

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

LIZELLE GONZALEZ	§	
<i>Plaintiff</i>	§	
	§	
vs.	§	CIVIL ACTION 7:24-CV-00132
	§	
GOCHA ALLEN RAMIREZ, et al.	§	JURY DEMANDED
<i>Defendants</i>	§	

**PLAINTIFF'S SUPPLEMENTAL OMNIBUS RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

Pursuant to the Agreed Modified Discovery Scheduling Order entered on September 25, 2025, ECF 102 (“Scheduling Order”), Plaintiff Lizelle Gonzalez submits this Supplemental Omnibus Response to Defendants’ Motions for Summary Judgment.

RELEVANT PROCEDURAL BACKGROUND

As a preliminary matter, Plaintiff notes that there are still outstanding disputes regarding Phase One (immunity assertions) discovery. On July 8, 2025, Plaintiff filed a letter with the court regarding various discovery disputes, including among others the defense counsel’s failure to conduct an adequate search of Defendant Sheriff Fuentes’s phone. ECF 80. The Court ordered production of that and other information at the hearing held on September 17, 2025—but even still, Defendants continue to withhold ESI that is materially relevant to all three Defendants’ motions for summary judgment. ECF 113 at 5-10, 14-15¹ (Plaintiff’s Motion to Compel Discovery and Impose Sanctions). Motions for summary judgment should be considered only after all discovery

¹ Except where citing to depositions, all page number references are to ECF stamped numbers.

related to the issues raised has concluded. *Int'l Shortstop, Inc. v. Rally's, Inc.*, 939 F.2d 1257, 1267 (5th Cir. 1991) (“[w]here the party opposing the summary judgment informs the court that its diligent efforts to obtain evidence from the moving party have been unsuccessful, a continuance of a motion for summary judgment for purposes of discovery should be granted almost as a matter of course.”) (citation modified). Accordingly, before ruling on any part of Defendants’ motions, the Court should first address Plaintiff’s Motion to Compel Discovery and Impose Sanctions. ECF 113.²

At the September 17, 2025, hearing, the Court directed further ESI production from Defendants and allowed time for Defendants’ deposition of witness Bernice Garza. Pursuant to the subsequent Scheduling Order, ECF 102, Plaintiff files this brief to supplement her Omnibus Response in Opposition to Defendants’ Motions for Summary Judgment. ECF 91 (“Omnibus Response”). In addition to summary judgment evidence attached to and/or referenced in that brief, Plaintiff relies on the following summary judgment evidence produced since the September 17 hearing:

- ECF 114-1: Deposition Testimony of Bernice Garza, a former 229th District Attorney’s Office Crime Victims Coordinator, taken on 10/20/2025, relevant excerpts of which are attached hereto;
- ECF 113-22: Messages between L. Fuentes and C. Delgado, dated January 11, 2022;
- ECF 113-22: Messages between E. Muniz & L. Fuentes, dated March 17, 2022;

² On April 20, 2022, Major Delgado texted Investigator Muniz asking whether there were any written communications between the Sheriff’s Office and DA’s office via text or email pertaining to Lizelle Herrera and requested that any such communications be forwarded to him. ECF 113-22 at 13-14. This instruction raises concern, given the Defendants’ history of deleting messages related to the prosecution of Plaintiff and to this litigation.

- ECF 114-2: Sheriff's Office CID group chat message, dated March 25, 2022;
- ECF 114-3: Message from L. Fuentes to CID group, dated April 4, 2022;
- ECF 113-22: Message between E. Muniz & L. Fuentes, dated April 7, 2022;
- ECF 113-22: Sheriff's Office CID group chat messages, dated April 7, 2022;
- ECF 113-22: Sheriff's Office CID group chat messages, dated April 11, 2022;
- ECF 114-4: Sheriff's Office CID group chat messages, dated April 12, 2022; and
- ECF 113-22: Messages between C. Delgado and E. Muniz, dated April 20, 2022.

SUPPLEMENTAL STATEMENT OF FACTS

The newly-produced document discovery and Bernice Garza's testimony provide additional support for Plaintiff's claims in this case and further erode Defendants' assertions of absolute and qualified immunity. The new evidence corroborates that, as shown in Plaintiff's Omnibus Response, all three individual Defendants were aware of and involved in the investigation of Ms. Gonzalez from start to finish.

I. Deposition testimony of Bernice Garza

Ms. Garza's testimony was consistent with the substance of her affidavit, and she expounded on the individual Defendants' direction of the Starr County Sheriff's Office investigation of Ms. Gonzalez. Ms. Garza testified that the DA's office was a small office where DA staff frequently discussed active cases. ECF 114-1 (B. Garza Dep. 246:24-247:18; 248:11-24; 141:18-20). And Ms. Garza explained that because of her close working relationships with them, it was common for Defendants Ramirez and Barrera to discuss ongoing cases and investigations with her. ECF 114-1 (B. Garza Dep. 239:8-11; 239:15-240:2; 240:4-7). Between January 2022 and April 2022, Ms. Garza witnessed or directly took part in discussions about Ms. Gonzalez's investigation with Defendants Ramirez and Barrera—both one-on-one and all together—in person,

via phone call, and through messaging. ECF 114-1 (B. Garza Dep. 236:12-14; 236:16-21; 240:13-20; 248:15-24; 271:1-4; 281:14-19). Specifically, Defendants Barrera and Ramirez communicated with Sheriff's Office personnel and each other about what the Sheriff's Office investigators were doing, the status of the investigation, and the directions they gave to Sheriff's Office investigators. ECF 114-1 (B. Garza Dep. 175:2-10.; 270:22-271:4); *see also* ECF 91-11 at ¶ 9 (Affidavit of B. Garza).

Defendant Barrera, for example, told Ms. Garza that she instructed Investigator Muniz to get medical records regarding Ms. Gonzalez's abortion. ECF 114-1 (B. Garza Dep. 175:2-10). Defendant Barrera kept Ms. Garza abreast of the investigation by telling her "I've instructed Esmer [Investigator Muniz] that this, or I've asked Esmer to do this. I need to call Esmer because we need this." ECF 114-1 (B. Garza Dep. 283:10-18). At the time, it was common practice for the attorneys at the DA's office to direct law enforcement investigations, including instructing them who to interview. ECF 114-1 (B. Garza Dep. 260:17-261:2; 261:25-262:4; 262:9-18). Additionally, Defendant Barrera informed Ms. Garza that she had even spoken directly to Dr. Lozano, one of Ms. Gonzalez's treating physicians, and some members of the Starr County Memorial Staff. ECF 114-1 (B. Garza Dep. 107:11-108:6; 109:2-6); *see also* ECF 91-11 at ¶ 5 (Affidavit of B. Garza). Defendant Barrera also said to Ms. Garza that "abortion was a hot topic" and "kind of taboo in Starr County." ECF 114-1 (B. Garza Dep. 257:1-14). At one point in the investigation, Defendant Barrera asked Ms. Garza to do some research to determine who the "victim" of the alleged crime would be. ECF 114-1 (B. Garza Dep. 120:11-16; 120:22-121:1).

Prior to the grand jury presentation, and as part of the investigation, Ms. Garza recalled that Defendant Barrera participated in a "staffing," which is a meeting of the people assigned to a case, with law enforcement and investigators to discuss the facts that "had been gathered to date." ECF

114-1 (B. Garza Dep. 143:2-8). Ms. Garza participated in discussions with both Defendants Ramirez and Barrera (together and separately) as to whether a murder charge against Ms. Gonzalez was possible under existing law, and the potential aftermath of an unjust indictment and arrest. ECF 114-1 (B. Garza Dep. 142:7-21; 270:22-271:4) (describing Ms. Barrera speculating whether the case against Ms. Gonzalez could “move forward,” whether a law had been broken, if “whatever they were going to charge Lizelle with would stick” and “if it was the right thing to do.”). ECF 114-1 (B. Garza Dep. 142:7-21; 146 4-12). Although ADA Villarreal rarely discussed cases with Ms. Garza, during the investigation of Ms. Gonzalez, Ms. Garza overheard Defendants Ramirez and Barrera discussing missing evidence or testimony with ADA Villarreal. ECF 114-1 (B. Garza Dep. 240:8-10; 250:3-8; 277:11-16).

The murder investigation was also a topic in the ongoing rivalry between ADA Villarreal and Defendant ADA Barrera, which was obvious to the entire small office, including Defendant Ramirez, as the two ADAs were trying to “outdo each other.” ECF 114-1 (B. Garza Dep. 240:25-241:6; 241:10-12; 244:15-245:2). The bickering between ADA Barrera and ADA Villarreal became such an issue in the office that although ADA Villarreal was already the “First ADA,” Defendant Ramirez promoted ADA Barrera to share the title of “First ADA” to appease her. ECF 114-1 (B. Garza Dep. 243:5-6; 243:9-11; 243: 21-244:1). Defendant Barrera considered the murder case against Ms. Gonzalez as “her case” and she would not allow ADA Villarreal to step in and “take credit.” ECF 114-1 (B. Garza Dep. 257:18-258-3).

Ms. Garza testified that Defendant Ramirez’s contentions that he was not involved with and was not aware of the investigation of Lizelle Gonzalez are untrue. ECF 114-1 (B. Garza Dep. 282:8-14). Ms. Garza’s relevant discussions with Defendant Ramirez occurred both before indictment and before arrest. ECF 114-1 (B. Garza Dep. 152:3-19; 238:15-239:2). And because of

her additional role working on Defendant Ramirez's campaigns at the time, Ms. Garza had specific discussions about how an indictment and arrest of Ms. Gonzalez would affect Defendant Ramirez's bid for re-election for District Attorney. ECF 114-1 (B. Garza Dep. 238:8-239:2). Further, Ms. Garza testified that following the indictment but prior to arrest, individuals outside of the DA's office contacted Ms. Garza about the indictment being unjust and said that proceeding with an arrest would also be unjust. ECF 114-1 (B. Garza Dep. 201:18-23).

According to Ms. Garza, Defendant Ramirez's April 10, 2022, press release, which apologized for and acknowledged that there had been no legal basis for the prosecution, was issued "to appease the masses." ECF 114-1 (B. Garza Dep. 268:3-4; 268:7-13). The DA's Office also took part in public relations appearances following Ms. Gonzalez's arrest in order to "deter the attention." ECF 114-1 (B. Garza Dep. 268:15-22).

Upon learning of Ms. Garza's potential involvement in the instant case, Defendant Barrera instructed her not to discuss her knowledge of the investigation of Ms. Gonzalez with Plaintiff or her counsel. ECF 114-1 (B. Garza Dep. 273:9-13; 274:15-23; 275:9-12; 275:18-21).

II. Additional ESI produced by Defendants

On January 11, 2022, shortly after the murder investigation was initiated, Starr County Sheriff's Captain Lenard Fuentes messaged Major Carlos Delgado, "Lizelle Herrera . . . from falcon heights," to which Major Delgado responded "10-4." ECF 113-22 at 10-11 (Herrera is Plaintiff Gonzalez's previous last name). On March 17, 2025, Investigator Esmeralda Muniz messaged Captain Fuentes, "Good morning . . . spoke to Alex from DAs office, she is there today so I'm turning in the case of the fetus before I go 42," to which Captain Fuentes responded, "Ok." ECF 113-22 at 7.

Defendant Barrera presented the case to the grand jury on March 25, 2022. ECF 79-1. On that same date an unknown number texted the Starr County Sheriff's CID (investigations) group

chat—which included Defendant Sheriff Fuentes—stating that “Going 42, went well grand jury.” ECF 114-2. Soon after the indictment was issued, but before the arrest of Ms. Gonzalez, Captain Fuentes texted the CID group reminding them of “lunch tomorrow with the DA’s office.” ECF 114-3.

On April 7, 2022, Investigator Muniz messaged Captain Fuentes that “Trini [the DA’s office investigator] called me that the seal indictment for Murder is ready.” ECF 113-22 at 7. That same day, several Sheriff’s officers went searching for Ms. Gonzalez and located her to bring her in for arrest. ECF 113-22 at 1-6.

On April 11, 2022, following the backlash and the DA’s decision to dismiss the prosecution, unknown numbers texted the SCSO CID group, “[Esmer], don’t lose focus. This was not on the Sheriff’s office...We as law enforcement didn’t fail this child...” ECF 113-22 at 12. At approximately 1:00p.m. the following day, Investigator Juan Guerra advised the CID group that he “will be having a meeting with ada Alex at 2 today” to which Captain Fuentes responded “T4”. ECF 114-4.

SUPPLEMENTAL ARGUMENT

Should this Court deem Defendants’ Motions for Summary Judgment to be ripe for consideration, the discovery obtained since the Court’s September hearing only strengthens Plaintiff’s argument that there are genuine issues of material fact as to each Defendant’s assertions of immunity. Accordingly, Defendants’ Motions for Summary Judgment should be denied in their entirety.

I. Defendants’ motions for summary judgment fail because there are numerous disputed issues of material fact that directly bear on the immunity assertions.

Plaintiff incorporates the argument and authorities set out in her Omnibus Response to Defendants’ Motions for Summary Judgment. ECF 91. In addition, the factual allegations set forth

above raise additional disputes of material facts as to Defendants' claims of immunity. In fact, Defendants' likely assertion that Ms. Garza is not a credible witness, *see* ECF 94 at 4-5 (Def's Mtn. to Strike), only emphasizes the disputes of material fact concerning Defendants' active involvement in the investigation and their knowledge of the lack of a legal basis for the prosecution. Because summary judgment can only be granted when there are no material facts in dispute concerning the legal questions presented to the court, Defendants' motions for summary judgment fail at the outset. ECF 91 at 22-26.³ The Court's inquiry should end here.

II. Defendants Ramirez and Barrera are not entitled to absolute immunity because they acted beyond the scope of their prosecutorial function.

If the Court proceeds to analyze the elements of immunity, Plaintiff has set forth competent summary judgment evidence that consistently shows that the prosecutor Defendants' conduct was not confined to the judicial phase of the criminal process and therefore is not covered by prosecutorial immunity. Defendants Ramirez and Barrera have failed to meet their burden for summary judgment on absolute immunity.

A. Defendants Barrera's and Ramirez's direction of the investigation fall outside of the scope of the prosecutorial function.

The newly-obtained documents and deposition testimony reinforce the substantial evidence presented in Plaintiff's opposition to Defendants' Motions for Summary Judgment. Defendants Barrera and Ramirez were directly involved in the investigation. In addition to the evidence discussed in Plaintiff's opposition briefing, Defendant Barrera used Bernice Garza as a sounding board for what she (Barrera) believed would be a major case that would assist her career and set her apart from ADA Villarreal. From the outset of the investigation, Defendant Barrera discussed the necessary witnesses and evidence with Ms. Garza, ADA Villarreal, and Defendant

³ Page number references are to the ECF stamped numbers.

Ramirez in Ms. Garza's presence. Defendant Barrera discussed speaking directly to Ms. Gonzalez's treating physician herself, certainly an investigative function, and that she told the investigators who to interview and what to obtain.

Ms. Garza witnessed Defendants Barrera and Ramirez discussing the status of the investigation and what was missing. These discussions leave no doubt as to the involvement of both DA Defendants throughout the investigation. Defendant Barrera, through electronic messaging and at least one in-person staffing meeting, then directed Sheriff's Office Investigators Muniz and Aguirre to obtain missing information. According to Ms. Garza, it was the usual practice for the ADAs to direct investigations. This case was no different, and those investigatory functions fall outside the scope of prosecutorial immunity. *See* ECF 91 at 35-47 (Omnibus Response). Defendant Barrera's contention that she did nothing more than answer investigators' questions is not credible, given the common practice of the office and the significant evidence showing otherwise.

Defendant Ramirez's contention that he was only remotely aware of the investigation and subsequent indictment is amply contradicted—both by the record submitted in Plaintiff's Omnibus Response and by the discovery conducted since September. The small office work environment engendered frequent discussions and debate amongst Defendant Ramirez and his staff about ongoing major cases—including Ms. Gonzalez's. Even if Defendant Ramirez did not have direct communication with the Sheriff's investigators, he provided advice and direction to his assistants Villarreal and Barrera during the investigation that was passed onto the investigators.

Even with all of the evidence to the contrary, Defendants continue to take the position that they played no role in the criminal investigation, decision to charge, or arrest of Ms. Gonzalez. ECF 95 at 2 (Def. Ramirez's Reply in Support of Mot. Summ J.); ECF 96 at 2 (Def. Barrera's

Reply in Support of Mot. Summ. J.); ECF 97 (Def. Fuentes's Reply in Support of Mot. Summ. J.). As set forth at length in Plaintiff's Omnibus Response, the documentary evidence and deposition testimony directly contradict Defendants' position and at minimum certainly present numerous disputed issues of material fact. ECF 91 at 27-30. The newly-produced evidence and the deposition testimony of Ms. Garza only serve to add to the considerable record that Defendants Barrera and Ramirez were intimately involved with the investigation of Ms. Gonzalez every step of the way. Defendants have attempted to hide the extent of their involvement by obstructing the discovery process, misleading Plaintiff and the Court, *see* ECF 113 at 5-10 (Plaintiff's Motion to Compel Discovery and Impose Sanctions), and even instructing a potential witness NOT to discuss her knowledge with Plaintiff or her counsel. ECF 114-1 (B. Garza Dep. 273:9-13; 274:15-23; 275:9-12; 275:18-21).

III. Defendants Ramirez, Barrera, and Fuentes are not entitled to qualified immunity because they violated Plaintiff's clearly established rights.

The newly-obtained documents and deposition testimony similarly confirm that Defendants are not entitled to qualified immunity because they violated Plaintiff's clearly established rights to be free from false arrest, malicious prosecution, and being framed for a crime.

Defendants Ramirez, Barrera, and Fuentes caused Plaintiff to be arrested by participating in her investigation and knowingly tainting the grand jury's deliberations by deciding to present and/or presenting the case as a homicide when there was no legal basis to do so. Defendant Ramirez and Barrera had multiple conversations that involved Bernice Garza about the Plaintiff before indictment and before arrest. During those conversations, Defendants Ramirez and Barrera discussed whether charging Plaintiff with murder was even possible under existing law and weighed the possible backlash to prosecuting Plaintiff. They debated if "whatever they were going

to charge Lizelle with would stick" and "whether it was the right thing to do." And Defendant Barrera discussed with Bernice Garza how "abortion was a hot topic" and "kind of taboo in Starr County."

During the investigation into Plaintiff, Defendants Barrera and Ramirez discussed what evidence the Sheriff's Office investigators needed to obtain and directed Sheriff's Office investigators accordingly. Defendant Barrera even attended a "staffing" of this case with the investigators to discuss what facts had been gathered. Then, Defendants Ramirez and Barrera decided the case was ready for grand jury presentation, and after they secured an indictment, Plaintiff was arrested for murder. At a minimum, evidence and testimony disclosed in discovery show that Defendants Ramirez and Barrera had doubts about the legality of the case against Plaintiff but pursued indictment and arrest anyway. Therefore, they are not entitled to qualified immunity.

During the investigation, Defendant Sheriff Fuentes instructed his staff to ask the DA's office what to do and to follow their direction. On March 25, 2022—the day Defendant Barrera presented Plaintiff's case to the grand jury—a Sheriff's Office employee messaged a group chat that included Sheriff Fuentes, stating "went well grand jury." Then on April 7, 2022, the DA's office informed Captain Fuentes that the sealed indictment was ready and the Sheriff's staff arrested Plaintiff that same day. Defendant Fuentes encouraged his staff to do as the DAs directed, despite not believing there was probable cause; therefore, he is not entitled to qualified immunity. ECF 91 at 48-51 (Omnibus Response).

CONCLUSION AND PRAYER

In order to prevail on their motions for summary judgment, Defendants must show that no genuine issue of material fact exists as to whether their actions are covered by the immunity

doctrine. The record contradicts Defendants' contentions. Although a considerable amount of relevant ESI has not been produced, what has been produced, along with documentary and deposition evidence, is enough to raise issues of material fact concerning Defendants' investigatory actions and their deliberate violations of Ms. Gonzalez's rights, despite clearly established law. Accordingly, Defendants are not entitled to summary judgment.

Plaintiff requests oral argument on Defendants' Motions for Summary Judgment.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE WITH PAGE COUNT

I hereby certify that the page count for this brief complies with the page limit requirements set forth in this Court's rules.



I. Cecilia Garza

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of November, 2025, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, and that service to all counsel will be provided through the CM/ECF system.



I. Cecilia Garza