

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

STATE OF NEW MEXICO

V.

Case no. D-101-CR-2023-00040

HANNAH GUTERREZ

**MOTION TO SEAL CERTAIN
PLEADINGS AND DOCUMENTS**

COMES NOW attorney Lisa Torracco, counsel for David Halls, a witness herein and formerly a joined co-defendant in this matter, and hereby moves this Court pursuant to Rule 5-123 NMRA to seal the the Petition for Subpoena, Exhibit A, Attorney Affidavit and the Subpoena filed in the public record For Cause:

In *State v. Halls*, CR -D-101-CR-2023-00041 the defense moved this Honorable Court to keep Mr. Halls personal identifiers out of the public record due to safety concerns. Defense counsel agreed to have her address in lieu of Mr. Halls' address on all documents and agreed to accept service on his behalf. The Court found that the attorney's identifiers were sufficient for the Court record, and that Mr. Halls' attorney of record was responsible for accepting service due to the absence of his address in the Court record. *See CR -D-101-CR- 2023-00041 Motion to Seal Defendant's Address and to Substitute Attorney address in the Public Record* filed on February 2, 2023. (Verbal Order, Signed Order pending public filing).

The Petition for Subpoena filed herein on November 16th 2023 and the Attorney Affidavit filed October 16, 2023, Exhibit A filed October 16, 2023 and the Subpoena filed November 25, 2023, contain personal identifiers and may jeopardize the health and safety of

Mr. Halls for the same concerns articulated in the February 2, 2023 Motion. *See attached.* Defense incorporates the February 2, 2023 motion in CR -D-101-CR-2023-0004 herein by reference.

In case D-101-CR-2023-00041 this Court previously found that the requirements of Rule 5-123G NMRA had been met, to wit,

G. Requirements for order to seal court records.(1) The court shall not permit a court record to be filed under seal based solely on the agreement or stipulation of the parties. The 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.

There is a recent resurgence of interest in this matter, due to the anticipated Grand Jury indictment of Mr. Alec Baldwin. Mr. Halls previously did not feel safe at his last address and now moves this Court to Seal the aforementioned subpoena and to enter an Order sealing his address and phone number from the public record and/or requiring opposing counsel to substitute undersigned Counsel's address and phone number.

Rule 5-123 NMRA requires a finding that a substantial probability exists that the overriding interest will be prejudiced if the court record is not sealed. Herein Mr. Halls has a right to his privacy. He has exerted this right by not making any public statements and not giving any public appearances. He has worked to protect his privacy. All statements and appearances have been by and through his attorney. He does not wish to field media inquiries or have media at his door steps.

Undersigned moves this Court to seal Mr. Halls' mailing/physical address, email address

and phone number from the public, and permit the public record to only reflect defense counsel's address on all public documents.

Rule 5-123 Subsection D provides:

D. Protection of personal identifier information.

(1) The court and the parties shall avoid including protected personal identifier information in court records unless deemed necessary for the effective operation of the court's judicial function. If the court or a party deems it necessary to include protected personal identifier information in a court record, that is a non-sanctionable decision. Protected personal identifier information shall not be made available on publicly accessible court web sites. The court shall not publicly display protected personal identifier information in the courthouse. Any attorney or other person granted electronic access to court records containing protected personal identifier information shall be responsible for taking all reasonable precautions to ensure that the protected personal identifier information is not unlawfully disclosed by the attorney or other person or by anyone under the supervision of that attorney or other person. Failure to comply with the provisions of this subparagraph may subject the attorney or other person to sanctions or the initiation of disciplinary proceedings.

WHEREFORE, Defense moves this Court to Order the First Judicial District Clerk to file:

- 1) The Petition for Subpoena filed herein on November 16th 2023; and
- 2) the Attorney Affidavit filed October 16, 2023;
- 3) Exhibit A filed October 16, 2023; and
- 4) the Subpoena filed November 25, 2023,

underseal due to the fact that his full address and phone number are on public display and moving forward undersigned moves this Court to seal Mr. Halls' mailing/physical address, and phone number from the public, and permit the public record to only reflect defense counsel's address on all public documents for any other relief this Court deems proper and just. Lodging herein is deemed moot, as the aforementioned documents are filed.

Attorney Jason Bowels does not oppose this motion. District Attorney, Kari Morrisey opposes this motion.

Respectfully submitted,

/s/ Lisa Torraco

Lisa Torraco

Attorney for David Halls

823 Gold Ave. SW

Albuquerque, New Mexico 87102

(505) 244-0530

LisaTorraco@gmail.com

Certificate of Service

I hereby certify that a true and correct copy of the foregoing pleading was delivered to the prosecuting attorney and co-defendant counsel on the 20th of November 2023 via the electronic e-filing system.

/s/ Lisa Torraco

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

**STATE OF NEW MEXICO
Plaintiff,**

v.

Case.: D-101-CR-2023-00041

**DAVID HALLS,
Defendant.**

**MOTION TO SEAL DEFENDANT'S ADDRESS
and to SUBSTITUTE ATTORNEY ADDRESS IN THE PUBLIC RECORD**

COMES NOW, Mr. Halls' by and through attorney, Lisa Torracco, and hereby moves this Court pursuant to Rule 5-123 NMRA to seal Mr. Halls' address from public access.

The New Mexico Rules of the District Court provide that some personal information may be kept out of the public record. Rule 5-123G NMRA provides in part;

G. . . . The 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.

1. Immediately after the incident, the media identified Mr. Halls as the assistant director that was on the set at the time of the shooting. Mr. Halls was then overwhelmed by the

intense media coverage and many reporter inquiries. He did not respond to any inquiries, and he has since changed his phone number, email address and physical address.

2. After retaining counsel, his attorney's office handled media inquiries. Mr. Halls' personal information is not currently in the public domain.
3. The Criminal Information was filed on January 31, 2023, again, this case drew wide interest and attention. There is an increasing number of non-media people who are contacting defense counsel to offer their opinions on Mr. Halls' case.
4. Undersigned counsel is unavailable to attend the February 24, 2023 arraignment. She will be in a trial. She intends to submit a waiver of arraignment. However, Mr. Halls' address is required on the Order Setting Conditions of Release. Due to the high level of publicity and public interest in his co-defendant, undersigned moves this Court to seal Mr. Halls' mailing/physical address and phone number from the public forum. Mr. Halls respectfully wishes to avoid unnecessary attention and harassment. The ends of justice on the ultimate issues shall not be affected by the sealing of Mr. Halls' personal information. He can be contacted via undersigned counsel, and the defense can file his contact information under seal.
5. Due to the intensive public interest, unwanted attention and potential safety concerns, the defense moves this Court to seal the defendant's mailing/physical address, email address and phone number from the public forum and permit Mr. Halls to list the address of counsel of record in lieu of his personal contact information.
6. The public does not have a right to Mr. Halls' address, email and phone number. On the other hand, Mr. Halls has a privacy right.

7. Defense moves that the Order shall explicitly state that it remains in effect until further order of the court.

8. District Attorney, Mary Carmack-Altwies approves this motion.

WHEREFORE, undersigned moves this Court to seal Mr. Halls' mailing/physical address, email and phone number from the public, and permit the public record to only reflect defense counsel's address on all public documents. Defense further moves this Court for any other relief this Court deems proper and just.

Respectfully submitted,

/s/ Lisa Torraco

Lisa Torraco

Attorney for David Halls

823 Gold Ave. NW

Albuquerque, New Mexico 87102

(505) 244-0530

LisaTorraco@gmail.com

Certificate of Service

I hereby certify that a true and correct copy of the foregoing pleading was delivered to the prosecuting attorney on the 2nd day of February, 2023.

/s/ Lisa Torraco

Lisa Torraco

Attorney for David Halls