

Volume 2

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP

CLARK SULLIVAN, ADAM BREDENBERG)	
AND BENJAMIN ROYER,)	
)	
Plaintiffs,)	
vs.)	No. C 17-06051 WHA
)	
CITY OF BERKELEY,)	
)	San Francisco, California
Defendant.)	Tuesday
)	May 21, 2019
)	7:30 a.m.

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

APPEARANCES:

For Plaintiffs: SIEGEL YEE BRUNNER AND MEHTA
475 14th Street
Suite 500
Oakland, California 94612
BY: DAN SIEGEL, ESQ.
EMILYROSE JOHNS, ESQ.

For Defendant: BERKELEY CITY ATTORNEY'S OFFICE
2180 Milvia Street
Fourth Floor
Berkeley, California 94704
BY: LYNNE SARAH BOURGAULT, ESQ.
FARIMAH BROWN, ESQ.

Also Present: Dee Williams-Ridley
Deputy City Manager - City of Berkeley.

Reported By: Debra L. Pas, CSR 11916, CRR
Ana Dub, CSR 7445, CRR

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1 Royer.

2 **THE COURT:** Okay. Mr. Royer, please come up. Your
3 turn.

4 (Brief pause.)

5 **THE COURT:** Does he need to use his chair?

6 **THE WITNESS:** It's really tight in here. It's hard to
7 pull it up.

8 **THE COURT:** Well, others have in the past. It's up to
9 you.

10 **THE WITNESS:** Mine is not really that...

11 **THE COURT:** We'll let you do it whichever way you
12 prefer.

13 Can you make it all the way up to the chair?

14 **THE WITNESS:** Yeah.

15 **THE COURT:** We can put the chair down there, if you'd
16 prefer.

17 (Brief pause.)

18 **THE COURT:** Okay.

19 **BENJAMIN ROYER,**

20 called as a witness for the Plaintiff, having been duly sworn,
21 testified as follows:

22 **THE WITNESS:** I do.

23 **THE CLERK:** Speak into the microphone and state your
24 name for the record.

25 **THE WITNESS:** My name is Benjamin Royer.

1 **THE COURT:** Great. Go ahead, counsel.

2 **MS. JOHNS:** Thank you.

3 **DIRECT EXAMINATION**

4 **BY MS. JOHNS**

5 **Q.** Good afternoon, Mr. Royer. How old are you?

6 **A.** I'm 33.

7 **Q.** Where were you born?

8 **A.** Sacramento, California.

9 **Q.** Where did you grow up?

10 **A.** When I was a year old, I was placed into the foster care
11 system where I was then adopted at age five by someone, and
12 then grew up in Roseville until I was 15.

13 **Q.** Okay. And where did you live after you were 15?

14 **A.** I was placed into long-term psychiatric care.

15 **Q.** Did you get a high school diploma while you were in that
16 care?

17 **A.** Yes.

18 **Q.** Did you do any other education other than high school?

19 **A.** I attempted to do some online college.

20 **Q.** Okay. Did you complete any college degrees?

21 **A.** No.

22 **Q.** Can you describe the kind of work that you have done?

23 **A.** I've done two different types of work. I worked in a job
24 placement program with private industries and the Department of
25 Rehab. And I've also done volunteer work more recently with

1 Easy Does It, which is a low income wheelchair program within
2 the City of Berkeley.

3 Q. When you said the Department of Rehab, is that short for
4 the Department of Rehabilitation?

5 A. Yes.

6 Q. Do you have disabilities yourself?

7 A. I do.

8 Q. Can you describe your disabilities?

9 A. I have severe sciatica and bipolar disorder.

10 Q. Where do you currently reside?

11 A. I currently reside at the Here There camp on Adeline near
12 Alcatraz.

13 Q. What kind of structure do you reside in?

14 A. I currently have a tent, but it's been flooded, so I have
15 been staying under a tarp while I try to find a way to dry it
16 out.

17 Q. Are you currently homeless?

18 A. Yes.

19 Q. When did you become homeless?

20 A. February 1st 2016.

21 Q. How did you become homeless?

22 A. It was a long series of events that happened in shared
23 housing that led to me becoming homeless.

24 Q. What did you do to find a place to live after you became
25 homeless?

1 **A.** I became homeless originally in Sacramento and I attempted
2 to go through their housing program.

3 **Q.** Were you successful?

4 **A.** No, I was not.

5 **Q.** Do you -- during the time that you have been homeless, do
6 you have any -- or did you have any sources of financial
7 support?

8 **A.** I do.

9 **Q.** What is that?

10 **A.** It's Social Security income.

11 **Q.** And how much is that?

12 **A.** Approximately a thousand dollars a month.

13 **Q.** And what do you spend that on monthly?

14 **A.** I currently use that money for a storage unit for personal
15 property, gym membership, cell phone service and a couple of
16 entertainment accounts.

17 **Q.** Do you store anything else in the storage unit?

18 **A.** I do have a few items that if I were to ever become
19 housed, that could potentially help me.

20 **Q.** Have you had sufficient funds to find a place -- to rent a
21 place to live since you've become homeless?

22 **A.** No, I have not.

23 **Q.** Why not?

24 **A.** Both shared housing and even regular apartments are
25 outside of the scope of the income that I receive.

1 Q. Are you familiar with a group called First They Came for
2 the Homeless?

3 A. Yes, I am.

4 Q. And how did you become familiar with them?

5 A. When I came to Berkeley, I had looked online to see what
6 housing programs they had and I just was curious about it.

7 And when I visited the Hub, which is the program I found,
8 I saw the encampment. I didn't know who they were at first
9 until after I left the Hub.

10 Q. What happened when you were at the Hub before you left?

11 A. They gave me the same exact line that every other housing
12 program that I've ever been to had given me.

13 Q. And what was that?

14 A. That the only thing that they could do in the immediate
15 term was to give me a shelter and then possibly, maybe, shared
16 housing.

17 Q. What did you do when you first encountered First They Came
18 for the Homeless?

19 A. I just simply talked to them.

20 Q. And did you learn what they were about by talking to them?

21 A. Yes.

22 Q. And what were they about?

23 A. So what they told me was that they were a protest group
24 that was trying to bring to light the issues with the Hub
25 originally and, also, the inequalities committed against the

1 homeless.

2 Q. And did it resonate with you, the purpose of bringing to
3 light the inequalities that homeless experience?

4 A. Yes. Because being homeless myself and the fact that I've
5 seen some really awful things done to the homeless, it was
6 something I agreed with.

7 Q. Have you had awful things done to you?

8 A. I have been assaulted while homeless.

9 Q. Do you know who you were assaulted by?

10 A. It was just somebody came up to me and assaulted me and I
11 have no idea who it was.

12 Q. Did you ask to stay with First They Came for the Homeless?

13 A. I did.

14 Q. And what happened after you asked to stay?

15 A. They told me that there would be a probationary period.

16 Q. And did you pass that probationary period?

17 A. I did.

18 Q. And did you start living with them?

19 A. I did.

20 Q. Have people in Berkeley been supportive of First They Came
21 for the Homeless?

22 A. Members of the community, yes. Members of the City
23 Government, no, as far as I can tell.

24 Q. And what's been your experience with members of the City
25 government?

1 **A.** The experiences I have had is that they would rather just
2 shuffle us around than help us. And that is the same thing
3 that I have noticed in every other city that I have been in so
4 far.

5 **Q.** Did you take -- what kind of activities does First They
6 Came for the Homeless participate in?

7 **A.** Members of First They Came for the Homeless go to City
8 Council meetings, make signs. And me personally, I've talked
9 to members of the community.

10 **Q.** Have you helped make signs at the encampment?

11 **A.** I don't recall if I made signs or not during the period in
12 question.

13 **Q.** As a part of the encampment, were you ever removed by the
14 Berkeley Police Department?

15 **A.** On numerous occasions.

16 **Q.** Can you estimate how many you experienced?

17 **A.** I'd say at least 12.

18 **Q.** When the Berkeley police would come, did they have a
19 typical time they would come to remove you?

20 **A.** It would usually be somewhere between 4:00 a.m. and
21 5:00 a.m.

22 **Q.** And how did the police behave?

23 **A.** For the most part, from what I remember, it was hurry up,
24 pack and get out.

25 **Q.** Did you ever lose personal property as a part of one of

1 those removals?

2 **A.** I did.

3 **Q.** What did you lose?

4 **A.** I have a therapy tool that helps me deal with my bipolar,
5 which I lost. I also had some bicycle tools that I used to
6 maintain my wheelchair. A sleeping bag, pad, a tarp and some
7 other property. I can't remember what it was.

8 **MS. BOURGAULT:** I would like to play a video clip.
9 It's been designated Trial Exhibit 60-A. We also have Trial
10 Exhibit 60, which is the entire video.

11 **THE COURT:** 60-A. Any objection?

12 **MS. BOURGAULT:** No, Your Honor. So long as the entire
13 video is also admitted into evidence.

14 **THE COURT:** Well, do you want to just put in -- you
15 play 60-A, but 60 comes in as well.

16 **MS. JOHNS:** That's fine.

17 **THE COURT:** All right, good.

18 Go ahead.

19 (Trial Exhibits 60 and 60-A received in evidence)

20 **MS. JOHNS:** Okay. In that event, what I'll ask is if
21 you could please play the first ten seconds or so of the video
22 until I tell you to stop, so we can establish what date it is.

23 (Videotape played in open court, not reported.)

24 **BY MS. JOHNS**

25 **Q.** So, Mr. Royer, did you observe what the police were

1 walking up to in this video?

2 **A.** Yes.

3 **Q.** And what was that?

4 **A.** That was our encampment on the north lawn of the Civic
5 Center area.

6 **MS. JOHNS:** And for brevity, Gina, would you mind fast
7 forwarding in this clip just til about a minute towards the
8 end.

9 Thank you. I'll let this play for a minute.

10 **BY MS. BOURGAULT**

11 **Q.** And, Mr. Royer, if you could please let us know if you see
12 your property in this video once it plays.

13 (Videotape played in open court, not reported.)

14 **Q.** Did you see your property briefly, Mr. Royer?

15 **A.** Yes. It's right here to the left of the screen.

16 (Videotape resumed, not reported.)

17 **A.** And right here, this is where the City worker is picking
18 up my property.

19 **Q.** Okay, thank you.

20 **MS. JOHNS:** Thank you, Gina.

21 **BY MS. JOHNS**

22 **Q.** And did you ever get your --

23 **MS. BOURGAULT:** Your Honor, for the record, can we
24 just establish at what point in the video Mr. Royer just
25 testified you could see his property?

1 **MS. JOHNS:** Yes.

2 **THE COURT:** I couldn't hear you. What?

3 **MS. BOURGAULT:** I think it would be helpful for the
4 record just to establish at what point in the video he said,
5 yeah, here I see my property, for the written record.

6 **THE COURT:** Is it that silver thing that you're
7 talking about?

8 **THE WITNESS:** Yes. And to the right of the screen is
9 the rest of my property. So both the -- the whole entire
10 screen has actually got all of my property within view.

11 **THE COURT:** I see. All right.

12 Well, what is the -- is there a footage number on here?

13 **MS. JOHNS:** So this was a clip that's been designated
14 Trial Exhibit 60-A, but it did begin at the beginning of Trial
15 Exhibit 60, which has been admitted. So the time stamp of four
16 minutes and three seconds would be an accurate time stamp for
17 the video that was admitted.

18 **THE COURT:** All right. Thank you.

19 Go ahead, please.

20 **BY MS. JOHNS**

21 **Q.** All right. And I'm sorry, did you ever get your property
22 back?

23 **A.** I did not.

24 **Q.** Did you know how to get your property back?

25 **A.** The notices that we were given never really made it

1 absolutely clear at that time where we could get our property
2 back.

3 **Q.** Did you know at that time where to look to get your
4 property back?

5 **A.** I did not.

6 **Q.** Okay. And how did it make you feel to have your property
7 taken?

8 **A.** There's both a short-term and a long-term consequence of
9 the loss of my property.

10 **Q.** Please describe that.

11 **A.** In the short term, if it hadn't have been for First They
12 Came for the Homeless, it most likely would have caused me to
13 have a psychotic break.

14 And in the long-term it's led to paranoia. In fact, even
15 coming to the court as early as I have to leave makes me
16 extremely uncomfortable.

17 **Q.** During the time period of October 2016 to January 2017,
18 you said you remembered being moved around 12 times personally?

19 **A.** I believe it was around 12 times, yes, that I remember
20 that we have been -- the encampment has been moved.

21 **Q.** During that same time period, did you have the occasion to
22 observe other encampments in the City of Berkeley?

23 **A.** I did notice a number of large scales of homeless people
24 near where my storage unit is on Second Street and Gilman
25 Street.

1 Q. And do you believe -- or do you have any -- did you ever
2 see them removed by the City, those encampments?

3 A. Based on what I observed in the time frame that we are
4 discussing, I did not notice them being moved at all.

5 Q. Can you describe the notices that you received from the
6 City?

7 A. Basically they were just saying that we were illegally
8 lodging and that we had to move.

9 Q. And why didn't you move when you received those notices?

10 A. It's actually a two-part answer to this.

11 The first one is is that I needed to stay with a group
12 that I could actually trust.

13 And the second thing is is that being homeless on your
14 own, especially with severe mobility issues like I have, it is
15 not safe to be -- it's not safe to be out there on your own.

16 And, really, there is nowhere to go.

17 Q. Thank you, Mr. Royer.

18 THE COURT: All right. Is that it?

19 MS. JOHNS: These are all my questions.

20 THE COURT: All right. Thank you.

21 Cross examination.

22 CROSS EXAMINATION

23 BY MS. BOURGAULT

24 Q. Mr. Royer, so you had never lived in Berkeley before you
25 became homeless; correct?

1 **A.** That is correct.

2 **Q.** And you came to Berkeley because you did internet research
3 and learned that Berkeley had better resources for homeless;
4 right?

5 **A.** That is correct.

6 **Q.** So before you met up with the First They Came for the
7 Homeless group, you spent a couple weeks sleeping on the
8 streets alone in Berkeley; right?

9 **A.** No. It was approximately three, four days that I was in
10 Berkeley before I decided to look at the Hub, just basically to
11 see what, if anything, was different.

12 **Q.** And during the three to four days that you were sleeping
13 on the streets by yourself, were you ever contacted by Berkeley
14 police?

15 **A.** I was not.

16 **Q.** And when you met the group at the Adeline and Fairview
17 location, you camped with them out of necessity because you
18 needed shelter to shelter yourself; right?

19 **A.** I actually had shelter, but I didn't have safety. There
20 is a -- there's a difference in that.

21 **Q.** And at that location you received notice from the City
22 that you couldn't camp on the sidewalk there?

23 **A.** That is correct.

24 **Q.** Now, you had only been in Berkeley a little more than a
25 week when you experienced your first removal; correct?

1 **A.** I believe so, yes.

2 **Q.** So you didn't have a lot of information about how Berkeley
3 provided information -- or services, rather, to homeless
4 people, did you?

5 **A.** I did not.

6 **Q.** And so you testified that you were part of 12 encampment
7 removals during this October 2016 to 2017 time frame. Can you
8 please list for me the different dates and places that make up
9 those 12 removals?

10 **A.** I don't have exact dates, but I do know a number of the
11 places that we were removed.

12 We were removed from the Hub twice. The medians on
13 Adeline twice. City Hall, we had both the north and south
14 lawn. The Safeway. I know that when we tried to camp at the
15 old City Hall, we were removed from there before we could even
16 set up.

17 **Q.** Any others?

18 **A.** I'm trying to remember if there were any others. It's
19 been a long time since this has happened, so it's kind of hard
20 to remember every single one. But I remember it was right
21 around 12 removals.

22 **Q.** Okay. But what you just listed add more to -- two, four,
23 six -- eight removals; correct?

24 **A.** That I can remember exactly, but I believe there were at
25 least four others, but I can't remember where they were.

1 Q. Okay. Now, when you were at the Hub -- you're actually
2 not sure if you were at the Hub for both times that the City
3 removed the encampment. You recall being there only on one
4 occasion, and that was November 4th; right?

5 A. I believe I was in both, but I'm not exactly sure.

6 Q. And you admit that you were lodging on the sidewalk at
7 that location in violation of Berkeley municipal code; correct?

8 A. I was -- I was, yes, lodging in a tent -- or actually,
9 more accurately, I was in a -- under a tarp at that time.

10 Q. Now, you -- when you went to these various locations
11 around Berkeley during these seven or eight removals that you
12 could recall, you -- you had no part in deciding any of these
13 locations, did you?

14 A. I did not.

15 Q. And you didn't even have an idea of why the group chose to
16 establish itself at City Hall, did you?

17 A. That's incorrect. I knew that our encampments, pretty
18 quickly I realized this, were for public exposure, for the
19 protest.

20 (Brief pause.)

21 MS. BOURGAULT: I'm sorry, Your Honor. I'm not
22 finding what I'm looking for.

23 BY MS. BOURGAULT

24 Q. But essentially you were just following the group; isn't
25 that right?

1 A. That is correct.

2 Q. Even at the time that you were in front of Berkeley City
3 Hall, you were fairly new to Berkeley. You had been in
4 Berkeley maybe only a couple weeks; right?

5 A. What date are you referring to?

6 Q. It would have been November 3rd.

7 A. That would be about a month after I had arrived into
8 Berkeley.

9 Q. Except you don't remember the date that you arrived in
10 Berkeley, do you?

11 A. I do. I arrived in Berkeley on October 1st.

12 Q. And when did you recall that date?

13 A. I'm sorry. Please clarify.

14 Q. Yeah. How do you remember that you arrived in Berkeley on
15 October 1st?

16 A. Because that's a day after I left Sacramento. I planned
17 on October 1st being in Berkeley.

18 (Brief pause.)

19 MS. BOURGAULT: I'm sorry, Your Honor. Again, I'm not
20 finding what I'm looking for.

21 BY MS. BOURGAULT

22 Q. So the lawn that you camped at on December 2nd when you
23 say you lost your property, that was a very narrow little strip
24 of lawn next to the Civic Center building; right?

25 A. That is correct.

1 Q. And when you lost your property, you left your property
2 unattended at that location; right?

3 A. That is correct.

4 Q. And when you left that morning, you left to go to see
5 when -- to go to the hardware store to see what time it opened?

6 A. That is correct.

7 Q. Because you wanted to buy containers to pack your stuff
8 in?

9 A. I believe that might have been the reason why I had left
10 the camp early, was so that I could possibly find a way to move
11 my stuff.

12 Q. And the hardware store was only a couple blocks away;
13 right?

14 A. That is correct.

15 Q. So when you got back -- how long were you gone for?

16 A. I'd say no more than -- I'd say less than 20 or 30
17 minutes.

18 Q. Okay. And so you -- you just reviewed some video for us.
19 Did you see yourself in any of that video? Did you look at the
20 entire video to see if you could find yourself in it?

21 A. I know from my personal memory that I was not there. When
22 I returned to the camp, there was already police tape up and
23 the raid was fully underway at that time and I was not allowed
24 to cross the police line to retrieve my property.

25 Q. Did you tell them that you were a member of the encampment

1 and that you needed to go pack your property?

2 **A.** I believe I may have mentioned that to the police, but
3 they refused to allow me to go across the line.

4 **Q.** And so what did you do to get your property back? You
5 knew the City had your property; right -- or you believed the
6 City had your property?

7 **A.** I was fairly certain at that time that the City had my
8 property. And I actually relied on the supporters, because at
9 the time I did not have a very good wheelchair to get around
10 in. So I could not have tried to go anywhere, really, to try
11 and find my property.

12 At the time I also didn't have good cell service either,
13 so I couldn't have made phone calls.

14 **Q.** But at that time you frequently went and visited your
15 storage unit in west Berkeley; right?

16 **A.** And that was actually extremely difficult for me. Every
17 time I actually wanted to go to my storage unit, I had to plan
18 at least like two, sometimes three weeks in advance just to be
19 able to go to my storage unit at that period in time.

20 **Q.** Now, a bunch of the supporters had vehicles. They had
21 cars and trucks and things that they helped move the property
22 around.

23 Did you ever ask any one of them to give you a ride to the
24 storage container?

25 **A.** I did not, because many of these people actually had

1 schedules, but they were willing to help us during these times
2 when we were raided.

3 **Q.** Now, when you lost your property, you knew it was the City
4 who was conducting the enforcement; right?

5 **A.** Yes.

6 **Q.** And you were actually right outside City Hall when that
7 happened; right?

8 **A.** I was actually -- when I came back to the area where our
9 encampment was, the police line was already up. So I could not
10 have gotten anywhere near the building. I was across the
11 street.

12 **Q.** Are you saying that the police never took the police line
13 down? They left it up for a week?

14 **A.** No. What I'm saying is, is when I lost my property at
15 that time, I was not allowed to go anywhere near the area until
16 after the raid was finished.

17 **Q.** And I totally understand that, Mr. Royer, but what I'm
18 asking you is a different question.

19 So you lost your property outside Berkeley City Hall. Did
20 you ever go inside Berkeley City Hall -- either that day, after
21 the eviction or raid, or whatever you want to call it, was over
22 or the next day or the day after that, did you ever go inside
23 the building and ask anyone, "What is the procedure to get
24 property back? I don't know how to do it"?

25 **A.** No, I did not, because I don't think at the time I had the

1 ability to travel there. I think we had already been moving
2 around.

3 **Q.** What about before you left? Before you left that area
4 after the encampment was removed, did you, before you left,
5 think, "Jeez, that property is really important to me. I
6 better go find out how to get it back"?

7 **A.** Because I'm not familiar with navigating city government,
8 because every city government is different, I had to rely on
9 the supporters who might actually know better than I do.

10 The one thing that I have found personally is that it's
11 better to rely on people who are more familiar with the system
12 than to try and navigate it on your own, because you'll just
13 end up extremely frustrated.

14 **Q.** Okay. And that's what you did. You relied on the
15 supporters to get your property back for you; right?

16 **A.** Yes.

17 **Q.** And -- but no one ever told you why they didn't find your
18 property?

19 **A.** I don't recall that information.

20 **Q.** Well, you're saying you don't recall or that nobody ever
21 told you?

22 **A.** I don't remember if I was told or not why they could not
23 find my property.

24 **Q.** Did you ask anyone?

25 **A.** I believe I asked on numerous occasions.

1 Q. And what was the response?

2 A. I can't recall that information. It's been a long time
3 since this incident has happened. So I can't remember exactly
4 every single detail of the conversations I had with the
5 supporters.

6 Q. Now, so you mentioned the public notices that the City
7 always handed out before removing the encampments.

8 And those notices had a list of services for homeless
9 people to avail themselves of; isn't that right?

10 A. Yes.

11 Q. And you never read those public notices, did you?

12 A. I only read the part, really, where it was saying that we
13 were illegally lodging. It stated the municipal code that we
14 were violating, the same reason that every encampment is
15 removed, no matter what encampment it is.

16 And I did see the list of numbers on the back, but based
17 on the one experience that I had in the Hub, I just discounted
18 those numbers immediately.

19 Q. And you didn't really read the notices to the extent that
20 they had information about how to do things; is that right?

21 A. During the first notice, I noticed that there was very
22 little information about retrieval of property. There was
23 actually no information at all that I could see at that moment.

24 **MS. BOURGAULT:** Your Honor, I'd like to read from
25 Mr. Royer's deposition, page 100, line 17, through --

1 **THE COURT:** What is the date of the deposition?

2 **MS. BOURGAULT:** -- 23.

3 The date of the deposition is May 23rd, 2018.

4 **THE COURT:** All right. Give counsel, again, where
5 you're going to start. Page what?

6 **MS. BOURGAULT:** Page 100, line 17, and I'm going to
7 end on line 23.

8 **THE COURT:** Well, it can be read for any purpose for a
9 party. I assume there's no objection. All right. Go ahead.

10 **MS. BOURGAULT:**

11 **"QUESTION:** Have you ever looked on the back of the
12 notices that are given about asking you to grab your
13 personal belongings and leave, to see all the
14 different services that are available?

15 **"ANSWER:** I don't believe I ever read those because I
16 was more concerned with trying to keep my property
17 rather than looking at the services list."

18 **BY MS. BOURGAULT:**

19 **Q.** Now, Mr. Royer, you never spoke at a City Council meeting?

20 **A.** No, I did not.

21 **Q.** And you were never told you couldn't be at a City Council
22 meeting; right?

23 **A.** No.

24 **Q.** No one from the City ever told you that the reason they
25 were removing the encampment was because of the encampment's

1 First Amendment activity; correct?

2 **A.** No.

3 **Q.** And what they told you was that you were illegally lodging
4 on public property without permission?

5 **A.** And also that our encampments were unsanitary.

6 **Q.** And you actually aren't sure whether or not the City ever
7 asked other encampments to move during this time frame;
8 correct?

9 **A.** From what I observed, personally, every single time that I
10 went down to my storage unit, I never saw any other encampments
11 being moved from their locations. They just stayed exactly the
12 same every time I passed by them.

13 **Q.** But you just said that you very infrequently went to the
14 West Berkeley area because it took you weeks and weeks of
15 preparation so that you could make it down there. So there
16 must have been large gaps of time during which you weren't even
17 in that location at all personally; right?

18 **A.** That's correct. But what I observed in those gaps -- in
19 between those gaps was that the encampments, from the last time
20 I saw them to the current time, they had not changed at all.

21 **Q.** Now, how can you be certain that those encampments didn't
22 get removed and cleaned up and then the people just repopulated
23 the area? Can you be certain that that didn't happen?

24 **A.** From what I observed, the amount of items that were there
25 indicated that they had been there for at least months, because

1 from my own personal experience, when it comes to homeless
2 areas, it takes oftentimes weeks or months for things to
3 actually pile up in the way that they did in these areas.

4 **Q.** And so those are your impressions, but you don't have any
5 actual information about whether the City conducted encampment
6 removals in this time frame in other areas of Berkeley?

7 **A.** That's correct.

8 **Q.** Now, Mr. Royer, you would rather sleep outside than spend
9 a single night in a shelter; isn't that right?

10 **A.** Because of safety and other hazard issues that I don't
11 want to deal with based on my disabilities.

12 **MS. BOURGAULT:** Okay. Thank you, Mr. Royer.

13 I don't have any further questions.

14 **THE COURT:** Okay. Redirect.

15 **MS. JOHNS:** Just briefly.

16 **REDIRECT EXAMINATION**

17 **BY MS. JOHNS:**

18 **Q.** Why is it that you left Sacramento?

19 **A.** Because there was -- there was a lack of safety, in the
20 primary, and the secondary was that there was no housing out
21 there as well.

22 **Q.** And can I ask just about the encampments that you
23 observed. Did you observe -- that were down by Second Street.
24 Did you observe things that you thought were hazardous or
25 unsafe?

1 **A.** Yes.

2 **Q.** What kind of things did you observe?

3 **A.** There was large scales of trash, especially some that
4 I believe would have been highly flammable, which could have
5 led to a serious fire issue.

6 **Q.** Is there anything else that you observed that you thought
7 was unhealthy or unsafe?

8 **A.** I noticed a very strong odor I was not able to identify.

9 **MS. JOHNS:** All right. Thank you, Mr. Royer.

10 **THE COURT:** Anything more?

11 **MS. BOURGAULT:** No further questions. Thank you,
12 Your Honor.

13 **THE COURT:** All right. Can you get down on your own?

14 **THE WITNESS:** Yes.

15 **THE COURT:** Thank you.

16 (Witness excused.)

17 **THE COURT:** All right. We're going to go seven more
18 minutes. So next witness.

19 **MR. SIEGEL:** Your Honor, I'm prepared to begin
20 examining the City Manager who's present. We advised the City
21 that she would be called tomorrow, but since we've got some
22 time --

23 **THE COURT:** Are you ready to go, ma'am?

24 **THE WITNESS:** Yes, Your Honor.

25 **THE COURT:** Yes. All right. Please come forward.