



This is the 1st affidavit
of Reza Eshghabadi in this case and
was made on November 3, 2010

S-107385

No.

Vancouver Registry

In the Supreme Court of British Columbia

Between

Reza ESHGHABADI

Petitioner

And

MINISTER OF PUBLIC SAFETY AND THE SOLICITOR GENERAL, CORRECTIONS
BRANCH, operating as FRASER REGIONAL CORRECTIONAL CENTRE

Respondent

AFFIDAVIT

I, Reza Eshghabadi, currently residing at the Fraser Regional Correctional Centre ("FRCC") in Maple Ridge, British Columbia, SWEAR (OR AFFIRM) THAT:

1. I am the Petitioner in this matter and I have personal knowledge of the matters I refer to in this affidavit.
2. I am a 52 year old man. I am serving a period of incarceration at FRCC. I was admitted into FRCC on November 20, 2009. I expect to be released into the community on probation on March 11, 2011.
3. I am an Iranian-born Canadian and my first language is Farsi. I have considerable difficulty speaking and understanding English.
4. At the time I was admitted to FRCC, I was generally physically healthy and wore dentures. I used dental adhesive to secure these dentures to the ten remaining teeth that I had in my mouth. I obtained these dentures on a visit to Iran in 2001. My father paid for the dentures.
5. Shortly after my arrival at FRCC, I attended at the FRCC Health Care Department ("Health Care") to request dental adhesive for my dentures as they were becoming loose in my mouth. I received and applied this dental adhesive, which adequately secured my dentures to my oral cavity.

6. On November 25, 2009, I attended an appointment with the institutional dentist, Dr. James Luk. Dr. Luk inspected my teeth and I was given an anesthetic. When I awoke from the anesthetic, I discovered that Dr. Luk had removed five of my ten remaining teeth from my mouth. I assumed at that time that he had removed these five teeth in order that new dentures or some other type of replacement teeth could be fitted.
7. On November 30, 2009, I attended a second dentist appointment. At this time I assumed that work would be done to fit me with replacement teeth or dentures. When I awoke from the anesthetic I discovered that the dentist had extracted my five remaining teeth, which were necessary to secure my dentures. As a result, I could no longer wear my existing dentures.
8. At no time was it made clear to me that Dr. Luk intended to remove my remaining ten teeth. There was no translator present. I did not consent to these two dental procedures. If I had been fully informed that Dr. Luk intended to remove my ten remaining teeth and that FRCC would not provide me with replacement dentures, I would never have undergone the surgery since I relied on my remaining teeth to secure my existing dentures.
9. In the weeks following the extraction of my teeth, I made several verbal requests to see the institutional dentist at Health Care as I wanted to obtain replacement dentures. In January 2010, I contacted Prisoners' Legal Services for assistance in obtaining some replacement dentures.
10. I submitted a written complaint about my lack of teeth to the Warden of FRCC with the assistance of a Correctional Officer on January 24, 2010. Now produced and shown to me and marked as **Exhibit "A"** to this Affidavit is a copy of my complaint #136716 dated January 24, 2010.
11. I received a response to this complaint dated January 29, 2010, advising me to make an appointment to see the institutional dentist. Now produced and shown to me and marked as **Exhibit "B"** to this Affidavit is a copy of the response of the Deputy Warden of Programs, Mr. H. Draaisma, dated January 29, 2010.
12. On January 28, 2009, Prisoners' Legal Services wrote a letter on my behalf to Steve DiCatri, Warden of FRCC, setting out the problems I was experiencing by not having any teeth and requesting that I be fitted for dentures immediately. Now produced and shown to me and marked as **Exhibit "C"** to this Affidavit is a copy of the letter to Mr. DiCatri, dated January 28, 2009.
13. On or around February 2, 2010, I was seen by Dr. Luk. During this consultation, I asked Dr. Luk, using my limited English and a letter that was prepared for me, why he had pulled out my remaining teeth. I explained to him that I could no longer wear my existing dentures and that I required replacement dentures as a result. To assist with my explanation I showed him my existing dentures and the tube of dental adhesive that previously held my dentures in place. Now produced and shown to me and marked as **Exhibit "D"** to my Affidavit is a copy of my medical records, including my dental records, dating from November 16, 2009 until October 11, 2010 (the "Medical Record").

14. The dentist's notes in the Medical Record from this February 2, 2010 consultation state:

[Inmate] would benefit from complete upper and lower dentures. Undoubtedly not having any teeth has affected him psychosocially and less so physically. Aurum quoted \$850 to \$1,000. Application for extended health care benefits applied for.¹

15. I have been shown a copy of the Medical Services form that Dr. Luk and I completed and signed on or about February 2, 2010, and then provided to the Director of Programs and Services ("the Medical Form"). On the Medical Form, Dr. Luk recommends "upper and lower dentures" and quotes a cost of \$1,000. Dr. Luk notes that a failure to provide dentures prior to my discharge from FRCC will "cause physical/psychological discomfort, but will not impair general condition." The Director of Programs and Services had indicated "Denied" on the Medical Form, and dated this section February 9, 2010. Now produced and shown to me and marked as **Exhibit "E"** to my Affidavit is a copy of the Medical Form.
16. On or about February 19, 2010, I had a health care consultation at which I explained that as a result of having no teeth I was only able to consume soup and milk. There was no translator present. I was advised by the doctor to "mince" my food.
17. Following this consultation, I attempted to cut my food into very small pieces prior to eating it without success, especially with harder foods like fruit, vegetable and meat. There is a gap between my gums when I close my jaw, so I cannot mash these smaller pieces before swallowing. It is very painful on my gums when I try to use them to "chew" or mash my food.
18. Following the consultation, I was weighed a couple of times. I understood that my weight had decreased from when I first arrived at FRCC from approximately 80 kilograms to 73 kilograms.
19. I was advised that on February 19, 2010, Prisoners' Legal Services received a response from Mr. DiCastrì, the Warden, to its January 28, 2010 letter written on my behalf. In this letter, Mr. DiCastrì advised that FRCC does not make assessment on medical procedures, but that these issues are decided confidentially by medical professionals within Health Care. He also advised that an officer had been directed to assist me to complete a request form to be seen by and followed up by Health Care. Now produced and shown to me and marked as **Exhibit "F"** to this Affidavit is a copy of the letter from Mr. DiCastrì dated February 19, 2010.
20. On or about March 8, 2010, I had a consultation with Dr. Luk at which time he advised me that my request for dentures was denied because I had no funds.
21. I expressed my continuing concerns relating to having no teeth to Prisoners' Legal Services, including my inability to consume the prison diet, my weight loss and the added difficulty that I experience trying to communicate. I am advised that on April 1, 2010, Prisoners' Legal Services wrote to the Investigation and Standards Office (the "ISO") on

¹ At page 23 of the Medical Record.

my behalf requesting that the ISO investigate my matter and review the decision of FRCC not to provide me with dentures. Now produced and shown to me and marked as **Exhibit "G"** to my Affidavit is a copy of this letter to the ISO dated April 1, 2010.

22. I am advised that the ISO responded with a letter dated April 28, 2010. In its review of the decision of FRCC not to provide me with dentures, the ISO found that dental care was provided to me in accordance with BC Corrections Branch policy. In this letter the ISO stated:

You saw the centre physician on February 19 to complain about weight loss because of your recent dental work. He examined you and noted you did not appear malnourished. He advised you to mince your food as you would if you were living in the community. He noted that you declined to have the kitchen mince your food for you. He asked for four weekly weights to monitor your nutritional status and advised you about the Adult Custody Policy regarding dentures. The records indicate that your weight increased over this four week period.

...

I forwarded your file to the Medical Director, BC Corrections Branch for his review and opinion on this matter. It was his opinion that there has been no demonstrable injury to your health resulting from not receiving dental prosthetics.

Now produced and shown to me and marked as **Exhibit "H"** to my Affidavit is a copy of the letter from the ISO dated April 28, 2010.

23. On or about May 7, 2010, I had a consultation with Dr. Legge, the institutional doctor. I had another prisoner assist in explaining my recurring health issues, including stomach pain, digestive problems, dizziness and poor vision. I had been given Tums to relieve my stomach pain since December 2009, but found this treatment ineffective. At this consultation I was prescribed medication for my stomach pain called Rabeprazole.
24. On or about May 13, 2010, I had a consultation with Dr. Legge. FRCC provided the services of a translator for the first time. I explained my health concerns relating to having no teeth. I also explained that the medication for my stomach pain that was prescribed was ineffective. I understood that my blood was going to be tested as a result of these health conditions. I was given a pureed diet and one can of Ensure for breakfast for ~~seven~~ days.
R.E. a few
25. I saw a health care practitioner a couple of days later as I was unable to consume the pureed diet as it was totally unpalatable.^f I was returned to the regular prison diet.
R.E. * and left me feeling hungry still,
26. At the end of May 2010, I saw an institutional doctor due to my recurring stomach pain and digestive problems. I was prescribed some other medication for my stomach, which I now understand to be Amoxil and Clarithromycin. I continued to experience stomach pain and digestive problems, headaches and dizziness.
27. In early June of 2010, I asked Health Care to provide me with a copy of my medical records, including my dental records, from the date of my admittance to FRCC (November 20, 2009) until the present so that I better understand my state of health. This

request was denied and a staff member at Health Care told me I would need to submit a request under the *Freedom of Information and Personal Privacy Act* (the "FOIPPA") to obtain these records.

28. I asked Prisoners' Legal Services to submit a request for my medical records pertaining to my teeth and dentures on my behalf. I was advised that they did so on June 15, 2010. Now produced and shown to me and marked as **Exhibit "I"** to my Affidavit is a copy of the request under the *FOIPPA* that was sent by Prisoners' Legal Services on my behalf, dated June 15, 2010 (the "First FOIPPA Request").
29. On July 9, 2010, I advised Prisoners' Legal Services that my health was continuing to deteriorate and that I continued to suffer from dizziness and digestive problems. I had recently had blood tests performed and I advised Prisoners' Legal Services that I believed my medical records at FRCC would confirm that my health was deteriorating as a result of not having any teeth.
30. I was advised that Prisoners' Legal Services had been unsuccessful in its attempt to amend the First FOIPPA Request to request *all* of my medical records for the same period, and not just those relating to my teeth or dentures. Consequently, Prisoners' Legal Services submitted a second request under the *FOIPPA* on my behalf requesting a copy of my *complete* medical record on July 12, 2010 ("the Second FOIPPA Request"). Now produced and shown to me and marked as **Exhibit "J"** to my Affidavit is a copy of the Second FOIPPA Request dated July 12, 2010.
31. On July 26, 2010, Prisoners' Legal Services wrote to Miguel Alvarado, Manager of Health Care, on my behalf requesting that FRCC make a new decision regarding my dentures. This request was made in light of the new medical information resulting from the recent blood tests that I believed confirmed I was suffering digestive problems, not receiving adequate nutrition and losing weight as a result of not having any teeth. Now produced and shown to me and marked as **Exhibit "K"** to my Affidavit is a copy of this letter to Mr. Alvarado dated July 26, 2010.
32. I received a response to the First FOIPPA Request from the Ministry of Citizens' Services on August 6, 2010. Enclosed with this response was a copy of "all dental and medical records pertaining to [my] teeth and dentures." Now produced and shown to me and marked as **Exhibit "L"** to my Affidavit is a copy of the response from the Ministry of Citizens Services and the 5 pages of records that were produced pursuant to the First FOIPPA Request.
33. I did not receive a response to the Second FOIPPA Request until October 27, 2010. Now produced and shown to me and marked as **Exhibit "M"** to my Affidavit is a copy of the letter of response from the Ministry of Citizens Services, dated October 22, 2010. Enclosed with this response were the Medical Record (Exhibit "D") and the Medical Form (Exhibit "E").
34. I was advised that Prisoners' Legal Services sent a letter by facsimile to Jim Goheen, the Acting Manager of Health Services at FRCC, on September 1, 2010 seeking a response to my request for dentures. Now produced and shown to me and marked as **Exhibit "N"** to

my Affidavit is a copy of the letter from Prisoners' Legal Services to Mr. Goheen dated September 1, 2010.

35. I was advised by Prisoners' Legal Services that my second request for dentures was denied on the basis that "no injurious consequences have taken place" due to my teeth being removed and that "no digestive problems have been linked to this dental procedure." Now produced and shown to me and marked as **Exhibit "O"** to my Affidavit is a copy of the email sent by Mr. Alvarado on September 17, 2010.
36. To the best of my recollection, in late September 2010, the institutional doctor advised me that I had been diagnosed with diabetes from a blood test that was performed a number of months previously. A fellow inmate who speaks Farsi and English attended this consultation with me to translate and help me obtain information about this disease. I was advised that my blood sugar levels were high and would need regular monitoring and that I was required to take medication called Metformin at a dose of 500 mg twice a day. I was told that my blood sugar levels should not exceed a level of 100 and that I would have my blood tested each Saturday. I was not given any other information about this disease. I do not receive a special diet or any nutritional supplements for my diabetes.
37. After my teeth were extracted by the dentist on November 24, 2009, I have not been able to wear my dentures. I have had to live in prison for the last year without any teeth at all. As a result, I have suffered and continue to suffer injury to my health, well-being and dignity. I believe the deterioration in my health is a direct result of not having any teeth. I did not experience such problems at any time prior to having my remaining ten teeth extracted such that I could no longer wear my dentures.
38. Without teeth I have been unable to adequately consume a prison diet. I am unable to consume the majority of the food that makes up the meals at FRCC as I am unable to eat meat and most fruits and vegetables. I have attempted to cut my food into very small pieces, but since there is a gap between my gums when I close my jaw I am unable to mince it before swallowing. Trying to mash larger portions of food between my gums is also not possible as my gums become extremely tender. Swallowing inadequately chewed food causes me painful digestion problems. I have had to limit my diet to soup and other soft, starchy foods like mashed potatoes. I eat very little fiber.
39. I do not believe that I am getting adequate nutrition from my diet. FRCC has not provided me with a diet for diabetics to ensure I receive the nutrition I need. Other than offering to puree my food, which made it totally unpalatable, I have not been given an alternative diet. I was provided with Ensure dietary supplements ^{for a few days} for ~~one week~~ in May, 2010 and then it was discontinued. Due to the diabetes, I am unable to supplement my diet with the limited items available for purchase at the prison canteen, such as powdered juice and chocolate bars, to increase my caloric intake as these items are too high in sugar.
40. I have lost a significant amount of weight as a result of having no teeth. In November 2009, I understood that I weighed approximately 80 kilograms. According to the

Medical Record, the last time I was weighed on September 19, 2010, my weight was recorded as 160 pounds (72.6 kg).²

41. I have suffered from serious stomach pain and discomfort and been given a couple of different treatments for this medical condition that proved ineffective. I also suffered from digestive problems.
42. I have been experiencing dizziness for the past four months and my eyes have become sore and prone to watering, causing my vision to be blurred. I was advised by the institutional doctor that this had to do with my blood sugar levels.
43. Furthermore, my ability to speak has been severely impaired due to the fact that I have no teeth. I already have difficulty speaking English and having no teeth has exacerbated an existing communication barrier between myself, officers and Health Care staff. In addition, not having teeth has greatly impacted my ability to converse with fellow prisoners, which has been very isolating and embarrassing for me. This inability to communicate and the embarrassment of having no teeth in my mouth had caused me much stress, anxiety and frustration on a daily basis.
44. FRCC was made aware of the difficulties I have been and am still experiencing as a result of having no teeth. I communicated my problems directly to Health Care verbally and through written requests and complaints, although my ability to communicate in English is very limited. I have also communicated my problems to FRCC through my advocates at Prisoners' Legal Services.
45. FRCC provided an interpreter on one occasion in May 2010. Since late in March 2010, I have tried to arrange for another prisoner who speaks Farsi and English to attend medical appointments with me to assist me in communicating with the doctor and other Health Care staff. The other prisoner is required to take a day off of work to accompany me to my medical appointments.

² Page 10 of the Medical Record.

46. I do not have the funds or resources to purchase dentures, nor am I able to earn the money necessary for me to purchase dentures while incarcerated. I am paid \$4.50 per day to work at my prison employment on a fish farm. The current balance in my institutional account is \$47.50. Now produced and shown to me and marked as **Exhibit "P"** to my Affidavit is a copy of my institutional account as of October 13, 2010.

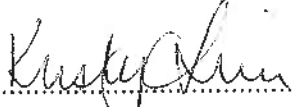
SWORN (OR AFFIRMED) BEFORE ME)

at Maple Ridge, British Columbia)

on November 3, 2010.)



)
) Reza ESHGIABADI


.....)

A commissioner for taking affidavits)
for British Columbia)

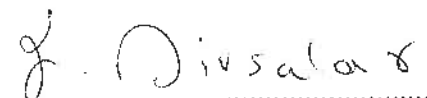
KRISTY SIM
BARRISTER & SOLICITOR
WOMEN'S LEGAL SERVICES
11 - 33241 Walsh Avenue
Maple Ridge, B.C. V2S 1Z9

Endorsement of Interpreter

I, Fatemeh Divsalar-Mohajer of North Vancouver, British Columbia certify that:

- 1 I have a knowledge of the English and Farsi languages and I am competent to interpret from one to the other.
- 2 I am advised by the person swearing or affirming the affidavit and believe that the person swearing or affirming the affidavit understands the Farsi language.
- 3 Before the affidavit on which this endorsement appears was made by the person swearing or affirming the affidavit I correctly interpreted it for the person swearing or affirming the affidavit from the English language into the Farsi language and the person swearing or affirming the affidavit appeared to fully understand the contents.

Date: November 3, 2010.


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Fateme**h** Divsalar-Mohajer