

**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,
Defendant.**

**STATE'S AMENDED RESPONSE TO MOTION TO
SEAL CERTAIN PLEADINGS AND DOCUMENTS**

COMES NOW, the State of New Mexico, by and through Special Prosecutors, Kari T. Morrissey and Jason J. Lewis, who submit the following in response to David Halls Motion to Seal Certain Pleadings and Documents:

1. Mr. Halls was criminally charged in the death of Halyna Hutchins and entered a no contest plea on March 31, 2023 that required his cooperation in the prosecution of his co-defendants, Hannah Gutierrez and Alec Baldwin.
2. After the plea hearing on March 31, 2023, undersigned counsel encountered Mr. Halls' attorney, Lisa Torracco, in front of the district courthouse in Albuquerque, NM. After a brief exchange undersigned counsel stated to Ms. Torracco in parting that she would be speaking to her in the future (referring to Mr. Halls' future cooperation with prosecutors). Ms. Torracco indicated that she would no longer be assisting Mr. Halls moving forward.
3. Months later undersigned counsel contacted Mr. Halls directly and spoke with him without including Ms. Torracco based on her previous indication that her representation of Mr. Halls was complete. Shortly thereafter, counsel received an email from Ms. Torracco stating that she in fact was continuing to represent Mr. Halls and that counsel should contact her in the future. See attached exhibit 1.

4. Mr. Halls is listed as a witness on the state's witness list and the defendant's witness list. Both sides took steps to schedule a pretrial interview with Mr. Halls through his counsel, Ms. Torraco. See attached exhibits 2 and 3.
5. After counsel for both parties failed to secure dates and times for the interview of Mr. Halls, undersigned counsel received an email from Mr. Bowles indicating that Ms. Torraco stated to him that Mr. Halls no longer wished to cooperate and that a subpoena was necessary. See attached exhibit 3.
6. Upon receiving the information from Mr. Bowles that Mr. Halls was no longer willing to cooperate, the state took numerous steps to have a subpoena domesticated in Mr. Halls' home state of Minnesota and had Mr. Halls personally served with the domesticated subpoena. It is the documents related to the domestication and service that he is now asking the court to seal.
7. Mr. Halls was personally served with a subpoena to appear via zoom to a pretrial interview on November 15, 2023. On November 8, 2023 counsel for the state notified Ms. Torraco that Mr. Halls had been personally served and was expected to appear for his interview on November 15, 2023. See attached exhibit 4. Mr. Halls failed to appear to the interview and he is now set for a deposition on December 12, 2023. Ms. Torraco accepted service on behalf of Mr. Halls for the deposition.
8. The state objects to sealing the pleadings related to the out-of-state subpoena for Mr. Halls. Mr. Halls and his counsel knowingly created a situation wherein the state was forced to take numerous steps at considerable expense to the taxpayers to secure an interview of Mr. Halls, despite Mr. Halls' previous agreement to cooperate.

9. Mr. Halls has not pointed the Court or counsel for the state to any threats or harassment that have occurred as a result of the pleadings filed to secure his appearance for a pretrial interview. The case against Ms. Gutierrez is a case of public record and documents should only be sealed if the moving party demonstrates that there is an overriding interest that overcomes the right of public access to the court record and that a substantial probability exists that the overriding interest will be prejudiced if the court record is not sealed. NMRA 5-123(G).

10. The state asserts that Mr. Halls has failed to meet with elements outlines above.

Moreover, the fact that the Court previously found that the movant met these elements in another case, under different circumstances, nearly one year ago should not be controlling now given the fact that the state was forced to disclose Mr. Hall's address in order to take the necessary steps to secure his appearance after he failed to cooperate despite his previous agreement to do so.

WHEREFORE, for the above stated reasons the state respectfully requests the Court deny Mr. Halls' motion to seal public records.

Respectfully submitted,

/s/ Kari T. Morrissey

Kari T. Morrissey

Attorney at Law

1303 Rio Grande Blvd., NW, Suite 5

Albuquerque, NM 87104

(505) 361-2138

I hereby certify that a true and correct copy of the foregoing pleading was provided to all counsel of record via odyssey file and serve this 4th day of December 2023.

/s/ Kari T. Morrissey

Kari T. Morrissey

From: Lisa Torraco <lisatorraco@gmail.com>
Subject: State NM v. Guiterrez
Date: July 20, 2023 at 9:47:40 AM PDT
To: "davehalls.ad@gmail.com" <davehalls.ad@gmail.com>, Trish Herrera <trish@jjllaw.com>, Torraco Legal Assistant <torracolegal@gmail.com>, ktm@morriseylewis.com

Dear all,

I hope this email finds you well; happy, healthy and coping with the heat.

Just a friendly reminder that Mr. Halls is still represented by counsel. We have a contract for representation throughout the conclusion of the co-defendants' cases. If I or my office made statements to the contrary, please forgive me. I will be representing Mr. Halls until the close of Ms. Guiterrez's case.

Mr. Halls and I ask if you please coordinate statements and scheduling through my office. You may contact me at this email address and you may contact my assistant, Ms. Andriana Estrada at torracolegal@gmail.com.

I look forward to hearing from you.

Kind regards,
Lisa.

TEXT MESSAGES MAY BE SENT TO: 505-244-0530

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From: Lisa Torracco <lisatorracco@gmail.com>
Subject: Re: State v. Gutierrez
Date: September 18, 2023 at 1:36:56 PM PDT
To: Harry Taub <htaub@da.state.nm.us>
Cc: ktm <ktm@morrisseyLewis.com>

I will reach out to Mr. Halls and see what we can do for November.
Are those the only dates in November that are available for the other parties?

On Mon, Sep 18, 2023 at 2:35 PM Harry Taub <htaub@da.state.nm.us> wrote:
Ms. Torracco

Thank you for letting me know.

From: Lisa Torracco <lisatorracco@gmail.com>
Sent: Monday, September 18, 2023 2:29 PM
To: Harry Taub <htaub@da.state.nm.us>
Subject: Re: State v. Gutierrez

I am in trial on both September dates and all three October dates.
I will get back to you on the November dates.
Kind regards,
Lisa

On Mon, Sep 18, 2023 at 2:21 PM Harry Taub <htaub@da.state.nm.us> wrote:
Ms. Torracco

If you could please advise as to the October availability?
Thank you.

From: Harry Taub <htaub@da.state.nm.us>
Sent: Wednesday, September 13, 2023 2:53 PM
To: Lisa Torracco <lisatorracco@gmail.com>
Subject: Re: State v. Gutierrez

Ms. Torracco. Thank you for letting me know. Most appreciated.

From: Lisa Torracco <lisatorracco@gmail.com>
Sent: Wednesday, September 13, 2023 2:46 PM
To: Harry Taub <htaub@da.state.nm.us>

Subject: Re: State v. Gutierrez

I am in trial September 25 and 29. I will check for the October dates.
Lisa

On Wed, Sep 13, 2023 at 1:37 PM Harry Taub <htaub@da.state.nm.us> wrote:
Ms. Torracco.

If you could please advise as to the availability of Mr. Halls for a 30 minute interview by the defense on any of the following dates:

September 25 and 29.

October 6, 13, 31. November 2, 7 or 10.

Thank you.

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From: Jason Bowles jason@bowles-lawfirm.com
Subject: Re: David Halls PTI
Date: October 10, 2023 at 10:46 AM
To: Kari Morrissey ktm@morrisseylewis.com
Cc: Todd Bullion todd@bullionlaw.com, Scott Elliott scott.elliott60@gmail.com, Melinda Zamora melinda@bowles-lawfirm.com, Harry Taub htaub@da.state.nm.us, Jason J. Lewis jjl@jjllaw.com

She said David halls "doesn't want to cooperate." So I don't think we have a choice but to subpoena him

Sent from my iPhone

On Oct 10, 2023, at 11:43 AM, Kari Morrissey <ktm@morrisseylewis.com> wrote:

Jason and Todd

Have you received a response from Lisa?

Kari

On 09/30/2023 1:23 PM MDT Jason Bowles <jason@bowles-lawfirm.com> wrote:

Thanks Lisa!

Sent from my iPhone

On Sep 30, 2023, at 11:53 AM, Todd Bullion <todd@bullionlaw.com> wrote:

Hello,

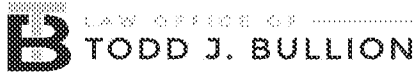
Mr. Halls is listed as a witness by both the government and the defendant in this case. Could you please give us dates of availability for Mr. Halls and yourself for a pre-trial interview?

We would prefer to schedule anytime on October 31 if at all possible. We could do the interview over zoom. Counsel for the government and defense are both available on this date. Need to confirm with our investigator Mr. Elliot that he's also available on that date.

If the 31st does not work for you or your client please propose a few dates that would work.

Thanks,

Todd J. Bullion
 4811 Hardware Dr NE
 Bldg D, Suite 6
 Albuquerque, NM 87109
 505-494-4856



From: Kari Morrissey ktm@morrisseylewis.com

Subject: David Halls

Date: November 8, 2023 at 11:54 AM

To: Lisa A. Torraco lisatorrac@gmail.com

Cc: Jason J. Lewis jjl@jjllaw.com, Jason Bowles jason@bowles-lawfirm.com, Todd Bullion toddjbullion@gmail.com



Lisa

I was told by Jason Bowles that Mr. Halls was unwilling to cooperate with the prosecution of Ms. Gutierrez and Mr. Baldwin (despite his prior agreement to do so). I have now had subpoenas domesticated in his home state of Minnesota and he has been personally served. If he fails to appear I will take the steps required for a material witness warrant. I hope to see him at his pretrial interview via zoom on Wednesday.

Kari Morrissey