

No. 20-1388

**In the
Supreme Court of the United States**

ALICE PERKINS, FREDRICK PERKINS,

Petitioners,

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent.

**Rule 35 Motion to Substitute an Authorized
Representative for the Estate of Alice J. Perkins**

On March 31, 2021, Petitioners Alice Perkins and Fredrick Perkins filed a Petition for Writ of Certiorari (the “Certiorari Petition”) with the Clerk of the Court. On June 16, 2021, the Court granted an extension to Respondent Commissioner of Internal Revenue, without objections from Petitioners’ counsel, to file a response to the Certiorari Petition on or before July 21, 2021.

Prior to Respondent’s request for extension, the Office of the Solicitor General for the United States had been informed by Petitioners’ Counsel of the death of Petitioner Alice Perkins on June 12, 2021. A copy of the death certificate is attached and made part of this motion as Exhibit “A.”

On June 23, 2021, the Seneca Nation of Indians, Allegany Surrogate’s Court, issued Letters of Administration to Alice Perkins’ son, Mark A. Perkins. A copy of

the Letters of Administration is attached and made a part of this motion as Exhibit “B.”

Mark A. Perkins is an enrolled member of the Seneca Nation of Indians (Hawk Clan) and is authorized under the Seneca Nation Probate Law § 5.2(d) to represent the Estate in all legal proceedings as the Administrator of the Estate of Alice J. Perkins.

Petitioner Frederick Perkins, joined by Mark A. Perkins, respectfully request an order substituting Alice J. Perkins with Mark A. Perkins, as Administrator for the Estate of Alice J. Perkins.

Respectfully submitted,

MARGARET A. MURPHY
Counsel of Record for Petitioners
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EXHIBIT A

NEW YORK STATE DEPARTMENT OF HEALTH CERTIFICATE OF DEATH

131-2021-00052881 STATE FILE NUMBER

RECORDED DISTRICT 2700 REGISTER NUMBER 4289

1. NAME: FIRST MIDDLE LAST Alice J. Perkins 2. SEX: MALE FEMALE 3A. DATE OF DEATH: MONTH DAY YEAR 3B. HOUR: 05:57 AM 4A. PLACE OF DEATH: HOSPITAL DOA ER HOSPITAL OUTPATIENT HOSPITAL INPATIENT NURSING HOME PRIVATE RESIDENCE HOSPICE FACILITY OTHER (Specify): 4B. IF FACILITY, DATE ADMITTED: MONTH DAY YEAR 4C. NAME OF FACILITY: (If not facility, give address) Strong Memorial Hospital 4D. LOCALITY: (Check one and specify) CITY VILLAGE TOWN 4E. COUNTY OF DEATH: Monroe 4F. MEDICAL RECORD NO. 1604799 4G. WAS DECEDENT TRANSFERRED FROM ANOTHER INSTITUTION? (If yes, specify institution name, city or town, county and state) Olean General Hospital, Olean, Cattaraugus, New York 5. DATE OF BIRTH: MONTH DAY YEAR 6A. AGE IN YEARS: 62 6B. IF UNDER 1 YEAR ENTER: months days 6C. IF UNDER 1 DAY ENTER: hours minutes 7A. CITY AND STATE OF BIRTH: (If not USA, Country and Region/Province) Salamanca, New York 7B. IF AGE UNDER 1 YEAR, NAME OF HOSPITAL OF BIRTH:

6. SERVICE IN U.S. ARMED FORCES? (Specify years) NO YES 9. DECEDENT OF HISPANIC ORIGIN? Check the boxes that best describe whether the decedent is Spanish/Hispanic/Latino. A No, not Spanish/Hispanic/Latino B Yes, Mexican, Mexican American, Chicano C Yes, Puerto Rican D Yes, Cuban E Yes, (Other Spanish/Hispanic/Latino (Specify)) 10. DECEDENT'S RACE: Check one or more races to indicate what the decedent considered himself or herself to be. A White/Caucasian B Black or African American C Asian Indian D Chinese E Filipino F Japanese G Korean H Vietnamese J Native Hawaiian K Guamanian or Chamorro M Samoan N American Indian or Alaska Native (specify) Seneca P Other Asian (specify) R Other Pacific Islander (specify) S Other (specify) 11. DECEDENT'S EDUCATION: Check the box that best describes the highest degree or level of school completed at the time of death. 1 2 3 4 5 6 7 8 12. SOCIAL SECURITY NUMBER: 2314 13. MARITAL STATUS: NEVER MARRIED MARRIED WIDOWED DIVORCED SEPARATED 14. SURVIVING SPOUSE: Enter birth name of spouse if married or separated. Fredrick A. Perkins 15A. USUAL OCCUPATION: (Do not enter retired) CEO 15B. KIND OF BUSINESS OR INDUSTRY: Construction 15C. NAME AND LOCALITY OF COMPANY OR FIRM: A&F Trucking - Salamanca, NY 16A. RESIDENCE: (State or Country if not USA) NY 16B. County or Region/Province if not USA: Cattaraugus 16C. LOCALITY: (Check one and specify) CITY VILLAGE TOWN Salamanca 16D. STREET AND NUMBER OF RESIDENCE: 148 Washington Street 16E. ZIP CODE: 14779 16F. IF CITY OR VILLAGE, IS RESIDENCE WITHIN CITY OR VILLAGE LIMITS? YES NO IF NO, SPECIFY TOWN:

17. BIRTH NAME OF FATHER / PARENT: FIRST MI LAST LeRoy Cooper 18. BIRTH NAME OF MOTHER / PARENT: FIRST MI LAST Rosaphine L. Jimerson 19A. NAME OF INFORMANT: Fredrick A. Perkins 19B. MAILING ADDRESS: (include zip code) 148 Washington Street, Salamanca, NY 14779

20A. 1 BURIAL 2 CREMATION 3 REMOVAL MONTH DAY 4 HOLD DAY 5 DONATION YEAR 6 ENTOMBMENT 20B. PLACE OF BURIAL, CREMATION, REMOVAL OR OTHER DISPOSITION. Hillside Haven Cemetery 20C. LOCATION: (City or town and state) Steamburg Hamlet, New York 21A. NAME AND ADDRESS OF FUNERAL HOME: O'Rourke & O'Rourke Inc 21B. REGISTRATION NUMBER: 01290 22A. NAME OF FUNERAL DIRECTOR: Kevin M O'Rourke 22B. SIGNATURE OF FUNERAL DIRECTOR: Kevin M O'Rourke Electronically Signed 22C. REGISTRATION NUMBER: 12697 23A. SIGNATURE OF REGISTRAR: Michael Mendoza, MD, MPH Electronically Signed 23B. DATE FILED: MONTH DAY YEAR 06 14 2021 24A. BURIAL OR REMOVAL PERMIT ISSUED BY: Susan Belanca 24B. DATE ISSUED: MONTH DAY YEAR 06 14 2021

ITEMS 25 THRU 33 COMPLETED BY CERTIFYING PHYSICIAN -- OR -- CORONER/CORONER'S PHYSICIAN OR MEDICAL EXAMINER

25A. CERTIFICATION: To the best of my knowledge, death occurred at the time, date and place and due to the causes stated. Certifier's Name: Emily Fitzgerald, MD License No.: Address: 601 Elmwood Avenue, Rochester, NY 14642 25B. If coroner is not a physician, enter Coroner's Physician's name & title: License No.: Address: 601 Elmwood Avenue, Rochester, NY 14642 25C. If certifier is not attending physician, enter Attending Physician's name & title: License No.: Address: 601 Elmwood Avenue, Rochester, NY 14642

26A. Attending physician attended deceased: FROM MONTH DAY YEAR TO MONTH DAY YEAR 26B. Deceased last seen alive by attending physician: MONTH DAY YEAR 26C. Pronounced Dead: MONTH DAY YEAR TIME 27. MANNER OF DEATH: NATURAL CAUSE ACCIDENT HOMICIDE SUICIDE UNDETERMINED CIRCUMSTANCES PENDING INVESTIGATION 28. WAS CASE REFERRED TO CORONER OR MEDICAL EXAMINER? 29A. AUTOPSY? 29B. IF YES, WERE FINDINGS USED TO DETERMINE CAUSE OF DEATH?

CONFIDENTIAL SEE INSTRUCTION SHEET FOR COMPLETING CAUSE OF DEATH CONFIDENTIAL

30. DEATH WAS CAUSED BY: (ENTER ONLY ONE CAUSE PER LINE FOR (A), (B), AND (C).) PART I. IMMEDIATE CAUSE: (A) Interstitial Lung Disease 1 year (B) Rheumatoid Arthritis Many years (C) Sjogren's Syndrome Many years PART II. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN PART I (A); <<<>>> DID TOBACCO USE CONTRIBUTE TO DEATH? 31A. IF INJURY, DATE: MONTH DAY YEAR HOUR: 31B. INJURY LOCALITY: (City or town and county and state) 31C. DESCRIBE HOW INJURY OCCURRED: 31D. PLACE OF INJURY: 31E. INJURY AT WORK? 31F. IF TRANSPORTATION INJURY, SPECIFY: 32. WAS DECEDENT HOSPITALIZED IN LAST 2 MONTHS? 33A. IF FEMALE: 33B. DATE OF DELIVERY: MONTH DAY YEAR



CERTIFICATE SECURITY FEATURES

Security Features:	Description:
Hidden "VOID" Image	The word "VOID" will appear repeatedly in the background of copies
Heat Reactive Ink	Red ink will temporarily turn green when rubbed or exposed to other heat
Microtext Border	This minute text will become fuzzy or unreadable when copied
Chemical Sensitivity	Use of solvents will show stains on document, while use of bleach reveals "VOID" wording
Watermark	Distinctive watermark pattern will become visible when held at an angle
Invisible Fibers	Tiny invisible fibers are embedded in the paper which will glow when exposed to UV light

THE RAISED SEAL ON THE FACE OF THIS DOCUMENT WILL CERTIFY THAT THIS IS A TRUE COPY OF A RECORD ON FILE IN THE OFFICE OF VITAL RECORDS, MONROE COUNTY HEALTH DEPARTMENT, ROCHESTER, NEW YORK

MICHAEL MENDOZA, MD, REGISTRAR

County of Monroe
Department of Public Health

JUN 17 2021

Office of Vital Records
Rochester, New York



EXHIBIT B

**SURROGATE'S COURT
SENECA NATION OF INDIANS
ALLEGANY TERRITORY
90 OHI:YO' WAY
SALAMANCA 14779**

PROCEEDING FOR LETTERS OF ADMINISTRATION
ESTATE OF

ALICE J. PERKINS
Deceased.

DECREE
APPOINTING
ADMINISTRATOR

No. A-21-18-I

A petition having been filed by Mark Perkins, praying that administration of the goods, chattels and credits of the above-named Decedent be granted to Mark Perkins; and all persons named in such petition, required to be cited, having been duly cited to show cause why such relief should not be granted or having duly waived the issuance of such citation and consented thereto; and it appearing that Mark Perkins is in all respects competent to act as Administrator for the estate of said deceased, and a *bond having been dispensed with* and such representative otherwise having qualified therefore, now after due deliberation, with no one appearing in opposition thereto; it is,

ORDERED AND DECREED, that Letters of Administration be issued to Mark Perkins and the authority of such representative is not restricted and is without limitation.

ENTERED: June 23, 2021.




Hon. Lani K. George, Allegany Territory

SENECA NATION OF INDIANS

BY THE GRACE OF GOD FREE AND INDEPENDENT

To All to Whom these Presents Shall Come or May Concern, Send Greetings:

KNOW YE, that at a **Surrogate's Court** held in and for the Seneca Nation of Indians, on the Allegany Indian Territory held at the Seneca Nation Judicial Branch, 90 Ohi:yo Way, Salamanca, New York on the 23rd day of June in the year of our Lord, Two Thousand and Twenty-One before the HONORABLE LANI K. GEORGE, Surrogate, a decree was duly made appointing **Mark Perkins**, Administrator of the Estate of ALICE J. PERKINS, late of the Allegany Indian Territory, deceased, intestate and said Administrator having qualified as required by law.

Now therefore, we do grant these **Letters of Administration** to **Mark Perkins** giving and granting unto the said Administrator full power and authority to administer and dispose of the estate of said deceased as required by law.

In Testimony Whereof, We have caused the Seal of our said Surrogate's Court to be hereunto affixed. **WITNESS, HONORABLE LANI K GEORGE**, Surrogate Judge of the said Seneca Nation on the Allegany Indian Territory on the 23rd day of June, in the year of our Lord, Two Thousand Twenty-One.



Alana McClune
Alana McClune, Clerk, Surrogate's Court

CERTIFICATE OF SERVICE

I certify that, on July 12, 2021, the foregoing Rule 35 Motion to Substitute an Authorized Representative for the Estate of Alice J. Perkins was mailed and emailed to the following parties:

Acting Solicitor General Elizabeth Prelogar
United States Department of Justice
950 Pennsylvania Avenue, N.W. Washington, DC 20530-0001
(202) 514-2203
SupremeCtBriefs@usdoj.gov

Joseph J. Heath, Esq.
512 Jamesville Avenue
Syracuse, New York 13210-3701
jjheath1946@gmail.com
(315) 447-4851

Dated: Hamburg, New York
July 12, 2021

By: /s/ Margaret A. Murphy
Counsel of Record for the Petitioners