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King County Superior Court
Seattle Division

IN RE INQUEST INTO THE DEATH OF)
)
CHARLEENA CHAVON LYLES,) No. 517IQ9301
)
) RESPONSE TO MOTION TO
) DETERMINE IF THE FAMILY OF
) CHARLEENA LYLES CAN BE
) REPRESENTED BY ONE
) ATTORNEY [GROUP]

I. INTRODUCTION AND RELIEF REQUESTED

Two factions of the family of Charleena Lyles have retained separate counsel, citing conflicting differences in their interests in the matter. No matter those differing personal interests, however, the stated and inherent goal of the inquest process is to determine the facts and circumstances surrounding the death, nothing less, nothing more. The only change in scope wrought by the new procedure is an inquiry into whether involved officers followed department training, policies and procedures. The family fails to identify what conflict *related to the narrowly circumscribed parameters of an inquest* actually exists – or even could exist.

Moreover, by rule the “the family” is a single party entitled to representation by one or more attorneys. They are not entitled, and it defies common sense, to allow differing family

1 members or factions to engage separate counsel without any actual benefit to “the family” or the
2 individuals/factions extant. “The family” is defined as a unitary entity.

3 Finally, the family factions’ joint motion invites an unmanageable and unsupported
4 precedent for inquest chaos. There is no reason to believe that further fracturing of the family
5 will not occur, which, by the slim reasoning provided in the motion, would require yet another
6 attorney or attorneys to appear. Indeed, there is no practical limitation to the possible fracturing
7 of families. Would each disaffected individual or faction be entitled to separate counsel and
8 separate questioning of witnesses?

9 Compounding the risk, the new procedure provides for the appointment of a public
10 defender for “the family” except where the family has retained other inquest counsel or does not
11 wish to be represented by the public defender.¹ Both factions of the Lyle’s family have secured
12 private counsel, consequently, could another faction be entitled to the public defender? If more
13 than two factions/individuals existed, would each faction or individual be entitled its/her/his own
14 public defender, each with the right to separately question witnesses? If not, how would the
15 family avoid the very “horrible” situation envisioned by Attorney Guilmette in angling for the
16 right to the public defender?

17 The inquest rules are straightforward and clear – each party is entitle to counsel, and the
18 family is a singular party. While the family may certainly have more than one attorney, those
19 attorneys must be required to work together as one unit pursuant to the inquest rules and intent,
20 common sense, and judicial efficiency.

21 **II. AUTHORITY AND ARGUMENT**

22 ¹ It is counsel’s understanding that Mr. Guilmette is providing representation through the Public Defender
23 Association, a non-profit agency separate from the Department of Public Defense. It is unclear whether any family
24 member or faction will seek representation from the DPD, so this topic will be addressed to ascertain the intended
procedure going forward.

1
2 **A. Inquests serve a narrow purpose, with defined participants, and does not**
3 **favor or disfavor any particular person or entity, including individual family**
4 **members.**

5 An inquest, a creature of statute, is a nonbinding, factual inquiry that does not result in a
6 determination of guilt or responsibility. See Carrick v. Locke, 125 Wash.2d 129, 133, 882 P.2d
7 173 (1994) (citing State v. Ogle, 78 Wash.2d 86, 88, 469 P.2d 918 (1970)). The purpose of an
8 inquest is to determine the identity of the deceased, the cause of death, and the circumstances of
9 the death, including an identification of any actors who may be criminally liable. RCW
10 36.24.040; Carrick, 125 Wash.2d at 133, 882 P.2d 173. In King County, inquests are governed by
11 executive directive. PHL-7-1-2-EO. An inquest is an administrative hearing specifically intended
12 to be “a fact-finding, non-adversarial process.” *Id.*, Appendix 2, ¶ 1.1. “The purpose of the inquest
13 is to ensure a full, fair, and transparent review of any such death, and to issue findings of fact
14 regarding the facts and circumstances surrounding the death. The review will result in the
15 issuance of findings regarding the cause and manner of death, and whether the law enforcement
16 member acted pursuant to policy and training.” *Id.*, Appendix 1, ¶ 2.2.

17 The limited scope of an inquest cannot result in individualized favor or disfavor to any
18 participating entity or individual, because any particular answer to a particular factual inquiry by
19 the inquest panel can provide no unique benefit or detriment to any particular participant or
20 family member. At risk is nothing more than an objective finding of fact. While the various
21 family factions and their counsel argue that they have a current conflict of interest, there is simply
22 no basis to claim that any particular family member’s position differs from another family
23 member because the process has nothing to do with their individual rights. While they may well

1 have disparate interests and rights in other arenas, for example civil actions, here the lone quarry
2 is the truth of what happened as determined on objective evidence by the panel.

3 The underlying premise of the factions' argument – that they have concurrent conflicts of
4 interest – is, accordingly, nonexistent. RPC 1.7 (a) provides that a concurrent conflict of interest
5 exists where:

- 6 (1) the representation of one client will be directly adverse to another client; or
- 7 (2) there is a significant risk that the representation of one or more clients will be
8 materially limited by the lawyer's responsibilities to another client, a former client
or a third person or by a personal interest of the lawyer.

9 Neither personal familial conflicts nor individual family member interests are impacted by the
10 limited scope of an inquest. There is no way an attorney's representation of one family member
11 could be directly adverse to another under RPC 1.7 (a)(1); so too there is no way an attorney's
12 representation of one could materially affect another, *as no family member has any legal interest*
13 *in an inquest that is different from another family member.* There is simply no “concurrent
14 conflict of interest” within that realm.

15 For these patent reasons, the previous district court judge made clear at the first pre-
16 inquest hearing (prior to the stay) that the family would be required to choose which one set of the
17 attorneys to represent it, stating that if they could not agree, she would make the determination.

18 **2. The inquest order and appendix provide only for a singular family party.**

19 The procedures appendix to the executive order clearly outlines the scope of the family's
20 participation. “The family of the deceased” is a single party entitled to representation. *Id.*,
21 Appendix 1, ¶ 2.1. The rules specifically address who is to represent “the family,” stating that
22 public defense counsel will be assigned to the family “unless the family indicates they have
23 retained other inquest counsel or do not wish to be represented by the King County Department of

1 Public Defense.” Id., ¶ 8.12. The Department of Public Defense will not be assigned in inquests
2 where the family is to be represented by private counsel. Id.

3 There is no basis to argue that the executive actually meant that the family could have as
4 many attorney groups as the family wants based upon family squabbles or disparate interests in
5 civil litigation. This is particularly so where there is no basis, within the inquest process itself, to
6 claim that any particular family member’s interest diverges from any other family member.

7 Plainly, the family may have more than one attorney as long as those attorneys act in
8 concert to avoid duplication, waste of time, excessive cost, furthering of agendas, etc., in pursuit
9 of the narrow goal of the proceeding.

10 **3. The fractured family formula proposed by this motion would violate the letter**
11 **and spirit of the inquest process and hobble the orderly administration of the**
12 **limited proceeding.**

13 To allow every disgruntled family member or faction the right to engage separate
14 counsel, each with independent questioning authority with the witnesses, would open a
15 Pandora’s Box. The vying counsel, whose real interest (and indeed duty under the RPCs) is
16 advancing their individual client’s extra-inquest personal interests, would turn the mandated non-
17 adversarial inquest process into a family-upon-family conflict. After all, if their clients did not
18 have disparate interests they were obliged to pursue *there would be no conflict of interest*.
19 Moreover, there is no means of determining which, among various disparate factions or
20 individuals, would be entitled to public representation – a fact counsel for the family can
21 conveniently overlook because of the unique and fortunate circumstance of their positions, that
22 one faction has private counsel. The executive decree did not contemplate or provide for a
23 potentially unlimited draw on public defender resources premised upon familial infighting or
conflicting interests in civil litigation.

1 The logical result of the argument presented is chaos. Parents, individually, divorced or
2 separated, could readily claim “conflicts.” Disaffected brothers and sisters (or in this case,
3 cousins) could do the same. Each would demand and receive the right to independent counsel,
4 each exercising independent questioning rights. It is easily foreseeable that a standard superior
5 court courtroom could not accommodate the disparate groups, all ostensibly limited to pursuit of
6 the same narrow goal – the facts and circumstances surrounding the death, and the training and
7 policy at play. The motion is simply untethered from the reality of the inquest process.

8 **4. The disparate factions have no independent right to separate counsel.**

9 As noted above, the DPD is not currently representing any family member or faction.
10 We address this potential situation to clarify the intended procedure going forward. Although
11 the new King County inquest procedures now allow for county representation of the family, the
12 family still does not have a constitutional right to such taxpayer-funded representation intended
13 to expand the scope and intent of the process. Miranda v. Sims, 98 Wn. App. 898, 902–04, 991
14 P.2d 681, 683–84 (2000). This is consistent with the inquest rule that says public defense will
15 not be assigned where the family is already represented. Indeed, even in civil actions, provided
16 under the constitution, Washington Courts limited the right to appointed counsel to proceedings
17 where the litigant's physical liberty is threatened or where a fundamental liberty interest, similar
18 to the parent-child relationship, is at risk. Id., citing In re Dependency of Grove, 127 Wash.2d
19 221, 237, 897 P.2d 1252 (1995). Washington Courts have held that our state constitution protects
20 a right of access to the courts by appointment of any attorney only in cases in which a
21 controversy is resolved or punishment is determined. Sims, supra, citing Seattle Times Co. v.
22 Eberharter, 105 Wash.2d 144, 156, 713 P.2d 710 (1986) (noting that the right to appointed
23

1 counsel has been applied to matters that are part of “the process of determining guilt or
2 innocence” and not to investigatory proceedings).

3 While the family is not making a constitutional argument, it is clear that the change in the
4 King County inquest rules was never intended to expand the scope of an inquest to address
5 divergent interests of various family members. As noted, the family's interest in a fair
6 proceeding, as well as the public's interest in a neutral inquiry into the County's responsibility for
7 the death, are represented under the statutory scheme and not subject to individual peccadillos.
8 The statutes contemplate a fair and objective inquiry, to obtain an objective, nonpartisan, and
9 independent opinion on the cause of death and the circumstances surrounding the death. Sims,
10 supra, citing Carrick, supra, at 143, RCW 36.24.020 and RCW 36.24.040. To this end, the
11 coroner must examine all individuals who have, in the coroner or jury's opinion, “any knowledge
12 of the facts.” See RCW 36.24.050; Carrick, 125 Wash.2d at 144 n. 9, 882 P.2d 173.

13 Attempts to expand this administrative hearing well outside of its intended scope and
14 boundaries by having multiple firms or attorney groups representing disparate family factions
15 potentially inserting issues that simply have no relevance to its mission should not be allowed.
16 The family must be limited to a single set of attorneys allowed to engage in the process as a
17 single unit, with tasks broken down however they see fit, to include limiting questioning of
18 witnesses to a single attorney for each. That the two sides of the family and their counsel cannot
19 seem to get along is not a legal conflict and not an appropriate reason to allow separate counsel.

20 Any argument that the two separate officers have separate counsel is irrelevant as each
21 officer is actually an individual party, with individual constitutional interests in ensuring the truth
22 is revealed; a matter that will be addressed in more detail in response to the Motion to Clarify
23 Parties.

1 **III. CONCLUSION**

2 If the new inquest process is dragged into a forum for individual interests unrelated to
3 the inquest scope to flower, the process will become so onerous and chaotic that its fact-finding
4 purpose will be concealed, corrupted and ineffective. Sometimes family has to sit at the same
5 table; this is one of those situations.

6 Dated this 6th day of September, 2019.

7
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1 **Certificate of Service**

2 The undersigned certifies under the penalty of perjury according to the laws of the United States
3 and the State of Washington that on this date I caused to be served in the manner noted below a copy of
4 this document entitled **RESPONSE TO MOTION TO DETERMINE IF THE FAMILY OF
5 CHARLEENA LYLES CAN BE REPRESENTED BY ONE ATTORNEY [GROUP]** on the
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32 DATED this 6th day of September, 2019, at Seattle, Washington.

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