

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

STATE OF NEW MEXICO,

Plaintiff,

v.

D-101-CR-2023-00040

HANNAH GUTIERREZ-REED,

Defendant.

**DEFENDANT HANNAH GUTIERREZ'S REED'S RESPONSE TO STATE'S
OPPOSED MOTION TO PROTECT THE IDENTITY OF WITNESS**

Defendant Hannah Gutierrez-Reed, by and through her counsel of record, Jason Bowles of Bowles Law Firm, and Todd J. Bullion of Bullion Law Office, hereby responds to the State's Opposed Motion to Protect the Identity of Witness, and responds as follows:

The motion filed by the special prosecutor seeks to protect the identity of the alleged witness for a new tampering count. The motion does not cite to case law supporting this nor to any basis whatsoever besides the media learning the identity of this alleged new witness. This is unprecedented and should be denied.

The constitution of New Mexico and the United States both guarantee a defendant a right to a fair and public trial. This includes, at bare minimum, due process, notice of witnesses alleged to support charges, and a right to confront those witnesses. There is no "media exception" to the constitution. If the state is allowed to shield and hide this alleged witness, why would it not be able to shield and hide any of its witnesses from disclosure?

LAW

In all criminal prosecutions, the accused shall have the right to appear and defend himself in person, and by counsel; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have the charge and testimony interpreted to him in a language that he understands; to have compulsory process to compel the attendance of necessary witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

N.M. Const. Art II sec. 14.

The Sixth Amendment provides that “[i]n all criminal prosecutions, the accused shall enjoy the right to a . . . public trial.” U.S. Const. amend, VI, as the Supreme Court has long recognized this guarantee serves “as a safeguard against any attempt to employ our courts as instruments of prosecution,” *In Re Oliver*, 333 U.S. 257, 270 (1948), reflecting the belief “that judges, lawyers, witnesses and jurors will perform their respective functions more responsibly in an open court than in secret proceedings,” *Waller v. Georgia*, 467 U.S. 39 46 n.4 (1964) (quoting *Evans v. Texas*, 381 U.S. 532, 588 (1965) (Harlan J. concurring)). Thus, while “the press and public have a qualified First Amendment right to attend a criminal trial,” The Sixth Amendment public trial right “is for the benefit of the accused,” ensuring “that the public may see he is fairly dealt with and not unjustly condemned . . . [and] keep[ing] his triers keenly alive to a sense of their responsibility.” *Id.* At 44-46 (citations omitted).

Hannah Gutierrez Reed is guaranteed a fair and public trial by the constitutions of both New Mexico and the United States. The State’s attempt to thwart that guarantee and hide a witness contravenes this constitutional right, and deprives Ms. Gutierrez Reed of due process and her right to confront her accusers. There is no doubt that the State will have to identify its witness during the preliminary hearing. This is not a case involving a child witness or classified documents. This

delay in identifying the alleged witness has already prejudiced Ms. Gutierrez Reed in her ability to properly prepare for the preliminary hearing. The State's motion should be denied.

Respectfully submitted,

/s/ Jason Bowles

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was sent through the ESF system, which caused the following parties to be served by electronic means, as reflected on the Notice of Electronic Filing this 12th day of July, 2023, to the counsel listed below:

Kari Morrisey
Jason Lewis
Special Prosecutors

/s/ Jason Bowles
Jason Bowles
Bowles Law Firm