

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

\_\_\_\_\_)  
KIMBERLY HURRELL-HARRING, JAMES ADAMS, )  
JOSEPH BRIGGS, RICKY LEE GLOVER, RICHARD LOVE, )  
JACQUELINE WINBRONE, LANE LOYZELLE, TOSHA )  
STEELE, BRUCE WASHINGTON, SHAWN CHASE, JEMAR ) Index No. 8866-07  
JOHNSON, ROBERT TOMBERELLI, CHRISTOPHER YAW, )  
LUTHER WOODROW OF BOOKER, JR., EDWARD ) **AFFIDAVIT**  
KAMINSKI, JOY METZLER, VICTOR TURNER, CANDACE ) **OF PLAINTIFF**  
BROOKINS, RANDY HABSHI, and RONALD McINTYRE, ) **EDWARD KAMINSKI**  
on behalf of themselves and all others similarly situated, )  
)  
Plaintiffs, )  
)  
v. )  
)  
THE STATE OF NEW YORK, )  
)  
Defendant. )  
\_\_\_\_\_)

STATE OF NEW YORK )  
) ss.:  
COUNTY OF SUFFOLK )

EDWARD KAMINSKI, being duly sworn, deposes and says:

1. I am a named plaintiff in this case.
2. I am 54 years old and a resident of Patchogue, New York.
3. I have a pending criminal case in the Riverhead Town Court. For about eight months I was represented in that case by the Legal Aid Society of Suffolk County. Now I am being represented by an 18-B attorney.
4. On December 11, 2006, I was arrested and charged with larceny in the fourth degree, which is a felony.
5. My case was first assigned to Legal Aid on March 6, 2007, after I ran out of money to pay my private lawyer.

6. I called the Legal Aid office to find out who my lawyer would be and to discuss my case with my new lawyer. Instead of giving me any information, the Legal Aid office told me to appear in court on my scheduled court date and that a Legal Aid attorney would be there. I told them I wanted to speak with my lawyer before my court date but I was told that that was not how Legal Aid works.

7. I met my Legal Aid lawyer for the first time on March 20, 2007, a few minutes before I had to go into court. While waiting for my case to be called, I introduced myself to the only Legal Aid attorney who was in court that day. Because he was the only one there, I figured that he had to be my new attorney. We talked for less than five minutes in the public hallway directly outside the courtroom. During our discussion it became apparent that the Legal Aid lawyer was not familiar with any of the facts of my case and that he did not know what had been done on my case by my private attorney up until that point.

8. My former private attorney had secured an offer of no jail time and community service, so my new attorney went to speak to the prosecutor about that deal. But when he came back, the offer had changed to 45 days of jail time and three years of probation. I was confused about the change and I was terrified by the prospect of spending time in jail. I would have accepted anything but jail time. I tried to express this to my Legal Aid lawyer, but I felt he didn't believe me about the prior deal; he thought the 45-day offer was the first offer the prosecution had made.

9. At my next court date, which was around April 2007, the same Legal Aid attorney appeared in court and sought an adjournment without explaining to me the reason for doing so. The only conversation we had took place in the hallway outside the courtroom and

lasted for less than five minutes. I felt like he was only interested in getting me to accept the 45-day offer, the same one that I had already rejected the last time I was in court.

10. In court on May 15, 2007, I discovered I had a new Legal Aid lawyer. I did not know why I had to get a new Legal Aid lawyer and I didn't know I was going to get a new lawyer beforehand. In fact, when I arrived at the court I was under the impression that the same Legal Aid attorney would be there because he had never gotten in touch with me to tell me about the change of my Legal Aid lawyers.

11. I spoke to the new Legal Aid attorney for about four minutes in the hallway outside of the courtroom. There was a line of other defendants waiting to speak to this attorney as well and I felt very rushed and was unable to explain my case to him. I also felt uncomfortable sharing personal details of my case with my lawyer where others could overhear me.

12. After that court date, I tried to get in touch with my new Legal Aid attorney to discuss the status of my case. One day I called him three times and never got an answer. Another day, I called him three times and he picked up the third call. When I finally got through to him, we talked for about five minutes.

13. I was not able to appear at my next court date because I was hospitalized. My Legal Aid lawyer sought an adjournment on that day.

14. On September 19, 2007, I appeared in court expecting to see my second Legal Aid attorney, but instead Legal Aid assigned me a third lawyer. I was upset because I felt I had a relationship with my second Legal Aid lawyer. Also, it takes time and energy to update a new Legal Aid lawyer about my case. No one told me why Legal Aid assigned me a new lawyer.

15. Just like with my other two Legal Aid lawyers, when I met with my third Legal Aid lawyer, the meetings lasted for less than five minutes and took place in the courtroom's hallway, in the courtroom, or in other public places that lacked privacy and which were in front of other defendants and lawyers.

16. I got the impression that my third Legal Aid lawyer had not looked at my file before coming to court because he didn't know the status or facts of my case. That day my case was adjourned. This was probably because my new Legal Aid lawyer needed time to look at my file.

17. I missed my October 15, 2007 court date because I had to pick up my Medicaid card. I need this card to get my medications. A couple of days later, I got a letter from my first Legal Aid lawyer, not my third Legal Aid lawyer, telling me that the judge had written up a bench warrant for me because I had missed my court date. Because of that letter, I was very confused about who my Legal Aid attorney was and who was representing me in my case.

18. When I came to court again on October 30, 2007, both my first and my third Legal Aid lawyers were there. I went up to both of them to try to figure out who was representing me. My first Legal Aid lawyer thought he was no longer assigned to the case and my third Legal Aid lawyer wasn't sure either way.

19. At that October 30 hearing, the judge gave me an order which stated that I hadn't cooperated with Legal Aid, and so I had waived my right to a court appointed attorney. I think that the judge thought I wasn't cooperating because my Legal Aid lawyers kept asking for adjournments and delaying my case because Legal Aid was constantly changing my lawyer. The new Legal Aid lawyer wouldn't be familiar with my case beforehand and then would ask for an adjournment to look at my file.

20. I told the judge that I didn't want to represent myself. But the judge pushed me to sign a waiver acknowledging that my failure to cooperate with my Legal Aid attorneys indicated my wish to represent myself. When I protested again, the judge yelled and told me that if I didn't sign the waiver I would be thrown in jail for contempt.

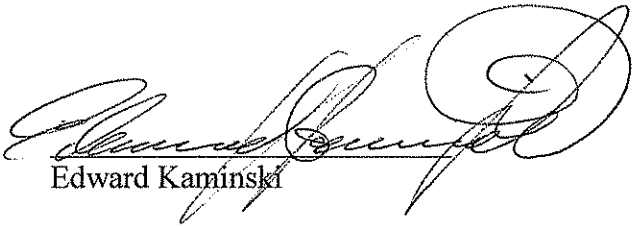
21. I couldn't risk being thrown in jail because my mother was very ill. Previously when I was incarcerated, my father passed away unexpectedly and I wasn't able to attend his wake or funeral. There was no way I was going to risk having the same thing happen with my mother. I didn't feel like I had any other choice, the judge was yelling at me and signing the waiver was the only way I could stay out of jail and be there for my mother, so I signed it.

22. I never wanted to represent myself; I'm not a lawyer. Even though the Legal Aid lawyers hadn't been helping me I was really scared to represent myself alone. I called Legal Aid to get more information.

23. The next time I went to court, I wasn't able to get into the courtroom because it was too crowded. I kept asking people if my name had been called but no one would help me. Finally a woman I didn't know came over and told me that she had heard my case called. Through her I learned that I had been assigned an 18-B attorney because the judge said I had a conflict of interest with Legal Aid.

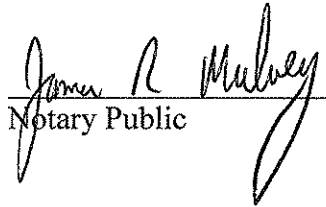
24. The stress caused by all of this confusion in and delay of my case has hurt my health. I've lost fifteen pounds since I was charged and I can't sleep at night. I've had to miss doctor appointments that I need to treat my neuropathy and Hepatitis C because the appointments have conflicted with court dates. I also haven't been able to visit and take care of my mother, who has dementia.

25. My case has dragged on for so long. It's been hard for me to move on with my life. Though I am not sitting in jail waiting for my case to be resolved I feel incarcerated in my mind. Everyday I wake up knowing I have to keep fighting for myself because if I don't stand up for myself no one else will.



Edward Kaminski

Sworn to before me on this  
25 day of January, 2008.



Notary Public

JAMES R. MULVEY  
Notary Public-State of New York  
No. 01MU6121445  
Qualified in Suffolk County  
My Commission Expires 1/18/2009