

STATE OF NEW MEXICO
COUNTY OF SANTA FE
IN THE FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-101-CR-2023-00039

ALEXANDER RAE BALDWIN III,

Defendant.

**DEFENDANT'S ENTRY OF APPEARANCE, DEMAND FOR SPEEDY TRIAL,
DISCOVERY & EXCULPATORY INFORMATION, NOTICE OF DEFENSE
INTENT TO CALL WITNESSES**

COME NOW Luke Nikas and John Bash of Quinn Emanuel Urquhart & Sullivan, LLP, admitted *pro hac vice*, and Heather LeBlanc of Bailey, LeBlanc & Lane, and hereby enter appearances as Counsel of Record for Defendant Alexander Rae Baldwin III in the above-captioned case. On behalf of Mr. Baldwin, Counsel makes the following demands, requests, and motions to protect Mr. Baldwin's rights under both federal and state constitutions:

I. DEMAND FOR SPEEDY TRIAL

Mr. Baldwin asserts his right to a speedy trial as guaranteed by the Sixth Amendment of the United States Constitution, Article 2, Section 14 of the New Mexico Constitution, as interpreted by *Barker v. Wingo*, 407 U.S. 514 (1972), and *State v. Garza*, 2009-NMSC-038, 146 N.M. 499. Mr. Baldwin is entitled to a fair and speedy disposition of the charges to minimize public vilification and suspicion and to avoid the hazards of proving his innocence that often arise after lengthy delays in prosecution.

II. DISCOVERY DEMAND

Pursuant to Rule 5-501(A), Mr. Baldwin demands the District Attorney preserve all evidence related to the above-captioned case and produce the following discoverable material no later than ten days after Mr. Baldwin is arraigned or waives arraignment:

- (1) Any statement made by Mr. Baldwin, or codefendant, or copies thereof, within the possession, custody, or control of the state, the existence of which is known, or by the exercise of due diligence may become known to the district attorney;
- (2) Any books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody, or control of the state, and which are material to the preparation of the defense or are intended for use by the state as evidence at the trial, or were obtained from or belong to Mr. Baldwin;
- (3) Any results or reports of physical or mental examinations, and of scientific tests or experiments, including all polygraph examinations of witnesses, made in connection with this particular case, or copies thereof, within the possession, custody, or control of the state, the existence of which is known, or by the exercise of due diligence may become known to the prosecutor;
- (4) A written list of the names and addresses of all witnesses which the prosecutor intends to call at the trial, identifying any witnesses who will provide expert testimony and indicating the subject area in which they will testify, together with any statement(s) made by the witness and any record of prior convictions of any such witness which is within the knowledge of the prosecutor; and
- (5) Any material evidence favorable to the defendant which the state is required to produce under the due process clause of the United States Constitution.

Rule 5-501(A), NMRA; This is a continuing demand for discovery under Rule 5-505, NMRA.

III. DEMAND FOR EXCULPATORY INFORMATION

Mr. Baldwin further demands the prosecution release and disclose to the defense any and all exculpatory information in its possession, under its control, or which through due diligence

may become known to the government, including but not limited to any evidence that tends to negate the guilt of the accused, mitigate the degree of offense, or reduce the punishment of the defendant. *Kyles v. Whitely*, 514 U.S. 419, 437 (1995) (holding that prosecutors have a duty to learn of any favorable evidence known to others acting on their behalf and to disclose same to the defense); *United States v. Agurs*, 427 U.S. 97, 107 (1976) (holding that a prosecutor's duty to disclose is applicable even without a defense request); *United States v. Bagley*, 473 U.S. 667, 676 (1985) (holding that a prosecutor's duty to disclose encompasses impeachment evidence as well as exculpatory evidence); *United States v. Giglio*, 405 U.S. 150 (1972) (holding that when the reliability of a given witness is material to determination of guilt or innocence, nondisclosure of evidence affecting credibility falls within *Brady*); *Giles v. Maryland*, 386 U.S. 66 (1967) (holding that a conviction in state court violates due process when the prosecution allows false evidence to go uncorrected, even though it may be relevant only to the credibility of a witness); *Brady v. Maryland*, 373 U.S. 83, 87 (1963) (holding good faith or bad faith of the prosecution is immaterial when key evidence is not disclosed to the defense); *Amado v. Gonzalez*, 734 F.3d 936 at 949 (9th Cir. 2013) (holding that the Supreme Court has not tempered the prosecutor's *Brady* obligation by imposing a due diligence standard on defense counsel); *United States v. Buchanan*, 891 F.2d 1436 at 1442 (10th Cir. 1989) (holding that where witness credibility is material to the question of guilt, the disclosure obligation includes impeaching information); and *State v. LaMier*, 2017-NMSC-017, ¶16 (holding courts may impose meaningful sanctions where discovery orders are not obeyed and a party's conduct injects needless delay into the proceedings).

This discovery demand includes disclosing to Mr. Baldwin any and all information that tends to cast doubt on the credibility of any witness who may testify on behalf of the State at trial or on the veracity of any matter that the State's witnesses have suggested to the District Attorney,

State's attorneys, an agent of the State of New Mexico, or any investigative arm of the prosecution. Accordingly, "whether the nondisclosure [is] a result of negligence or design, it is the responsibility of the prosecutor." *Giglio*, 405 U.S. at 154 (holding that disclosure is the responsibility of the prosecutor's office as the entity and spokesperson for the Government). *See also United States v. Ackerman*, 831 F.3d 1292, 1296 (10th Cir. 2016) (holding that when actors are endowed with law enforcement powers beyond those enjoyed by private citizens, such actors qualify as agents of the government); *Smith v. Secretary of N.M. Dept. of Corrections*, 50 F.3d 801, 824 (1995) ("[b]ecause the police are considered agents of the prosecution for *Brady* purposes, the fact that it was the police and not the prosecutor who misplaced the [evidence], is irrelevant."); *United States v. Buchanan*, 891 F.2d 1438, 1436 (10th Cir. 1989) (impeachment is integral to a defendant's constitutional right to cross-examination so there exists no pat distinction between impeachment and exculpatory evidence under *Brady*); *United States v. Endicott*, 869 F.2d 452, 455 (9th Cir. 1989) ("Since...investigative officers are part of the prosecution, the taint on the trial is no less if they, rather than the prosecutors, were guilty of nondisclosure").

Mr. Baldwin also requests disclosure of all the terms and conditions of all agreements and understandings between any witness who may testify on behalf of the State at trial and any persons acting for or on behalf of the State of New Mexico, any agency of the state, or any public official or employee thereof, with respect to any and all charges that may be brought against any witness or will not be brought against any witnesses, and any other benefit, bargain, or special consideration to be given to any potential witness. Failure to provide this discovery violates the Defendant's right to cross-examination, to present a defense, to a fair trial, to compulsory process, and to due process of law. U.S. Const. amend. V, VI & XIV; N.M. Const. art II, §§14, 15 & 18; *Napue v. Illinois*, 360 U.S. 264 (1959).

Additionally, Mr. Baldwin requests disclosure of any and all evidence of any nature, type or description that indicates lack of knowledge, intent, or culpability by Mr. Baldwin in the allegations set forth in the Information or that would mitigate Mr. Baldwin's involvement and operate to his benefit on the issue of punishment. *Brady*, 373 U.S. at 87 (holding that the suppression by the prosecution of evidence favorable to an accused, either to guilt or to punishment, violates due process).

IV. NOTICE OF DEFENSE WITNESSES

Mr. Baldwin reserves the right to call any and all witnesses disclosed by the prosecution on a witness list for trial or hearing in this matter.

Respectfully submitted,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: /s/ Luke Nikas
Luke Nikas (admitted *pro hac vice*)
Counsel for Defendant
51 Madison Avenue, 22nd Floor
New York, NY 10010
Tel: (212) 849-7000
Fax: (212) 849-7100
lukenikas@quinnemanuel.com

John F. Bash (admitted *pro hac vice*)
300 W. 6th St., Suite 2010
Austin, TX 78701
Tel: (713) 221-7000
Fax: (737) 667-6110
johnbash@quinnemanuel.com

BAILEY, LEBLANC & LANE, PC
By: /s/ Heather M. LeBlanc
Heather M. LeBlanc
Counsel for Defendant
823 Gold Ave SW
Albuquerque, NM 87102
Tel: (505) 331-7222
heather@bli.law

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2023 I electronically filed the foregoing with the Clerk of the Court using the Court's electronic filing system, which caused all participants and counsel of record to be served, as more fully reflected on the Notice of Electronic Filing.

/s/ Heather M. LeBlanc
Heather M. LeBlanc
Counsel for Defendant