

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,
Plaintiff,

v.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ,
Defendant.

ORDER PARTIALLY SEALING RANDOM JURY SELECTION STRIKE SHEET

THIS MATTER came before the Court on the Court's own motion. Being fully advised,
THE COURT FINDS, CONCLUDES, AND ORDERS:

LEGAL CONCLUSIONS

1. The names of empaneled jurors are generally considered a matter of public record. *See State ex rel. N.M. Press Ass'n v. Kaufman*, 1982-NMSC-060, ¶¶ 24-31, 98 N.M. 261; *see also* 50A Corpus Juris Secundum *Juries* § 513 (Mar. 2024 Update) ("Absent extraordinary circumstances, the identities of jurors empaneled to serve at criminal trials are presumptively public, even in high-profile and contentious cases.").
2. However, rule-based and statutory authority protects the identities of other qualified jury panel members (*i.e.*, those individuals not selected to serve on a jury panel). For instance, juror qualification and questionnaire forms are confidential and sealed pursuant to Rule 5-606(E) NMRA. *See* Rule 5-606(E)(1) NMRA ("All completed juror qualification and questionnaire forms, including any electronic copies, in the possession of the court, attorneys, parties, and any other individual or entity shall be kept confidential unless ordered unsealed under the provisions in Rule 5-123 NMRA."); *see*

also Rule 5-606(E) (“Prior to the examination of prospective jurors under this rule, the court shall require each prospective juror to complete a juror qualification and questionnaire forms as approved by the Supreme Court, which shall be subject to the following protections: . . .”).

3. In addition, statutory authority states that the general public must establish “good cause” to inspect or copy lists or questionnaires of qualified jury panel members. See NMSA 1978, § 38-5-11(C) (2005) (“The judge or the judge’s designee shall certify a numbered list of the jury panel members’ names when qualified. The certified list of jurors and the questionnaires obtained from jurors shall be made available for inspection and copying by a party to a pending proceeding or their attorney or to any person having good cause for access to the list and the questionnaires.”).
4. Rule 5-123(G)(1) NMRA states, “[t]he court may order that a court record be filed under seal only if the court by written order finds and states facts that establish the following: (a) the existence of an overriding interest that overcomes the right of public access to the court record; (b) the overriding interest supports sealing the court record; (c) a substantial probability exists that the overriding interest will be prejudiced if the court record is not sealed; (d) the proposed sealing is narrowly tailored; and (e) no less restrictive means exist to achieve the overriding interest.”

FACTUAL FINDINGS AND ORDER

5. The Court finds that the random jury selection strike sheet contains both: (a) identifying information concerning empaneled jury members; and, (b) identifying and confidential information concerning unselected qualified jury panel members. Therefore, the Court orders redaction of the random jury selection strike sheet to remove any identifying

information of unselected qualified jury panel members. The Clerk of the Court shall file the unredacted random jury selection strike sheet under complete seal. However, the redacted random jury selection strike sheet will be accessible without restriction within the case record.

6. The Court finds the existence of an overriding interest that overcomes the right of public access to the court record; specifically, the overriding interest is the presence of identifying and confidential information concerning unselected qualified jury panel members within the random jury selection strike sheet.
7. The Court finds that a substantial probability exists that the overriding interest will be prejudiced if the court record is not partially sealed.
8. The Court finds that the sealing is narrowly tailored in that a redacted version of the random jury selection strike sheet will be filed and accessible.
9. The Court finds that no less restrictive means exist to achieve the overriding interest.
10. The parties to the case, counsel thereof, and appellate courts (in the instance of appeal) shall have access to the sealed record identified herein. This Order shall remain in effect until further order of the Court. The parties to the case and counsel thereof are entitled to notice of any future motion to unseal the court record or modify the sealing order. *See generally* Rule 5-123(G) NMRA.
11. This sealing order shall not impede any party's right to raise on appeal any reserved objection lodged during the jury selection process. In such an instance, the Court instructs a party to file an expedited motion to unseal the pertinent portions of the sealed record, which such expedited motion will be heard promptly by the Court.

CONCLUSION

IT IS THEREFORE ORDERED that the random jury selection strike sheet shall be partially sealed, via redaction, pursuant to this Order.

IT IS HEREBY ORDERED.



MARY MARLOWE SOMMER
DISTRICT COURT JUDGE
DIVISION VIII

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date of acceptance for e-filing a true and correct copy of the foregoing was e-served on counsel registered for e-service in this matter as listed below.

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