

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

**STATE OF NEW MEXICO,**

**Plaintiff,**

**v.**

**No. D-101-CR-2023-00040**

**HANNAH GUTIERREZ,**

**Defendant.**

**EXPEDITED MOTION TO STRIKE DEFENDANT’S “SUPPLEMENT TO MOTION TO  
DISMISS SECOND AMENDED INFORMATION AND MOTION TO DISMISS  
THIRD AMENDED INFORMATION”**

Defendant’s desperation to prevent this matter from proceeding to a merits hearing is transparent. As the investigation into defendant’s possible criminal activity continues and the criminal charges brought against the defendant stack up, the defendant has ramped up her defense of the charges to a level that is now completely impermissible. Rather than follow the rules established by the Court for the filing and adjudication of motions, the defendant has filed a pleading titled, “Supplement to Motion to Dismiss Second Amended Information and Motion to Dismiss Third Amended Information.” For the reasons set forth below, this supplement is out of order, exceeds the authority granted under the rules, and should be stricken from the record.

**FACTS**

1. On May 18, 2023, defendant filed her Motion to Dismiss the First Amended Information. The State filed its response on June 9, 2023, and the defendant filed her reply on June 15,

2023. Upon the filing of these three pleadings, briefing was complete, although defendant failed to give notice to the Court of completion of briefing. *See* Rule 5-120 (A) (E) and (F).

2. On June 22, 2023, the State filed a Third Amended Criminal Information, adding a charge of Tampering with Evidence by Defendant Gutierrez.

3. Within hours of filing the amended information, defendant filed her “Supplement to Motion to Dismiss Second Amended Information and Motion to Dismiss Third Amended Information.” The “supplement” is replete with errors.

4. First, the rules do not permit the filing of a supplemental brief without leave of the Court. The defendant did not seek or receive leave of the Court to file this supplement. Rule 5-120 (A) (E) and (F) provide for a motion, a response, and a reply. The rules do not allow ad-hoc filing of a “supplemental” brief.

5. The pleading purports to be a supplement to a Motion to Dismiss Second Amended Information. Defendant has never filed a Motion to Dismiss Second Amended Information. The defendant did file a Motion to Dismiss the First Amended Information, but there is no pending motion to dismiss the Second Amended Information.

6. There is no rule providing a mechanism by which the State can respond to this “supplement” and is prejudiced as a result of being unable to address the additional allegations raised in the “supplement.”

7. The defendant opposes this motion.

**WHEREFORE**, the State respectfully requests the Court enter an order:

1. Striking defendant’s “Supplement to Motion to Dismiss Second Amended Information and Motion to Dismiss Third Amended Information” from the docket; and

2. Require that defendant seek leave of the Court and re-file, if she chooses, the pleading in a manner that complies with the rules;

3. Any further relief the Court deems appropriate.

Respectfully submitted,

/s/ Jason J. Lewis

Jason J. Lewis

Kari T. Morrissey

Special Prosecutors

1303 Rio Grande Blvd. NW, Ste. 5

Albuquerque, NM 87104

T: 505-361-2138

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23<sup>rd</sup> day of June 2023, I served the forgoing pleading to all parties or counsel of record:

/s/ Jason J. Lewis

Jason J. Lewis