

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

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ

Defendant.

STATE OF NEW MEXICO'S PROPOSED JURY INSTRUCTIONS

The State of New Mexico hereby submits its proposed jury instructions and requests that the attached instructions be given to the jury in this case. The State requests leave of the Court to present additional instructions or to remove instructions, depending on the evidence and defenses at trial. The State files these instructions in compliance with the Court's oral order instructing the parties to file their proposed jury instructions.

STATE'S REQUESTED INSTRUCTION NO. 1

You have heard all the evidence. It is now my duty to tell you the law that you must follow in this case.

UJI 14-103 NMRA. EXPLANATION; INSTRUCTIONS

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 2

The law governing this case is contained in instructions that I am about to give you. It is your duty to follow the law as contained in these instructions. You must consider these instructions as a whole. You must not pick out one instruction or parts of an instruction and disregard others. A copy of these instructions will be given to you when you begin your deliberations.

UJI 14-6001 NMRA. DUTY TO FOLLOW INSTRUCTIONS

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 3

The law presumes the defendant to be innocent unless and until you are satisfied beyond a reasonable doubt of his guilt.

The burden is always on the state to prove guilt beyond a reasonable doubt. It is not required that the state prove guilt beyond all possible doubt. The test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense - the kind of doubt that would make a reasonable person hesitate to act in the graver and more important affairs of life.

UJI 14-5060 NMRA. PRESUMPTION OF INNOCENCE; REASONABLE DOUBT;

BURDEN OF PROOF

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 4

You are the sole judges of the facts in this case. It is your duty to determine the facts from the evidence produced here in court. Your verdict should not be based on speculation, guess or conjecture. Neither sympathy nor prejudice should influence your verdict. You are to apply the law as stated in these instructions to the facts as you find them, and in this way decide the case.

UJI 14-6006 NMRA. JURY SOLE JUDGE OF FACTS; SYMPATHY OR PREJUDICE NOT
TO INFLUENCE VERDICT

Given _____
Denied _____
Modified _____
Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 5

Your verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agrees. Your verdict must be unanimous.

It is your duty to consult with one another and try to reach an agreement. However, you are not required to give up your individual judgment. Each of you must decide the case for yourself, but you must do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own view and change your opinion if you are convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the purpose of reaching a verdict.

You are judges - judges of the facts. Your sole interest is to ascertain the truth from the evidence in the case.

UJI 14-6008 NMRA. DUTY TO CONSULT

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 6

Each crime charged in the information should be considered separately.

UJI 14-6004 NMRA. MULTIPLE COUNTS; SINGLE DEFENDANT

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 7

You must not concern yourself with the consequences of your verdict.

UJI 14-6007 NMRA. JURY MUST NOT CONSIDER PENALTY

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 8

You must not draw any inference of guilt from the fact that the defendant did not testify in this case, nor should this fact be discussed by you or enter into your deliberations in any way.

UJI 14-5031 NMRA. DEFENDANT NOT TESTIFYING

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 9

You alone are the judges of the credibility of the witnesses and the weight to be given to the testimony of each of them. In determining the credit to be given any witness, you should take into account the witness's truthfulness or untruthfulness, ability and opportunity to observe, memory, manner while testifying, any interest, bias or prejudice the witness may have and the reasonableness of the witness's testimony, considered in the light of all the evidence in the case.

UJI 14-5020 NMRA. CREDIBILITY OF WITNESSES

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 10

You should consider each opinion received in evidence in this case and give it such weight as you think it deserves. If you should conclude that the reasons given in support of the opinion are not sound or that for any other reason an opinion is not correct, you may disregard the opinion entirely.

UJI 14-5050 NMRA. OPINION TESTIMONY

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 11

An expert witness is a witness who, by knowledge, skill, experience, training, or education, has become expert in any subject. An expert witness may be permitted to state an opinion as to that subject.

You should consider each expert opinion and the reasons stated for the opinion, giving them such weight as you think they deserve. You may reject an opinion entirely if you conclude that it is unsound.

UJI 14-118 NMRA. EXPERT WITNESS

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE’S REQUESTED INSTRUCTION NO. 12

For you to find the defendant guilty of Involuntary Manslaughter in Count 1, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. Hannah Gutierrez:
 - a. endangered the safety of another by handling or using a firearm in a negligent manner and/or;
 - b. loaded live ammunition into a firearm intended to contain only inert ammunition, and/or Hannah Gutierrez failed to perform an adequate safety check of the ammunition she loaded into the firearm;
2. Hannah Gutierrez should have known of the danger involved by Hannah Gutierrez’s action;
3. Hannah Gutierrez acted with a willful disregard for the safety of others;
4. Hannah Gutierrez’s act caused the death of Halyna Hutchins;
5. This happened in New Mexico on or about the 21st day of October 2021.

UJI CR 14-231 INVOLUNTARY MANSLAUGHTER

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE’S REQUESTED INSTRUCTION NO. 13

For you to find the defendant guilty of Negligent Use of a Deadly Weapon as a lesser included offense charged in Count 1, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant endangered the safety of another, by handling or using a firearm in a negligent manner;
2. This happened in New Mexico on or about the 21st day of October, 2021.

NM UJI 14-703 Negligent Use of a Deadly Weapon

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 14

You have been instructed on the crimes of Involuntary Manslaughter and the lesser included offense of Negligent Use of a Firearm as charged in Count 1. It is up to you, the jury, to choose the manner and order in which you *deliberate* on the crimes charged in that count. However, to *return a verdict*, you must follow the procedure described in the next instruction.

NM R CR UJI 14-6002A Necessarily Included Offense- Deliberations

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE’S REQUESTED INSTRUCTION NO. 15

To aid you in your deliberations and in returning your verdict, you will be provided both guilty and not guilty verdict forms for each of the crimes charged in Count 1. Unless you unanimously agree on a verdict, you should not sign a verdict form for that crime. Although you may deliberate on the crimes charged in Count 1 in any manner and order which you choose, you must return your verdicts for each offense in Count 1 in the order they are instructed.

Under this procedure, if you unanimously find the defendant guilty of Involuntary Manslaughter, you should sign the guilty verdict for that offense and should not proceed to reach a verdict on the remaining offense in Count 1. If, after reasonable deliberation, you do not reach a unanimous verdict on Involuntary Manslaughter, you should not sign a verdict form for that offense and should not proceed to reach a verdict on the remaining offense.

You should only return a verdict on Negligent Use of a Firearm if you unanimously find the defendant not guilty of Involuntary Manslaughter. If you unanimously find the defendant not guilty of Involuntary Manslaughter, you must sign the not guilty verdict form for Involuntary Manslaughter before returning a verdict on any other crime charged in Count 1.

If you unanimously find the defendant guilty of Negligent Use of a Firearm, you should sign the guilty verdict for that offense. If you do not reach a unanimous verdict on Negligent Use of a Firearm, you should not sign a verdict form for that offense.

NM R CR UJI 14-6002B Necessarily Included Offense Verdicts

Given _____
Denied _____
Modified _____
Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 16

In this case, as to the charge of Involuntary Manslaughter contained in Count 1, there are four possible verdicts:

- (1) guilty of Involuntary Manslaughter
- (2) not guilty of Involuntary Manslaughter
- (3) guilty of Negligent Use of a Firearm
- (4) not guilty of Negligent Use of a Firearm

You must consider each of these crimes. You should be sure that you fully understand the elements of each crime before you deliberate further. You have the discretion to choose the manner and order in which you deliberate on this Count, but you must return a unanimous verdict of not guilty on Involuntary Manslaughter before entering a verdict on Negligent Use of a Firearm.

You will first decide whether the defendant is guilty of the crime of Involuntary Manslaughter. If you unanimously find the defendant guilty of Involuntary Manslaughter, then that is the only form of verdict which is to be signed as to this Count. If you unanimously find the defendant not guilty of Involuntary Manslaughter, then you should sign only the not guilty form as to Involuntary Manslaughter.

If, after reasonable deliberation, you do not reach a unanimous verdict on Involuntary Manslaughter you should not sign a verdict form for that crime and you should not proceed to reach a verdict on the remaining crime.

If you unanimously find the defendant not guilty of Involuntary Manslaughter, you will then go on to a consideration of the crime of Negligent Use of a Firearm. If you unanimously find

the defendant guilty of Negligent Use of a Firearm, then that is the only form of verdict which should be signed. But if you unanimously find the defendant not guilty of the crime of Negligent Use of a Firearm, then you should sign only the not guilty form. If, after reasonable deliberation, you do not reach a unanimous verdict on Negligent Use of a Firearm, you should not sign a verdict form for that crime.

You may not find the defendant guilty of more than one of the foregoing crimes. If you have a reasonable doubt as to whether the defendant has committed any one of the crimes, you must determine that the defendant is not guilty of that crime. If you find the defendant not guilty of all these crimes, in Count 1 you must return a verdict of not guilty as to this Count.

NM UJI 14-6012 Multiple Verdict Forms; Lesser Included Offenses

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 17

For you to find the defendant guilty of Tampering with Evidence as charged in Count 2, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant Hannah Gutierrez hid a baggie of cocaine by asking Rebecca Smith to take it outside of Hannah Gutierrez's hotel room;
2. By doing so, the defendant intended to prevent the apprehension, prosecution, or conviction of Hannah Gutierrez for the crime of Involuntary Manslaughter;
3. This happened in New Mexico on or about the 21st day of October, 2021.

UJI 14-2241 NMRA. TAMPERING WITH EVIDENCE

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 18

A firearm means any weapon which will or is designed to or may readily be converted to expel a projectile by the actions of a explosion; the frame or receiver of a firearm, any firearm muffler or firearm silencer. Firearm includes any handgun, rifle or shotgun.

UJI 14-704 NMRA. FIREARM; DEFINITION

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 19

In addition to the other elements of the crime of involuntary manslaughter as set forth in instruction number 12, the state must also prove to your satisfaction beyond a reasonable doubt that:

1. The death was a foreseeable result of Hannah Gutierrez placing a live round into a firearm intended to contain only inert ammunition and/or Hannah Gutierrez's failure to perform an adequate safety check of the ammunition she loaded into the firearm;

2. The act of the defendant was a significant cause of the death of Halyna Hutchins. The defendant's act was a significant cause of death if it was an act which, in a natural and continuous chain of events, uninterrupted by an outside event, resulted in the death and without which the death would not have occurred.

There may be more than one significant cause of death. If the acts of two or more persons significantly contribute to the cause of death, each act is a significant cause of death.

UJI 14-251 NMRA. HOMICIDE "PROXIMATE CAUSE" DEFINED

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 20

The State must prove beyond a reasonable doubt that the defendant's act was a significant cause of the death of Halyna Hutchins. An issue in this case is whether the negligence of a person other than the defendant may have contributed to the cause of death. Such contributing negligence does not relieve the defendant of responsibility for an act that significantly contributed to the cause of the death so long as the death was a foreseeable result of the defendant's actions.

However, if you find the negligence of a person other than the defendant was the only significant cause of death or constitutes an intervening cause that breaks the foreseeable chain of events, then the defendant is not guilty of the offense of Involuntary Manslaughter.

UJI 14-252 NMRA. HOMICIDE; NEGLIGENCE OF DECEASED OR THIRD PERSON

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 21

Now the lawyers will argue the case. What is said in the arguments is not evidence. It is an opportunity for the lawyers to discuss the evidence and the law as I have instructed you. The state has the right to argue first; the defense may then argue; the state may then reply.

UJI 14-104 NMRA. EXPLANATION; CLOSING ARGUMENT

Given _____

Denied _____

Modified _____

Withdrawn _____

STATE'S REQUESTED INSTRUCTION NO. 22

I will now ask you to retire to the jury room to begin your deliberations. You will be provided a copy of the jury instructions and the exhibits introduced as evidence and will be made available to you.

Prior to beginning your deliberations you will need to select one of you to act foreperson. That person will preside over your deliberations and will speak for the jury here in court.

Forms of verdict have been prepared for your use.

You will take these forms to the jury room; when you have reached unanimous agreement as to your verdict, the foreperson will sign the forms which express your verdict. You will then return all forms of verdict, these instructions and any exhibits to the courtroom.

Andrew Malosh, Robert Dijanni, Ansemo Mariscal, and Cruz Marquez are alternate jurors in this case and therefore will need to remain in the courtroom.

UJI 14-6020 NMRA. FINAL INSTRUCTION

Given _____

Denied _____

Modified _____

Withdrawn _____

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

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ

Defendant.

VERDICT FORM

We find the defendant Hannah Gutierrez **GUILTY** of involuntary manslaughter as charged in
Count 1.

FOREPERSON

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

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ

Defendant.

VERDICT FORM

We find the defendant Hannah Gutierrez NOT GUILTY of involuntary manslaughter as charged in Count 1.

FOREPERSON

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

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ

Defendant.

VERDICT FORM

We find the defendant Hannah Gutierrez **GUILTY** of negligent use of a firearm as charged
in Count 1.

FOREPERSON

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

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ

Defendant.

VERDICT FORM

We find the defendant Hannah Gutierrez NOT GUILTY of negligent use of a firearm as charged in Count 1.

FOREPERSON

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

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ

Defendant.

Defendant.

VERDICT FORM

We find the defendant Hannah Gutierrez **GUILTY** of tampering with evidence as charged
in Count 2.

FOREPERSON

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

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00040

HANNAH GUTIERREZ

Defendant.

VERDICT FORM

We find the defendant Hannah Gutierrez NOT GUILTY of tampering with evidence as charged
in Count 2.

FOREPERSON