

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

CR No. D-202-CR-2026-00405

STATE OF NEW MEXICO,
Plaintiff,
vs.

TIMOTHY BUSFIELD,
Defendant.

**STATE'S MOTION TO EXCLUDE WITNESSES FROM THE EVIDENTIARY
HEARING ON DEFENDANT'S MOTION TO QUASH INDICTMENT**

COMES NOW the State of New Mexico, by and through its Chief Deputy District Attorney, Greer E. Staley, and respectfully moves the Court to exclude the defendant's newly disclosed witnesses pursuant to Rule 5-601(F), NMRA. As grounds, the State submits the following:

Relevant Background

Defense filed its Motion to Quash Grand Jury Indictment on June 15, 2026. The State filed a response on June 25, 2026, and Defense replied on June 30, 2026. No request for setting was filed by the Defense. The Court set a hearing on the matter on July 21, 2026, which was continued at the State's request to September 25, 2026 at 1:15pm. On September 22, 2026, the State received an email alerting the State that the defendant "may" call witnesses at the hearing. The email includes a list of eight witnesses and a proffer that their "primary focus would be on their presence the day of the grand jury and willingness to testify without a subpoena." The email also states "[y]ou should already have all of their affidavits, as they were attached to the detention opposition, and Mr. Caudillo's was attached to the Motion to Quash."

This email notification does not comply with Rule 5-601(F) which states that "...at least five (5) days before the hearing on the motion, each party shall submit to the other party's attorney the names and addresses of the witnesses the party intends to call at the evidentiary

hearing...”

Defendant never submitted a request for hearing indicating that time would be necessary for eight (8) witnesses, nor did it give the State adequate notice that witnesses would be called. Furthermore, Defense’s proffer regarding their “primary focus” and referencing affidavits attached to unrelated motions is insufficient. The State is left in the position of having to potentially prepare for eight (8) witnesses in two days.

Defense has had over three months to disclose their witnesses in compliance with the Rule and failed to do so. These witnesses should therefore not be permitted to testify at the hearing.

Due to the nature of this motion, no position was sought from Defense pursuant to Rule 5-120.

Respectfully submitted,

/s/ Greer Staley
Greer E. Staley
Chief Deputy District Attorney

This will certify that on September 23, 2026,
a copy of the foregoing was sent to counsels
for defendant, Amber Fayerberg and
Christopher Dodd via email

/s/ Greer Staley
Greer E. Staley
Chief Deputy District Attorney