

New Mexico governor goes full tyrant

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By Terry A. Hurlbut

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The governor of New Mexico has just openly defied the U.S. Constitution and Supreme Court. One can safely assume that no one ever expected any office holder, at any level, to take such action. But in suspending open and concealed carry permits for thirty days in one of her cities, Gov. Michelle Lujan Grisham (D-N.M.) made the most blatant suspension of liberties thus far in these United States. In so doing, she imitated, yet again, a certain Roman, famous as one learned in the law, who should be infamous for his having set the precedent for the kind of flouting of the Constitution that Gov. Grisham has lately committed.

What happened in New Mexico

Last Friday (September 8), Gov. Grisham issued an Executive Order that no person, except a law-enforcement officer or licensed security guard, shall carry any firearm, openly or concealed, on any but strictly private property, in any jurisdiction meeting a threshold for recent “gun violence” against innocent people (particularly children), for thirty days. (The most detailed description of the order comes from KOB-TV, Channel 4, Albuquerque, N.M.) In addition, Patrick Allen, Secretary of Health for New Mexico, issued this Public Health Order. That order has other provisions for enhanced regulatory inspections that apply throughout the State of New Mexico. But the no-carry provisions apply only in counties that meet a threshold of police and emergency-room reports of shooting deaths. At present, only Albuquerque and Bernalillo County, which includes it, qualify.



Watch Video At: https://youtu.be/Oc9vUiC_Eq0

Gov. Grisham ordered Secretary Allen to so act after an eleven-year-old child died tragically in a drive-by shooting. She tried to justify her action in a press conference, after declaring a *public health emergency*.



Watch Video At: <https://youtu.be/S9oLOubipXc>

A reporter asked her whether she knew she stood in violation of the Constitution by suspending the Second Amendment. That reporter also reminded her that she swore to uphold the U.S. and New Mexico Constitutions at her inauguration. She answered:

With one exception, and that is: in an emergency – and I have just declared an emergency for a limited ... time – I may suspend such rights.... No part of the Constitution, including my oath, is intended to be absolute. There are limits on my rights; there are limits on your rights...

She also spoke of the “Constitutional rights” of parents of small children who die in random shootings. But as she spoke on, the “right” she recognized for these parents, is: safety.

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Those who would sacrifice essential liberty in order to purchase a little temporary safety, deserve neither liberty nor safety. *Benjamin franklin*

Gov. Grisham, you're no Cicero!

CNAV said what follows about pResident Biden when he made *That Speech* more than a year ago. Likewise we say it again of the governor of New Mexico. *Señora Lujan-Grisham, usted no es Cicerón.* (Mrs. Grisham, you are no Cicero.) But Marcus Tullius Cicero did indeed set the precedent for what Gov. Grisham has done.

In the year of his joint consulship with Antony the Proud, Cicero developed evidence that a perennial and failed candidate for the Consulship was planning insurrection and rebellion against the Roman state. (If that sounds familiar, it should – and not merely because CNAV has discussed this before.) A skeptical Senate resisted his calls to arrest that failed candidate (Lucius Sergius Catilina, whom historians simply call Catiline). Catiline ruined himself by making his attitude all too obvious. Whereupon Cicero asked the Senate to issue an emergency decree – *Senatus consultum de re publica defendenda* (Senate decree to defend the Republic), or *Senatus consultum ultimum* (Senate ultimate decree, abbreviated SCU) – declaring Catiline an enemy of the State.

Catiline did flee Rome, and did lead an army against it. Antony the Proud annihilated him and his forces. That much one can understand – but the SCU granted Cicero extraordinary and plenipotentiary powers. He used those powers to arrest five of Catiline's confederates inside Rome. Then he asked the Senate to pass another decree to execute them all – summarily.

After this execution, Cicero was too superstitious to say,

Mortui sunt. (They are dead.)

So he said instead,

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| *Vixerant!* (They had lived!)

An unconstitutional order

Thus far we haven't seen any summary executions from the Grisham order. Indeed we do not yet year of any arrests. (More on why, below.) But she has in fact issued what Cicero might call an *Ordo executivus ultimus*. Or in the Greek in which he liked to write, one word: *Dogma*. (See Luke 2:1 for the prize example of the use of that last word.)

This order flies in the face of *New York State Rifle and Pistol Association v. Bruen*, 597 U.S. ____ (2022). But so far, several legal hurdles exist toward overturning the order in the federal courts. First, as Red Voice Media points out, the order lasts only thirty days. The U.S. District Court for the District of New Mexico might enjoin it at once, or not. Even if that Court enjoins it, the Ninth Circuit might reverse – and Justice Elena Kagan, supervising Justice for that Circuit, might quietly affirm. By the time any appeal of a dismissal reached the Ninth Circuit, the order would expire. (Or Gov. Grisham might renew it, in which case we deal with a new order, a new challenge, a new dismissal, a new petition, a new quite denial, on and on and on.)

Key New Mexico authorities refuse to obey!

But: that assumes no arrests come of this order. In fact, we see every indication (thus far) that the order will be a total dead letter. Several law-enforcement and legal officials have all signaled their *refusal to enforce this order*. They include, among other, the:

- Mayor and Chief of Police of Albuquerque, and the:
- Sheriff and District Attorney for Bernalillo County, which includes Albuquerque.

The Sheriff of Bernalillo County said flatly he does not want his deputies to risk having someone hale them into court on a civil-rights charge. To say nothing of the folly, as this Sheriff sees it, of depriving people of the right and power of self-defense when conditions are as dire as the Governor claims!

Then add this to it: a large group of gun owners came to Albuquerque and held a rally in the Old Town district. They brought their guns and carried them, as if to say to the Albuquerque Police Department, "Arrest us!" Which, again, they will not – the Chief of Police said they wouldn't. But that leaves the New Mexico State Police – from whom, thus far, we haven't heard.

The legal angle

Already, the local chapter of Gun Owners of America is suing the Governor in the U.S. District Court for the District of Mexico. *Donk v. Grisham*, 1:23-cv-00772. (See the [docket page](#) on CourtListener.)

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Randy Donk, the lead individual named plaintiff, has also moved for a Temporary Restraining Order against the Governor and Secretary.

We shall see whether Red Voice Media is correct and the judge will likely dismiss the case as moot. Which the judge might do in the absence of an actual arrest, saying that harms must be actual, not hypothetical. Mr. Donk cites a precedent saying that harms *can* be hypothetical in such cases. But judges can get ornery and flout such precedent. The identity of this judge bodes ill for this case: David H. Urias, a Biden appointee. He assumed the bench since January 14, 2022. Yesterday Judge Urias scheduled a hearing for today on the TRO motion – and then immediately postponed it indefinitely.

But suppose that a New Mexico State Trooper *does* arrest someone for violating the Governor’s EO. Then an actual harm *would* have occurred, and a judge would have to take cognizance of this. Any person under such arrest and/or imprisonment would have an actionable claim – arrest or imprisonment in violation of his rights under the Constitution – for which a court could grant relief – in this case, immediate release, plus restitution for what would amount to false imprisonment.

How long might the case play out


Even so, the case might take two years to reach the Supreme Court, considering the chronic docket overload. But barring the death (or Justicial assassination) of Justices Thomas and Alito, and the appointments of, say, Justices Obama and Ocasio-Cortez to replace them, the Supreme Court is likely to grant an eventual order that will run like this:


The petition for a writ of certiorari is GRANTED. The judgment of the [Ninth Circuit Court of Appeals] is VACATED, and the case is REMANDED to [that] court for reconsideration in light of *New York State Rifle and Pistol Association v. Bruen*.

Still, to rely even on those courts might not be wise. That’s why all those gun owners congregated, guns in hand, in Old Town Albuquerque, to say in effect, “Arrest us.” Only direct defiance will serve. Gov. Grisham might indeed have found that she has nothing close to sufficient support from local officials. So the next exciting event is likely to unfold with her marching to such a rally, with a full unit of State Troopers at her back, and then pointing to those rally-goers and saying, “Arrest them.” Time alone will tell whether she really has the stuff of a Cicero, to enforce her *Ordo executivus ultimus*.

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But there *is* more. Two New Mexico State Representatives are already calling to remove Gov. Grisham on impeachment.

 PRESS RELEASE: [@RepBlock](#) & I are calling for the impeachment of [@GovMLG](#). New Mexicans won't stand by as she disregards her oath to uphold our Constitution.

Read the full press release below!  pic.twitter.com/r5kt9nOSvI— Rep Stefani Lord (@Lord4NM) September 9, 2023

We can and will force a vote on this. There is no escaping We The People and our rights that have been infringed upon. <https://t.co/L6nLrUSc3N>— Rep. John Block (@RepBlock) September 9, 2023

Public health excuses for gun control are not new. Your editor, in medical school, once answered a “health survey” that listed the carrying of weapons as a health risk. This is the culmination of such an attitude, but the excuse remains just that: an excuse. Freedom loving people must show they will not accept it.