

FILED
2ND JUDICIAL DISTRICT COURT
Bernalillo County
7/12/2021 5:41 PM
CLERK OF THE COURT
Catherine Chavez

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

NANCY HENRY,

Petitioner,

v.

No. D-202-_____

NEW MEXICO LIVESTOCK BOARD, and
JULIE GAUMAN, in her official capacity as
Records Custodian for the New Mexico
Livestock Board,

Respondents.

VERIFIED PETITION FOR ALTERNATIVE WRIT OF MANDAMUS

INTRODUCTION

Pursuant to the New Mexico Mandamus Act, NMSA 1978, §§ 44-2-1 to -14 (1953), and Section 14-2-12(B) of the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 to -12 (2019) (“IPRA”), Petitioner Nancy Henry respectfully requests the Court issue an Alternative Writ of Mandamus directed at Respondent New Mexico Livestock Board and Respondent Julie Gauman in her capacity as the Records Custodian for the New Mexico Livestock Board (collectively, “Respondents”) to comply with their non-discretionary duty under Sections 14-2-8 to -11. On March 13, 2021, Ms. Henry submitted to Respondents a simple and routine IPRA request. *See* Exhibit 1. Although Respondents provided selected public records in response to that request, Respondents improperly withheld from Ms. Henry responsive public records in violation of the law. As set forth below, Respondents have a mandatory duty to completely, adequately and fully respond to a written request for inspection of public records. The facts that they did not do so are undisputed, and the writ should issue unless Respondents can show cause before the Court as to why they have not strictly followed their non-discretionary duty.

I. STATEMENT OF FACTS

A. Venue and Jurisdiction

1. Mandamus is a proper remedy to compel enforcement of IPRA that is expressly provided for in Section 14-2-12(B). *See New Mexico Found. for Open Gov’t v. Corizon Health*, 2020-NMCA-014, ¶¶ 24-26, 460 P.3d 43 (use of mandamus was proper to require respondent to produce public records pursuant to IPRA requests).

2. This Court has original jurisdiction over petitions for writ of mandamus pursuant to Article VI, Section 13 of the New Mexico Constitution and Section 44-2-3 of the Mandamus Act.

3. Venue is proper in this Court under NMSA 1978, Section 38-3-1(G) (1988).

B. Right or Standing of the Filing Party

4. Petitioner Nancy Henry is a watchdog and citizen journalist who resides in the County of Bernalillo and advocates for members of the public, including on issues involving equine and livestock animals.

5. Like every other person, Ms. Henry has a right to inspect public records in the State of New Mexico. *See San Juan Agric. Water v. KNME-TV*, 2011-NMSC-011, ¶ 10, 150 N.M. 64 (quoting § 14-2-1(A) and (C)).

6. The failure of the New Mexico Livestock Board and its Records Custodian to perform its non-discretionary duty under IPRA deprives Ms. Henry of this right.

7. Under Section 14-2-12(A), “[a]n action to enforce the Inspection of Public Records Act may be brought by...a person whose written request has been denied.”

8. As a person whose written request under IPRA has been denied, Ms. Henry is “beneficially interested” in the New Mexico Livestock Board’s and its Records Custodian’s compliance with the law, as is the public. *See* § 44-2-5; *State ex rel. Burg v. Albuquerque*, 1926-NMSC-031, ¶ 20, 31 N.M. 576 (“...it is the general rule that mandamus may be issued to enforce the performance of a public duty by public officers, upon application of any citizen whose rights are affected in common with those of the public.”)

C. Respondents and Real Parties in Interest

9. Respondent New Mexico Livestock Board is an agency of the State established to

govern the livestock industry in the manner required by law, including the Livestock Code, NMSA 1978, §§ 77-2-1 to -18 (2015). § 77-2-3.

10. The purposes of the Livestock Code are “to promote greater economy, service and efficiency in the administration of the laws relating to the livestock industry of New Mexico, to control disease, to prevent the theft or illegal movement of livestock and to oversee the New Mexico meat inspection program.” § 77-2-1.

11. The New Mexico Livestock Board’s principal office is located in the County of Bernalillo, State of New Mexico.

12. The New Mexico Livestock Board is a “public body” as defined in Section 14-2-6(F) of IPRA.

13. Under IPRA, each public body is required to “designate at least one custodian of public records.” § 14-2-7.

14. Julie Gauman is, and at all relevant times was, the Records Custodian for the New Mexico Livestock Board.

II. GROUNDS IN SUPPORT OF ISSUANCE OF THE WRIT

A. The New Mexico Livestock Board’s Non-Discretionary Statutory Duty Under IPRA.

15. The New Mexico Legislature, in enacting IPRA, declared that it is the public policy of the State of New Mexico, “that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees.” § 14-2-5. *See Jones v. City of Albuquerque Police Dep’t*, 2020-NMSC-013, ¶ 18, 470 P.3d 252.

16. In enacting IPRA, the New Mexico Legislature further declared that “provid[ing] persons with such information is an essential function of representative government and an integral part of the routine duties of public officers and employees.” § 14-2-5.

17. To effectuate these purposes, IPRA mandates certain procedures be followed: (1) for requests of public records; (2) for inspection of public records; (3) for requests that may be burdensome or broad; and (4) for denied requests. §§ 14-2-8 to -11.

18. As part of these procedures, “[r]equested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection.” § 14-2-9(A).

19. “In the event that a written request is not made to the custodian having possession of or responsibility for the public records requested, the person receiving the request shall promptly forward the request to the custodian of the requested public records.” § 14-2-8(E).

20. In such event, “[t]he notification to the requester shall state the reason for the absence of the records from that person’s custody or control, the records’ location and the name and address of the custodian.” *Id.*

21. “If a written request has been denied, the custodian shall provide the requester with a written explanation of the denial.” § 14-2-11(B).

22. “The written denial shall: (1) describe the records sought; (2) set forth the names and titles or positions of each person responsible for the denial; and (3) be delivered or mailed to the person requesting the records within fifteen days after the request for inspection was received.” § 14-2-11(B).

23. “A custodian who does not deliver or mail a written explanation of denial within fifteen days after receipt of a written request for inspection is subject to an action to enforce the

provisions of the Inspection of Public Records Act and the requester may be awarded damages.”
§ 14-2-11(C). *See also* § 14-2-12(D).

24. Each of these duties is non-discretionary for a public body, including for the New Mexico Livestock Board. *Corizon Health*, 2020-NMCA-014, ¶ 5.

B. The Undisputed Facts Support Issuance of a Writ by This Court.

1. Ms. Henry’s March 13, 2021 IPRA Request Sought Public Records Concerning Horse Impoundment Between January 23 and March 15, 2021.

25. Petitioner Nancy Henry submitted a simple and routine IPRA request to Respondents for inspection of public records on March 13, 2021. *See* Exhibit 1.

26. Ms. Henry’s March 13, 2021 submission requested:

...all records pertaining to: horses, wild horses, donkeys, goats, pigs, taken up by the NMLB and not advertised for ownership, or were impounded, seized, etc. between 1/23/2021 and 3/15/2021.

See Exhibit 1.

27. The March 13, 2021 request also provided a list of specific public records sought by Ms. Henry in fulfillment of this request, including *inter alia*, “incident and supplemental reports;” “field notes;” “witness statements;” “affidavits” and “warrants.”

28. Receipt of the March 13, 2021 submission was acknowledged on March 17, 2021 by Respondent Julie Gauman, and designated by Respondents as Request ID 2643. *See* Exhibit 2.

29. Ms. Gauman’s written acknowledgment stated:

We are in receipt of your March 13th, 2021 request for records related to “horses, wild horses, donkeys, goats, pigs, taken up by the NMLB and not advertised for ownership, or were impounded, seized, etc. between 1/23/2021 and 3/15/2021”.

We need more time to research and gather any responsive records to respond, until Tuesday March 30th, 2021.

See Exhibit 2.

30. On March 30, 2021, Ms. Gauman contacted Ms. Henry in response to Request ID 2643. Ms. Gauman stated that “[the Livestock Board] do[es] not have any responsive records for wild horses, goats or pigs.” *See Exhibit 3.*

31. Ms. Gauman’s March 30, 2021 response provided Ms. Henry responsive records for horses and one donkey in identified case numbers: 119-2519; 127-3631; and “102-1757 Lambert-associated case to 127-1757.” *See Exhibit 3.*

32. Ms. Gauman’s March 30, 2021 response also stated, “Notwithstanding, we will require more time to research for and gather other potentially responsive records, until Friday April 9th, 2021.” *See Exhibit 3.*

33. On April 9, 2021, Ms. Gauman contacted Ms. Henry in response to Request ID 2643, and provided additional responsive records for case numbers 119-2519 and 127-3631. Ms. Gauman also provided responsive records for another case number: 119-3627. *See Exhibit 4.*

34. Ms. Gauman also stated “Notwithstanding, we do not anticipate any additional records regarding case 119-2519, however, we will require more time to gather any additional records for 119-3627 and 127-3631 as they are ongoing matters, until Monday April 19th, 2021.” *See Exhibit 4.*

35. On April 13 and 19, 2021, Ms. Gauman provided final responsive records for case numbers 127-3631 and 119-3627. *See Exhibits 5 and 6.*

36. Ms. Gauman closed Request ID 2643 on April 19, 2021. *See Exhibit 6.*

37. Respondents never identified any other case numbers to Ms. Henry in response to Request ID 2643, nor any other documents other than the ones identified as responsive to the January 23 – March 15, 2021 date range.

2. Respondents Withheld Records Responsive to the March 13, 2021 IPRA Submission.

38. On or about June 22, 2021, Ms. Henry learned that public records existed that were related to the impoundment of a gray thoroughbred horse sometime between February 7 and February 10, 2021, including an Affidavit for Arrest Warrant, which involved a person named Salomon Gomez and an issue of ownership of the horse. *See Exhibits 7 and 8.*

39. Ms. Henry was able to obtain certain court documents through a separate IPRA request to the Thirteenth Judicial Court. *See Exhibits 7 and 8.*

40. The Affidavit for Arrest Warrant was made by an employee of the New Mexico Livestock Board, and expressly stated that after “proof of ownership was met...the horse was released from impound....” *See Exhibit 8.*

41. Upon information and belief, this record from February 2021 was responsive to Ms. Henry’s Request ID 2643, which specifically requested public records involving any horse impoundment by the New Mexico Livestock Board in the date range of January 23 – March 15, 2021, including “affidavits” and “warrants.”

42. Upon information and belief, Respondents possessed additional non-court-filed public records related to the February 2021 impoundment of the horse at the time Request ID 2643 was made, including an incident report, witness statements, associated impoundment records, and others, that matched the exact subject matter and date range for the public records that Ms. Henry requested.

43. None of the identified case numbers, nor public records Ms. Henry received from Respondents in response to Request ID 2643, related to a February 2021 impoundment of a gray thoroughbred horse.

44. Upon information and belief, Respondents withheld public records in their possession, custody and control from Ms. Henry in response to Request ID 2643.

45. By withholding these documents, Respondents failed to provide a complete, accurate and full response to Ms. Henry in response to Request ID 2643.

46. To date, Respondents have not provided documents concerning the February 2021 horse impoundment to Ms. Henry.

3. Respondents' Failure to Perform Their Non-Discretionary Duty Can and Should be Corrected by Mandamus.

47. Respondents have a history of violating the statutory duties placed upon public bodies pursuant to IPRA, and this Court has previously granted Ms. Henry an Alternative Writ of Mandamus for an IPRA enforcement in a separate pending matter. *See e.g., Nancy Henry v. New Mexico Livestock Board*, Case No. D-202-CV-2020-04707.

48. By withholding public records from Ms. Henry related to the February 2021 impoundment, Respondents failed to fulfill their mandatory duty under IPRA to provide a complete, accurate and full response to Request ID 2643. *See Britton v. Office of Att'y Gen.*, 2019-NMCA-002, ¶ 31, 433 P.3d 320, (“nowhere does IPRA expressly contemplate or provide for ‘incomplete’ or ‘inadequate’ responses, i.e., ones in which the public body has failed to permit inspection of all nonexempt responsive records”). *See also San Juan Agric.*, 2011-NMSC-011, ¶ 31 (explaining that public bodies have a statutory duty to respond diligently to all records requests).

49. Respondents' incomplete, inadequate and partial response to Request ID 2643 violates IPRA. *Britton*, 2019-NMCA-002, ¶ 31 (“A public body that permits only partial inspection—i.e., inspection of some but not all nonexempt responsive records—plainly has not complied with its obligation to provide ‘the greatest possible information’ to the requester.”).

50. Respondents have offered no justification and have cited no exemption pursuant to IPRA for the withholding of public records within their possession from January 23, 2021, to March 15, 2021 that concern the February 2021 impoundment.

51. IPRA contains no blanket exception allowing for the withholding of records based on ongoing investigation. *Jones*, 2020-NMSC-013, ¶ 37 (holding that the plain language of IPRA does not exempt from IPRA inspection requirements all law enforcement records relating to an ongoing criminal investigation).

52. Thus, Respondents must provide to Ms. Henry all of the public records responsive to Request ID 2643 that were withheld concerning the February 2021 horse impoundment, and any other public records they might have withheld that were responsive to Request ID 2643's subject matter and date range.

III. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests this Court:

53. Issue the Alternative Writ of Mandamus pursuant to Section 44-2-7 of the Mandamus Act, Section 14-2-12 of IPRA and Rule 1-065(E) NMRA directing Respondent New Mexico Livestock Board and its Records Custodian, Julie Gauman, to within 30 days of issuance of the Writ perform their non-discretionary duty to either provide Petitioner with a complete, adequate and full set of public records in response to Request ID 2643, including the withheld records related to the February 2021 horse impoundment, or show cause before the Court as to why they have not taken such action;

54. Order Respondents to reimburse Petitioner for damages, costs and reasonable attorneys' fees pursuant to Sections 14-2-11(C) and 14-2-12(D) of IPRA; and

55. Provide any other relief afforded to Petitioner by law.

Dated: July 12, 2021

Respectfully Submitted,

BARNHOUSE KEEGAN SOLIMON & WEST LLP

/s/ Michelle T. Miano

Michelle T. Miano

7424 4th Street NW

Los Ranchos de Albuquerque, NM 87107

Telephone: (505) 842-6123

Facsimile: (505) 842-6124

mmiano@indiancountrylaw.com

Counsel for Petitioner

VERIFICATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

I, Petitioner Nancy Henry, state that I have read the foregoing Verified Petition for Alternative Writ of Mandamus and that the same is true and correct to the best of my knowledge, information and belief.

7/12/2021
Date



Nancy Henry

EXHIBIT 1

From: nlhenry@mindspring.com [mailto:nlhenry@mindspring.com]

Sent: Saturday, March 13, 2021 5:32 AM

To: recordsrequests@nmlbonline.com

Subject: [EXT] IPRA - Horses, etc. Taken Up No Auction - between 1/23/2021 and 3/15/2021

NMLB & Records Custodian,

I am requesting all records pertaining to: **horses, wild horses, donkeys, goats, pigs, taken up by the NMLB and not advertised for ownership, or were impounded, seized, etc. between 1/23/2021 and 3/15/2021.**

1. Incident and Supplemental Reports
2. Field Notes
3. Witness Statements
4. Affidavits
5. Warrants
6. Form 1's
7. Form 8's
8. Veterinarian records of **any kind, including euthanasia** if any. **Including any private DVM records, medical records, exams, invoices, emails, texts, etc. ALL associated records.**
9. Photos
10. Documentation **pertaining to final disposition of the animal(s) (buried, cremated, landfill, etc.) and invoices**
11. All emails, texts, faxes, logs, instant messages, etc., pertaining to this matter in the NMLB's possession to/from (Julie Gauman, Inspectors & Supervisors involved, Veterinarians, Jeff Witte, Belinda Garland, Shawn Davis, Ralph Zimmerman, other DVM's, or anyone else involved)
12. **In general, all associated records**

Nancy L. Henry

2019 Dixon Award 🏆 **NM Foundation for Open Government**

NM for Equine Rights & Open Government

Equine/Public Advocate

<https://www.facebook.com/NewMexicoAgainstHorseSlaughter/>

505.250.9457, PO Box 56644, ABQ NM, 87187

“... there will be an opportunity to determine if those who have been entrusted with the affairs of government are honestly, faithfully and competently performing their function as public servants.” ~ NM Supreme Court

EXHIBIT 2

From: Gauman, Julie C., NMLB
Sent: Wednesday, March 17, 2021 4:29 PM
To: 'nlhenry@mindspring.com' <nlhenry@mindspring.com>
Subject: RE: [EXT] IPRA - Horses, etc. Taken Up No Auction - between 1/23/2021 and 3/15/2021

March 17th, 2021

Via email nlhenry@mindspring.com

Nancy Henry
PO Box 56644
Albuquerque, NM 87187

RE: Request to Inspect Public Records/Request ID **2643**

Nancy Henry:

We are in receipt of your March 13th, 2021 request for records related to **“horses, wild horses, donkeys, goats, pigs, taken up by the NMLB and not advertised for ownership, or were impounded, seized, etc. between 1/23/2021 and 3/15/2021””**.

We need more time to research and gather any responsive records to respond, until Tuesday March 30th, 2021.

Regards,

Julie C. Gauman
New Mexico Livestock Board
Systems Admin I/Records Custodian
300 San Mateo Blvd NE #1000
Albuquerque, NM 87108
505-362-1565
Julie.Gauman@state.nm.us

EXHIBIT 3

From: Gauman, Julie C., NMLB
Sent: Tuesday, March 30, 2021 6:36 PM
To: Nancy Henry (nlhenry@mindspring.com) <nlhenry@mindspring.com>
Subject: RE: [EXT] IPRA - Horses, etc. Taken Up No Auction - between 1/23/2021 and 3/15/2021

March 30th, 2021

Via email nlhenry@mindspring.com

Nancy Henry
PO Box 56644
Albuquerque, NM 87187

RE: Request to Inspect Public Records/Request ID **2643**

Nancy Henry:

Please find in the links below records for 2 cases where horses and one donkey were impounded or seized between 1/23/2021 and 3/15/2021. We do not have any responsive records for wild horses, goats or pigs.

[119-2519 Evolve R&R](#)

[127-3631 Lambert 3-30-21](#)

[127-3631 Lambert BodyCam](#) (this link is approximately 707 MBs)

[102-1757 Lambert-associated case to 127-1757](#)

The Evolve R&R case contains over 10GB of bodycam footage, therefore, they are too large to attach to this e-mail nor provide in a hyperlink. These files can be made available to you on a CD for a \$5 fee, to cover cost of the CD and postage via the USPS Mail System. The fee must be received by USPS mail to the NMLB Attn: IPRA at 300 San Mateo Blvd NE, Ste 1000, Albuquerque, NM 87108 prior to shipment of the CD. Please advise within 30 days from this response if you wish to receive these files and provide a valid address in which to mail the CD.

Notwithstanding, we will require more time to research for and gather other potentially responsive records, until Friday April 9th, 2021.

Regards,

Julie C. Gauman
New Mexico Livestock Board
Systems Admin I/Records Custodian

EXHIBIT 4

From: Gauman, Julie C., NMLB <Julie.Gauman@state.nm.us>
Sent: Friday, April 9, 2021 4:49 PM
To: Nancy Henry
Subject: FW: [EXT] IPRA - Horses, etc. Taken Up No Auction - between 1/23/2021 and 3/15/2021

April 9th, 2021

Via email nlhenry@mindspring.com

Nancy Henry
PO Box 56644
Albuquerque, NM 87187

RE: Request to Inspect Public Records/Request ID 2643

Nancy Henry:

Please find one additional case and additional records for the two previous cases provided on March 30th, 2021.

[119-3627 Documents and Photos](#)
[119-2519 Evolve R&R 4-9-21](#)
[127-3631 Lambert 4-9-21](#)

The 119-3627 case contains over 2GB of bodycam footage, therefore, they are too large to attach to this e-mail nor provide in a hyperlink. These files can be made available to you on a CD for a \$5 fee, to cover cost of the CD and postage via the USPS Mail System. The fee must be received by USPS mail to the NMLB Attn: IPRA at 300 San Mateo Blvd NE, Ste 1000, Albuquerque, NM 87108 prior to shipment of the CD. Please advise within 30 days from this response if you wish to receive these files and provide a valid address in which to mail the CD.

Notwithstanding, we do not anticipate any additional records regarding case 119-2519, however, we will require more time to gather any additional records for 119-3627 and 127-3631 as they are ongoing matters, until Monday April 19th, 2021.

Regards,

Julie C. Gauman
New Mexico Livestock Board
Systems Admin I/Records Custodian
300 San Mateo Blvd NE #1000
Albuquerque, NM 87108
505-362-1565
Julie.Gauman@state.nm.us

EXHIBIT 5

From: Gauman, Julie C., NMLB
Sent: Tuesday, April 13, 2021 4:45 PM
To: Nancy Henry (nlhenry@mindspring.com) <nlhenry@mindspring.com>
Subject: RE: IPRA VIOLATION! - FW: MISSING RECORDS E: [EXT] IPRA - Horses, etc. Taken Up No Auction - between 1/23/2021 and 3/15/2021

April 13th, 2021

Via email nlhenry@mindspring.com

Nancy Henry
PO Box 56644
Albuquerque, NM 87187

RE: Request to Inspect Public Records/Request ID **2643**

Nancy Henry:

Please find in the link below additional responsive records for case 119-3627.

[119-3627 Documents 4-13-21](#)

We continue to require more time to gather any additional records for 119-3627 and 127-3631 as they are ongoing matters, until Monday April 19th, 2021.

Regards,

Julie C. Gauman
New Mexico Livestock Board
Systems Admin I/Records Custodian
300 San Mateo Blvd NE #1000
Albuquerque, NM 87108
505-362-1565
Julie.Gauman@state.nm.us



EXHIBIT 6

From: Gauman, Julie C., NMLB <Julie.Gauman@state.nm.us>
Sent: Monday, April 19, 2021 7:31 PM
To: Nancy Henry
Subject: RE: IPRA VIOLATION! - FW: MISSING RECORDS E: [EXT] IPRA - Horses, etc. Taken Up No Auction - between 1/23/2021 and 3/15/2021

April 19th, 2021

Via email nlhenry@mindspring.com

Nancy Henry
PO Box 56644
Albuquerque, NM 87187

RE: Request to Inspect Public Records/Request ID 2643

Nancy Henry:

Please find in the link below additional records pertaining to case 127-3631 and 119-3627.

[127-3631 Lambert 4-19-21](#)

[119-3627 Documents 4-19-21](#)

To date, we do anticipate additional records, but are unable to forecast receipt of those records. Please make an additional request, as these records may become available at a later date.

This does close our response to Request ID 2643.

Regards,

Julie C. Gauman
New Mexico Livestock Board

Systems Admin I/Records Custodian
300 San Mateo Blvd NE #1000
Albuquerque, NM 87108
505-362-1565

Julie.Gauman@state.nm.us



EXHIBIT 7

From: IPRA 13th District Court <ipra.13thdistrictcourt-grp@nmcourts.gov>
Sent: Monday, June 21, 2021 11:13 AM
To: IPRA 13th District Court
Cc: NANCY HENRY; nlhenry@mindspring.com
Subject: Re: 19/06/2021IPRA Public Records Request Submission - NANCYHENRY718 13TH IPRA ID# 06-21-21-03
Attachments: CC Gomez.pdf; Ntc Dismissal Gomez.pdf; Arrest Warrant Gomez.pdf

Mrs. Henry,

It is the policy of the Thirteenth Judicial District Court ("Court") to be fully responsive to all requests for the inspection of public records available under the Inspection of Public Records Act, NMSA 1978, § 14-2-1 et seq. ("IPRA"). On June 21, 2021, we received your request set forth in your e-mail below for records relating to " Case # M-60-FR-202100058 - I am requesting a copy of the Complaint filed 2/17/21 , the Arrest Warrant, and Notice of dismissal, or Order. Please return these docs as attachments." We have searched our files within our Court and have determined that the records that you are seeking are in the possession, custody, or control of the Court. Attached please find the documents that you requested.

Thank you for your request. We now consider it closed.

Thirteenth Judicial District Court
C/O Records Custodian

On Monday, June 21, 2021 at 10:49:00 AM UTC-6 NANCY HENRY wrote:

First Name of Person Requesting Record

NANCY

Last Name of Person Requesting Record

HENRY

Email Address of Person Requesting Record

nlhenry@mindspring.com

Phone Number

(505) 250-9457

Court Locations (Select One Court Location)

13th Judicial District

Physical Address of Person Requesting Record

PO BOX 56644

City

ALBUQUERQUE

State

New Mexico

ZIP

87187

Records Requested (Provide case number, identify specific records)

Case # M-60-FR-202100058 - I am requesting a copy of the Complaint filed 2/17/21 , the Arrest Warrant, and Notice of dismissal, or Order. Please return these docs as attachments. Thank you!

EXHIBIT 8

**STATE OF NEW MEXICO
IN THE 13TH JUDICIAL
DISTRICT COURT**



M-60-FR-202100058

**AFFIDAVIT FOR
ARREST WARRANT**

STATE OF NEW MEXICO

Vs

Defendant-Salomon Gomez
OLN-502882244
DOB-12/09/1988
SSN-
Address: 2503 State Highway 47, Belen, NM, 87002

Charge(s): Larceny, Forgery, Fraud
Contrary to Section(s): 30-16-1 (G), 30-16-10 (B), 30-16-6 (D)

Affiant is Dennis Keith Alarid, a full time salaried employee of the New Mexico Livestock Board (NMLB), commissioned by the NMLB, Affiant is a Special Investigator. Affiant has worked for the NMLB for 5 year 4 months. Affiant did attend and successfully completed the Basic Law Enforcement Academy and has been a certified police officer for 4 years 3 Months. Affiant has training, both on the job and in the class room. Affiant has specific training, both on the job and in the classroom, in laws and regulations concerning livestock.

The undersigned, under penalty of perjury, complains and says that on or about or between the 1st Day of December, 2020 and the 8th Day of February, 2021, in the County of Valencia, State of New Mexico, the above-named defendant(s) did:

Commit the crime of Larceny of livestock by: willfully, and intentionally depriving one grey gelded thoroughbred tattooed M38872 from Jennifer Holmes.

Commit the crime of Forgery by: willfully, and intentionally falsely making John Talbot's signature on a bill of sale, with intent to defraud Jennifer Holmes as the owner of one grey gelded thoroughbred tattooed M38872.

Commit the crime of Fraud by: misappropriating a bill of sale to New Mexico Livestock Board Brand Inspector Cody Mathews, with the intent to deprive Jennifer Holmes of one grey gelded thoroughbred tattooed M38872.

The Affiant made contact with NMLB Officer Francisco Lovato on 2/7/2020 at approximately 2059 Hours. This call Officer Lovato informed the affiant of a current case involving a possible stolen horse/owner dispute in the Los Lunas area. 2/8/2020 at approximately 1200 hours Officer Lovato and I in full uniform, a marked unit displaying the badge of New Mexico Livestock Board arrived to 7 Helpers Road, Los Lunas NM. At this location we interviewed Mrs. Jennifer Holmes (victim) in reference to an owner dispute over a grey gelded horse.

Holmes stated Talbot called her, that morning, apologizing for lying about the horse being dead. Holmes stated that Talbot borrowed a gray gelding from Holmes, and was later told by Holmes the horse was dead. Talbot also told Holmes that Salomon Gomez forged a bill of sale from Talbot on the same horse.

Holmes stated that she knew Talbot for about a year and a half, he had galloped a couple colts for her, he has brought his kids to her place to ride, and he has borrowed Holmes' horse before. Officer Lovato asked Holmes you definitely agreed to let him (John Talbot) borrow your horse.

Holmes stated that she purchased the gray gelding horse at a race horse facility near Romoland, CA.; from Eric Flores.

Officer Lovato asked how much she paid for that horse. Holmes stated \$1500.

On 2/8/2020 at approximately 1421 hours Officer Lovato and I in full uniform, a marked unit displaying the badge of New Mexico Livestock Board arrived to 2507 NM-47 Belen NM. At this location we conducted a field interview with Salomon Gomez in reference to an owner dispute between him and Jennifer Holmes.

I was introduced as Dennis Alarid a Special Investigator for the New Mexico Livestock Board by Officer Lovato. Gomez presented a written statement to Officer Lovato.

Officer Lovato asked if he paid cash for the horse, Gomez stated that he did pay cash that he had on hand.

Gomez stated that he knew there was another owner of the horse, that he tried to find out who that was, but when he couldn't he had Talbot sign a bill of sale.

I asked Gomez who was around when that Bill of sale was made. Gomez stated just me and Talbot, and he signed his name. Officer Lovato asked what time was this transaction done. Gomez stated that it was signed that afternoon.

The Affiant asked where the Bill of Sale was signed.

Gomez stated in the doorway of the shed near where we were standing. Gomez stated that he would send a text from Talbot that read, "your gonna come, your gonna bring the horse I said, and my bill of sale, and this going to be final." Talbot texted back, "yes I am on my way."

On 2/10/2020 at approximately 1053 Hours Officer Lovato and I in full uniform, a marked unit displaying the badge of New Mexico Livestock Board arrived to 1155 Tejada Rd, Santa Rosa, NM to conduct a field interview with John Talbot.

Officer Lovato asked Talbot when he borrowed the horse. Talbot stated about four months ago he borrowed it a few times from Jenny who had no problem with it. He took it, rode it, and cared for it. The Affiant asked Talbot if he knew about what month he borrowed the horse, Talbot stated it was around October or November.

Talbot stated that he left the horse with Gomez, at his residence, after riding along with Gomez, about two to three weeks ago, not knowing the exact date.

Officer Lovato asked after you left the horse at Gomez property, how long did it take for you to go back for the horse.

Talbot stated that when he went to get the horse back, Gomez wouldn't let him take the horses because Talbot owed him money. Talbot stated, "I came back about a week later because Jenny (Holmes) started asking for the horse. I started panicking a little bit. That's when he (Gomez) told me no get off of my property. You know. He (Gomez) has got a gun. You know. I am like yeah you know I will back off. You know. So I freaked out because I didn't have the money to pay Sal (Gomez). So I told Jenny I lied and I messed up by doing that."

The Affiant asked Talbot how much money was owed to Sal (Gomez), and for what. Talbot stated \$300 for a saddle he bought from Sal (Gomez), and that saddle ended up being stolen.

Officer Lovato asked, "So you said he (Gomez) had a gun on him?"

Talbot stated Gomez had a gun and that he wasn't right in his face with it, but he showed the gun to Talbot letting him know he had it. Gomez demanded that Talbot get off his property. Talbot then moved to Santa Rosa and contacted Holmes letting her know that he lied about the horse dying, and where the horse was located. Talbot stated that he never sold the horse to Gomez nor did he give him the horse.

Officer Lovato asked if Talbot had any contact with Sal (Gomez).

Talbot stated prior to Sunday a lot, he has threatened me left and right. Talbot stated that Gomez was trying to make him say he sold the horse to him. Gomez demanded \$2000 dollars from Talbot for the time he put into this horse, claiming he made the horse better. Talbot told Gomez that he was never asked to do any of that.

Talbot wrote a statement and signed it, containing the facts outlined in this complaint. Affiant presented Talbot the bill of sale Gomez gave to Officer Lovato, Talbot stated that it was not his writing or signature on the bill of sale.

Officer Lovato and I reviewed Talbot's signatures from his statement and compared them to the Bill of Sale Gomez gave to Officer Lovato. It appeared to both Officer Lovato and I that Talbot's signature did not match on Gomez Bill of Sale due to the writing on the Bill of Sale being very sloppy. Talbot's signature on his statement was very neat along with his writing.

The Affiant made contact with Erik Flores, Juan Luna, and Celso Avila. It was confirmed that Holmes did purchase the horse in question in California. Therefore sufficient proof of ownership was met and the horse was released from impound back to Holmes on 2/10/2020.

Based on the aforementioned facts Affiant believes there is probable cause for the issuance of an arrest warrant charging the above named defendant, Salomon Gomez, with the above listed crimes of: Larceny, Forgery, Fraud
Contrary to Section(s) 30-16-1 (G), 30-16-10 (B), 30-16-6 (D)

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

If Probable Cause Determination Required

Probable Cause Found X ; Not Found
(If not found, complaint dismissed &

Officer Dennis K. Alarid, Complainant
Special Investigator NMLB

X
Defendant released)

Date: 02/17/2021

Judge: [Signature]

District Attorney Approval
[Signature]

This Complaint may not be filed without the prior payment of a filing fee unless approved by the District Attorney or a law enforcement officer authorized to serve an Arrest or Search Warrant. Approval of the District Attorney or a law enforcement officer is not otherwise required.