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LEGAL OPINION REGARDING THE DEATH OF MR. DAVID BURDICK ON JUNE 2, 2021, IN LINCOLN COUNTY, WISCONSIN

SUMMARY

On June 2, 2021, in Lincoln County, Wisconsin, Mr. David Burdick (Burdick) was killed when the stolen vehicle he was operating became airborne and collided with a tree. Burdick's crash concluded the pursuit that had commenced when he refused to yield to the audible and visual signals of Deputy Dean Dokken (Dokken), Lincoln County Sheriff's Office (LISO).

An independent investigation was conducted by the Wisconsin Department of Justice, Division of Criminal Investigation (DCI) at the request of the Lincoln County Sheriff immediately after the incident. The investigation by DCI has concluded. I have reviewed all of the interviews, records, and investigative reports prepared by DCI and assisting agencies and provided to me by Special Agent Mike Reimer. I have also reviewed photographs and diagrams of the scene and squad dash cam video and squad audio. I drove the route of the pursuit during the month of June, 2021, to better understand the roadways and road conditions involved at the time of Burdick's death.

OPINION

On June 2, 2021, Burdick was observed operating a vehicle, a black-colored BMW, that had been reported stolen (the vehicle). Burdick was first observed operating the vehicle on County Trunk Highway K (CTH K) in Lincoln County, Wisconsin near the Lincoln and Marathon County line by an off-duty LISO Deputy. The off-duty LISO Deputy reported this information to the Lincoln County Dispatch Center (Center) and followed Burdick at a safe distance. The vehicle had been reported stolen from an address in Lincoln County earlier in the day.

Dispatch advised Dokken of Burdick's location. Dokken was in position to respond because he was addressing a non-emergent situation on CTH Q just east of its southern intersection with CTH K. Dokken was in a full LISO patrol uniform and operating a fully-marked LISO patrol vehicle (the patrol vehicle). Dokken turned around and turned onto CTH K northbound shortly after Burdick passed the southern intersection of CTH K and CTH Q.

Dokken activated his emergency lights and siren to initiate a traffic stop of Burdick. Burdick accelerated rapidly and pulled well ahead of Dokken on CTH K. Burdick did not yield in any way to Dokken's signals. Burdick passed other civilian vehicle operators at a high rate of speed including other civilian vehicle operators who had pulled their vehicles to the side of the road and otherwise altered their driving behavior in response to Dokken's signals.

Dokken reached speeds in excess of 100 mph on CTH K in a posted 55 mph zone. However, Dokken was unable to catch up to Burdick on CTH K because of Burdick's high rate of speed. Burdick turned left onto Joe Snow Road at its intersection with CTH K. After his turn, Burdick accelerated away from the intersection of Joe Snow Road and CTH K at a high rate of speed. Dokken followed Burdick and also turned left onto Joe Snow Road. Burdick continued to accelerate away from Dokken without yielding to Dokken's audible and visible signals.

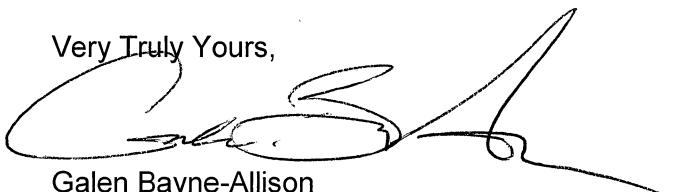
Burdick lost control of the vehicle at or in the intersection of CTH Q and Joe Snow Road and left the roadway after passing through the intersection onto Joe Snow Road. The vehicle became airborne and collided with a tree. Burdick was ejected from the vehicle. Burdick did not survive his injuries. Dr. Michael Stier's findings from the autopsy of Burdick are consistent with the circumstances of Burdick's death.

At no time did Dokken's pursuit of Burdick bring their two vehicles into such close proximity that Burdick would have risked precipitating a collision – the patrol vehicle's front-end with the vehicle's rear-end or otherwise – by decelerating. Burdick's choice to continue to operate the vehicle at a high rate of speed was not forced by Dokken's actions. Burdick's choice to continue to operate the vehicle at a high rate of speed was Burdick's own voluntary choice.

At no time did Dokken's patrol vehicle make contact with the vehicle operated by Burdick. Burdick's subsequent loss of control, departure from the roadway, and collision with a tree was the product of Burdick's own decision to continue driving at a high and imprudent rate of speed.

The cause of Burdick's death was the injury occasioned by the collision with the tree and Burdick's consequent ejection from the vehicle. Dokken's actions were not a cause of Burdick's death. Because Dokken's actions were not a cause of Burdick's death no use of force analysis is required in this case.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Galen Bayne-Allison". The signature is fluid and cursive, with a large, stylized 'G' at the beginning.

Galen Bayne-Allison
District Attorney
State Bar No. 1068194