



King County

Department of Executive Services

Inquest Program

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ORDER

INQUEST INTO THE DEATH OF DAMARIUS DEMONTA BUTTS INQUEST # 517IQ0713

PARTIES PRESENT:

| | |
|----------------------------------|--|
| Family of the decedent: | Mother of Damarius Demonta Butts represented by Adrien Leavitt and La Rond Baker |
| Law enforcement officers: | Seattle Police Department Officers Elizabeth Kennedy, Christopher Myers, Joshua Vaaga and Canek Gordillo represented by Evan Bariault and Ted Buck |
| Employing government department: | Seattle Police Department, represented by Ghazal Sharifi, Erika Evans, Rebecca Boatright present as Chief Carmen Best's representative |
| Administrator: | Michael Spearman assisted by Matt Anderson |

The Administrator, having ordered the Involved Officers to declare if they will testify and, having failed to receive said declaration, hereby finds and orders the following:

In the Pre-Inquest Conference Order dated November 5, 2019 I granted the Family's Motion to Compel the Involved Officers to declare if they would testify. ¹ I granted the Involved Officers' request that they not be required to do so until the proposed final interrogatories were

¹The Order did not go further than requiring the IO's to provide notice of their intent, providing that "[t]o the extent the Family has also requested that the Involved Officers' ability to appear by counsel during these proceedings be conditioned on their agreement to testify at the Inquest, the request is denied."

provided. The proposed final interrogatories were provided to all parties on Thursday, November 14, 2019. The Involved Officers were required to declare if they would testify by Friday, November 15, 2019. They did not. Upon inquiry on November 17, 2019, counsel for the Involved Officers responded the same day via email that “The officers reserve their right to testify. However, we cannot guarantee they will exercise that right until evidence is presented at the inquest. For planning purposes, additional time should be blocked out for their testimony.”

Other than the bald assertion previously made that they cannot reasonably decide whether to testify until they have heard all the evidence to be presented at the inquest, the Involved Officers have offered no rational basis for refusing to declare their intentions regarding testimony. Through counsel, they have access to all the physical evidence and statements of each witness. They have participated in each of the witness interviews that I have allowed. They have participated in shaping the testimony that will be presented in that, among other things, witnesses proposed by them have been permitted to testify and their motions to reconsider as to other witnesses have been granted. Moreover, as I have previously indicated, should the Involved Officers decline to testify, their Garrity statements will be admitted in the inquest. The statements are extensive. Each statement must be reviewed and redactions made, if appropriate, both in the recorded statements and in the transcripts if they are to be provided to the panel. Once the inquest begins, we will not have time to accomplish these tasks pending a last-minute decision by the Involved Officers regarding their testimony.

Accordingly, I find that the Involved Officers have declined to comply with my order to declare if they will or will not testify. Appendix 2, Section 2.2 of the Executive Order conditions representation for the Involved Officers in this proceeding as follows: “The law enforcement member(s) involved in the death, who shall be allowed to have an attorney(s) present, provided that the law enforcement member(s) elect(s) to participate in the inquest proceeding.” Electing to participate includes a willingness to comply with an order of the Inquest Administrator, even one with which the Involved Officers or their counsel disagrees. Having failed to so comply, and for so long as the failure to comply continues, I conclude that the Involved Officers are henceforth not entitled to have counsel present at future hearings in this matter, including the Inquest hearing. The parties shall offer proposed Garrity statements for each Involved Officer, including any proposed redactions, no later than December 1, 2019.

Should the Involved Officers wish to avoid the consequences of this order they should advise the Inquest Attorney of their decision regarding testimony no later than 12:00 Noon, November 21, 2019.

DATED November 19, 2019

A handwritten signature in black ink, appearing to read 'M. Spearman', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Spearman
Administrator