called the doctor's  
 18 note?  
 19 A Yes.  
 20 Q If you go down three lines, there's a zero with a  
 21 slash in it, which I take to be "not," and it  
 22 says "not hearing voices," and then a zero with a  
 23 slash, "not hallucinations"?  
 24 A M'mm-hmm.  
 25 Q But he --  
 26 A Yes.  
 27 Q The doctor had noted that you were hearing a  
 28 high-pitched noise in the house. And then  
 29 further down, the doctor notes:  
 30  
 31 Other people in the house do not hear the  
 32 noise.  
 33  
 34 A Yes, that's accurate.  
 35 Q Okay. So at this point in time you had asked  
 36 other people if they were hearing the noise and  
 37 they didn't?  
 38 A Yes.  
 39 Q All right. And so you realized at that point in  
 40 time you were hearing something that the other  
 41 people were not hearing?  
 42 A That is accurate.  
 43 Q All right. And when you went to the hospital on  
 44 this visit, you were asked a number of questions  
 45 by the doctor about your -- how you were feeling  
 46 and your condition; is that -- or you don't  
 47 remember?

26  
 1 A I don't -- from here on the -- from here on the  
 2 record I see -- I see it's there, but I don't  
 3 recall that hospital visit.  
 4 Q I see. All right. Now, it mentions in this note  
 5 that there is some stress at home at this time.  
 6 Was there some stress at home?  
 7 A No, there wasn't. I -- I don't think there was  
 8 stress at home. I think I was stressed out.  
 9 Q I see. And just for the jury's sake and Your  
 10 Lordship, it's underneath the underlined portion  
 11 where it looks like S/H, it says:  
 12  
 13 Lives in house, lives with mother, brother,  
 14 some stress at home.  
 15  
 16 So that's the note that I'm referring to.  
 17 A M'mm-hmm.  
 18 Q And at the bottom there is a "Plan: Psychiatric  
 19 clinic walk-in." So you do not recall going to  
 20 the hospital and discussing to go back to a  
 21 psychiatric clinic at a later time?  
 22 A No.  
 23 Q And the very next day was the airport incident;  
 24 is that right?  
 25 A Yes.  
 26 Q And in your evidence yesterday you described in  
 27 some detail that incident. So you do have a  
 28 memory of that incident; is that correct?  
 29 A Yes, I do.  
 30 Q All right. And you said that you were -- you had  
 31 racing thoughts and you were agitated and hearing  
 32 voices in your head to leave town; is that  
 33 correct?  
 34 A That's true.  
 35 Q And you said yesterday that you expected there to  
 36 be a ticket at the airport for you; is that  
 37 right?  
 38 A That's true.  
 39 Q So you remember all of that although you don't  
 40 remember going to the hospital the day before?  
 41 A No.  
 42 Q All right. And you recall phoning your mother  
 43 and talking to her about the ticket; is that  
 44 right? That's what you mentioned yesterday?  
 45 A Yes, yes.  
 46 Q And do you have a recollection of that telephone  
 47 call?

27  
 1 A I -- from what I remember I had asked her to give  
 2 money for a plane ticket.  
 3 Q And you remember that telephone call; is that  
 4 right?  
 5 A Yes.  
 6 Q All right. Do you recall that you were asked  
 7 questions under oath at an examination for  
 8 discovery last year, on February 16th, 2018?  
 9 A Yes, I do.  
 10 Q All right. And you recalled that you were asked  
 11 questions under oath that day?  
 12 A Yes, I was asked under oath.  
 13 Q Okay.  
 14 MR. MEADOWS: My Lord, I was planning to hand up the  
 15 transcript of the examination for discovery, and  
 16 I have the original copy here and a copy but it  
 17 unfortunately doesn't have the covers. And then  
 18 I have copies for each of the members of the  
 19 jury. Now, it's my intention to mark it for  
 20 identification only, but I'm in your hands as to  
 21 whether or not that's something that should only  
 22 be in their possession during the actual  
 23 cross-examination.  
 24 THE COURT: Well, I think it's something we should  
 25 talk about. Let me just say this to the jury and  
 26 I'll speak to counsel later. You may remember a  
 27 day or two when I talked to you about what you  
 28 might hear and the kinds of evidence you might  
 29 hear. I mentioned to you there's a process by  
 30 which witnesses can be examined in advance of  
 31 trial, their evidence is obtained, and that can  
 32 be used in different ways by lawyers. But I will  
 33 explain that again when I give you further  
 34 instructions. One of the difficulties, though,  
 35 is that the manner in which those transcripts are  
 36 used is prescribed. The parts that are used are  
 37 the only parts that really I could look at and  
 38 that you could look at as the trier of fact, not  
 39 the whole of the transcript. Sometimes there are  
 40 issues about context, I'm not saying this about  
 41 Mr. Meadows, but a question could be asked when  
 42 there's issues about transcript -- about context  
 43 what should come before, what comes after, what  
 44 should be included to make all of that clear.  
 45 And I think until we speak further, I'm reluctant  
 46 to give the jury the whole of the transcript  
 47 because, for example, again, in a trial, I would

28  
 1 never look at the whole of the transcript. My  
 2 own review would be limited to those very few  
 3 parts that my attention had been drawn to, and I  
 4 want to ensure that there's no room for error in  
 5 that process. So it's 5 past 11:00, why don't we  
 6 break. Why don't we have that conversation,  
 7 that's the issue we'll discuss and we'll figure  
 8 out best how to go about it.  
 9  
 10 (JURY OUT)  
 11  
 12 THE COURT: All right. Mr. Osuteye, you, and I said  
 13 the same thing to your mom and I'll say the same  
 14 thing to all the witness, you're now being  
 15 cross-examined.  
 16 THE WITNESS: Yes.  
 17 THE COURT: And during that process while you're being  
 18 cross-examined, likely for the balance of the  
 19 day, you can't speak to anyone about this  
 20 trial --  
 21 THE WITNESS: Got you.  
 22 THE COURT: -- or your evidence. So, you know, during  
 23 a break or during lunch if it's easier to be on  
 24 your own, great; if you do have lunch with  
 25 someone, you're welcome to talk about the weather  
 26 or sports but you can't talk about this case.  
 27 Okay?  
 28 THE WITNESS: I understand, My Lord.  
 29 THE COURT: Perfect. And you're excused, then, while  
 30 I talk to the lawyers.  
 31 THE WITNESS: How -- what time should I come back?  
 32 THE COURT: I think in about 15 or 20 -- 15 minutes,  
 33 let's say.  
 34 THE WITNESS: 15 minutes? Okay.  
 35 THE COURT: Yes.  
 36  
 37 (STOOD DOWN)  
 38  
 39 THE COURT: All right. So what were you proposing and  
 40 what is the purpose of this? I mean, I'm just  
 41 trying to figure out how we'll do this  
 42 mechanically. Because I do have a concern about  
 43 people flipping through the transcript and I have  
 44 some reluctance to just give them the transcript  
 45 at large. Now, you were saying we might do it  
 46 for the purposes of the cross and then take it  
 47 back. And so, again, I just don't know how



29

1 extensive your intended use is, you don't either,  
2 because we'll have to see what evidence ensues.  
3 MR. MEADOWS: My Lord, I have to say that I haven't  
4 done this before in front of a jury, so I'm not  
5 certain whether or not to give them the  
6 transcript. I'm content to not give them the  
7 transcript if Your Lordship thinks that that's  
8 fine, and just impeach the witness using the  
9 document with you -- Your Lordship having a copy  
10 of it. If it comes up that way. The only  
11 problem, of course, with having only sections of  
12 the transcript taken out is I don't know when I  
13 would be using it and --  
14 THE COURT: No, I'm not suggesting that. And again,  
15 you know, if it's one or two instances over the  
16 course of the day, I don't really have a problem  
17 with the charge dealing with those limited  
18 instances of the evidence, because part of it  
19 will be just explanatory. You know, there's  
20 different kinds of evidence, circumstantial,  
21 direct, some will be from the transcripts you  
22 will recall, and then I would give an example, if  
23 this is likely to take place a number of times.  
24 And again, you may have a better sense than I do  
25 based on the evidence you heard yesterday and  
26 what you expect that I'm not likely to capture  
27 every one of those instances, and it would be  
28 more for you in argument to address those  
29 matters.  
30 MR. MEADOWS: I suspect there will be a few, it won't  
31 just be a single occasion.  
32 THE COURT: Right. Do you have anything to say,  
33 Ms. Kovacs -- I will express some reservation. I  
34 normally would not provide a transcript to a  
35 jury, I wouldn't do that for the reasons that  
36 I've described. And, you know, that evidence is  
37 no different than any other evidence. They don't  
38 have an ongoing record of what's being said if  
39 they're not being provided with these  
40 transcripts. So the fact that you put a question  
41 to the witness arising from discovery provided  
42 with the questions and answers he gave is  
43 something they'll hear and if they think it  
44 probative, they can make a note. And as I said,  
45 if the instances are limited, I expect I can  
46 capture them if they're more comprehensive and  
47 you deal with that in your submissions. But I

30

1 wouldn't provide the whole of the transcript to  
2 the jury in any event. I'm just not comfortable  
3 with doing that unless your friend, for some  
4 reason, suggests that she doesn't like mine.  
5 MS. KOVACS: No. My position, My Lord, is that the  
6 whole of the transcript should not go before the  
7 jury. When the witness is impeached, and we  
8 don't know how many times he's going to be  
9 impeached if he's inconsistent with his evidence  
10 from discovery, but that is going to be read into  
11 the transcript. And I think, you know, at the  
12 end of the day, if there are a number of  
13 impeachments, my friend can probably prepare a  
14 list of those impeachments for you and highlight  
15 those for you, but they're also going to be in  
16 the transcript. So I don't think it's  
17 appropriate that the jury be given the  
18 transcript.  
19 THE COURT: I'm not worried about my own ability to  
20 follow things, but I think the risks of a jury  
21 tempted to peruse that transcript, even with a  
22 caution, outweigh the benefits of it. There's  
23 just no reason to provide them with the whole of  
24 the transcript.  
25 MR. MEADOWS: I'm content with that, My Lord. I  
26 brought the transcripts out of an abundance of  
27 caution just to make sure that the jury had what  
28 I was looking at as well in case they had some  
29 concerns about the process.  
30 THE COURT: A couple of things. One, I'm completely  
31 comfortable you'll be faithful to the transcript;  
32 two, if you're not, I will address that. But I  
33 don't think we have to be concerned about that.  
34 I'm not.  
35 MR. MEADOWS: All right.  
36 THE COURT: And as I said, I think depending on the  
37 frequency of those things and the breadth of  
38 them, again, if you read 20 pages of transcript,  
39 if there's a sequence, maybe that would be a  
40 little bit different and harder to follow, but to  
41 the extent your uses of the transcript are  
42 modest, and the instances are finite in terms of  
43 the length and nature of the exchanges, I think  
44 the jury can follow that. All right. So let's  
45 do that at the break.  
46 THE CLERK: Order in court. Court is adjourned for  
47 the morning break.

31

1  
2 **(PROCEEDINGS RECESSED AT 11:09 A.M.)**  
3 **(PROCEEDINGS RECONVENED AT 11:27 A.M.)**  
4  
5 THE CLERK: Order in court.  
6  
7 NICHOLAS OSUTEYE,  
8 recalled.  
9  
10 THE BAILIFF: The jury, My Lord.  
11  
12 **(JURY IN)**  
13  
14 **CROSS-EXAMINATION BY MR. MEADOWS:(Cont.)**  
15 Q My Lord, back to the matters at hand, and we've  
16 agreed not to provide the jury with a copy of the  
17 transcript and I will carry on with my  
18 impeachment just with the witness directly.  
19 Could I ask you to -- and the question at  
20 issue was whether or not you recalled calling  
21 your mother and the conversation that you had  
22 with your mother. Could I ask you to turn to  
23 page 43 in the transcript.  
24 A M'mm-hmm.  
25 Q And I'm going to ask you -- I'm going to read out  
26 some of the questions and answers from this  
27 transcript starting at question 234:  
28  
29 Q And can you tell us about what you did when  
30 you wanted to go somewhere. Do you remember  
31 going to the airport?  
32 A Yes, I remember going to the airport, and I  
33 realized I had no money, and I called my  
34 mother.  
35 Q And do you have any recollection of what  
36 your conversation with your mother was like  
37 that day?  
38 A I really don't remember the conversation,  
39 no.  
40 Were you asked those questions?  
41 A Yes, I was.  
42 Q Okay. And you gave those answers?  
43 A Yes.  
44 Q And was that evidence true at that time?  
45 A Yes, at that time it was true, but since then  
46 I've had time to reflect on just -- on just

32

1 what -- what -- on just what occurred.  
2 I see. So since you were asked questions last  
3 year, your memory has improved because of your  
4 dealing with the lawsuit; is that correct?  
5 A Well, since I've had time to reflect on my  
6 answers, yes.  
7 Q All right. Thank you.  
8 MR. MEADOWS: My Lord, we have another matter, and  
9 this is to do with a separate document that we  
10 have spoken to our friend -- my friend about that  
11 we would like to add to the binder, and we are  
12 going to hand it up at this point. And the  
13 purpose of this is it's a prior inconsistent  
14 statement. So I don't know if you wanted to talk  
15 with us about the document without the jury  
16 present or not. I leave it in your hands.  
17 THE COURT: I don't know what's coming.  
18 MR. MEADOWS: I see. Fair enough. What the document  
19 is it's --  
20 THE COURT: Let me see it, please.  
21 MR. MEADOWS: Okay. I'll hand the copy up. And it's  
22 paragraph 10 and 11.  
23 THE COURT: We do have to talk about this.  
24 MR. MEADOWS: All right.  
25  
26 **(JURY OUT)**  
27  
28 THE COURT: Mr. Osuteye, because of the nature of the  
29 issues, it's probably best if you step out as  
30 well.  
31 THE WITNESS: Okay.  
32 THE COURT: If you just wait outside.  
33 THE WITNESS: Yes, My Lord.  
34 THE COURT: Just wait outside, and when we're done,  
35 the lawyers will come get you. Thank you, sir.  
36  
37 **(STOOD DOWN)**  
38  
39 THE COURT: All right. So I don't know what you  
40 agreed to with your friend, but it's not a prior  
41 inconsistent statement in the usual sense. It's  
42 not evidence given under oath. It's not a  
43 statement that's been provided. It's the  
44 third-party record of what someone else has said  
45 or is reporting on what was said to them by the  
46 witness.  
47 MR. MEADOWS: The document agreement I believe is an

33

1 agreement that what is recorded is what was  
2 recorded, not the truth of the matter. So I was  
3 going to put it to the witness that he did say  
4 that to the doctor and see if it refreshes his  
5 memory. Now, if the witness's evidence is "I did  
6 say that but it's not true" --  
7 THE COURT: When he says "I don't recall," that's what  
8 he said so far.  
9 MR. MEADOWS: That's right.  
10 THE COURT: What do you say?  
11 MS. KOVACS: My Lord, I briefly considered this on the  
12 break, and generally what my friend proposed to  
13 me, I wasn't opposed to the fact of the report  
14 going in, you know, and I'm not objecting to its  
15 authenticity, but when it comes to a prior  
16 inconsistent statement, my concern is that it  
17 isn't a signed statement and this is his  
18 recording of what he elicited from Mr. Osuteye.  
19 The document agreement we can revisit, I guess,  
20 the contents of it in terms of what it covers.  
21 And certainly, you know, when it comes to medical  
22 records, I mean, we certainly have been able to  
23 put medical records to the witness and suggest  
24 that certain events and third-party information  
25 as recorded has been admissible in that way.  
26 Now, I'm not particularly concerned about this  
27 document, but overall in terms of the evidentiary  
28 issues, I am --  
29 THE COURT: Well, I guess there's a couple of  
30 questions too. I mean, one is whether you use  
31 the document in the way that you propose. The  
32 second is whether it's entered as an exhibit at  
33 trial. I mean, I don't know that it necessarily  
34 has to go into the record if he says, no, I don't  
35 recall. I don't know what value it serves.  
36 MR. MEADOWS: That was my intention, My Lord, was to  
37 ask him if it refreshed his memory. And if it  
38 did refresh his memory, then, to mark it; if it  
39 did not refresh his memory, then, to leave it.  
40 THE COURT: All right. And what about, again, the  
41 balance of this document? And I'm not seeing it.  
42 I don't know if your friend is concerned. I'm  
43 not trying to make issues; I just want to make  
44 sure we've covered off everything of like mind,  
45 because to the extent you want to focus on the  
46 paragraph in question, I don't understand your  
47 friend to be objecting to that in a limited way

34

1 that you described, and I don't know what the  
2 rest of this will say, right? So --  
3 MR. MEADOWS: Most of the document is redacted.  
4 MS. KOVACS: Yes. And I don't know what's been  
5 redacted. I'm assuming an opinion.  
6 MR. REID: Yes.  
7 MS. KOVACS: I don't know that it's helpful to put all  
8 of it into evidence.  
9 THE COURT: You know, it just strikes me that, again,  
10 if you put this document to him and he says I  
11 have no memory, we're agreed that there's no  
12 value to it. If he says I do agree, I do  
13 remember, then you have that admission; it's not  
14 advanced by the document proper. I just don't  
15 know why it would be necessary. You have the  
16 admission that you want; he'd say I remember it.  
17 And, you know, you're focusing on one line out of  
18 a longer document, and thus far, you know, your  
19 friend in her direct went to documents, not all  
20 of them, but I didn't understand there to be a  
21 concern of the jury looking for that which wasn't  
22 referenced. Here I'm not sure that that's the  
23 case.  
24 MR. MEADOWS: Yes, My Lord. I'm satisfied with that.  
25 Perhaps may I suggest that I read out the portion  
26 that I'm asking him if it, you know, refers to  
27 him, so there is a record of what it is that I've  
28 read out. And that would be paragraphs 10 and  
29 11. Because I'm not that -- and I would like to  
30 ask the witness if he recalls speaking to this  
31 individual on this date. And I really only need  
32 the first half of paragraph 11 -- the first few  
33 sentences. First sentence there and then perhaps  
34 part of the middle of paragraph 10 or up to  
35 the --  
36 THE COURT: Well, I don't know, again, that that's  
37 right, because, you know, this covers a period of  
38 time from when he's 10 years old through to when  
39 he leaves his graduate program in his mid 20s.  
40 It covers multiple sentences. So if you read  
41 that all to him and say did you say that, would  
42 you agree that, when you already have much of  
43 that.  
44 MR. MEADOWS: Okay. Well, I can put the --  
45 THE COURT: So the issue of your focus, as I  
46 understood it, is this issue in the first part of  
47 paragraph 10, first line or two, that's where

35

1 thus far he's not had a memory and that's what  
2 you want to refresh his memory on.  
3 MR. MEADOWS: There's three separate things here, but  
4 yes, I would say I could read to him the first  
5 two sentences of paragraph 10 -- or three  
6 sentences, I guess, because they were episodic,  
7 which is what I had asked him and he didn't  
8 remember, and then see what he says and see if it  
9 refreshes that. And then the two sentences of  
10 paragraph 11 -- first two sentences.  
11 MS. KOVACS: My Lord, just so I can be clear on my  
12 position, I don't have an objection to my friend  
13 using these sentences to refresh the witness's  
14 memory, but I don't think it actually is reliable  
15 to be a prior inconsistent statement if that's  
16 the purpose for which it's being put to him.  
17 MR. MEADOWS: Understood. I understand that.  
18 THE COURT: I agree with that, and that was my initial  
19 concern when I saw what the document was. All  
20 right. I think that's not inappropriate. When I  
21 look at the notes as it relates to the first  
22 issue that happened when he was 10 or 12, he had  
23 no memory as it relates to what happened in the  
24 second undergraduate year. Looking at the notes,  
25 which is not as good as the transcript, my notes  
26 say, yeah, he accepts that that may not have  
27 happened or not.  
28 MR. MEADOWS: He had depression I think is what he  
29 had -- yeah.  
30 THE COURT: Yeah. And what I have is what you have --  
31 lasted eight months of depression, may have, may  
32 not have. And you kept up with your studies;  
33 yes, I did. And so on. So I don't have a  
34 concern with you doing either of those things,  
35 but I would do them separately, break it up, so  
36 it's not confusing to the witness.  
37 MR. MEADOWS: Yes.  
38 THE COURT: And we'll move forward in that way. Let's  
39 get both the witness back, please, and the jury.  
40 Let's get the witness if we can.

NICHOLAS OSUTEYE,  
recalled.

THE BAILIFF: The jury, My Lord.

(JURY IN)

36

1 MR. MEADOWS: My Lord, as discussed, I would like to  
2 hand to the witness a document dated April 26th,  
3 2013, with a Dr. Mark Riley at the top of the  
4 document.

**CROSS-EXAMINATION BY MR. MEADOWS:(Cont.)**

7 Q Mr. Osuteye, do you recall speaking with  
8 Dr. Riley?  
9 A Yes, I do.  
10 Q All right. And you spoke with him in or about  
11 April of 2013; is that correct?  
12 A I guess so, yes.  
13 Q And that was when you were -- it was after the  
14 incident and you were under treatment; is that  
15 correct?  
16 A Yes, it was.  
17 Q All right. Thank you.  
18 THE COURT: So let me just say this to the jury too so  
19 there's no confusion about what's about to  
20 appear. This is not a document that Mr. Osuteye  
21 signed. It's not a statement that he gave or  
22 anything of the sort. It's a report from the  
23 doctor, and the doctor reports on a conversation.  
24 The limited purpose for which the document is  
25 going to be used is to refresh Mr. Osuteye's  
26 memory just to see if he now remembers with the  
27 assistance of this document, but it's not a  
28 document that can be used as the discovery was to  
29 impugn his credibility or to challenge what is  
30 being said. Okay? All right.  
31 MR. MEADOWS:  
32 Q So, Mr. Osuteye, could I ask you to turn to  
33 paragraph 10. And I will read out a few  
34 sentences because I am just going to check to see  
35 whether or not this refreshes your memory. It  
36 says:  
37

When I first met with Mr. Osuteye, he told  
me that he did not believe that he suffered  
from a mental illness and that he had been  
misdiagnosed with schizophrenia in the past.  
However, he also reported a long history of  
symptoms that are typically associated with  
major mental illnesses. He advised me that  
sometime between the ages of 10 and 12 he  
began hearing voices as well as experiencing

37

1 speeded-up thoughts. These were initially  
2 episodic and lasted for no more than a few  
3 hours at a time.  
4  
5 Now, does that statement -- does that refresh  
6 your memory at all?  
7 A If it's in here, then I probably made those  
8 statements, yes.  
9 Q Okay. But I'm just asking you: Does it refresh  
10 your memory as to whether or not you started to  
11 have sped-up thoughts and hearing voices as early  
12 as 10 or 12?  
13 THE COURT: So let me help you again, Mr. Osuteye.  
14 THE WITNESS: Okay.  
15 THE COURT: If I can just assist you. What counsel is  
16 trying to do with this document is sometimes when  
17 you read something, you go, oh, I remember now;  
18 oh, that helps me; I do recall it. And that's  
19 what counsel is asking you about. He's not  
20 questioning whether you said this or whether  
21 you're challenged. He's using the document to  
22 assist you with your memory, because when he  
23 asked you earlier you said, I don't really  
24 remember that. And it's in that limited sense  
25 that he's seeking to provide you with something  
26 written by a third party where you're purported  
27 to have said something and he's using it for the  
28 purpose, as I've said, of providing you with some  
29 assistance, and I just wanted you to understand  
30 that. So you're saying "if it says that, I  
31 probably said that" isn't really what we're  
32 seeking to ascertain. What counsel wants is an  
33 independent memory from you potentially assisted  
34 by this document.  
35 THE WITNESS: The answer is no, then.  
36 MR. MEADOWS:  
37 Q No. So you don't recall when you were eight to  
38 ten that you had speeded-up thoughts?  
39 A No.  
40 Q And you don't recall that they were episodic and  
41 lasted for no more than a few hours at a time?  
42 A No.  
43 Q All right. And just moving to paragraph 11 once  
44 again, as His Lordship mentioned, I will read a  
45 portion of it and ask if that triggers any  
46 recollection on your part, refreshes your memory.  
47 It's paragraph 11:

38

1 However, Mr. Osuteye reported that his  
2 racing thoughts and hearing voices first  
3 became much more difficult to cope with  
4 during his second undergraduate year at the  
5 University of Alberta. Although that  
6 episode lasted for between six and eight  
7 months, he said that he was able to keep up  
8 with his studies and that he did not tell  
9 anyone what was happening and he did not  
10 seek any help.  
11  
12 Does that statement refresh your memory with  
13 respect to hearing voices and having speeded-up  
14 thoughts in your second year of undergrad?  
15 A Yes, it does.  
16 Q All right. And so that is the case that you were  
17 experiencing that at that time?  
18 A Yes.  
19 Q All right. Thank you. Just returning to the  
20 more chronological narrative. We had left off at  
21 the airport, the incident at the airport, and at  
22 that point in time you just wanted to go  
23 somewhere; is that right?  
24 A That is accurate.  
25 Q Right. And I see in the records that it was  
26 mentioned that you wanted to go to Calgary, but  
27 is that the case? Do you remember that you  
28 wanted to go to Calgary?  
29 A I wanted to go some -- somewhere. I just don't  
30 recall where.  
31 Q I see. Okay. And then you recall that at some  
32 point you mentioned that you had a headache and  
33 that you wanted to go to the hospital; is that  
34 right?  
35 A I don't recall that, no.  
36 Q Okay. All right. You were then taken to Grey  
37 Nuns Hospital?  
38 A Yes, that is accurate.  
39 Q All right. And if I can take you -- we do have  
40 some records relating to that admission and we  
41 went through them a little bit yesterday, and  
42 they are at tab 4, and they were marked as  
43 Exhibit 8. And if I can ask you to turn to page  
44 2 as numbered at the bottom, page 2 of tab 4?  
45 A Page 2 of tab 4. Yes.  
46 Q All right. Under the heading "Do Not Write in

39

1 This Area," there's sort of a big area in the  
2 middle and then there's sort of nurse's notes  
3 where it talks about you were brought in by your  
4 mother. We heard about that yesterday. And you  
5 met your mother at the hospital; is that correct?  
6 A Yes, that is accurate.  
7 Q All right. So after that, it says:  
8  
9 Went to airport today to buy a ticket to  
10 Calgary to see a --  
11  
12 And I think that's a doctor, but -- and then it  
13 says:  
14  
15 PT --  
16  
17 Which I take to be "patient."  
18  
19 -- denies suicidal thoughts. Planning to go  
20 to a walk-in clinic.  
21  
22 And then underneath it says "but S," and I take  
23 that to be an X, but I don't know if that's true,  
24 but "symptoms worsened." Do you recall having a  
25 discussion with the nurse at this point in time  
26 that you had actually planned to go to a walk-in  
27 clinic?  
28 A No, I don't recall that conversation.  
29 Q And that's what had been proposed to you the day  
30 before?  
31 A Yes.  
32 Q And when it says "SX," which I take to be  
33 symptoms worsened, do you have any idea what they  
34 meant by "symptoms" at that point?  
35 A No, I don't think I did.  
36 Q Thank you. And at this point in time were you  
37 hearing voices or were you only hearing  
38 high-pitched noises? Do you recall?  
39 A I think I may have been hearing voi -- voi --  
40 voices at this time, maybe.  
41 Q And did you tell the doctors that?  
42 A I don't think I did, no.  
43 Q And why is that?  
44 A I would tend to minimize my -- my -- my -- my --  
45 I would tend to what's called minimize my  
46 symptoms with doctors.  
47 Q Even on your -- the first time that you've gone

40

1 to the hospital?  
2 A Yes.  
3 Q All right. And you told him that you had no  
4 delusional ideas?  
5 A That's true.  
6 Q And they asked you questions about that?  
7 A I assume so, yes.  
8 THE COURT: "First time," you mean the day before? Is  
9 that what you're asking?  
10 MR. MEADOWS: No.  
11 Q I'm talking about the first admission to a  
12 hospital for a mental illness.  
13 A I had no delusional ideas, yes.  
14 Q You had no delusional ideas. Do you recall the  
15 physician that you spoke with asking you  
16 questions about whether you planned to hurt  
17 yourself or hurt other people?  
18 A The doctors typically ask that, yes.  
19 Q They typically asked that. And your typical  
20 answer would be no; is that correct?  
21 A No, yes.  
22 Q And this was your first admission to a hospital  
23 for a psychiatric diagnosis; is that correct?  
24 A Yes, that is accurate.  
25 Q Now, I see at the time that you noted that you  
26 had -- it's noted that you had a severe stutter.  
27 Did you tend to stutter more when you were  
28 nervous? Is that something that would make your  
29 stutter worse?  
30 A No.  
31 Q No?  
32 A No, it just depends. If I'm doing a pre -- a  
33 presentation and I'm nervous, it might become  
34 worse, but it typically comes and goes.  
35 Q I see. And at this point you understood that you  
36 could not leave the hospital when you were at  
37 Grey Nuns; is that correct?  
38 A Yes, I understood that.  
39 Q And you found it to be traumatic; is that  
40 correct?  
41 A I found it to be very unsettling, yes.  
42 Q And you questioned why they had a right to hold  
43 you; is that correct?  
44 A Yes.  
45 Q And do you recall that they prescribed  
46 risperidone for you at that time?  
47 A Yes.

41  
 1 Q And it was to be taken at bedtime?  
 2 A That is accurate.  
 3 Q And is that the typical prescription for  
 4 risperidone to take at bedtime?  
 5 A That is accurate.  
 6 Q And it did actually help you sleep; is that  
 7 right?  
 8 A Yes, it did.  
 9 Q Do you recall telling the physician at Grey Nuns  
 10 that the risperidone helped your thinking and  
 11 that you would continue using it?  
 12 A Yes, I did.  
 13 Q And do you recall telling the physician at Grey  
 14 Nuns that you would actually attend for  
 15 psychiatric follow-up?  
 16 A Yes.  
 17 Q And at that point in time did you think you  
 18 needed to return for psychiatric follow-up?  
 19 A No.  
 20 Q And you did not think that you were suffering  
 21 from a mental illness; is that right?  
 22 A No, I did not.  
 23 Q How did you end up being released from the  
 24 hospital on that occasion?  
 25 A They -- they decertified -- they decertified me  
 26 and I was released home.  
 27 Q Did they decertify you -- did you have a review  
 28 board hearing?  
 29 A No, I did not have a review board hearing. I  
 30 know I called -- a few of the law firms trying to  
 31 get a lawyer, and a lawyer came.  
 32 Q So you were able to determine that that was  
 33 something that was available to you?  
 34 A Yes.  
 35 Q And you did take some steps to work towards a  
 36 review board hearing?  
 37 A I think I did. I signed a piece of paper and  
 38 then she left.  
 39 Q Now, did you continue taking the risperidone once  
 40 you were discharged?  
 41 A For a little bit after, but then I stopped.  
 42 Q And you didn't think you needed it; is that  
 43 correct?  
 44 A No.  
 45 Q You --  
 46 A No. That -- that -- that -- that's correct.  
 47 Q Right. You didn't think you needed it. And you

42  
 1 thought that the problems were related to  
 2 stressful events; is that correct?  
 3 A I thought it was stress and anxiety, yes.  
 4 Q Now, yesterday when you were giving evidence  
 5 about this, you -- I think you mentioned that you  
 6 thought that there was a conspiracy and that the  
 7 doctors were trying to drug you even at this  
 8 time?  
 9 A Yes.  
 10 Q All right. But in actual fact you thought that  
 11 the pills were just being prescribed by a doctor  
 12 who didn't understand who you were or what you  
 13 were going through?  
 14 A I thought they were being prescribed by a doctor  
 15 for no reason.  
 16 Q For no reason. A doctor who didn't understand  
 17 who you were or what you were going through; is  
 18 that right?  
 19 A I guess you could say that's probably accurate,  
 20 yes.  
 21 Q Now, your mom would remind you to take your  
 22 medication; is that correct?  
 23 A Yeah, she would.  
 24 Q But I think we heard yesterday that you would not  
 25 take the pills and would either throw them in the  
 26 garbage or flush them down the toilet; is that  
 27 right?  
 28 A I washed them down the sink or flushed them in  
 29 the toilet, yes. I didn't throw them in the  
 30 garbage.  
 31 Q Oh, I see. Okay, yes. They might be found?  
 32 A Yes.  
 33 Q Right. Right. Now, it's my understanding that  
 34 you sort of had a practice over the time from  
 35 about this date, 2009, up until the time of the  
 36 attacks, of going on your medication and then off  
 37 your medication; is that fair to say?  
 38 A That is accurate.  
 39 Q And that was essentially your standard practice?  
 40 A That was accurate.  
 41 Q So that's for almost four years that was  
 42 essentially how you lived; you went on the  
 43 medication and then you went off the medication?  
 44 A That's accurate.  
 45 Q Now, this pattern was that -- in my understanding  
 46 is that you would -- if you started to feel  
 47 symptoms such as you heard voices or you had

43  
 1 sped-up thoughts and they became too bothersome,  
 2 that you would start taking risperidone; is that  
 3 correct?  
 4 A That is accurate.  
 5 Q All right. And then after a week or two, the  
 6 symptoms would diminish and you would stop taking  
 7 them?  
 8 A That is accurate.  
 9 Q And the risperidone did help you with your  
 10 symptoms, though; is that right? It would  
 11 diminish the sped-up thoughts and would diminish  
 12 the sounds and the auditory hallucinations?  
 13 A The risperidone would -- would make the symptoms  
 14 go away or until they were manageable and then I  
 15 would stop taking the risperidone.  
 16 Q So when you say "more manageable," sometimes when  
 17 you're taking the risperidone you still had the  
 18 symptoms but they were just more manageable?  
 19 A That's true.  
 20 Q And then once you stopped taking the risperidone,  
 21 when you made that decision to stop taking the  
 22 risperidone, you knew that the symptoms would  
 23 return again at some point; is that right?  
 24 A I didn't -- I didn't have the insight -- that is  
 25 correct, but I didn't have the insight to  
 26 understand that they would keep coming back if I  
 27 wasn't on my medication.  
 28 Q But you did understand that if you stopped taking  
 29 the pills, the symptoms would come back; that's  
 30 correct?  
 31 A Yes, that's correct.  
 32 Q All right. And taking the risperidone, it wasn't  
 33 like the first time --  
 34 THE COURT: Just so I can understand. I'm sorry. I  
 35 didn't quite understand, Mr. Osuteye. I  
 36 apologize for interrupting Mr. Meadows or  
 37 yourself, but the first answer you gave was I  
 38 didn't have the insight to understand if I  
 39 stopped taking the medication it would come back.  
 40 And then Mr. Meadows asked you again, you did  
 41 understand that if you stopped taking pills, the  
 42 symptoms would come back. And I'm just trying to  
 43 understand those two answers. Were you mistaken  
 44 the first time and you're accepting what was  
 45 being said or -- just explain that so I capture  
 46 it accurately, please.  
 47 THE WITNESS: To clarify, I didn't have the insight at

44  
 1 the time that this was a long-term chronic  
 2 condition that I needed medication to manage it.  
 3 MR. MEADOWS: Right.  
 4 Q You didn't -- you didn't think that that was the  
 5 case, but in actual practice, like, in your life  
 6 at the time, you knew you would take the  
 7 medication for a few weeks and the symptoms would  
 8 diminish and go away; you knew that they would  
 9 return eventually and you would have to take the  
 10 medication again; is that correct?  
 11 A That is correct.  
 12 Q Now, you didn't like being on risperidone; is  
 13 that correct?  
 14 A That is accurate.  
 15 Q And that's why you went off the medication when  
 16 you could; is that correct?  
 17 A That is accurate.  
 18 Q And I think we heard something about the side  
 19 effects from the medication yesterday. It would  
 20 make you have muscle stiffness?  
 21 A That is accurate.  
 22 Q And perhaps clear your thoughts too much; is that  
 23 right?  
 24 A That is accurate.  
 25 Q All right. Now, I think between around 2009 and  
 26 the date of the attacks, you went off and on your  
 27 risperidone 20 times or more; is that correct?  
 28 A That is accurate, yes. At least 20 times or  
 29 more, yes.  
 30 Q Did you tell the physicians that that was the  
 31 case when you saw them?  
 32 THE COURT: Which physicians?  
 33 MR. MEADOWS: Any physician.  
 34 Q When you went to get risperidone, would you tell  
 35 the physician that you had stopped it multiple  
 36 times?  
 37 A When I would go to the -- the -- the clinics, no,  
 38 but I may have told Murray Goodwin that I was off  
 39 my risperidone.  
 40 Q Now, was Mr. Goodwin a physician or was he a  
 41 psychologist counsellor?  
 42 A I wasn't sure his title. I thought he was a  
 43 psychologist counsellor.  
 44 Q Thank you. And where did you see him?  
 45 A At the U of A Hospital.  
 46 Q U of A Hospital. So essentially your standard  
 47 living practice at this time was to go weeks or

45

1 months off risperidone alternated with a few  
2 weeks on risperidone?  
3 A A few weeks, a week, a couple days, yes.  
4 Q And so even when you went travelling to new  
5 locations, et cetera, you carried on with that  
6 practice?  
7 A That is accurate.  
8 Q And as we heard yesterday, you would go to -- if  
9 you didn't have risperidone, you would go to a  
10 clinic or to a hospital emergency department to  
11 try and get some more risperidone; is that right?  
12 A That is accurate.  
13 Q You didn't have a family physician; you just went  
14 to get the medication?  
15 A That's true. I did go periodically to the clinic  
16 down the street from my house, but I didn't have  
17 a set family doctor that I had seen outside of  
18 Dr. Stelfox at the University of Alberta.  
19 Q I see. But it was your practice, if you went  
20 travelling and you ran out of risperidone, that  
21 you would go to either a clinic or an emergency  
22 department to try and get some more?  
23 A It was typically an emergency room, yes.  
24 Q Typically an emergency room. And you would have  
25 to see a physician to get the prescription?  
26 A Yes.  
27 Q And I think yesterday you mentioned that you  
28 would attempt to minimize by saying that you had  
29 mild schizophrenia or something along that line;  
30 is that correct?  
31 A That is accurate.  
32 Q All right. Did you typically mention to the  
33 physicians in the emergency department that you  
34 were seeking the risperidone because your  
35 symptoms had returned?  
36 A No. I would just say I had mild schizophrenia  
37 and I need a refill on my prescription, or else  
38 I'd say I have -- I have -- it's for anxiety and  
39 I need a refill on my prescription.  
40 Q Did you ever advise physicians -- this is just in  
41 general. Do you recall ever advising physicians  
42 that you wanted the risperidone to sleep?  
43 A I may have; I may not have.  
44 Q And I think you may have said this yesterday, but  
45 do you recall -- were you concerned when you went  
46 to get risperidone that if you spoke about your  
47 symptoms there was some possibility that they

46

1 would -- I think in your words -- think you were  
2 crazy and would put you in hospital and hold you  
3 against your will?  
4 A I was concerned if I talked about my symptoms,  
5 they might pry into it, but with going into --  
6 with going into emerge -- emerge -- emergency  
7 rooms, they don't really have a -- I knew they  
8 wouldn't have a lot -- a lot -- a lot of time and  
9 I -- and then I could get a prescription easily  
10 filled.  
11 Q I see. So you knew that they wouldn't have a  
12 long time; is that right?  
13 A Yes.  
14 Q And they wouldn't pry into your background very  
15 much?  
16 A No, because -- because -- because -- because --  
17 because I was a walk-in.  
18 Q Because you were a walk-in?  
19 A Yeah.  
20 Q So they would ask you a few questions and then  
21 they would give you your refill of risperidone?  
22 A That is accurate.  
23 Q And that was something that you experienced  
24 multiple times over those years between 2009 and  
25 the time of the attacks?  
26 A Yes.  
27 Q Just going back to the chronological order here,  
28 I'm attempting to keep things going in a  
29 straightforward manner. In around 2010, you  
30 returned to the University of Alberta?  
31 A That is accurate.  
32 Q And at that point you were trying to get your  
33 life back in order?  
34 A That is true.  
35 Q Right. But the voices started to get a bit  
36 louder; is that correct?  
37 A That's true.  
38 Q And it was a child's voice at this time?  
39 A Or a female's voice, yes.  
40 Q Child or female. But you couldn't understand  
41 what they said; is that right?  
42 A At times I could; at times I couldn't.  
43 Q Even in 2010 you could understand what they said  
44 sometimes?  
45 A Sometimes, yes.  
46 Q And you found the voices and the sounds  
47 unnerving; is that fair to say?

47

1 A That is accurate.  
2 Q And you started to realize at this time that you  
3 may need some medical assistance with the  
4 problem?  
5 A I realized that things were getting bad.  
6 THE COURT: Realized what? Can I hear it again,  
7 please.  
8 THE WITNESS: I realized things were getting bad, yes.  
9 THE COURT: Thank you.  
10 MR. MEADOWS:  
11 Q Now, when you say "things were getting bad," what  
12 do you mean by that? Do you mean that your  
13 medical condition was getting a bit worse?  
14 A They would come more often.  
15 Q The voices and other symptoms?  
16 A Yes.  
17 Q Well, if I can ask you to turn to tab 4, I think  
18 we may have been there already, and these are  
19 some records that my friend took you through  
20 yesterday. I'm looking at page 4 of this tab.  
21 And at the top of the page, it says signed off by  
22 Minion, Dr. Daurel. And I think that's  
23 Dr. Minion, and it's actually --  
24 A Which -- which page?  
25 Q Page 4 of tab 4?  
26 A Okay.  
27 Q It actually -- this entry actually starts the  
28 page before, on page 3, and it says it's  
29 February 23rd, 2010.  
30 A M'mm-hmm.  
31 Q And it's a visit -- doctor visit provider is  
32 Daurel Minion?  
33 A M'mm-hmm.  
34 Q All right. And so at around this time,  
35 February 2010, you were experiencing further  
36 problems and you decided to go to the doctor; is  
37 that right?  
38 A Yes, that's accurate from this rec -- record,  
39 yes.  
40 Q And do you recall this?  
41 A I recall in 20 -- 20 -- 2010 seeing doctor --  
42 seeing doctor -- seeing doctor -- seeing  
43 doctor -- doctor -- seeing doctor -- seeing  
44 doctors at the U of A Hospital.  
45 Q I see. All right. And you took yourself there;  
46 you were not brought there, is that correct, at  
47 this time, February 2010?

48

1 A That is accurate.  
2 Q All right. And it says you were seeking a refill  
3 of risperidone. So that was the initial purpose  
4 of your visit; is that right?  
5 A That is accurate.  
6 Q And this is because you wanted to take the  
7 risperidone because you were having symptoms; is  
8 that right?  
9 A That is accurate.  
10 Q Now, it mentions you only wanted the 1 milligram  
11 tablet, not the 3 milligram tablet; is that  
12 right?  
13 A If -- I don't recall that but that's -- but that  
14 may -- that may have been the case, yes.  
15 Q In general did you have a preference for having  
16 the 1 milligram tablet?  
17 A Yes, yes, I did.  
18 Q And did you have that preference so that you  
19 could control exactly how much of the medication  
20 you took?  
21 A That is accurate.  
22 Q Because you wanted to control the medication so  
23 you didn't want to take what was prescribed?  
24 A That is accurate.  
25 Q And four lines down, it says:  
26 States taking risperidone for trying to  
27 sleep.  
28 Does that refresh your memory that that may be  
29 what you told the doctor?  
30 A Yes, it does.  
31 Q It says:  
32 For clearing thoughts. Unable to say what  
33 the thoughts are, but denies auditory  
34 hallucinations, visual hallucinations or  
35 delusional thinking.  
36 So is it fair to say that -- does that refresh  
37 your memory? You would have told Dr. Minion that  
38 you took the risperidone and it helped you clear  
39 your thoughts?  
40 A That's accurate.  
41 Q And she asked you questions about whether or not  
42 you had auditory hallucinations or visual  
43 hallucinations and visual thinking. Do you

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1 recall that?  
2 A I -- I -- I -- I don't recall that one incident,  
3 but I do recall being asked by -- by -- by --  
4 what's it called -- health officials if I did  
5 have hallucinations, yes.  
6 THE COURT: So just so we're clear, Mr. Osuteye, in  
7 this case Mr. Meadows has taken you to a  
8 particular note on a particular day in a visit  
9 with a particular doctor. He's asking you what  
10 you remember about that particular visit in  
11 relation to each of these line items.  
12 THE WITNESS: Okay.  
13 THE COURT: And so, you know, it's for you to tell him  
14 what you remember, but he's not asking you about  
15 your general practice or about attendances at  
16 large. He's asking about a particular visit on a  
17 particular day.  
18 THE WITNESS: I don't recall saying this, but if it's  
19 here, then I probably said it.  
20 MR. MEADOWS: Right. Well, I think that's the warning  
21 that My Lordship was giving.  
22 THE WITNESS: Oh, okay.  
23 MR. MEADOWS:  
24 Q So you don't recall --  
25 THE COURT: There's nothing wrong. Just a second, if  
26 I can. Mr. Osuteye, your obligation is to tell  
27 the truth, full stop.  
28 THE WITNESS: Okay.  
29 THE COURT: But there's absolutely nothing wrong with  
30 a witness seven years after the fact saying,  
31 look, I don't remember a particular attendance at  
32 a particular doctor on a particular day. There's  
33 nothing wrong with that. So if you don't  
34 remember, you just tell him that, and if you do  
35 remember, then you tell him that. Okay?  
36 THE WITNESS: Thank you, My Lord.  
37 THE COURT: All right.  
38 THE WITNESS: So no, I don't remember that.  
39 MR. MEADOWS:  
40 Q All right. But typically that would be what  
41 doctors would ask you about when you went to try  
42 and get risperidone; is that correct?  
43 A That is true.  
44 Q Now, in this one, it says -- and this is about  
45 midway through the second paragraph there's two  
46 sentences that start with "does." It says:  
47

50

1 Does not wish to see psych or Dr. Mills.  
2 Does not wish community support.  
3  
4 Does that refresh your memory as to the timing of  
5 this? Was that true at that time that you didn't  
6 want community support?  
7 A That is accurate.  
8 Q And you were living with a friend at that time;  
9 is that correct?  
10 A This is in 2010?  
11 Q Yes, February 2010.  
12 A I was probably at the fraternity house at that  
13 time.  
14 Q I see. It says:  
15  
16 Sleep more disrupted than last week as  
17 stressed with classes and wanted to do well.  
18  
19 Is that something that would trigger this  
20 recollection?  
21 A Yes.  
22 Q And it says:  
23  
24 Though directly questioned re schizophrenia  
25 DX --  
26  
27 Which I take to be "diagnosis."  
28  
29 -- patient denies diagnosis of same.  
30  
31 Do you recall the doctor asking you if you had  
32 that diagnosis?  
33 A I don't recall that incident, no.  
34 Q Is that something that physicians would ask you  
35 in general when you went to get risperidone?  
36 A Yes.  
37 Q And your answer would be that you did not have  
38 that diagnosis?  
39 A Yes. Or else -- yes.  
40 Q And other than minimizing your symptoms, you  
41 would attempt to be honest with the physicians  
42 when you were talking to them in general terms?  
43 A No.  
44 Q No, you would not?  
45 A No.  
46 Q And what would you not be honest about in  
47 general?

51

1 A I would minimize my symptoms.  
2 Q But other than that when you just were talking  
3 about background and other matters, you would  
4 attempt to be honest with the physicians?  
5 A Yes.  
6 Q So it was only with respect to your psychiatric  
7 symptoms that you would not be honest with the  
8 physicians; is that right?  
9 A That is accurate.  
10 THE COURT: So I'm not comfortable with that either  
11 because that would include what medications he  
12 was taking and he wasn't taking. You know, his  
13 evidence is he's not being forthright about  
14 things beyond his actual symptoms. So if you  
15 rephrase it. I understand where you're going.  
16 There's nothing wrong with the question, but I  
17 think it has to be fair.  
18 MR. MEADOWS: Right. Yes.  
19 Q Perhaps what I think Your Lordship is getting at  
20 here is that's too broad, not just medical things  
21 but your symptoms and questions that were  
22 designed to elicit your responses about your  
23 symptoms you would try to minimize that and not  
24 be honest with the physicians; is that how it  
25 was?  
26 A Yes.  
27 Q And that was all of the time?  
28 A Yes.  
29 Q Now, it says that you were prescribed 90 tabs  
30 QHS. That's at the bottom. That's not something  
31 that you recall; is that right?  
32 A I -- I don't recall the specific prescription,  
33 no.  
34 Q Now, just with respect to your statements to the  
35 various physicians, you would also not  
36 necessarily tell the physicians about your  
37 practice with your risperidone; is that correct?  
38 Q You would not be honest with them about whether  
39 or not you had been taking your risperidone  
40 regularly?  
41 A That is accurate.  
42 Q So moving back a page, the next visit up --  
43 because these records are in reverse  
44 chronological order -- is March 12th, 2010. And  
45 this is with Dr. Bernadas. So this is about two  
46 and a half weeks after your last visit you were  
47 back seeking --

52

1 A Is this page 3?  
2 Q This is on page 3, yes.  
3 A Yes. Okay.  
4 Q So in the middle of the page there's an  
5 appointment date of March 12th, 2010?  
6 A M'm-hmm.  
7 Q And it says "S," which I take to be while you  
8 were there "refill risperidone." It says:  
9  
10 Came here because got original RX here,  
11 requesting three months' supply.  
12  
13 Now, this is 17 days after your last visit. Does  
14 this trigger your recollection that you may have  
15 gone through your month's supply in two weeks?  
16 Did that happen sometimes?  
17 A Sometimes, yes.  
18 Q All right. And that's because you would take  
19 more medication than you were told to?  
20 A Yes.  
21 Q All right. And did you tell the physicians that  
22 when you did that?  
23 A I remember I told Murray Goodwin that I was  
24 taking more risperidone -- more risperidone, yes.  
25 Q At times you would take more?  
26 A Yes.  
27 Q And when you did that, was that to sleep?  
28 A That was to sleep and to minimize the symptoms,  
29 yes.  
30 Q And to minimize symptoms. And that's when you  
31 would actually start feeling the side effects; is  
32 that right?  
33 A Yes.  
34 Q And then you would stop?  
35 A Yes.  
36 Q Now, when you had seen Dr. Minion, she didn't  
37 certify you at that time. You were never told to  
38 go to the hospital or be certified. This is at  
39 the visit before; is that right?  
40 A Yes.  
41 Q You were certified or you were not certified?  
42 A I was not certified.  
43 Q Right. Sorry. I'll try to be clear with my  
44 questions. And when you came to see  
45 Dr. Bernadas, you were not certified when you  
46 were seeking risperidone; is that correct?  
47 A No, I was not.

53

1 Q And it says in the middle paragraph, it says:  
 2  
 3 He has been diagnosed with depression and  
 4 anxiety. Feels a lot better on risperidone;  
 5 stopped in June 2009 and restarted last  
 6 month.  
 7  
 8 And then it says:  
 9  
 10 Previously had been on it for four months.  
 11  
 12 Was that accurate?  
 13 A I don't recall this specifically, no.  
 14 Q But was it accurate that you had been on  
 15 risperidone for four months at any time?  
 16 A For four months straight?  
 17 Q Yes.  
 18 A I don't recall ever being on risper -- ris -- ris  
 19 -- ris -- risperidone for a period of four months  
 20 straight.  
 21 Q And do you recall telling the physician here that  
 22 you felt a lot better on risperidone? This is in  
 23 March 2010.  
 24 A Yes, with the clear thoughts, yes.  
 25 Q Now, I take it that that was just in general what  
 26 you would tell physicians; is that right?  
 27 A Yes.  
 28 Q Rather than this instance?  
 29 A Yes.  
 30 Q So after this -- around this time you started to  
 31 get an urge to travel again; is that correct?  
 32 A That is accurate.  
 33 Q And you just stopped attending school?  
 34 A Yes.  
 35 Q And this was sort of an impulsive decision?  
 36 A Yes.  
 37 Q No planning?  
 38 A No planning.  
 39 Q And sort of just drop everything and take off; is  
 40 that correct?  
 41 A It was more of get up and go, yes.  
 42 Q Get up and go. And when you say "get up and go,"  
 43 did that take you days to organize usually, or  
 44 did you just drop everything and go that day?  
 45 A A few hours to organize.  
 46 Q A few hours and then go. And that was your  
 47 standard practice when you went on these sort of

54

1 little travelling trips that we heard about?  
 2 A Yes.  
 3 Q Now, we heard yesterday that you bought a  
 4 Greyhound pass, a monthly Greyhound pass, and you  
 5 would travel to BC sometimes or you would go east  
 6 to Ontario and Quebec; is that correct?  
 7 A Yes, or -- or the States. Once I went to the  
 8 States.  
 9 Q The States. And when you got to a new town, you  
 10 would go and find a shelter to stay at; is that  
 11 correct?  
 12 A Yes.  
 13 Q So that happened numerous times over a few years;  
 14 is that right?  
 15 A That is accurate.  
 16 Q And when you went to a new town, was it unusual  
 17 for you to walk around the town and look at the  
 18 town?  
 19 A I would stay close to the -- to the -- to the  
 20 shelter. I didn't go too far.  
 21 Q During the entire time that you stayed in the  
 22 town?  
 23 A Not -- not -- not -- not -- not typically, no, I  
 24 would stay close to the shelter. I'd walk around  
 25 the downtown if there was downtown.  
 26 Q I see. So if you went to a town and you were at  
 27 a shelter downtown, after you were used to the  
 28 area, it would be your practice to walk around  
 29 the downtown area?  
 30 A Yes.  
 31 Q And that was to get your bearings in the town?  
 32 A Yes.  
 33 Q Now, did you -- you mentioned here that you would  
 34 take off after a few hours; is that right?  
 35 A Yes.  
 36 Q You didn't need to stockpile risperidone or  
 37 anything like that?  
 38 A Pardon?  
 39 Q You didn't have to get some risperidone to go;  
 40 you would just go with whatever you had at the  
 41 time?  
 42 A I'd go with what -- I'd go with what -- I'd go  
 43 with what I had and the money I had.  
 44 Q I see. All right. But once you arrived at a new  
 45 location, was it your standard practice to go and  
 46 get some more risperidone if you didn't have any?  
 47 A Yes.

55

1 Q And you always wanted to have some risperidone on  
 2 you; is that correct?  
 3 A I typically tried to have some on me, yes.  
 4 Q And why is that?  
 5 A Just in case the -- what's it called -- the  
 6 thoughts or the -- or the -- or these voices came  
 7 back.  
 8 Q Right. So if those voices came back or the  
 9 racing thoughts came back, you would have the  
 10 risperidone and you would start taking it again  
 11 to make them start to go away?  
 12 A That is accurate.  
 13 Q And so if you were in a new town -- and I'm just  
 14 speaking in general terms. If you were in a new  
 15 town and you started to have some of those  
 16 symptoms, the racing thoughts and the auditory  
 17 hallucinations, you would then go to the  
 18 emergency department to try and get some  
 19 risperidone?  
 20 A Yes.  
 21 Q And you might wait until you had those symptoms  
 22 before you went to the emergency department?  
 23 A Sometimes I would wait. Sometimes I wouldn't  
 24 wait. I'd just go to the emer -- it -- it --  
 25 it -- it -- it -- if I was out or else, like, if  
 26 I was low, like, had maybe three or four pills  
 27 left, I'd go to the emergency room.  
 28 Q Now, in your recollection at any of the times on  
 29 your travelling, were you ever certified, held  
 30 against your will in a hospital?  
 31 A Not to my recollection. Maybe in Ottawa and --  
 32 maybe in Ottawa. I don't know if it was a  
 33 cert -- if they certified me or not when I tip --  
 34 tipped over the park bench and -- yeah.  
 35 Q My understanding from your evidence yesterday was  
 36 that when you were in Ottawa and you tipped over  
 37 the park bench and you were sort of yelling and  
 38 making a scene, the police took you to the  
 39 hospital; is that correct? You remember that?  
 40 A The ambulance did, yes.  
 41 Q The ambulance did. And the police brought the  
 42 ambulance; is that right?  
 43 A Yes.  
 44 Q And they sent you to the hospital; is that right?  
 45 A Yes.  
 46 Q And you were not restrained when you went into  
 47 the hospital?

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1 A No.  
 2 Q And you just walked out of the hospital; is that  
 3 correct?  
 4 A Yes.  
 5 Q Now, I noticed that in the incident before --  
 6 when you went to St. Paul's Hospital, you went to  
 7 the -- incident that we're looking at in this  
 8 lawsuit -- you had to go to St. Paul's Hospital  
 9 by going to the police and pressing a button and  
 10 speaking to the police about getting help; is  
 11 that right?  
 12 A Yes.  
 13 Q And you also mentioned that you called the police  
 14 when you had a problem with your brother; is that  
 15 right?  
 16 A Yes.  
 17 Q So you didn't consider the police to be a  
 18 problem; you didn't mind contacting the police;  
 19 is that fair to say?  
 20 A That's true.  
 21 Q So you -- in the course of your travels, which  
 22 are over 2010 and 2011, you went to a number of  
 23 hospitals. I understand that you were taken to  
 24 Mount Sinai Hospital in Toronto; is that correct?  
 25 A I went to Mount Sinai --  
 26 Q You went there voluntarily?  
 27 A Yes.  
 28 Q All right. Seeking risperidone?  
 29 A Yes.  
 30 Q And you went to the hospital in Kitchener; is  
 31 that correct?  
 32 A That is accurate.  
 33 Q And you went to a hospital in Quebec; is that  
 34 right?  
 35 THE COURT: Let's just be clear. It may or may not  
 36 matter later. Are you speaking of instances  
 37 where Mr. Osuteye was seeking risperidone or are  
 38 you seeking -- because it's somewhat different  
 39 than the Ottawa incident where he's taken to a  
 40 hospital. So those two things are factually  
 41 different and I just --  
 42 MR. MEADOWS: I understand, My Lord.  
 43 THE COURT: -- think it's worth drawing that  
 44 distinction. So Mount Sinai, I have, was seeking  
 45 risperidone and then you went to Kitchener and  
 46 let's just --  
 47 MR. MEADOWS:

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 1 Q Kitchener, you went there voluntarily; is that correct?  
 2 A Yes.  
 3 Q You weren't concerned about a conspiracy at that point?  
 4 A Pardon?  
 5 Q You weren't concerned about a medical conspiracy to drug you at that point? You went to the hospital on your own?  
 6 A I went to the hos -- hospital because I needed to get risperidone.  
 7 Q But you weren't concerned about a conspiracy to drug you at that point?  
 8 A I still felt that there was a conspiracy -- a conspiracy against me.  
 9 Q But you decided to go anyway?  
 10 A Yes.  
 11 Q And in Toronto we heard about an incident where you presented yourself to the police and told them that you were a missing person; is that correct?  
 12 A That is accurate.  
 13 Q And you remember that incident?  
 14 A Yes.  
 15 Q And they took you to -- and this is at tab 8 which is now Exhibit 11, and this is in May of 2011. It says you were taken to CAMH, which I understand to be the Centre For Addictions and Mental Health; is that correct?  
 16 A Yes.  
 17 Q All right. And so you were taken there voluntarily. You agreed to go there; is that right?  
 18 A Well, they -- well, they put -- they -- they took -- they took me there. I -- I didn't know where -- where I was going.  
 19 Q You didn't know where you were going but they took you to that hospital?  
 20 A Yes.  
 21 Q And you weren't restrained in any way?  
 22 A No, but once I -- but once I realized it was a mental health facility, I realized I have to get out of there.  
 23 Q And then -- and so you just left the hospital; is that right?  
 24 A They let me go, yes.  
 25 Q They let you go. Thank you.

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 1 MR. MEADOWS: My Lord, I note the time. This may be a --  
 2 THE COURT: Let's just have a conversation about timing because we said we'd let the jury know what your requirements were.  
 3 MR. MEADOWS: I suspect I can finish in the afternoon. I think that that's --  
 4 THE COURT: "Suspect" is the worst --  
 5 MR. MEADOWS: I know, I know. Based on the progress today so far, I will be finished in the afternoon.  
 6 THE COURT: All right. Let's do that, then. We'll resume at 2:00 o'clock.  
 7 THE WITNESS: So we're doing an hour lunch or --  
 8 THE COURT: No. An hour and a half, Mr. Osuteye.  
 9 THE WITNESS: Hour and a half?  
 10 THE COURT: You have to be back at five to 2:00.  
 11 THE WITNESS: Five to 2:00? Okay.  
 12 THE COURT: Thank you.  
 13  
 14 (JURY OUT)  
 15  
 16 THE COURT: Mr. Osuteye, you remember the caution I gave to you about talking to anyone?  
 17 THE WITNESS: Yes, My Lord.  
 18 THE COURT: Thank you so much.  
 19 THE CLERK: Order in court. Court is adjourned until 2:00 P.M.  
 20  
 21 (PROCEEDINGS RECESSED AT 12:31 P.M.)  
 22 (PROCEEDINGS RECONVENED AT 2:06 P.M.)  
 23  
 24 THE CLERK: Order in court.  
 25 THE BAILIFF: The jury, My Lord.  
 26  
 27 (JURY IN)  
 28  
 29 NICHOLAS OSUTEYE,  
 30 recalled.  
 31  
 32 CROSS-EXAMINATION BY MR. MEADOWS:(Cont)  
 33 Q Yes. Mr. Osuteye, I just want to take you back to sort of where we left off before the lunch break, and that was sort of in 2012 -- early 2012, 2011/2012, we were talking about travelling around.  
 34 A M'mm-hmm. Yes.

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 1 Q And this is going chronologically. All right.  
 2 So at some point in 2012 there was an incident where you called the JP Morgan Chase Bank. And that's right? You recall that?  
 3 A In 2012? That might have been in 2011.  
 4 Q All right.  
 5 A I am not sure the precise date.  
 6 Q All right. Okay. That's fair enough. And at that point in time were you -- did the police call your home?  
 7 A When I called the JP Morgan Chase Bank, I was staying at my ex-girlfriend's place.  
 8 Q Okay. And did you ever end up going to the hospital after that as a result of that interaction?  
 9 A No.  
 10 Q Did you become aware that the police had called your family?  
 11 A May have -- I may or may not have been. I can't recall.  
 12 Q And did you recognize the decision to call the bank as a symptom? Was that something that you recognized at the time?  
 13 A No. I truly believed my name was JP Morgan.  
 14 Q And you didn't start taking risperidone as a result of that incident?  
 15 A Not that I can recall.  
 16 Q Now, did you labour under that impression for a long time that you were JP Morgan, or was it just for the time of the call?  
 17 A Just for the time of the call.  
 18 Q Now, you mentioned earlier that you had been to see this counsellor or psychologist Mr. Goodwin; is that correct?  
 19 A Yes.  
 20 Q And he spoke to you about risperidone use; is that right?  
 21 A Yes, he did.  
 22 Q And he recommended that you stay on the medications?  
 23 A He always recommend -- recommended I stay on the medication and that I don't take five a day, that I take the recommended dose.  
 24 Q Take the recommended dose. Right. You didn't follow that recommendation?  
 25 A No, I did not.  
 26 Q And you wanted to set the dose yourself; is that

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 1 correct?  
 2 A Yes.  
 3 Q And you thought you could manage your symptoms yourself?  
 4 A Yes.  
 5 Q And when we talk about symptoms, I know we were talking about racing thoughts and some voices and high-pitched sounds; is that correct?  
 6 A Yes.  
 7 Q But there were also some other symptoms as well; is that right?  
 8 A You'll have to be more specific.  
 9 Q All right. Did you have -- did the symptoms include difficulty sleeping or becoming a bit restless?  
 10 A Yes.  
 11 Q And also did your symptoms include having unclear thinking?  
 12 A Yes.  
 13 Q And sometimes you refer to that as fogginess; is that correct?  
 14 A Yes.  
 15 Q And so when you -- and those symptoms they would wax and wane over time? They wouldn't just come on and get stronger and stronger and stronger; they would sometimes come on and then sometimes go away; is that fair to say?  
 16 A That's fair to say.  
 17 Q But once they reached a certain point that you thought it was a problem, then you would start taking your risperidone?  
 18 A Yes.  
 19 Q So sometime in 2012, we heard yesterday that there was an issue where you became angry with your mother and you threatened her; that's right?  
 20 A That is accurate.  
 21 Q And you described it as being confused and delusional and losing control; is that right?  
 22 A That is accurate.  
 23 Q And it was like you flew into a rage; is that right?  
 24 A That is accurate.  
 25 Q And it wasn't that you had auditory hallucinations or voices telling you to do it; it was more -- it was just bad behaviour; is that right?  
 26 A No, it was more of a delusion that she was



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1 holding \$40 million dollars from me.  
2 Q And you became angry about that?  
3 A I became angry that I didn't have my -- my  
4 \$40 million.  
5 Q But you didn't hear voices telling you to go and  
6 threaten your mother or break your apartment?  
7 A No.  
8 Q And when you punched the wall and ripped the  
9 shower door off its hinges, your mother wasn't at  
10 home at that time?  
11 A No, she wasn't.  
12 Q And after that you were -- that incident  
13 precipitated you being admitted to Misericordia  
14 Hospital, is that right? Is that your  
15 recollection?  
16 A Yes, that's true.  
17 Q Okay. Now, I know that my learned friend took  
18 you to some records yesterday at tab 10, and this  
19 is Exhibit 6. And these are records from  
20 Misericordia. Do you recall looking at these  
21 yesterday?  
22 A Yes.  
23 Q And I think you told us at the time that you --  
24 when you were brought into the hospital, you were  
25 yelling and screaming and causing a bit of a  
26 scene; is that right?  
27 A Yes.  
28 Q And you were very agitated?  
29 A Yes. I was agitated and delusional.  
30 Q And there was a female doctor there who you  
31 screamed at; is that right?  
32 A I believe so. I can't recall.  
33 Q You don't recall that?  
34 A I don't recall that.  
35 Q Okay. But you do recall that when you were  
36 brought in, they held you against your will; is  
37 that right?  
38 A Yes.  
39 Q And do you -- at the time, do you recall that you  
40 refused to speak to the people who were trying to  
41 speak to you upon your admission?  
42 A I don't recall that.  
43 Q If you look under where it says -- there's sort  
44 of a line across the middle and it says  
45 "allergies and reactions."  
46 A Which page?  
47 Q I'm sorry. It's on the very first page. This is

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1 the emergency record for June 9th, 2012, where it  
2 says "allergies and reactions." Talks about your  
3 mom phoning to call the services to come and get  
4 you. But if you go down to the bottom line  
5 before the sentence -- before the heading  
6 "Orders," it says "PT," which I take to be  
7 "patient".  
8 Patient refuses to speak with writer.  
9 States 'I need a lawyer.' Has  
10 schizophrenia. Noncompliance with  
11 medication as per mom.  
12 Do you recall -- this doesn't trigger your memory  
13 or refresh your memory that you refused to speak  
14 to the people when you came into the hospital; is  
15 that right?  
16 A No, it doesn't refresh my memory.  
17 Q And the fact that you needed -- you wanted to see  
18 a lawyer, that doesn't refresh your memory?  
19 A No.  
20 Q Did you actually speak to a lawyer when you were  
21 there?  
22 A I spoke to a lawyer after -- what's called --  
23 called -- after I think about a week to two  
24 weeks, Brian Fish.  
25 Q And we heard some evidence yesterday -- and I  
26 don't think we need to go into it -- that when  
27 you first came in, you were ranting and raving  
28 and making statements about molestation and  
29 things like that; is that correct?  
30 A That's accurate.  
31 Q That's right. If I can ask you to turn over to  
32 page 12.  
33 A In tab 10?  
34 Q Yes, same tab. This is the discharge summary.  
35 And in the very middle of the page, there's some  
36 numbers, 1, 2, 3, 4. Do you see that?  
37 A Yes.  
38 Q Now, right before numbers, it says:  
39 We met with his family, his mother, with the  
40 patient's permission, and offered some  
41 options.  
42 A Yes, I see that.  
43 Q All right. Now, do you recall at the time that

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1 you were going to be -- at or near the time you  
2 were going to be discharged that they actually  
3 asked you if you would mind meeting with your  
4 mother and the family to discuss your condition?  
5 A Yes, I do.  
6 Q So they asked you that and you said that's fine?  
7 A Yeah.  
8 Q And at that point you talked about potential  
9 options for discharge?  
10 A Yes.  
11 Q Okay. And you recall that?  
12 A I was being discharged. I was there voluntarily  
13 at the time.  
14 Q You were there voluntarily; right. So you were  
15 being discharged. And you talked about some  
16 options. So you weren't certified at the time;  
17 that's right?  
18 A No.  
19 Q And one of the options that they offered to you  
20 was IM medications, intramuscular injections; is  
21 that right?  
22 A Yes.  
23 Q And you didn't want that?  
24 A No.  
25 Q In fact, you don't like needles?  
26 A Pardon?  
27 Q You don't like needles?  
28 A No.  
29 Q No. So you said no to that. And you were also  
30 offered an option of further rehab; is that  
31 correct?  
32 A Yeah.  
33 Q And you refused that?  
34 A Yes, that's true.  
35 Q And that's because you didn't think you needed  
36 it?  
37 A No.  
38 Q You didn't think you needed it; is that correct?  
39 A No, I didn't want it.  
40 Q No, you didn't want it?  
41 A I didn't want to be in a hospital.  
42 Q Okay. And you didn't want to follow up  
43 afterwards in rehab?  
44 A No.  
45 Q So you did agree to stay in the hospital after  
46 you were decertified; is that correct?  
47 A Yes, because -- because I could leave at any time

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1 and I was just trying to think of what I would do  
2 next.  
3 Q I see. So it was just sort of a place to go to  
4 because it was convenient to stay there?  
5 A No -- no, that's not correct. It was I could  
6 leave at any time, so I saw the threat as  
7 diminished.  
8 Q I see. So you weren't afraid to be there because  
9 you could go at any time?  
10 A Yes.  
11 Q And you didn't have any particular reason to  
12 leave; is that right?  
13 A I -- they asked me to stay, so I stayed.  
14 Q You weren't worried about a conspiracy at that  
15 point?  
16 A No.  
17 Q And you were still taking your risperidone at the  
18 time you were in the hospital?  
19 A Yes.  
20 Q Now, at the point you were discharged, do you  
21 recall, were you still suffering from racing  
22 thoughts and auditory hallucinations?  
23 THE COURT: What was the start to the sentence? I  
24 just didn't hear it.  
25 MR. MEADOWS: Okay.  
26 Q At the time you were discharged from the  
27 hospital, after you had this meeting with the  
28 doctors and you talked about the various options  
29 for discharge, at that point in time were you  
30 suffering auditory hallucinations and the other  
31 symptoms that we spoke about?  
32 A Lightly, yes.  
33 Q Yes?  
34 A Yes.  
35 Q So you had been in the hospital for approximately  
36 a month; is that correct? Almost a month?  
37 A Yes, about -- about four weeks, yeah.  
38 Q And you were still feeling some -- some symptoms  
39 at that point?  
40 A Yes.  
41 Q And in fact, you told us yesterday that at the  
42 time that they spoke about the intramuscular  
43 injection, that was kind of an aha moment for  
44 you; is that right? That you thought, oh, this  
45 is their plan; they want to fill me full of  
46 drugs; is that right?  
47 A Yes.

65  
 1 Q So you thought about that even though you'd been  
 2 treated for a month?  
 3 A Yes.  
 4 Q Now, when you were released from the hospital,  
 5 how -- did you stay on the risperidone?  
 6 A I think I took it for a day or two, and then  
 7 after, I stopped taking it.  
 8 Q So you only took it for a day or two?  
 9 A Yeah.  
 10 Q All right. Now, I know we saw some records about  
 11 this yesterday, but do you recall that almost --  
 12 you were discharged on July 11th, I believe, and  
 13 almost immediately -- and you were going to live  
 14 with your brother; is that correct?  
 15 A Yes.  
 16 Q And almost immediately after you were discharged,  
 17 there was an incident that caused your brother to  
 18 call your psychiatrist, is that correct, in that  
 19 you -- he says you went out and you didn't come  
 20 home all night?  
 21 A Yes.  
 22 Q And that was the day after you were discharged;  
 23 is that correct?  
 24 A Yes. I think so, yes. I don't know the precise  
 25 timing of dates.  
 26 Q Well, you were discharged on the 11th. And I  
 27 believe that if we go to the note from  
 28 Dr. Dewart, which is on page 14, there is a note  
 29 there that -- dated July 13th stating that:  
 30  
 31 He has blown his SA cheque going to Hooters.  
 32 He was out all night.  
 33  
 34 So it was either the night of the 11th or the  
 35 night of the 12th; is that fair to say?  
 36 A I don't recall going to Hooters. I may have went  
 37 to Hooters, but -- I may have went to Hooters. I  
 38 don't recall specifically where I went, but yes.  
 39 Q You had worked at Hooters before?  
 40 A Yes.  
 41 Q And it says you had blown your SA cheque. Now, I  
 42 take that to be a social assistance cheque; is  
 43 that right?  
 44 A Yes.  
 45 Q And so you don't recall going out the day after  
 46 you were released from the hospital, or two days  
 47 after you were released, and spending your entire

66  
 1 cheque at one time? You don't recall that?  
 2 A I don't think I spent it at one time. I think I  
 3 got the cheque shortly before I left hospital,  
 4 and I spent it over the course of that week or --  
 5 yeah.  
 6 Q All right. And you didn't come home all night,  
 7 one of those two nights; is that correct?  
 8 A Yes.  
 9 Q Do you remember that?  
 10 A Yes.  
 11 Q And what were you doing that night?  
 12 A I went over to my friend -- what's it called --  
 13 Magic's [phonetic] place and we hung out and  
 14 played some video games and I slept there.  
 15 Q I see. All right. And you didn't go back. And  
 16 did you explain that to your brother when you did  
 17 go home?  
 18 A No.  
 19 Q You didn't explain that to him at all?  
 20 A No.  
 21 Q You didn't say anything to him?  
 22 A No.  
 23 Q So when he called a psychiatrist, it's just  
 24 because you didn't come back home, or you don't  
 25 know why he called?  
 26 A I don't know why he called a psychiatrist.  
 27 Q So in the note it says that your brother was  
 28 concerned that you and your friends might break  
 29 into your mother's house. Were you hanging out  
 30 with some individuals at this time that your  
 31 brother could be concerned about?  
 32 A No.  
 33 Q No?  
 34 A No.  
 35 Q So this -- as far as you're aware, this is an  
 36 unfounded concern he's expressed to the doctor?  
 37 A Yes, it is. Because my friend was from -- Magic,  
 38 he was from my fraternity. He went to the U of  
 39 A. He -- he was going to NAIT doing I think --  
 40 what's it called -- drafting.  
 41 Q All right. Now, you were out of the hospital and  
 42 you are off the risperidone -- so a few days  
 43 after you're out of the hospital -- but you  
 44 decide you want to start a new chapter; is that  
 45 right?  
 46 A Yes.  
 47 Q And you actually went and connected yourself with

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 1 the community health services; is that right?  
 2 A No.  
 3 Q All right.  
 4 A I met with Dr. Dewart once after I was out of the  
 5 hospital, I think, but that's about it.  
 6 Q Okay. Did you meet with any type of community  
 7 support team?  
 8 A Not that I can recall, no.  
 9 Q Well, just to refresh your memory, looking at the  
 10 entry on July 18th, 2012, and this is on the same  
 11 page, page 14, there's -- at the end of the  
 12 second line it says:  
 13  
 14 He tells me he has connected with the  
 15 community support team. He is meeting them  
 16 again later this week and they are looking  
 17 at trying to get him help with housing.  
 18  
 19 Does that refresh your memory that you had taken  
 20 those steps?  
 21 A No, it doesn't, but that was seven years ago,  
 22 so ...  
 23 Q Now, further down, at the fifth line, it says:  
 24  
 25 He said he is continuing to take his meds.  
 26 I gave him a month's supply.  
 27  
 28 And this is about a week after your discharge  
 29 from hospital. Was that true? Did you tell the  
 30 doctor that?  
 31 A Yes, I did. I think I did.  
 32 Q You told him that?  
 33 A Yes.  
 34 Q But it wasn't true?  
 35 A No, it wasn't true.  
 36 Q And you told him it even though it wasn't true  
 37 because you didn't want to go back to the  
 38 hospital; is that fair to say?  
 39 A I didn't want to give them any -- what's it  
 40 called -- that's going to put me back in the  
 41 hospital.  
 42 Q It was going to put you back in the hospital was  
 43 your concern?  
 44 A Yes.  
 45 Q Now, when you were attempting to move out, you  
 46 called the police to get your stuff from the  
 47 house?

68  
 1 A Yes.  
 2 Q And I understand from yesterday -- but that was  
 3 to avoid an altercation?  
 4 A Yes.  
 5 Q All right. And you didn't want any contact with  
 6 your family members; is that fair to say?  
 7 A That's true.  
 8 Q All right. You were starting a new life; is that  
 9 correct?  
 10 A I was trying to figure out where to go next, yes.  
 11 Q Okay. And you didn't have concerns about calling  
 12 the police?  
 13 A No.  
 14 Q They were a source of help to you; is that right?  
 15 A At that -- at that moment I saw them that I  
 16 should call the police to avoid an altercation --  
 17 to avoid an altercation with my brother.  
 18 Q But you weren't concerned about calling the  
 19 police?  
 20 A No.  
 21 Q And then you decided to move to Calgary; is that  
 22 right?  
 23 A Yes.  
 24 Q And that was a sudden decision?  
 25 A That was a decision I thought -- I thought -- I  
 26 thought about where to go next and I decided,  
 27 after a day or two, to move to Calgary, yes.  
 28 Q All right. And from this point on until the time  
 29 of the attack, you had limited communications  
 30 with your family; is that right?  
 31 A Yes.  
 32 Q And you didn't want to communicate with your  
 33 family; is that correct?  
 34 A That's true.  
 35 Q And you didn't want them to know what you were  
 36 doing in fact; is that correct?  
 37 A True.  
 38 Q So at or near the end of October 2012, you  
 39 decided that you were going to move to Vancouver?  
 40 A Yes.  
 41 Q And at that point in time you were fine; you  
 42 didn't need risperidone; is that right?  
 43 A No, I had --  
 44 THE COURT: What's that mean? Think about the  
 45 question. "You were fine" -- I think that's --  
 46 in the context of this case a curious statement.  
 47 MR. MEADOWS: Yes.

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1 Q At that time you -- and I apologize. It's  
2 actually from the question --  
3 THE COURT: I'm sorry?  
4 MR. MEADOWS: It's from a question.  
5 Q At that time you didn't think that you needed  
6 risperidone; is that correct?  
7 A I wasn't taking risperidone, no.  
8 Q And you didn't think that you needed it at that  
9 point in time, did you?  
10 A No. I had symptoms, but I didn't think I needed  
11 to use risperidone at that time.  
12 Q All right. I just would like to take the witness  
13 to the transcript from your discovery again.  
14 A M'mm-hmm.  
15 Q And if you can turn to page 98. And this is the  
16 transcript of that same examination for discovery  
17 where you were asked questions under oath; is  
18 that correct?  
19 A M'mm-hmm.  
20 Q Yes. And at question 574?  
21 A M'mm-hmm.  
22 Q The question is -- I'll read the question:  
23  
24 Q How are you feeling at this point? Are you  
25 feeling like you're making progress or are  
26 you on and off the risperidone and  
27 struggling?  
28 A I wasn't on the risperidone but I was fine.  
29 I didn't, you know, need anything.  
30  
31 Do you recall being asked that question?  
32 A Yes.  
33 Q And do you recall giving that answer?  
34 A Yes.  
35 Q And that answer was true?  
36 A Yes.  
37 Q So you were fine at that time. You did not think  
38 you needed risperidone; is that correct?  
39 A I still have some symptoms, but they were  
40 manageable.  
41 Q They were manageable. All right. And you  
42 wouldn't start taking risperidone until you  
43 thought or felt that the symptoms were not  
44 manageable?  
45 A Yes.  
46 Q Now, once you moved to Vancouver, we heard that  
47 you may have been using marijuana; is that

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1 correct?  
2 A That is accurate.  
3 Q And you did that because it calmed your thoughts?  
4 A Yes.  
5 Q And did you smoke it at excess to sometime -- on  
6 some occasions?  
7 A Yes.  
8 Q And when you moved to Vancouver, you also tried  
9 some crack cocaine; is that correct?  
10 A That is accurate.  
11 Q And that wasn't the first time that you'd had  
12 crack cocaine, was it?  
13 A No, it wasn't.  
14 Q And you'd had it in the past in Ontario?  
15 A Yes.  
16 Q I know we went to these records yesterday so I'll  
17 just try and go through the information. You  
18 checked yourself into the Beacon shelter, or you  
19 went to the Beacon shelter to get shelter; is  
20 that correct?  
21 A Yes.  
22 Q And that was a Salvation Army shelter?  
23 A Yes.  
24 Q And you told them, when they did the intake, that  
25 you suffered from mild schizophrenia?  
26 A Yes.  
27 Q And that was -- you weren't hiding the diagnosis;  
28 you were just trying to minimize it; is that  
29 correct?  
30 A That's accurate.  
31 Q So this wasn't a health care facility; it was  
32 just a shelter; is that right?  
33 A Yes.  
34 Q But you told them that you had schizophrenia, in  
35 any event?  
36 A Yes, mild schizophrenia.  
37 Q And they referred you to the nurses' clinic,  
38 which I think you said was just down the street;  
39 is that right?  
40 A Yes.  
41 Q Now, I know that we looked at the records  
42 yesterday for an admission to St. Paul's Hospital  
43 regarding an incident where you fell off a bench;  
44 is that right?  
45 A Yes, we did.  
46 Q And that was at tab 12 there is the patient care  
47 report. And there's an indication, under the

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1 "History of Chief Complaint," that you fell off  
2 the bench. And do you recall falling off the  
3 bench?  
4 A I -- I recall -- falling off the bench and  
5 passing out, yes. Falling off the bench, yes.  
6 Q You recall falling off the bench. And then under  
7 the "Surgical History" -- or "Medical Surgical  
8 History," further down the page, it says "seizure  
9 HX," which I take to be see "seizure history."  
10 Do you recall ever telling anybody that you had a  
11 seizure history?  
12 A No, I don't recall tell -- tell -- I don't recall  
13 that.  
14 Q Do you actually recall speaking to the ambulance  
15 attendants on this day?  
16 A No.  
17 Q Well, I note that we did not mark that as an  
18 exhibit, but there is an indication there, it  
19 says "smoked some weed this morning." So you  
20 agreed that you had smoked some weed that day; is  
21 that correct?  
22 A Yes, I did.  
23 Q And in fact, you agree that you had smoked more  
24 weed than you normally did?  
25 A I -- I think I smoked a bit of excess, yes.  
26 Q A bit of excess. And that's the impact that it  
27 had on you, it made you pass out at the bus stop?  
28 A Yes.  
29 Q Had marijuana ever done that to you before, made  
30 you pass out?  
31 A A few times, yes.  
32 Q So you were aware that that was a risk if you  
33 smoked a lot of marijuana; is that right?  
34 A Yes.  
35 Q And it would make you get drowsy and slur your  
36 speech as well; is that correct?  
37 A I -- I don't know how to answer that. Yes or no.  
38 Q All right. Do you recall whether or not you were  
39 drowsy and slurring your speech at the time of  
40 your admission to St. Paul's Hospital?  
41 A No, I wasn't aware of that.  
42 Q All right.  
43 A I know I was called -- I know -- I know I was  
44 going to -- I know I was drowsy, I guess, but I  
45 don't know if my speech was slurred.  
46 Q And I think your evidence yesterday was that it  
47 may have been; is that fair?

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1 A That's fair.  
2 Q Now, I understand from the records that you  
3 received IV fluids on this date as well. Do you  
4 recall that, receiving IV fluids?  
5 A No.  
6 Q If I can get you to turn to tab 27, pages 1 and 2  
7 of that tab are a discharge summary from  
8 St. Paul's Hospital for the admit date of  
9 November 13th, 2012?  
10 A Yes.  
11 Q And underneath the care provider comments, it  
12 says -- in the third line states "not feeling  
13 well last few days." Does that trigger your  
14 memory? Is that something that you may have told  
15 the doctor?  
16 A I may have said -- said -- said -- I may have  
17 said that -- I don't remember saying that.  
18 Q You don't remember that at all?  
19 A That was a long time ago.  
20 Q I understand that. And it says "denies drugs or  
21 alcohol other than marijuana and tobacco." To  
22 the best of your recollection, is that true or  
23 you don't recall this admission in any way?  
24 A I don't recall this. I don't recall that -- I  
25 may have told -- I may have told them I smoked  
26 pot and cigarettes because I'm usually honest  
27 about that. I -- I was honest about that.  
28 Q It says "complaining of his usual neck pain," and  
29 this is in the second line. Did you have usual  
30 neck pain?  
31 A If I sleep the wrong way, I have neck pain, yes.  
32 Q And is that how you would describe it to somebody  
33 as "usual neck pain"?  
34 A If I sleep the wrong way, yes.  
35 Q I see. Okay. But you don't recall this  
36 admission in any way?  
37 A No.  
38 Q And I understand that you were given a ride back  
39 from St. Paul's to the shelter. Do you recall  
40 that?  
41 A I remember I went back to the shelter, yes.  
42 Q But do you recall receiving a ride back to the  
43 shelter?  
44 A It may have been on this -- what's it called --  
45 on the hospital transport.  
46 Q But you don't recall it?  
47 A No.

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 1 Q So you have very limited recollection of this  
 2 event?  
 3 A Yes.  
 4 Q Now, moving -- if I can ask you to go to tab 11,  
 5 which was marked as an exhibit yesterday. I  
 6 believe it was marked as Exhibit 15. These are  
 7 some notes from the shelter; is that correct?  
 8 A Yes.  
 9 Q I just wanted to check a couple of things. It  
 10 indicates that you did go to the nurses clinic;  
 11 is that right?  
 12 A Yes, I --  
 13 Q Did you recall going to the nurses clinic at some  
 14 point after being in the Beacon shelter?  
 15 A I don't specifically recall if he was -- being  
 16 the nurses -- being it's the nurses clinic, but  
 17 it says -- if it -- I -- I recall going next --  
 18 next door to the Anchor and seeing the -- what's  
 19 called -- people there.  
 20 Q The medical staff there?  
 21 A The medical staff and the social worker there,  
 22 yes.  
 23 Q I see. Okay. And there's a note there that you  
 24 discussed setting up appointments with welfare  
 25 and you wanted to obtain housing. Do you recall  
 26 this? Is this something that you have a  
 27 recollection of doing?  
 28 A Yes. I spoke with -- with Rosalie, the -- was a  
 29 social worker.  
 30 Q I see. And you had to do some paperwork to get  
 31 this done?  
 32 A Yes.  
 33 Q And you were able to do that?  
 34 A Ro -- Ro -- Rosalie filled out some of the --  
 35 some of the paperwork. I didn't do it all.  
 36 Q You didn't do it all, but you were somewhat  
 37 familiar with the process of applying for social  
 38 assistance and obtaining housing; is that fair to  
 39 say?  
 40 A I just filled out the -- some -- some -- some --  
 41 some -- some -- I filled out some -- some of the  
 42 forms and that I have been on EI and I was on --  
 43 and I was on -- and I was on SA at the hospital,  
 44 but I usually just signed forms.  
 45 Q You just signed forms. And you had applied for  
 46 SA in Ontario as well; is that correct?  
 47 A Yes. They filled -- they also filled out the

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 1 forms --  
 2 I see.  
 3 A -- at the shelter.  
 4 Q So it's something you -- you were familiar with  
 5 the process but you didn't do the paperwork  
 6 yourself?  
 7 A Yes.  
 8 Q All right. And there is an indication that you  
 9 were going to fill out a PWD form, which we heard  
 10 yesterday is a persons with disability form; is  
 11 that correct?  
 12 A Yes. Ro -- Ro -- Ro -- Ro -- Rosalie filled that  
 13 out.  
 14 Q I see. Now, did you understand what disability  
 15 they were using to seek the benefits?  
 16 A From the form that Rosalie filled out, it was --  
 17 it mentioned that I heard voices and stuff like  
 18 that.  
 19 Q Heard voices. So was it your understanding that  
 20 it was your mental health condition that was  
 21 being used to obtain benefits?  
 22 A Yes.  
 23 Q Now, I know we heard yesterday that there was  
 24 some concerns that you expressed that you -- by  
 25 the staff that you were not taking your  
 26 medications and you were asked to go and get your  
 27 prescription. Do you recall that?  
 28 A Yes.  
 29 Q And is that true? Is that what happened? They  
 30 had communicated that to you?  
 31 A Yes.  
 32 Q And you didn't have any risperidone on you; is  
 33 that right?  
 34 A That's true.  
 35 Q Okay. If I can take you to tab 15. These -- my  
 36 understanding is that these are some case notes  
 37 from a system called PARIS. They're called PARIS  
 38 case notes. And on page 2 there's an indication  
 39 that the writer met with you this morning at the  
 40 shelter and that you'd gone to a DCHC  
 41 appointment, which I take to be the health clinic  
 42 appointment, downtown community health clinic; is  
 43 that -- does that ring a bell to you? Does that  
 44 sound like that's --  
 45 A Yes.  
 46 Q All right. And met a doctor and got a  
 47 prescription from there; is that correct?

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 1 A Yes.  
 2 Q And at the very bottom it says "CM Rosalie  
 3 Rossi"?  
 4 A Yes.  
 5 Q And so that was your case manager; is that  
 6 correct?  
 7 A That was the social worker, yes.  
 8 Q That was the social worker. And you -- then  
 9 there's an indication in the middle there:  
 10  
 11 Writer asked about prescription. Client  
 12 stated he had this and was going to have it  
 13 dropped off at Al Drugs.  
 14  
 15 Is that accurate? Is that what you did?  
 16 A Yes, it is.  
 17 Q And then you went back to pick up the  
 18 prescription later; is that correct?  
 19 A Yes.  
 20 Q And you took it back to the shelter; is that  
 21 correct?  
 22 A That's correct.  
 23 Q Okay. Then it says:  
 24  
 25 Writer was concerned about this piece  
 26 happening as client had been off his meds  
 27 for two weeks now.  
 28  
 29 Do you recall telling Ms. Rossi that you were off  
 30 your risperidone for two weeks?  
 31 A I recall tell -- tell -- telling her that I was  
 32 off my risperidone. I don't recall for how long.  
 33 Q So that timing of two weeks you don't know how  
 34 Ms. Rossi got that?  
 35 A I may have said -- said that -- that to -- I know  
 36 I told her I was off my risperidone; I just don't  
 37 recall the two weeks -- the time frame I told her  
 38 I was off.  
 39 Q And then it goes on to detail that the writer  
 40 asked shelter staff to call when client had  
 41 returned -- had turned the prescription in to  
 42 them. So you recall that at the Salvation Army  
 43 they made you turn in the prescription; is that  
 44 correct?  
 45 A Yes.  
 46 Q All right. And those were the risperidone pills  
 47 that we talked about yesterday; is that right?

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 1 A Yes.  
 2 Q And then it says:  
 3  
 4 This afternoon shelter staff from Beacon,  
 5 Mike W, did call to confirm the client had  
 6 dropped off prescription and taken his daily  
 7 dose.  
 8  
 9 And I think we spoke about this yesterday that  
 10 you were somewhat surprised that they actually  
 11 wanted to watch you take the pills; is that  
 12 right?  
 13 A Yes.  
 14 MR. MEADOWS: Now, I note that we did not mark this as  
 15 an exhibit yesterday, so I would like to mark  
 16 this tab as the next exhibit.  
 17 THE COURT: What exhibit are we at?  
 18 THE CLERK: Exhibit 23, My Lord.  
 19  
 20 **EXHIBIT 23: Six pages of case notes; common  
 21 book of documents tab 15**  
 22  
 23 MR. MEADOWS:  
 24 Q Now, do you agree that actually at this time when  
 25 you were going to get your risperidone, you were  
 26 starting to feel some symptoms and so you wanted  
 27 to get your risperidone; is that correct?  
 28 A Yes.  
 29 Q Now, you told us yesterday that you took the one  
 30 dose of medication -- one daily dose of  
 31 medication in front of the staff, but for the  
 32 remainder of the doses you sort of cheeked the  
 33 medication and then spat it out; is that correct?  
 34 A Yes.  
 35 Q Now, did you not take risperidone for a few days?  
 36 A No, I think I was spitting them out.  
 37 Q All right. Well, I'll ask you to pick up your --  
 38 the transcript again, and this is from the  
 39 examination for discovery which occurred on  
 40 February 16th, 2018. And if you can turn to  
 41 questions 959 -- 958?  
 42 A M'mm-hmm.  
 43 Q All right. And I'll read the questions and  
 44 answers out to you. Question 958:  
 45  
 46 Q Okay. But when you received them, you did  
 47 take them?

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1 A Yes.  
 2 Q Okay. And for how long did you continue  
 3 taking them?  
 4 A A couple of days. I took them a couple of  
 5 days, yes.  
 6 Q Okay. Now, do you recall why you stopped?  
 7 A I don't recall why I stopped, but I just  
 8 took them for a couple of days.  
 9  
 10 A Yes.  
 11 Q Were you asked those questions?  
 12 A Yes, I was.  
 13 Q And did you give those answers?  
 14 A Yes.  
 15 Q And were those answers true?  
 16 A Yes, to -- yes, to the best -- to the best of my  
 17 knowledge, yes.  
 18 Q So you did take the pills for a couple of days;  
 19 is that correct?  
 20 A I may have taken them for a couple of days, yes.  
 21 Q And taking -- to be fair, taking risperidone for  
 22 a couple of days was in keeping with your  
 23 standard practice; is that right? You would take  
 24 them for a while until the symptoms diminished?  
 25 A Yes.  
 26 Q Now, you also told us that you tried to keep some  
 27 risperidone on you at all times in case the  
 28 symptoms increased; is that fair?  
 29 A Yes.  
 30 Q All right. And so you didn't give the Beacon  
 31 staff all of the risperidone?  
 32 A No, I don't think I did, no.  
 33 Q Now, you didn't take any further medications  
 34 after those couple of days? You didn't take any  
 35 risperidone after that time?  
 36 A No.  
 37 Q And your symptoms started to increase a bit at  
 38 that time?  
 39 A Yes.  
 40 Q And you decided that you didn't need risperidone?  
 41 A No.  
 42 Q All right. So at some point we heard yesterday  
 43 that you missed curfew. You were wandering  
 44 around the town all day; is that right?  
 45 A Yes.  
 46 Q Wandering around downtown; is that correct?  
 47 A Yes.

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1 Q And you missed curfew; is that right?  
 2 A Yes.  
 3 Q And you spoke to them at the shelter at that  
 4 point and they wouldn't let you in?  
 5 A Yes.  
 6 Q And you then went to the police station and asked  
 7 them to take you to the hospital; is that  
 8 correct?  
 9 A Yes.  
 10 Q Now, when you -- do you recall when you were  
 11 first brought in to the hospital? Do you have  
 12 any recollection of this trip to the hospital?  
 13 A No, I was in a -- I -- I -- I -- I -- I --  
 14 I -- I -- I was in a state where I was -- I was  
 15 just -- where I was -- talk -- talk -- talking to  
 16 myself and he -- and he -- and hearing voices.  
 17 So my -- so my memory of the actual -- of going  
 18 into the -- of the hospital is not that clear.  
 19 Q Now, you were able to lay down; you weren't  
 20 yelling and screaming; is that correct?  
 21 A No, I wasn't yelling and screaming that I know  
 22 of.  
 23 Q And you were able to sleep when you were first  
 24 brought there; is that correct? Do you recall  
 25 that?  
 26 A I think I dozed in and out of sleep.  
 27 Q Dozed in and out. Okay. And when you were  
 28 triaged by the nurse, you were answering her  
 29 questions? Do you recall speaking to a nurse?  
 30 A I recall I spoke to a young resident. I --  
 31 Q That's the first recollection you have is  
 32 speaking to someone?  
 33 A I don't -- I know I spoke to a nurse; I just  
 34 don't know -- I just can't recall what was said.  
 35 Q I see. And do you recall whether or not you were  
 36 answering questions?  
 37 A I think I was answering questions, yes.  
 38 Q All right. And I see in one of the records it  
 39 says that you initially refused a jab to draw  
 40 blood and that's because you don't like needles;  
 41 isn't that correct?  
 42 A That's true.  
 43 THE COURT: Sorry. So that question, and just so I  
 44 have it, the way you put it, it's not a criticism  
 45 at all, was you merged two questions: "you  
 46 refused" and "you don't like needles," and he  
 47 agreed. And I'm not sure what he's agreeing to;

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1 whether he has a memory of refusing blood or  
 2 whether he's agreeing with the proposition that  
 3 you posed.  
 4 MR. MEADOWS:  
 5 Q Two things: You've told us already you don't  
 6 like needles, and do you recall -- is that true?  
 7 A Yes, I don't like needles.  
 8 Q And the other thing is: Do you recall not  
 9 wanting them to take your blood because you don't  
 10 like needles?  
 11 A I don't recall that.  
 12 Q You don't recall that part. Okay. Thank you.  
 13 All right. If I can get you to turn to tab 19.  
 14 This is just a single page. This is the  
 15 emergency physician assessment. And my  
 16 understanding is that this was written by the  
 17 resident who was a young Asian student. Does  
 18 that accord with your recollection that you spoke  
 19 with someone who was a young Asian doctor or  
 20 resident?  
 21 A Yes, it does.  
 22 Q All right. And you told her you'd been walking  
 23 around since 7:00 o'clock; is that -- do you  
 24 recall that?  
 25 A Yes.  
 26 Q And you told her you had a history of  
 27 schizophrenia and took risperidone; is that  
 28 correct?  
 29 A Yes.  
 30 Q And you didn't -- you didn't hide that condition  
 31 from the doctor?  
 32 A Pardon?  
 33 Q You didn't hide that condition from the doctor?  
 34 You didn't hide your schizophrenia diagnosis from  
 35 this physician?  
 36 A No.  
 37 Q You weren't there to actually get risperidone,  
 38 though; is that correct?  
 39 A No.  
 40 Q You were there because you felt run down; isn't  
 41 that right?  
 42 A I -- no. I -- I -- I -- I was there because I  
 43 had lost a whole day and I didn't know what was  
 44 wrong.  
 45 Q All right. And you described hearing voices on  
 46 the street of people talking to each other and  
 47 music; is that -- do you have that recollection?

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1 A I don't recall saying -- saying that, no.  
 2 Q All right. But that is a symptom that you would  
 3 suffer from if you didn't take your risperidone  
 4 for a certain length of time; is that right?  
 5 A That is accurate.  
 6 Q And there's an indication that you last used your  
 7 marijuana -- "last used marijuana a couple of  
 8 days ago." Was that correct at that time, or you  
 9 don't recall?  
 10 A From -- at that time I know I didn't smoke pot  
 11 the day of the -- of the -- of -- when -- when --  
 12 when I was walking around. It may have been the  
 13 day before I smoked pot. So --  
 14 Q The day you walked around, you didn't smoke pot?  
 15 A Yes. But except the day before I think I did.  
 16 MR. MEADOWS: My Lord, I see the time. I'm just about  
 17 to start on the section where it's the interview  
 18 with the physician, the defendant, and I thought  
 19 this may be a good time to take a break a little  
 20 early.  
 21 THE COURT: Sure. That's fine.  
 22 THE WITNESS: How long is the break?  
 23 THE COURT: 15 minutes.  
 24  
 25 **(JURY OUT)**  
 26  
 27 THE COURT: You're excused, Mr. Osuteye. Thank you,  
 28 sir.  
 29 THE WITNESS: Okay.  
 30  
 31 **(STOOD DOWN)**  
 32  
 33 THE COURT: So in -- I just want to ask counsel, so  
 34 you can sit, please. Thank you. In this amended  
 35 trial record, is there a document that third  
 36 parties Mr. Osuteye? What is the document that  
 37 achieves that?  
 38 MS. KOVACS: There should be an amended third-party  
 39 notice I think in the last tab. I don't have it  
 40 in front of me, My Lord.  
 41 THE COURT: The last tab. Just give me one second.  
 42 MS. KOVACS: Do you have your trial record?  
 43 THE COURT: As Mr. Meadows was asking questions, I  
 44 just had a thought. I just wanted to see that.  
 45 MS. KOVACS: My understanding is that the third-party  
 46 notice seeks to have him -- apportion fault on  
 47 the basis of civil assault, not negligence or

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1 anything of that kind.  
 2 THE COURT: Well, that's what I wanted to see.  
 3 MS. KOVACS: But there is a demand for particulars  
 4 that was issued by Ms. Hunter, as counsel for  
 5 Mr. Osuteye, to my friends.  
 6 THE COURT: Right.  
 7 MS. KOVACS: And the response to that demand for  
 8 particulars was interesting because it sets out  
 9 some allegations, I think, dishonesty, but I'm  
 10 not sure what that founds in terms of a tortious  
 11 conduct.  
 12 THE COURT: I just would like some help so I  
 13 understand what's going on. And, you know, your  
 14 friend is not challenging relevance so I'm not  
 15 doing that either.  
 16 MR. MEADOWS: No.  
 17 THE COURT: I just would like to understand -- because  
 18 in the context of this room and subject to the  
 19 medical evidence that's led, because none -- none  
 20 of are authorities and I'm certainly not. The  
 21 proposition that schizophrenics think they can  
 22 regulate their medication is not a remarkable  
 23 thing, and there's no attachment of negligence to  
 24 that. So I just wanted to see what the  
 25 assertions were. You know, you thought you could  
 26 control it; you felt it was okay not to take your  
 27 meds because you thought you could control it.  
 28 MR. MEADOWS: My Lord, I think in terms of -- it does  
 29 have some explanation with respect to his  
 30 presentation at the -- there are some issues with  
 31 respect to the particulars and the claims against  
 32 Mr. Osuteye with respect to failing to follow  
 33 directions, et cetera.  
 34 THE COURT: But that's a negligence claim; right?  
 35 MR. MEADOWS: That's a negligence claim, that's  
 36 correct.  
 37 THE COURT: Is that a claim that's against --  
 38 MR. MEADOWS: That's the apportionment of fault, that  
 39 issue.  
 40 MS. KOVACS: My Lord, in our action --  
 41 THE COURT: So where ought I to look, please?  
 42 MS. KOVACS: Yes, and I'm sorry. I've only given  
 43 trial records to my friends here and yourself, so  
 44 I don't have it in front of me, but my  
 45 recollection of the amended third-party notice is  
 46 that claim's in civil assault only, because there  
 47 was never a claim of negligence against

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1 Mr. Osuteye in Ms. Crawford's action. There was  
 2 in Ms. Rizzo's action, so I'm not sure if that  
 3 third-party notice had claimed over in negligence  
 4 but --  
 5 MR. REID: I may be able to assist, My Lord.  
 6 MS. KOVACS: Yes.  
 7 THE COURT: Please.  
 8 MR. REID: So at the outset in the response to civil  
 9 claim, and that's found at tab 2. And at this  
 10 time, of course, Mr. Osuteye was a defendant in  
 11 this action at the time. In addition -- at  
 12 paragraph 7, part 3, so at the top it has a  
 13 number 23, page 7, paragraph 7. There was a  
 14 claim pursuant to the *Negligence Act* alleging  
 15 that the loss or damage was caused or contributed  
 16 to by the negligence or damage was caused or  
 17 contributed to by the negligence of the plaintiff  
 18 and/or the defendant Mr. Osuteye.  
 19 In response to that, counsel for Mr. Osuteye  
 20 issued a demand for particulars, which is found  
 21 at tab 4. And that specifically sought  
 22 particulars of negligence as pled in the amended  
 23 notice of civil claim and in addition a  
 24 third-party notice. Those particulars were  
 25 provided at paragraph 5 -- sorry, tab 5, My Lord.  
 26 THE COURT: All right.  
 27 MR. REID: In addition, My Lord, there is an amended  
 28 third-party notice which does not appear to be in  
 29 the trial record, and I'll work with my friend to  
 30 ensure that we have it. And I know we're both  
 31 looking -- but it should have been here. There  
 32 is an amended third-party notice. And that  
 33 amended third-party notice, Your Lordship may  
 34 recall, was one of the issues we dealt with at  
 35 housekeeping at the outset of trial and we had  
 36 Ms. Gilewicz on behalf of Mr. Osuteye here and  
 37 signed. That should be in the trial record, and  
 38 it's not. That specifies and makes it very clear  
 39 that -- and amends a prior third-party notice  
 40 that was issued clarifying that all that is being  
 41 sought is an apportionment of liability, and in  
 42 that one it does actually specifically plead  
 43 battery.  
 44 So there is effectively two types of  
 45 potential apportionment that could occur, in my  
 46 submission. There's the response to amended  
 47 notice of civil claim that particularizes

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1 negligence, as well as, the particulars that had  
 2 been provided, but the third-party notice itself  
 3 is on the basis of battery.  
 4 THE COURT: Sorry, just so I understand it, and I  
 5 haven't thought this through, and we've not  
 6 talked about this, but is it pertinent what a  
 7 response to civil claim said in relation to  
 8 Mr. Osuteye when he was a defendant when that  
 9 status is altered and is now in as a third party  
 10 alone? I mean, who cares what was pled as  
 11 against him in a different capacity? I'm asking  
 12 the question. I've not looked at that, but in a  
 13 sense my instinct is to say why do I care? And  
 14 it will matter to me because I have to know what  
 15 I have to instruct the jury on, what do they have  
 16 to look at. And I think your friend has to know  
 17 because in terms of cross-examining the doctor,  
 18 and she'll do whatever cross she wants, but I  
 19 will be quite surprised if Dr. Nazif didn't say  
 20 that schizophrenics routinely lie about their  
 21 meds, routinely lie about what they're doing,  
 22 routinely minimize their symptoms. If you have  
 23 some passing acquaintance with that dreadful  
 24 illness, those are, I believe, common conditions.  
 25 But for present purposes what matters is  
 26 that your friend has to understand, and she  
 27 appears to be under misapprehension, she can  
 28 figure that out with you, but I have to  
 29 understand in terms of what -- you know,  
 30 instruction on what to provide the jury. What is  
 31 it that matters and what questions will they have  
 32 to consider. And the reason I raise this is  
 33 because I had understood, admittedly, potentially  
 34 erroneously, which is why I wanted the  
 35 third-party notice and why I wanted a record for  
 36 some time to see what was being pled. I assumed  
 37 that the only issue was the assault and battery  
 38 issue and his level of awareness of what it was  
 39 that he was doing. And that will become  
 40 apparent, I think, in the reasons that I gave on  
 41 the document production issue, because that's the  
 42 only context in which I considered anything. I  
 43 never even turned my mind to a negligence claim  
 44 and how these documents might arise in the  
 45 context of different pleadings, because I was  
 46 unaware of it.  
 47 So we have to have this conversation sooner

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1 rather than later again, once I have the proper  
 2 pleadings and I can look at it myself and, you  
 3 know, you can look at the issue of whether you --  
 4 and by that I mean Dr. Nazif -- can rely on a  
 5 pleading that was contained in a defence in  
 6 response to civil claim in relation to  
 7 Mr. Osuteye at a different stage when you've  
 8 dismissed -- that's not continued, he's not a  
 9 defendant, he's now a third party -- a  
 10 third-party notice is issued and that third-party  
 11 notice is more focussed in nature I understand,  
 12 though again I've not seen that. So --  
 13 MR. REID: And, My Lord, the inclusion of the response  
 14 to civil claim, the mentioned particulars, is --  
 15 was descriptive so to give Your Lordship an idea.  
 16 In terms of the demand for particulars, it notes  
 17 -- the demand that was issued itself at paragraph  
 18 4 references both the amended notice of civil  
 19 claim and the third-party notice. And what I'll  
 20 do is I'll work with my friend to ensure that  
 21 Your Lordship has a copy of the third-party  
 22 notice which sets out the third-party claim and  
 23 that's actually been advanced.  
 24 MS. KOVACS: We handed that copy to him.  
 25 THE COURT: But again, you'll have to be clear because  
 26 that response to demand for particulars which is  
 27 at tab 5, is that what you're speaking of?  
 28 MR. REID: No. I'm referring, My Lord, to the demand  
 29 for particulars itself which is at tab 4, and I'm  
 30 noting that the particulars of negligence that  
 31 are being sought at paragraph 1 by Mr. Osuteye  
 32 relate to both the amended notice of civil claim  
 33 and the third-party notice. The third-party  
 34 notice was issued long before. It's now an  
 35 amended third-party notice. And I believe Your  
 36 Lordship should have a copy of that. I'll work  
 37 with my friend to ensure it's in the book itself.  
 38 And it's my submission the third-party notice is  
 39 what sets out legally the claim as against  
 40 Mr. Osuteye.  
 41 THE COURT: And that's an amended third-party notice  
 42 now?  
 43 MR. REID: That has now been amended, yes, My Lord.  
 44 THE COURT: Right. And again, for my purposes, isn't  
 45 that the one that I rely on? I mean, if you  
 46 had -- I'm making this up -- but if you had four  
 47 causes of action in an early third-party notice

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1 and you distill that into an amended notice and  
2 that's what's filed for the purpose of the trial  
3 record, isn't that what I'm focusing on?  
4 MR. REID: That's correct, My Lord. And the reason  
5 that the demand for particulars is included is  
6 because the amended third-party notice is  
7 effectively the same as the initial third-party  
8 notice but changed so that it's very clear that's  
9 all that's being sought at this point is  
10 declaratory relief. And so the particulars are  
11 relevant because the pleadings were amended, but  
12 it's -- the answers to what are the particulars  
13 of the third-party notice before it was amended  
14 are the same as what are the particulars of the  
15 third-party notice after it was amended, because  
16 the change that was made is simply changing the  
17 nature of the relief that's being sought.

18 THE COURT: All right. So you'll get that to me as  
19 soon as --

20 MR. REID: I think Your Lordship may have a copy of it  
21 already, but we'll make sure it goes in the  
22 amended brief.

23 MS. KOVACS: My recollection is we did hand up a  
24 stamped copy. I do want to state my position  
25 very clearly on this issue, and briefly. I  
26 didn't appreciate at the time that my friend  
27 insisted on the inclusion of the demand for  
28 particulars and response to particulars in the  
29 trial record for what purpose they wanted it in  
30 there. Because, quite frankly, the only claim  
31 that is advanced in the amended third-party  
32 notice, which is what governs Mr. Osuteye as a  
33 third party, it is the only pleading that compels  
34 him to be here as a third party and to seek  
35 declaratory relief. My recollection of that, and  
36 I do not have it before me, is that there is no  
37 plea in negligence largely because there was  
38 never a plea in the notice of civil claim either.

39 The plaintiff has elected and chosen to  
40 discontinue her action as against Mr. Osuteye.  
41 The *BC Ferry* wording was included in the further  
42 amended notice of civil claim. My recollection  
43 is that particulars issue which I wasn't even a  
44 part of, that was as between Hunter Litigation  
45 and my friends, happened before my second-to-last  
46 revision when I let him out. It was certainly  
47 when he was still a defendant.

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1 The only thing that binds him as a party for  
2 declaratory purposes only is the amended  
3 third-party notice, and the only live cause of  
4 action against him or alleged tortious conduct is  
5 the civil assault. And I don't even think the  
6 word "battery" are used, although I can be  
7 corrected on that. If my friends are now seeking  
8 to amend that third-party notice to claim  
9 negligence, I need to know that, because my  
10 opening would have been very different if that  
11 was the case.

12 THE COURT: So I didn't mean to throw a stick into the  
13 wheels or a hornet's nest or anything of the  
14 sort, I just didn't understand. And the nature  
15 of the questions you are asking Mr. Meadows  
16 obviously cause me to inquire about what was  
17 happening because those questions were different  
18 than I would have -- you know, I would have  
19 understood those questions once or twice or  
20 thrice but at every stage it caused me to believe  
21 that the focus might be different than I'd  
22 understood and so again you'll have to speak. It  
23 may be that Mr. Osuteye's counsel may or may not  
24 have to address me at some point or come to  
25 understand what's happened, but what we require  
26 either is a clear understanding as between  
27 ourselves or I have to make some rulings. Again,  
28 I think -- really, it's a good thing it's Friday  
29 in the sense that you have to work this out and I  
30 think it forms, as I said, not just my charge to  
31 the jury at the end of the day but your  
32 cross-examinations and the evidence that's  
33 elicited from the experts and how that's done.

34 MS. KOVACS: It certainly would have informed me  
35 months ago in terms of my instruction of my  
36 expert evidence, yes.

37 MR. MEADOWS: My Lord, I don't think that anybody was  
38 labouring under any misapprehension here, and I  
39 think that my friend can read out the actual  
40 language where it's clear in the amended  
41 third-party notice and in the original  
42 third-party notice that apportionment was sought  
43 against the third party Mr. Osuteye for any  
44 negligence.

45 THE COURT: Okay. So I don't want to do this now and  
46 you say it's crystal clear and your friend said  
47 she didn't understand that. And I'm telling you

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1 that I didn't apprehend that and I expect that  
2 that's a failing on my part because I didn't have  
3 a full record. I obviously reviewed the  
4 pleadings. What I had didn't make that clear to  
5 me. And, you know, again, there's still the odd  
6 piece missing from the amended record, though I  
7 do recall being provided the amended third-party  
8 notice, at the commencement of trial and I have  
9 that, but I didn't review that because what I  
10 wanted to do was see all of the pleadings and  
11 work my way through it in one shot. I just  
12 wanted to understand that. So, you know, I say  
13 this respectfully, but on going assertions by one  
14 party or the other that it's crystal clear does  
15 not make it so and --

16 MR. MEADOWS: I appreciate that --

17 THE COURT: -- I just have to figure it out.

18 MR. MEADOWS: And I understand that it does have some  
19 relationship to the scope of examination.  
20 However, in -- as long as Your Lordship  
21 understands that there's no claim for  
22 contribution and indemnity here. This is just an  
23 apportionment claim.

24 THE COURT: I know that, but, I mean, the issues for  
25 the jury are pretty different. The issue whether  
26 Mr. Osuteye was negligent in his sort of  
27 self-care is a pretty different question than  
28 whether he apprehended the nature of his acts  
29 when he attacked the plaintiff. Those are -- you  
30 know --

31 MR. MEADOWS: I appreciate that. I understand.

32 THE COURT: Markedly different concept and a markedly  
33 different theory of the case.

34 MR. MEADOWS: Yes.

35 THE COURT: Okay.

36 THE CLERK: Order in court. Court is adjourned for  
37 the afternoon break.

(PROCEEDINGS RECESSED AT 3:12 P.M.)

(PROCEEDINGS REVENED AT 3:25 P.M.)

41 THE CLERK: Order in court.

43 THE COURT: Mr. Meadows, am I correct when I say that  
44 the only response that's been filed by Dr. Nazif  
45 is the original response to civil claim? Is that  
46 the pleading that's being relied on? Because the  
47 pleading in the amended trial record is a

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1 response to civil claim filed back in 2016.

2 MR. MEADOWS: I believe that's the only response,  
3 My Lord.

4 THE COURT: Okay. Thank you.

5 THE BAILIFF: The jury, My Lord.

(JURY IN)

NICHOLAS OSUTEYE,  
recalled.

12 CROSS-EXAMINATION BY MR. MEADOWS:(Cont.)

13 Q Yes. Mr. Osuteye, I ask that you please turn to  
14 tab 23, which is a consultation report. Now, I  
15 understand your evidence from today, and  
16 yesterday in fact, that you do not recall  
17 speaking with Dr. Nazif, the psychiatrist who is  
18 the defendant in this action; is that correct?

19 A No, I do not recall speaking to Dr. Nazif.

20 Q No recollection at all. All right. And you  
21 don't recall asking any -- answering any  
22 questions that either Dr. Nazif or another  
23 individual with her put to you; is that correct?

24 A That is correct.

25 Q All right. So what we have at tab 23 is a  
26 consultation report, and really I just want to  
27 confirm some of the information that's contained  
28 in here to confirm that this is information that  
29 was true at the time. At this time you were 35  
30 years old; is that right?

31 A Yes.

32 Q And you were single and never married; is that  
33 correct?

34 A Yes.

35 Q And you had no children; is that correct?

36 A That is correct.

37 Q And you were from Edmonton?

38 A That is correct.

39 Q And you moved to Vancouver a month earlier?

40 A That is correct.

41 Q And you wanted -- and you moved here to go to  
42 school and to work eventually?

43 A That is correct.

44 Q And you were supported financially in Edmonton on  
45 a medical disability from prior work at the  
46 University of Alberta?

47 A That is incorrect.

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1 Q Is that incorrect? Is that something that you  
2 ever told anybody?  
3 A I don't know who I told this to.  
4 Q But it was not true?  
5 A That was not true, no.  
6 Q And you don't recall ever saying that?  
7 A No.  
8 Q You recently applied for persons with disability  
9 in British Columbia?  
10 A That is correct.  
11 Q You had been living with your mother in Edmonton?  
12 A That is correct.  
13 Q You had no fixed address in Vancouver but were  
14 staying at the Beacon shelter?  
15 A That is correct.  
16 Q You had connected with the downtown community  
17 health clinic since coming to town?  
18 A That is correct.  
19 Q And if that information was provided to Dr. Nazif  
20 upon questioning of you, those answers were  
21 truthful other than that one instance; is that  
22 correct?  
23 A Yes.  
24 Q Then you had been walking around for 19 hours  
25 from 7:00 o'clock; is that right?  
26 A I don't know if it was 19 -- 19 hours, but I  
27 had -- what's it called -- I had been -- what's  
28 it called -- walk -- walking around since that --  
29 around 7:00 A.M., yes.  
30 Q And is it true you had walked around Abbott and  
31 Main and up Davie that day?  
32 A I don't know where I went.  
33 Q You had approached the police?  
34 A That night?  
35 Q Yes.  
36 A Yes, that is correct.  
37 Q That's correct. All right. And the fact that  
38 you had a prior diagnosis of schizophrenia, that  
39 was not something that you hid at this point?  
40 A No.  
41 Q And had a late onset of 2008? Is that something  
42 that you thought at that time?  
43 A It may have been, but I don't recall saying that.  
44 Q You had seen Dr. Dewart at the Misericordia; is  
45 that correct?  
46 A That is correct. Where is that on here? Or  
47 where -- or were you just asking?

90  
1 Q I was just asking, but it's actually on the page  
2 before, which will also be marked as an exhibit.  
3 And this is some handwritten notes. There's a  
4 reference to a Dewart on tab 22?  
5 THE COURT: Sorry, Mr. Meadows. I'm lost as well.  
6 Where are you, please?  
7 MR. MEADOWS: Tab 22.  
8 THE COURT: Tab 22.  
9 MR. MEADOWS: I'm just answering the witness's inquiry  
10 as to where this came from. It's a psychiatric  
11 assessment sheet, and midway down the page  
12 there's a reference to a Dewart.  
13 Q But back to the -- well, you were a master's  
14 student at the University of Alberta at this  
15 time?  
16 A That is correct.  
17 Q And you had also been employed as a teaching  
18 assistant?  
19 A That is correct.  
20 Q And you were first hospitalized in January 2009  
21 at Grey Nuns?  
22 A That is correct. I -- yeah.  
23 Q You did not necessarily agree with the diagnosis  
24 but you did agree to follow up?  
25 A That is correct.  
26 Q And you agreed that the medication did help your  
27 thinking?  
28 A That is correct.  
29 Q There's a reference that:  
30  
31 Has continued to be compliant over the last  
32 few years and in fact only followed up by a  
33 community health nurse in Edmonton, not a  
34 psychiatrist.  
35  
36 Was that true?  
37 A That is incorrect.  
38 Q So that's not true?  
39 A Yeah.  
40 Q And you did not make the move with a lot of  
41 planning; is that true?  
42 A That is correct.  
43 Q And you had been off your risperidone for at  
44 least several weeks?  
45 A That is correct.  
46 THE COURT: Sorry. Where are you now?  
47 THE WITNESS: Where were you?

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1 MR. MEADOWS: I'm just asking questions because the  
2 witness doesn't actually recall --  
3 THE COURT: Exactly. So what are you doing?  
4 MR. MEADOWS: I'm just asking if the facts that are in  
5 the report are true.  
6 THE COURT: And so where is that in the report now?  
7 MR. MEADOWS: Oh, I see.  
8 THE COURT: I'm just trying to find it so I can write  
9 as you're speaking, please. I'm sure it's there.  
10 I just can't see it.  
11 MR. MEADOWS: Yes.  
12 THE COURT: Oh, I see it. It's in the second  
13 paragraph from the bottom. I have it now,  
14 Mr. Meadows. Thank you.  
15 MR. MEADOWS: Right.  
16 Q And you agreed to -- I think earlier today --  
17 that you would not always be honest with  
18 physicians if they asked you about medication  
19 compliance; is that correct?  
20 A That is correct.  
21 Q And on page 2, at the top, in the first  
22 paragraph, it says that you had been "sleeping  
23 well" and "six to eight hours." Is that  
24 something that was true at that time?  
25 A Where is that on here?  
26 Q Page 2.  
27 A Tab?  
28 Q The same tab, tab 23. Page 2.  
29 A Page 2, yeah.  
30 Q At the top, and the first paragraph said:  
31  
32 The patient received IV fluids. Medically  
33 cleared by Dr. Lindsay. Patient seen in the  
34 company of medical student Sebastian Ko. He  
35 was polite and cooperative but somewhat  
36 distracted. He reports he had been sleeping  
37 well, six to eight hours per night.  
38  
39 Do you recall whether or not you had been  
40 sleeping well at this time?  
41 A I was not sleeping well. I had some nights of  
42 good -- good -- good -- of good sleep and some  
43 nights of -- what's it called -- of not good  
44 sleep.  
45 Q And you had been in Grey Nuns for two and a half  
46 weeks; is that accurate?  
47 A I was in the Grey Nuns, yes.

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1 Q This is just under the heading "Past Medical  
2 History." And then you were in the Misericordia  
3 for three weeks it says. Was that true?  
4 A I was there a little bit longer.  
5 Q A little bit longer; is that right? But the fact  
6 that you were in Misericordia is not something  
7 that you hid, is it?  
8 A No.  
9 Q All right. And --  
10 THE COURT: Sorry. Are you talking on this day or  
11 generally?  
12 MR. MEADOWS: Just in general.  
13 THE COURT: Because what you're doing is  
14 incomprehensible, I got to tell you. You've been  
15 through the record.  
16 MR. MEADOWS: Yes.  
17 THE COURT: You've tracked everything that happened.  
18 MR. MEADOWS: Yes.  
19 THE COURT: You got all the dates, the whole  
20 chronology of everything that's happened. The  
21 witness says he doesn't remember this interview.  
22 MR. MEADOWS: Yes.  
23 THE COURT: And now you're going through it line by  
24 line to see if the lines are true.  
25 MR. MEADOWS: Yes.  
26 THE COURT: But you've either established them or not.  
27 You know whether they're true or not.  
28 MR. MEADOWS: Right.  
29 THE COURT: You have it.  
30 MR. MEADOWS: All right. All right.  
31 THE COURT: So I just don't quite understand what  
32 you're trying to achieve here.  
33 MR. MEADOWS: I appreciate Your Lordship's --  
34 THE COURT: And if I'm mistaken, please tell me.  
35 MR. MEADOWS: No, that's fair enough.  
36 Q Were you at this time taking a cream for a rash?  
37 A I think at that time I had Lotiderm cream.  
38 Q And that was for a rash; is that correct?  
39 A Yes, if I -- yes, it's a cream I've used for --  
40 for -- for -- for -- for -- for a few years for a  
41 rash that -- that -- that -- what's it called --  
42 that -- that flares up every so often.  
43 Q And were you smoking one to two joints a day, is  
44 that correct, at this time? I know you say you  
45 were smoking marijuana, but was it one to two  
46 joints a day?  
47 A Two to three.



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1 Q Two to three. And had you tried ecstasy?  
 2 A In the past, but not in Vancouver.  
 3 Q And there is in -- under "Past Personal History,"  
 4 there is a phone number for your -- it says phone  
 5 number is 780-951-9736. Do you recall, is that  
 6 your mother's phone number?  
 7 A That's my number.  
 8 Q That's your home phone right now?  
 9 A That's my cellphone number. That was my  
 10 cellphone num -- num -- num -- num -- my  
 11 cellphone number back in 2012.  
 12 Q Now, other than the time that you went to  
 13 hospital and were admitted or certified -- so we  
 14 know there's those two occasions -- did you ever  
 15 find out from your mother that any hospital  
 16 called her about you coming to a hospital?  
 17 A No.  
 18 Q So that's never been a subject of discussion?  
 19 A No.  
 20 Q And do you yourself ever recall asking a doctor  
 21 to call your mother?  
 22 A In -- where? In Vancouver or where?  
 23 Q At any place at any time?  
 24 A I don't recall, no.  
 25 Q Now, you had taken speech therapy in the past, I  
 26 understand.  
 27 A Yes.  
 28 Q Is there a technique called the "3 T" technique?  
 29 A Yes, there is.  
 30 Q And what is that technique?  
 31 A Think, take a breath, and talk.  
 32 Q And is that from a speech therapy school?  
 33 A ISTAR.  
 34 Q ISTAR. Okay. And I recall from yesterday that  
 35 you mentioned that you had been discharged and  
 36 were asked to come back. Do you recall that?  
 37 A I recall being let go from the hospital, yes.  
 38 Q And do you recall whether or not anyone asked you  
 39 to come back to meet with the social worker or  
 40 for any other reason?  
 41 A I don't recall that -- what -- that was a few  
 42 years ago.  
 43 Q I appreciate that. If I can just take you back  
 44 to the transcript from the examination for  
 45 discovery of February 15th, 2016, and ask you to  
 46 turn to question 1006. It's on page 167. And  
 47 the question is 1006:

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1 Q Okay. Do you recall being discharged from  
 2 the hospital?  
 3 A Yes, I do.  
 4 Q And what do you recall about that?  
 5 A They told me to come back and talk to the  
 6 social worker or the community worker, and  
 7 they told me how to get back to the  
 8 hospital.  
 9 Q Okay. So you recall that?  
 10 A M'mm-hmm. Yes.  
 11 A Yes, I do.  
 12 Q Yes. So you recall that now?  
 13 A Yes.  
 14 Q That refreshes your memory; is that correct?  
 15 A Yes, it does.  
 16 Q Okay. And do you recall being driven to the  
 17 shelter? Is that in your memory or no?  
 18 A In the ambulance?  
 19 Q No, going back to the shelter?  
 20 A Yes, I took the hospital transport.  
 21 Q You took the hospital transport. Okay. And you  
 22 had trouble sleeping that night because there  
 23 were eight or ten people in your room; is that  
 24 correct?  
 25 A That is correct.  
 26 Q And you started to have some auditory  
 27 hallucinations that evening in bed; is that  
 28 right?  
 29 A I don't recall that night. All I know is I did  
 30 not sleep well.  
 31 Q So you don't recall that the auditory  
 32 hallucinations started that evening in bed?  
 33 A I don't recall. That was years ago.  
 34 Q All right. Well, if I can get you to turn in the  
 35 examination for discovery transcript to 1023, is  
 36 the question. This is from the February 16th,  
 37 2018, discovery. And question 1023:  
 38 Q Okay. Now, when you say you didn't sleep  
 39 very well, what do you mean?  
 40 A Well, it's hard to get to sleep in a shelter  
 41 because you're also in a room with eight to  
 42 ten people and they're making noises and  
 43 coughing, stuff like that, so it's hard to  
 44 get sleep. And then the beds aren't as

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1 comfortable, and I was also having some  
 2 auditory hallucinations.  
 3 1024:  
 4 Q Okay. So you recall you started to or you  
 5 had the entire time?  
 6 A I had some. I started to.  
 7 Q You started to that evening?  
 8 A Yes, in bed.  
 9 Were you asked those questions?  
 10 A Yes.  
 11 Q And you gave those answers?  
 12 A Yes.  
 13 Q And were those answers true at the time?  
 14 A Yes.  
 15 Q And have they refreshed your memory?  
 16 A This does, yes.  
 17 Q And that you were starting to have those auditory  
 18 hallucinations that night when you were back in  
 19 the shelter in bed?  
 20 A I don't recall the auditory hallucinations,  
 21 but --  
 22 Q I see. You don't recall them at this point?  
 23 A Yes.  
 24 Q All right. But the auditory hallucinations were  
 25 not sufficient to get you to take some  
 26 risperidone; is that correct? Do you remember  
 27 taking risperidone that night?  
 28 A I don't think I took risperidone that night, no.  
 29 Q And do you know why you didn't take risperidone  
 30 that night?  
 31 A I had -- I just -- I just had a routine where I  
 32 would take the risperidone if I felt I needed it.  
 33 I see. And you thought on that evening that  
 34 really the auditory hallucinations were showing  
 35 up because of the stress involved; is that fair  
 36 to say?  
 37 A Yes.  
 38 Q And the fact that you just got out of the  
 39 hospital, that had caused you stress; is that  
 40 right?  
 41 A I don't know what the source of the stress was.  
 42 I had been having -- I had been having symptoms  
 43 the day before, so I don't know if it was a  
 44 continuation of them or not.

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1 Q I see. And just moving on to the day of the  
 2 attacks, you mentioned that you had a sudden  
 3 urge -- after sitting outside the shelter, you  
 4 were smoking, and you saw a girl, you had a  
 5 sudden urge to go down the street and attack her;  
 6 is that correct?  
 7 A I had -- she -- she was -- she was -- she was  
 8 about 8 feet away, and I had a thought of  
 9 attacking her, yes.  
 10 Q And that concerned you?  
 11 A Yes.  
 12 Q And that concerned you because you thought you  
 13 might hurt her if you attacked her?  
 14 A That concerned me because I didn't know why I  
 15 would think that.  
 16 Q I see. All right. And we know about the prior  
 17 incident involving your mother, but was this the  
 18 first time that you ever had an urge to attack  
 19 another person?  
 20 A Yes, to the best of my knowledge. I have been in  
 21 fights before in junior high -- what's it  
 22 called -- once or twice, but, yes.  
 23 Q But in terms of just attacking another person on  
 24 the street, this was the very first time you had  
 25 that urge?  
 26 A Yes.  
 27 Q And you got panicky even thinking about attacking  
 28 the girl?  
 29 A Yes.  
 30 Q And you started to run?  
 31 A Yes.  
 32 Q And you thought you needed to run so that you  
 33 wouldn't hit her; is that correct?  
 34 A I just got up and ran.  
 35 Q And during that time that you were running, you  
 36 saw an Asian lady and you just kicked her; is  
 37 that correct?  
 38 A Yes.  
 39 Q And you recall this?  
 40 A Yes.  
 41 Q You had an urge to do that?  
 42 A It wasn't an urge. It was -- I don't -- I don't  
 43 know how to describe it. I just turned around  
 44 and kicked her.  
 45 Q And when you kicked her, you knew that might hurt  
 46 her, though?  
 47 A I just kicked her.

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1 Q And did you know that that would impact her in  
2 any way?  
3 A I wasn't re -- re -- I wasn't -- what's it  
4 called -- re -- re -- re -- re -- re -- reasoning  
5 anything at the time.  
6 Q You weren't reasoning anything at the time. But  
7 someone saw you do it; is that right?  
8 A Yes.  
9 Q And you ran away?  
10 A I -- I -- kept -- kept -- I kept -- I ran up and  
11 kicked her and kept running.  
12 Q All right. And then you subsequently came up to  
13 another woman and you swept the legs out from  
14 under her; is that correct?  
15 A Yes.  
16 Q And you did that so that she would fall to the  
17 ground; is that correct?  
18 A Yes.  
19 Q All right. And you then started kicking her  
20 head; is that correct?  
21 A Yes.  
22 Q And you appreciated that that would hurt her; is  
23 that correct?  
24 A I wasn't myself. I didn't have an appreciation  
25 of what I was doing.  
26 Q All right. Now, I appreciate that, but did you  
27 understand that by kicking her, she may bleed?  
28 A I don't think I understood what I was doing, no.  
29 Q Now, later on you mentioned to the police that on  
30 that day you decided to hunt human beings and  
31 kill them; is that correct?  
32 A Yes. From the audio, yes.  
33 Q Yes. So you don't recall saying that?  
34 A I do recall saying that I decided to hunt human  
35 beings down, yes.  
36 Q And to hurt them or potentially kill them; is  
37 that correct?  
38 A I recall saying I decide -- I decided to hunt  
39 human beings down. That's all I recall.  
40 Q That's all you recall?  
41 A From the audio it's -- I said to kill them.  
42 Q But you don't recall that, saying that?  
43 A No.  
44 Q And when somebody tried to intervene, you told  
45 them that you had a gun?  
46 A Yes.  
47 Q And you recall that?

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1 A Yes.  
2 Q You recall that part?  
3 A Yes.  
4 Q And then you ran into another woman and you swept  
5 her feet out from under her; is that correct?  
6 A Yes.  
7 Q And I understand that that is the plaintiff in  
8 this action. And you meant her to fall on the  
9 ground so you could do the same thing, kick her;  
10 is that correct?  
11 A Yes.  
12 Q And you did in fact kick her?  
13 A I kicked her, yes.  
14 Q And you recall that?  
15 A Yes.  
16 Q And did you kick her to hurt her or you didn't  
17 know?  
18 A I was not myself. I was in a psych -- I was in a  
19 psych -- in a -- in a psychotic state. I don't  
20 think there was intent to hurt her; I was just  
21 hurting her.  
22 Q So you had no thought at the time that if you hit  
23 her she might die?  
24 A I had no thought that she might die, no.  
25 Q But you were not surprised when the police showed  
26 up?  
27 A When the police showed up I had snapped out of it  
28 and I was just sitting down.  
29 Q Now, prior to the police showing up, you took  
30 your clothes off; is that correct?  
31 A When I saw the police, I took my clothes off.  
32 Q When you saw the police you took your clothes  
33 off. And that was because you recalled that you  
34 had told somebody that you had a gun; is that  
35 correct?  
36 A Yes.  
37 Q And you didn't want to be shot by the police?  
38 A I didn't want them to think I was armed.  
39 Q And at the time you recall you were aware that  
40 there may be legal consequences for your actions?  
41 A At the time I was not aware, no.  
42 Q You were not aware. You weren't aware that you  
43 may be taken to jail when you spoke to the  
44 police?  
45 A I wasn't reasoning that.  
46 THE COURT: Just so we're clear because I think it  
47 matters. "At the time," you mean the time of the

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1 attack he says he snapped out of it when the  
2 police were coming? So I just think you have to  
3 be quite clear on what period of time you're  
4 speaking about.  
5 MR. MEADOWS: I appreciate that, My Lord.  
6 THE COURT: Thank you.  
7 MR. MEADOWS: Thank you.  
8 Q All right. So at the time you spoke to the  
9 police, you were aware that there may be legal  
10 consequences to your actions; is that correct?  
11 A No.  
12 Q All right. And at the time you spoke to the  
13 police, you thought that there was some  
14 possibility you would be taken to jail?  
15 A I wasn't reasoning at that time.  
16 Q And at the time you spoke to the police, do you  
17 recall whether you thought that you would be  
18 questioned by a prosecutor?  
19 A I wasn't reasoning at that time.  
20 Q And do you recall whether or not you thought you  
21 might have to speak with a doctor?  
22 A I wasn't reasoning at that time. I wasn't  
23 reasoning anything.  
24 Q Now, had you ever had an urge of this type ever  
25 before?  
26 A No.  
27 Q And it shocked you?  
28 A Yes.  
29 Q And scared you?  
30 A I didn't know why I would think that.  
31 Q And it was a very sudden -- it wasn't something  
32 you planned?  
33 A No, I didn't plan it.  
34 Q And it wasn't something you were commanded to do;  
35 you just had an urge; is that correct?  
36 A It was just an over -- it wasn't an urge. It was  
37 just I just went into a -- a psychotic state.  
38 "Urge" is the only word I can use to describe it  
39 at the time, but it was more of a psychotic  
40 state.  
41 Q Now, following the attack, you remained in the  
42 Forensic Psychiatric Hospital for many months; is  
43 that correct?  
44 A Yes.  
45 Q All right. And you were transferred in  
46 approximately May 2013. Does that accord with  
47 your recollection?

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1 A Yes.  
2 Q And do you recall that during the first four or  
3 five months that you were in the hospital you  
4 were on oral risperidone?  
5 A Yes, I was.  
6 Q And do you recall that even after you'd been on  
7 oral risperidone for many months, you still  
8 suffered from auditory hallucinations and  
9 thoughts of attacking people on the admissions  
10 unit?  
11 A Yes.  
12 Q And after that occurred, you were placed on an  
13 injectable medication; is that correct?  
14 A I was placed on an injectable med -- med --  
15 med -- med -- med -- med -- medication because  
16 the doctor basically looked -- he basically  
17 looked at me and told me I'm not going to let you  
18 out of here unless you go on an injection.  
19 Q I see. You did not want to go on an injection?  
20 A I did not want to go on one, but the doctor  
21 looked me in the eyes and he pretty much stated  
22 with -- as firmly as anyone can state, I will not  
23 let you out if you are not on an injection.  
24 Q And even as of 2016, were you thinking that you  
25 may not need to be on an antipsychotic  
26 medication?  
27 A No, I've -- no -- with just the help of -- got --  
28 got -- got -- got -- with just the help I got --  
29 I received at Alberta Hospital and the community  
30 care, I realized -- I came to the understanding  
31 that this is a chronic condition that I'm -- that  
32 I will need medication for the rest of my life.  
33 MR. MEADOWS: Those are my questions.  
34 MS. KOVACS: My Lord, just one small question in  
35 redirect.  
36  
37 **REDIRECT EXAMINATION BY MS. KOVACS:**  
38 Q My friend just mentioned to you a few moments ago  
39 when you were in the Forensic Psychiatric  
40 Hospital in Port Coquitlam, you were on oral  
41 risperidone for some time?  
42 A Yes, it was crushed up.  
43 Q Crushed up. Okay. I just wanted to understand  
44 the mode. So you couldn't spit it out?  
45 A I couldn't spit it out.  
46 MS. KOVACS: My Lord, I don't have any more questions  
47 in redirect, actually, but I wonder if we might

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1 mark some of the exhibits, including some that I  
2 had referred to, before we forget to do so.  
3 THE COURT: Sure. All right.  
4 MS. KOVACS: I'll cover the two that I know I missed.  
5 One of it, which was yesterday, it was tab 34.  
6 And, Mr. Osuteye, that's the photograph of you in  
7 the news media, photograph of you at the scene.  
8 It's not a clear photo, but I'd like to mark that  
9 as an exhibit.  
10 THE COURT: Yes. Madam Clerk.  
11 THE CLERK: Exhibit 24, My Lord.

12 **EXHIBIT 24: Photograph of Nicholas Osuteye;**  
13 **common book of documents 34**

14 MS. KOVACS: And the other one I had missed was the CV  
15 which is at tab 2.  
16 THE COURT: Exhibit 25.  
17 THE CLERK: Exhibit 25, My Lord.

18 **EXHIBIT 25: Three-page CV of Nicholas**  
19 **Osuteye; common book of documents tab 2**

20 MS. KOVACS: And I know I hadn't referred to it, but  
21 my friend has, tab 12 and tab 15 -- was tab 15  
22 marked? Tab 15 was marked. My apologies. Tab  
23 12, I'm not sure if we want to mark that one.  
24 MR. MEADOWS: My Lord, I appreciate that some of these  
25 records will go in through other witnesses, but I  
26 have no objection to marking them now.  
27 MS. KOVACS: I don't know that this one will. It's  
28 the November visit, so --  
29 MR. MEADOWS: Oh, I see. I don't think it matters for  
30 my purposes, My Lord.  
31 MS. KOVACS: I just want to make sure that the  
32 documents we've referred to are properly marked.  
33 MR. MEADOWS: Well, we may as well. We've been doing  
34 it consistently, so ...  
35 THE COURT: All right.  
36 MS. KOVACS: It was in my friend's cross, so I don't  
37 know if it's my position to have to put it in,  
38 but --  
39 THE COURT: You would like it and you're not opposed?  
40 MS. KOVACS: Yes.  
41 THE COURT: All right. Let's mark it.  
42 THE CLERK: Exhibit 26, My Lord.  
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1 THE COURT: Thanks so much.  
2 MS. KOVACS: Thank you, My Lord.  
3 THE CLERK: Order in court. Court is adjourned until  
4 Monday, September 9th, 2019, at 9:50 A.M.

5  
6 (PROCEEDINGS ADJOURNED AT 3:58 P.M.)  
7  
8

9  
10 **REPORTER CERTIFICATION**  
11 I, Glaucia R. Fadias de Souza, RCR,  
12 Official Reporter in the Province of British  
13 Columbia, Canada, do hereby certify:

14  
15 That the proceedings were taken down by me  
16 in shorthand at the time herein set forth, and  
17 thereafter transcribed, and the same is a true  
18 and correct and complete transcript of said  
19 proceedings to the best of my skill and ability.

20  
21 **IN WITNESS WHEREOF**, I have hereunto  
22 subscribed my name on this day, the 15th day of  
23 September 2019.

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Glaucia R. Fadias de Souza, RCRRCR  
Official Reporter

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1 **EXHIBIT 26: Two-page BC Ambulance Service**  
2 **patient care report re Nicholas Osuteye,**  
3 **date of service 13/11/12; common book of**  
4 **documents tab 12**

5  
6 THE COURT: We're done.  
7 MS. KOVACS: Thank you.  
8 THE COURT: We'll see you Monday morning.

9  
10 **(JURY OUT)**

11  
12 THE COURT: Mr. Osuteye, you're excused. Thank you  
13 very much.  
14 THE WITNESS: Oh, I'm finished?  
15 THE COURT: Yes, you are. Thank you.

16  
17 **(WITNESS EXCUSED)**

18  
19 THE COURT: So can we get together at 10 to 10:00, and  
20 you can fill me in on where we stand?  
21 MS. KOVACS: I think I need to review some of these  
22 because I may have misspoke as well. I have to  
23 review it carefully and then I'll -- I think that  
24 might be helpful 10 to 10:00 on Monday morning.  
25 THE COURT: All right. We'll do that. And to the  
26 extent I don't have anything or to the extent  
27 there is another iteration of it, I just would  
28 like a set of that which pertains to this action  
29 in this stage.  
30 MS. KOVACS: I will review what's been prepared and  
31 get it to you.  
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