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8 KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES INQUEST PROGRAM

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10 IN RE INQUEST INTO THE)
DEATH OF ALBERT WAYNE) NO. 17IQ427069
11 FREDERICKS JR.)
12)
13) MOTION OF FAMILY AND COUNSEL
REQUESTING TO WITHDRAW FROM
INQUEST
14)

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16 COMES NOW, The Family of Albert Fredericks, by and through counsel, Susan
17 Sobel and Mahalia Kahsay, King County Dept. of Public Defense—ACA Division,
18 move for permission for the Family of Albert Fredericks to withdraw the participation
19 from the Inquest process and for counsel to withdraw from representing the Family of
20 Albert Fredericks in this Inquest, based on the included declaration and briefing in
21 support of this request.. As stated in the below motion, the Family no longer wishes
22 to be represented by counsel and does not want counsel to represent their interests
23 during the process. See attached declaration and briefing in support of this request.
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KING COUNTY DEPARTMENT OF EXECUTIVE SERVICES INQUEST PROGRAM

IN RE INQUEST INTO THE)
DEATH OF ALBERT WAYNE) NO. 17IQ427069
FREDERICKS JR.)
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) DECLARATION OF GENE SHAISHNIKOFF
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I, Genee Shaishnikoff, declare the following:

1. I am the sister of Albert Fredericks, my maiden name is Fredericks. I am over the age of 18 and I am competent to testify to the matters set forth herein.
2. I am the Fredericks Family representative for the Inquest into his death at the hands of Seattle Police Officers.
3. I have been working with attorneys Susan Sobel and Mahalia Kabsay throughout the Inquest process.
4. The Fredericks Family has made the decision to withdraw from the Inquest based on the reasoning outlined in the motion to withdraw.
5. The Fredericks Family does not want counsel to participate in the inquest trial in our absence.
6. I hereby certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 31st day of January, 2023. In the City of Unalaska, Alaska

Respectfully submitted,


Genee Shaishnikoff

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II. OVERVIEW OF CASE POSTURE LEADING TO FAMILY DECISION TO WITHDRAW



Mr. Albert Fredericks died during a Seattle Police Department (SPD) take down on November 11th, 2017. Seattle Police Department officers responded to 911 calls placed by concerned citizens. When they arrive, they found Mr. Fredericks in a state of crisis standing in traffic. They attempted to help him out of the street and offered to take him to the hospital; presumably for an involuntary hospital commitment. Fredericks was afraid and unwilling to get in the police vehicle. The officers the scene left while he was on the sidewalk.

When Mr. Fredericks returned to the roadway, officers placed their hands on him and escorted him to the sidewalk. Several more Seattle Police Department officers responded to the scene to assist. The officers took Mr. Fredericks down to the ground to handcuff him.

Mr. Fredericks wailed, moved about, and cried out for help for approximately 6 minutes during the physical take down. Then, suddenly, he went silent with the exception of a few snoring sounds. These “snoring” or agonal breathing sounds can be heard on the body worn video footage.

One police officer joked about what an interesting time to take a nap. Other officers and EMTs lifted his limp body onto a gurney and put him into the back of the AMR vehicle.

1 One of the EMTs asked Officer Oliverson “if he was like this the whole time,” and Officer
2 Oliverson said, yes.

3 In a later interview EMT Ota explained, “[I]ike there was no, like, you know, oh,
4 he's being really quiet. Like, they [SPD] were -- it seemed very nonchalant, like business
5 as usual.” Body worn video footage confirms that no one made note of Mr. Fredericks
6 dramatic shift in presentation, or that he was unconscious following the police take down.

7 In another interview, witness Ms. Cavnar-Lewandaski commented, “I don't
8 remember feeling like there was much of a sense of urgency generally [from SPD].”
9 Eventually, the EMTs realized there was no longer a pulse. Soon after Mr. Fredericks was
10 pronounced dead.

11 The initial autopsy report indicated that Mr. Fredericks “became unresponsive
12 following restraint.” The medical examiner did not review body worn footage before
13 making this finding. Instead, the medical examiner relied on what would later be found
14 to be blatantly inaccurate information from the Medicolegal Death Investigator Jeannette
15 McDonald’s report. Ms. McDonald spoke to Detective Simmons and Sergeant Grinstead
16 on scene before writing her report. Her report stated, “the decedent was able to stand up
17 with the assistance of medics and walk to the gurney, but he was not communicative.”
18 *See Bates 2087.* Relying on this erroneous report, the medical examiner ruled the death
19 accident.

20 Nearly four years later, on November 2, 2021, Dow Constantine called for an
21 inquest into the death of Albert Fredericks. The Family has taken this opportunity to
22 thoroughly investigate Mr. Fredericks’ death, in ways that the Force Investigation Unit
23 of the Seattle Police Department failed to do in 2017.

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1 For example, given the errors in Medicolegal Death Investigator’s report and
2 resulting error in the medical examiner report, the Family retained a forensic pathologist
3 Dr. Quinn to review the discovery and autopsy reports. It was astonishing how short the
4 witness interviews completed by Det. Simmons of the Force Investigation Unit were with
5 direct eye-witnesses to Mr. Fredericks death. For example, the interview with Ms.
6 Cavnar-Lewandsaski lasted 10 minutes lasted 10 minutes. Therefore, the Family was not
7 comfortable relying upon these and conducted additional interviews to ensure that no
8 information was missed.

9 Further, The Family also retained experts to synchronize the body worn video of
10 each Seattle Police Department officer during the take down to get a more comprehensive
11 visual of the incident and to prepare a demonstrative exhibit for trial to assist with Dr.
12 Quinn’s testimony. This video was never intended to be submitted during the Inquest as
13 evidence; it was purely a demonstrative tool to help the jurors understand a chaotic scene
14 with many actors.

15 The use of such demonstrative exhibits is not new or unique. During the Derek
16 Chauvin trial, Dr. Tobin testified about the death of George Floyd using demonstrative
17 exhibits. His exhibit assisted the jury in understanding the positioning of officers on top
18 of George Floyd and the impact that had on his ability to breath.

19 In August of 2022, in preparation for the parties’ interview with medical
20 examiner Dr. Mazrim, Inquest Attorney Claire Thorton reviewed the body worn video
21 with the doctor. This was the first time that anyone at KCMEO had viewed the footage.
22 After reviewing the body worn video, Dr. Mazrim updated the manner of death from
23 “accident” to “undetermined.” He acknowledged that: (1) Mr. Fredericks became
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1 unresponsive *while* being restrained, (2) that he was *lifted* to the gurney rather than having
2 walked onto it with his own power, and (3) while maintaining that intoxication and
3 physical exertion of Mr. Fredericks’ was the primary cause of death –the he prone
4 position and police restraint *may have contributed* to Mr. Fredericks death.

5 While this is not an adversarial process, the Individual (IO) Officers and the
6 Seattle Police Department (“SPD”) have objected to nearly every effort of the Family to
7 investigate this case. During a pre-conference hearing, SPD raised concerns that they may
8 need to request a Frye hearing based on the Family expert report, insinuating that the
9 expertise or opinions of Dr. Quinn, who is a board-certified pathologist, would not be
10 generally accepted in the scientific community. At that same hearing the IO and SPD
11 requested time to retain their own video enhancement experts to review the demonstrative
12 exhibits of the Family in case the evidence had been manipulated.¹

13 In addition, the IO and SPD objected to the Family’s motion for the inclusion of
14 de-escalation policies, crisis intervention policies, and use of force policies arguing those
15 were not relevant to a case in which officers responded to a man in crisis and used force
16 to take him to the ground Even today, the IO and SPD continue to object to any policy
17 or training related to bias free policing or race. In SPD briefing they indicated that policy
18 related to bias free policing “is not relevant to the Inquest...,” and “are far beyond the
19 scope,” despite the fact that SPD is currently under a federal consent decree and Mr.
20 Fredericks is an Indigenous Alaskan Native man and member of the Qawalangin Tribe.

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23 ¹ Ultimately their video expert found that the synchronization had not been manipulated and the remainder
24 of the 24 page report detailed how the Family’s the non-evidentiary demonstrative exhibit was biased or
misleading.

1 While the Family appreciates that the Inquest process is growing and developing,
2 it has been frustrated with overall process, including instructions by the Inquest
3 Administrator not to conduct an independent investigation. It was suggested to the Family
4 by the Inquest Administrator not to interview any further witnesses without the
5 participation of each party. There is, however, nothing in the Inquest Executive Order
6 indicating the Family is not entitled to investigate the facts and circumstances of the case
7 themselves in preparation for the hearing. This feels vitally important to the Family given
8 the initial investigation into Mr. Fredericks death was conducted by the police
9 department; SPD investigated itself.

10 Other attempts by the Family to conduct a thorough investigation have been
11 undermined. The Family was told that all questioning of witnesses would have to be direct
12 style open ended questions, despite most witnesses' interests being fundamentally
13 opposed to that of the Family.¹

14 Also, attempts for additional interviews have been outright denied. The Family
15 requested interviews of Det. Simmons who investigated the death. The request was
16 denied, despite his report containing factually inaccurate information that was relied upon
17 by the ME. The Family has been in the position of pointing out the need for subpoenas or
18 doing public records requests for information including the WSP tox lab files, requesting
19 the trainings that were not retained by SPD, etc.

20 Furthermore, this process has continued to unearth old wounds for the Family for
21 a purpose that is seemingly frustrated at every turn. Each time the interviews were
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24 ¹ The interview of Dr. Mazrim was extremely contentious. Besides the civilian witnesses all others are represented by the IO or by SPD.

1 conducted, or the medical reports are relayed – the Family is forced again to relive an
2 awful piece of their history. Forced to listen to strangers opine about the state of their
3 loved one and hear him blamed for his own death – his intoxication, his resistance against
4 police force, or even as Dr. Mazrim suggested – his own belly was to blame for causing
5 any respiration complications. The Family has been forced to hear from attorneys arguing
6 that race and bias is irrelevant for an indigenous man in America while interacting with
7 law enforcement because officers were “polite” prior to him dying and laying lifeless for
8 minutes before getting any medical attention.

9 If the circumstances of the death are not tested and investigated before
10 information is presented to the jury, then there will be no confidence that the community
11 will gain any true insight into the facts and circumstances of the death. It is the jury’s role
12 to determine the cause of Mr. Frederick’s death – not the involved parties. Without a
13 critical approach to the situation, this process becomes a rubber stamp on police
14 investigating their own after a death at the hands of law enforcement. It should not be the
15 Family’s burden to push a boulder up a mountain on their own. That is not a process the
16 Fredericks family wishes to participate in.

17 18 **I. CONCLUSION**

19 The Family’s primary goal and concern is that no one else should have a loved
20 one treated and disregarded in the same way they feel Mr. Fredericks was in his last
21 moments. This process has not felt supportive of that goal and has only caused
22 considerably more moral injury to the Family. As such, the Family of Albert Fredericks
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1 **CERTIFICATE OF SERVICE**

2 I certify that on the 25th day of January 2023. I caused a true and correct copy of
3 this document to be served on the following in the manner indicated below:

4 Claire Thornton, Attorney	(x) Via Email claire.thornton@kingcounty.gov
5 Matt Anderson, Attorney	(x) Via email Matt.Anderson@kingcounty.gov
6 Dee Sylve 7 Inquest Program Manager 8 DES-Dept. of Executive Services 401 9 5th Ave., Suite 131 10 Seattle, WA 98104 11 Mailstop: CNK-DES-135	(x) Via Email Dee.Sylve@kingcounty.gov
12 Rebecca Boatright	(x) Via Email Rebecca.Boatright@seattle.gov
13 Ghazal Sharifi, WSBA# 47750 14 Rebecca Widen, WSBA #57339 15 Alison Markette, WSBA# 46477 16 Daviana Kadiyan, Paralegal 17 Seattle City Attorney’s Office 18 701 Fifth Avenue, Suite 2050 Seattle, 19 WA 98104	(x) Via Email Ghazal.Sharifi@seattle.gov Rebecca.Widen@seattle.gov Alison.Markette@seattle.gov daviana.kadiyan@seattle.gov
20 Ted Buck, WSBA #22029 21 Karen L. Cobb, WSBA #34958 22 Frey Buck, P.S. 23 1200 Fifth Ave., Ste. 1900 Seattle, WA 24 98101	(x) Via Email tbuck@freybuck.com kcobb@freybuck.com

/s/ Susan Sobel
Attorney for the Fredericks Family, #52579

/s/ Mahalia Kahsay
Attorney for the Fredericks Family, #55594