IN THE WAITANGI TRIBUNAL	**WAI 3060** **WAI TBC**
IN THE MATTER	of The Treaty of Waitangi Act 1975
AND	of a claim by **HERBERT HEIHEI** Roofer, of Kerikeri, on behalf of himself and other Māori males in Northland.

BRIEF OF EVIDENCE OF HERBERT HEIHEI
Dated 14 May 2025

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Waitangi Tribunal
15 May 25
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

1. My name is Herbert HeiHei of 17 Homestead Road, Kerikeri, I am 46 years old, and I am providing this evidence for the purposes of the Waitangi Tribunal hearing of the Wai 3060 Justice inquiry.

2. I have had a significant history with the police in relation to criminal and traffic offences, my charge sheets number about 2 ½ pages. It is the record of offences that I wish to speak about in my brief of evidence before this inquiry.

3. I am a family man lucky to have a beautiful wife who is currently the CEO of the Homestead Motel in Kerikeri. We live in the manager's house on-site. She has been with the motel for over 20 years and has been the big boss for the last 10 years, when we moved on site. I have two daughters, the eldest, is 23, youngest, is 21. I am very proud of my family. My girls are women of Māori and Pākehā heritage. They are both working in responsible jobs as well as their partners, also working and they live independently in Kerikeri, and are all doing very well.

4. Over the years, I acknowledge that I have had several interactions with the police. However, I believe that information held on record has led me to being treated in a disrespectful and prejudicial manner. It is unfair and we should not be held accountable for mistakes that are not of our own making.

5. I believe that almost half of the convictions on my record are related to offences and incidences that are not mine. I can only presume that it is where other people have used my name or perhaps have the same name as me. I can only suggest that Police have not always performed any type of identity check at the time or perhaps the Court or Corrections have merged or added together people having the same name as myself resulting in the additions to my file and perhaps theirs or perhaps they have a clean record while I carry their transgression history. Consequently about 1 page out of the two and

a half pages of my criminal and traffic history are not actually mine. I am showing as being convicted for offences that I have no knowledge of and that have nothing to do with me.

6. I have also experienced racism towards me as a brown-skinned Māori. On multiple occasions, police officers have made remarks such as, "Well, you all look the same. It is not acceptable. This type of situation warrants attention through a justice inquiry. Everything that I will share is to record my story that apart from the injustice of it all has resulted in a hard time.

7. It affected not only myself, but also my partner, with whom I have been with for 26 years. When she was hapu(pregnant) with our first daughter at the age of 21, I decided to pull my socks up and find work to support our little whanau. At the time, we were living in a garage in Te Tii, but that wasn't going to be sustainable nor a reasonable place to welcome our first child. We were a young couple about to become parents and so, we decided that we had to find somewhere to rent and for me to secure a full-time job.

8. All our excitement and good intentions turned to struggles and disappointment, it turned out to be the hardest thing to do because we just kept hitting brick walls due to my criminal history. It also became clear that being a young Māori person was part of the difficulty and in the end my wife had to attend many of the house interviews alone because, after being turned down so many times when I went with her, we realised it was happening because I was Māori.

9. My wife is Pakeha (New Zealand born European). We were both angered by some of the things we encountered. Coming from the city, neither of us really had a mindset shaped by black, white, or any kind of racial discrimination. It wasn't until we moved to the Far North that we discovered the harsh realities of racial bias here. It hit me particularly hard when it came to finding work, being Māori and

having a criminal history made things much tougher for me. People were getting in trouble with the law and saying they were me, which made it even harder for me to find work and added to the challenges I was already facing.

10. For the first time in my life, I was actively seeking full-time employment, and it was incredibly hard. I started working in an orchard, despite never having done that kind of work before, and let me tell you—it was not easy. From there, I managed to get a job at the local supermarket. This opportunity came about because the owner knew me from following my kids' basketball games outside of work hours. He recognized me as a good person, despite what my criminal history might have suggested, and gave me a chance as a baker. I was responsible, alongside one other person, for opening the New World Kerikeri at 4:40am every morning. I stayed there for over six months before finding a better opportunity with more suitable and flexible hours, which allowed me to work around my partner's work hours and between us share the responsibility of looking after the girls.

11. After that, I invested time in studying. I pursued chef training, completed a Māori language course at the Polytech in Kerikeri and even enrolled in a private chef school that had just opened in the area. I loved food and wanted to give it a go. However, I didn't complete the course because our first child had arrived and, in the end, I transitioned straight to work. I secured a local job thanks to a good Pākehā friend I'd met in Kerikeri – someone who remains my best friend to this day. He gave me my first shot in the hospitality industry at a restaurant called 'Kina Kitchen.' I worked there for three years and continued to thrive in Kerikeri's hospitality scene for the next decade. I worked in every restaurant, cafe, and vineyard in the area, taking on roles ranging from second chef to casual staff.

12. Still, it wasn't an easy road. Being Māori and dealing with false charges people accumulated under my name created significant obstacles. Despite this, I dreamed of owning my own little restaurant in Kerikeri –

something rooted in my passion for food. But dealing with banks and lacking the financial means to start something of my own became a recurring setback. Even though I worked 50-60 hours a week, I couldn't cross the financial threshold for anyone to take my aspirations seriously. Ultimately, I had to pivot and take more labouring-type jobs. While those roles weren't my dream jobs, I needed to provide for my family. Unfortunately, many of these types of jobs were short-term due to the seasonal nature of that work. Full-time, year-round employment was-and remains-a challenge in this region.

13. I was asked by my Counsel - Have you ever approached the Police to see whether you could have your records looked at or anything like that?

14. I have approached authorities' numerous times. One of the most significant instances was during my seven and a half years working for Coca Cola as a merchandiser. My role involved traveling to two supermarkets—New World and Woolworths in Kerikeri—to restock shelves, fill stands, and build displays. I also did the same for Kaikohe, visiting New World and Woolworths there to prepare shelves and displays for the week ahead. On Sunday evenings, after the stores had closed, I would construct the displays. When I applied for the Coca Cola job, I faced ridicule because of my criminal record. My employer at the time suggested I address these concerns with the authorities first and then return to discuss the situation.

15. I approached the Kerikeri police, and they pulled up my record. To my shock, they claimed, "This guy has been to jail." I was stunned and responded, "What? No, I haven't." They presented a list of charges and asked which ones I had committed. Less than half of them were mine.

16. I discovered that my criminal and traffic history spanned two and a half pages, but only half were my convictions, I was totally shocked. It

seemed a number of the recorded convictions belonged to others maybe with the same name as me or individuals who had falsely given my name, I had no idea what these events were. I tried explaining, "That's not me. I haven't been to jail." The officers assured me, "Don't worry about it. We'll sort it out. After seven years, it will be removed from your record anyway." Unfortunately, those assurances haven't materialised. Every time I apply for a well-suited job—one that fits my schedule, my partner's timetable, and my children's needs, I believe police checks are the main reason for rejection. It feels like my Mana has been trampled because of this mistaken record of charges that are not mine. It's incredibly disheartening because I know I'm a good man and a good father. Despite the challenges and setbacks, I've done my best to rise above the circumstances and create a better life for myself and my family. And we've made it, but the journey hasn't been easy. I not only grew to support my family, but I began to support my community.

17. In the past, I had the privilege of supporting Peter and his basketball association in Kerikeri. He was an incredible man, and though he has passed away, his impact lives on. I did everything I could to assist him because basketball was a sport I deeply loved during my college years. At that time, I was scouted to play for the New Zealand Tall Blacks, attending scrimmages and games at Church College. I had real potential in basketball, and that experience left a lasting impression on me.

18. Supporting Peter was my way of giving back to the young people in Kerikeri. I would often watch school basketball games, sitting in the gym during the season. Seeing those kids play brought me a sense of belonging—it reminded me of my upbringing and the passion I had for basketball when I was younger.

19. My youngest was at the top of her game as a netball player. She dominated, earning all the major trophies year after year. She had been playing since the age of five, continuing until she left school, and

became one of the most highly regarded academic netball players to come out of Kerikeri. But in saying that we hit a lot of brick walls because of the financial costs that come with players playing at a representative level. We didn't have the money to send her away to the city, or to go to university and to pursue a netball career.

20. My criminal record states I have been to jail, when I have not. My criminal record includes a list of other charges that I have no knowledge of. Mine is not a story of identity theft or mistaken identity it is a story of criminal injustice created by the justice system that no one is willing to correct. I have asked myself is that also because I have been racially profiled. I have included a brief look into my family life because this system has prevented me from being able to provide better opportunities for my family despite my willingness to do so. The Justice system takes no account of the burden and disadvantages that my inaccurate criminal and traffic record has had on my family.

SUMMARY

When I am pulled up or questioned by the Police and they run a check of my criminal and traffic record after they're asked my name, I have observed on the most recent occasion an immediate change in their attitude towards me as soon as the record comes up on their phone. It showed a photo which was not me who he insisted was me then proceeded to tell me you've been to jail. I replied that the photo is not me, but he fobbed that off by saying you all have the same eyes. That comment was racist as. He then becomes really aggressive approaching me and right in my face. I don't think he would have stopped if my wife wasn't there to defuse the situation. It was like he was trying to provoke me into pushing him away, instead I stepped back, put out my hand and said, "Bro Stop, Stay there". I believe the system needs an overhaul especially in the way Police deal with the public. When the information that they receive on the criminal history record is incorrect they immediately adopt an aggressive approach and there is no room in their thinking to accept what you have said is right and the information they are looking at is wrong.

What upsets me the most is the disrespectful manner in which the Police treat Maori. I fear for young Maori teenagers and young men that are stopped by the Police. A lot of these younger Pakeha policemen come from generational wealth so when they are in small communities like Kaikohe, Moerewa, Kawakawa, they have hardly ever been around Maori people and they have this attitude, this stigma about what Maori people are like that they have inherit from their parent(s) and grandparent(s) which is all wrong.

These are the reasons why our Maori are still fighting today for what should be fundamental rights and an expectation to be treated respectfully.

DATED at Kaikohe this 14th day of May 2025

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Herbert Heihei

This Brief of Evidence is filed by **DANIEL JOHN WATKINS**, Counsel for the Claimant, of **WATKINS LAW**, 2 Station Road, Kaikohe.

Documents for service on the above-named claimant may be left at the address for service above or may be:

a) Posted to PO Box 147, Kaikohe 0440; or
b) Transmitted by email to admin@watkinslaw.nz.