

**STATE OF NEW MEXICO  
COUNTY OF GRANT  
SIXTH JUDICIAL DISTRICT COURT**

**No. D-608-CR-2017-00069  
Judge Jarod K. Hofacket**

**STATE OF NEW MEXICO,  
Plaintiff,**

**vs.**

**ISAIAS LOBATO-RODRIGUEZ,  
Defendant.**

**DEFENDANT'S MOTION TO CONTINUE JURY TRIAL**

**COMES NOW** Isaias Lobato-Rodriguez, by and through his attorney, H. Chico Gallegos, and respectfully moves the Court for an Order Continuing the Jury Trial scheduled to commence herein on October 7, 2019, and as grounds therefore states:

1. A previous defense attorney was assigned to this case. Said defense attorney, with leave of the court, withdrew on August 22, 2018.
2. Attorney, H. Chico Gallegos, on contract with the Law Office of the Public Defender and practicing out of Las Vegas, New Mexico, entered his appearance on September 20, 2018.
3. Since entering his appearance, counsel for defendant has reviewed more than 8,000 pages of discovery, photos, reports, audio and videos.
4. Counsel for defendant in cooperation with the State of New Mexico has conducted pre-trial interviews, some via telephone, most in-person in Silver City, NM.
5. The transcribed pages of said pre-trial interviews span numerous hours and total over 400 pages.

6. The State and defense have been diligent and methodical in their preparation for trial.
7. Over the course of reviewing the pre-trial interviews, and in light of the Court's order denying the motion to suppress defendant's statements, it became clear to the defense that it needed to secure its own expert witness with regards to what was said in the English and Spanish languages between defendant and various law enforcement officers, primarily US Border Patrol.
8. In mid-September, counsel for defendant contacted Deputy District Attorney, Matthew Bradburn, regarding the issue of the importance of precision as to what was said between defendant and Border Patrol Agents for the benefit of the jury as well as preserving the record. Both counsel discussed the logistics and challenges involved in utilizing court appointed interpreters who would otherwise be assigned to interpret for defendant, witnesses and jurors. DDA Bradburn then arranged a pre-trial hearing on the matter with this Court to address this issue and any other pending pre-trial matters.
9. In the interim, Counsel for defendant secured a certified Spanish/English interpreter as an expert witness.
10. This case was called by the Court for a pre-trial hearing on September 23, 2019, at which time the language issue and the need for the defense witness was discussed. The State and defense each expressed agreement to the Court that language is a core issue and that precision in communicating to the jury what was said by defendant and US Border Patrol was of critical importance to the

trial. Defense counsel agreed to make said witness available to the State should they wish to interview or talk to her.

11. At 1:32 pm on Wednesday October 2, 2019, counsel for defendant received an email from the expert witness informing the defense that she was no longer available or willing to participate as a witness for the defense.

12. Defense counsel immediately deployed his office staff to try to secure a comparable witness who would substitute. As of the filing of this Motion, the defense has been unable to secure a substitute and, given the short notice, it is unlikely the defense will be successful in this regard.

13. The final preparation for trial, communication with defendant during trial, the cross examination of State's witnesses by defense counsel, and the presentation of its own defense rely heavily and almost entirely on the defense's access to its own language expert and the ultimate testimony of said expert witness.

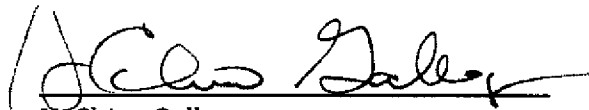
14. Court appointed interpreters serving other functions are not a viable alternative to a witness and will not be available to the defense for consultation, and will not be subject to examination and cross-examination.

15. Without its expert witness, defense counsel will not be fully prepared for trial and will be ineffective should the matter proceed to trial without the benefit of said witness.

16. Matthew Bradburn, Deputy District Attorney, takes no position on this motion.

**WHEREFORE**, the defendant prays that this court grant the defendant's motion to continue, to vacate the current trial setting, and to reset this matter at a later date.

Respectfully submitted,



H. Chico Gallegos  
Attorney for Defendant  
127 Bridge Street  
Las Vegas, New Mexico 87701  
505.425.9477  
505.425.9369 fax

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion was sent to Matthew Bradburn, Assistant District Attorney, on this 3<sup>rd</sup> day of October, 2019.

