

**STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT**

**STATE OF NEW MEXICO,**

**Plaintiff,**

**vs.**

**HANNAH GUTIERREZ,**

**No. D-101-CR-202300040**

**Judge Mary Marlowe Sommer**

**Defendant.**

**STATE'S UNOPPOSED MOTION TO ALLOW OUT-OF-STATE WITNESSES  
TO TESTIFY VIRTUALLY AT THE PRELIMINARY HEARING**

COMES NOW the State of New Mexico by and through its Special Prosecutors, Kari T. Morrissey and Jason J. Lewis, who respectfully request this court permit all out-of-state witnesses and Dr. Heather Jarrell with OMI to testify virtually at the upcoming preliminary hearing beginning August 9, 2023, and as grounds states as follows:

1. The above captioned case is scheduled for a preliminary hearing beginning August 9, 2023. The state may call approximately twenty witnesses to the preliminary hearing, many of whom reside outside the state of New Mexico.
2. The defendant does not have a right to confrontation at a preliminary hearing (see *State v. Lopez*, 2013-NMSC-047). Moreover, there would be considerable cost to the taxpayers of New Mexico if the state paid for transportation, lodging and per diem for out-of-state witnesses to appear in person for a preliminary hearing. In turn, the state will agree that any out-of-state defense witnesses may appear remotely.
3. Rule 302.1(A)(2)(c) creates an exception to the hearsay rules for preliminary examinations as it relates to OMI reports/findings. Counsel for the State believes that

some testimony from Dr. Jarrell will be helpful for the Court but would prefer that she testify virtually given that her actual testimony is not required at a preliminary hearing.

4. Defense counsel has no objection to the relief sought in this motion.

WHEREFORE, for the above stated reasons, undersigned counsel respectfully requests this Court enter a protective order as outlined above.

Respectfully submitted,

/s/ Kari T. Morrissey  
Kari T. Morrissey  
Jason J. Lewis  
Special Prosecutors  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of July 2023, I served the forgoing pleading to all parties or counsel of record:

/s/ Kari T. Morrissey  
Kari T. Morrissey