

**STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT**

**STATE OF NEW MEXICO**

**Plaintiff,**

**vs.**

**ALEXANDER RAE BALDWIN III,**

**Defendant.**

No. D-0101-CR-202300-039  
Judge Mary Marlowe Sommer

**DEFENDANT'S NOTICE OF WITHDRAWAL OF MOTION TO DISQUALIFY THE  
SPECIAL PROSECUTOR UNDER ARTICLE III OF THE NEW MEXICO  
CONSTITUTION AND RESPONSE TO COURT'S LETTER OF MARCH 20, 2023**

BAILEY, LeBLANC & LANE, PC

Heather M. LeBlanc  
823 Gold Ave. SW  
Albuquerque, NM 87102  
Tel: 505-331-7222  
heather@bll.law

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

Luke Nikas (admitted *pro hac vice*)  
Alex Spiro (admitted *pro hac vice*)  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
Tel: 212-849-7000  
Fax: 212-849-7100  
lukenikas@quinnemanuel.com  
alexspiro@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

*Counsel for Defendant*

Alexander R. Baldwin III, by and through undersigned counsel, respectfully submits this notice withdrawing his February 7, 2023 motion to disqualify the special prosecutor under Article III of the New Mexico Constitution (the “Disqualification Motion”). In light of the special prosecutor’s resignation on March 14, the Disqualification Motion has become moot. Mr. Baldwin further states in response to the Court’s March 20, 2023 letter that he has no objection to the District Attorney and a properly appointed special prosecutor handling this case jointly.

1. On August 3, 2022, the District Attorney’s office announced that Andrea Reeb would join the team investigating the tragic accident that took place in October 2021 on the set of the movie *Rust*. At the time, she was a candidate for the New Mexico House of Representatives. On January 31, 2023, after Representative Reeb had been elected and assumed office, the District Attorney’s office filed an entry of appearance that designated Representative Reeb as special prosecutor and co-counsel.

Representative Reeb has been deeply involved in the investigation and prosecution of this case. She has indicated in email correspondence to Mr. Baldwin’s counsel that she was personally responsible for investigating the case and making the charging decision. She has confirmed as much in television and news interviews. *See, e.g.*, Interview by Griffin Rushton, KOB4 Writer, with Andrea Reeb, *available at* <https://www.kob.com/new-mexico/rust-special-prosecutor-also-balancing-job-as-state-legislator/> (noting that she was chosen “to handle everything while she [Mary Carmack-Altwies] was doing office duties”). The government’s recent discovery production reveals that Representative Reeb has interviewed witnesses, taken proffers, engaged experts, and handled other important matters.

2. On February 7, 2023, Mr. Baldwin moved to disqualify Representative Reeb as the special prosecutor. As he explained in the Disqualification Motion, her dual service as both a member of the Legislature and a special prosecutor violated the separation-of-powers provision of the New Mexico Constitution, which states that “no person . . . charged with the exercise of powers properly belonging to one of [the legislative, executive, and judicial] departments shall exercise any powers properly belonging to either of the others . . . .” N.M. Const. art. III, § 1.

Like Mr. Baldwin’s motion not to bind over the firearm enhancement on Ex Post Facto Clause grounds—which the government ultimately conceded was meritorious—the Disqualification Motion raised significant constitutional issues that warranted careful consideration. But in response to the motions, the government issued a series of extraordinary public statements attacking Mr. Baldwin and his counsel. For example, immediately after Mr. Baldwin filed the Disqualification Motion, a spokesperson for the government told the news media that Mr. Baldwin and his lawyers can “use whatever tactics they want to distract from the fact that Halyna Hutchins died because of gross negligence and a reckless disregard for safety on the ‘Rust’ film set.” Diana Dasrath and David Li, *Alec Baldwin Asks To Have Special Prosecutor Removed from ‘Rust’ Case*, YAHOO (Feb. 7, 2023), <http://bitly.ws/BTsc>. That statement raises serious questions under the New Mexico Rules of Professional Conduct, which prohibit “mak[ing] any extrajudicial or out-of-forum statement in a proceeding that may be tried to a jury that the lawyer knows or reasonably should know . . . creates a clear and present danger of prejudicing the proceeding,” including any “opinion on the guilt or innocence of a defendant.” NMRA 16-306 & cmt. 4; *see also* NMRA 16-308(F).

The government continued to issue similar inappropriate statements even after it withdrew the firearm enhancement, including statements denigrating Mr. Baldwin's counsel with insults and falsely claiming that they had filed the motions to inflate their "billable hours."<sup>1</sup> The statements each implied Mr. Baldwin's guilt, yet none of the statements "explain[ed] that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty," as required by the Rules of Professional Conduct. NMRA 16-306 cmt. 4(6); *see also id.* cmt. 3(7)(a). In addition, Representative Reeb made comments in television interviews that also implied Mr. Baldwin's guilt without noting the presumption of innocence and without any conceivable law-enforcement justification. *See, e.g.,* Miguel Almaguer, Diana Dasrath, and David Li, *Prosecutors Say They Knew Early in the Probe that the Fatal 'Rust' Shooting Would Lead to Charges*, NBC NEWS (Jan. 19, 2023) (special prosecutor stating that "he isn't above the law and he is somebody who committed a crime, and we're going to hold him to the law, hold him accountable.").

The government's conduct represented a disregard of its ethical duties, and it has threatened Mr. Baldwin's right to a fair trial. Indeed, legal observers with diverse perspectives have criticized the government's public statements. As legal commentator and former federal prosecutor Andrew McCarthy put it, "ethical prosecutors do not denigrate the exercise of due process rights, especially in a manner designed to prejudice the jury pool against the defendant." Andrew McCarthy, *Alec Baldwin Charge Dropped, but Prosecutor Should Throw the Whole Thing Out*, FOX NEWS (Feb. 21, 2023), <http://bitly.ws/BTsW>; *see also, e.g.,* Thomas Frampton

---

<sup>1</sup> *See* Mark Osborne, *DA Drops Gun Enhancement Charge Against Alec Baldwin in 'Rust' Shooting*, ABC NEWS (Feb. 20, 2023).

(@TFrampton), TWITTER (Feb. 20, 2023, 8:30 PM) (University of Virginia Law School Professor), <http://bitly.ws/BTt2>: (“Here’s the New Mexico Rule of Professional Conduct (16-308) governing extrajudicial statements by prosecutors. Hard to see how a gratuitous shot at defense counsel (for correctly objecting to an obviously unconstitutional charge) is consistent with this?”).

On March 6, 2023, the government filed a response to the Disqualification Motion. The government’s principal argument was that a district attorney or special prosecutor charged with bringing criminal prosecutions in the name of the State of New Mexico does not exercise state power at all. Eight days later, Representative Reeb abruptly announced that she was resigning as a special prosecutor in light of the pending Disqualification Motion. Without informing Mr. Baldwin’s counsel of her decision, Representative Reeb issued yet another public statement that implied Baldwin’s guilt and that again failed to note the presumption of innocence. *See Jacobs, Julia, ‘Rust’ Prosecutor Steps Down After Baldwin Challenges Appointment*, N.Y. TIMES (Mar. 14, 2023), <http://bitly.ws/BTsK>

3. Today, the New York Times reported yet another troubling development regarding the State’s prosecution of this case. In a private email exchange between the District Attorney and Representative Reeb, dated June 9, 2022, Representative Reeb asked the District Attorney to publicize the fact that she was working on the case in order to advance her political career. Representative Reeb wrote, “At some point though, I’d at least like to get out there that I am assisting you . . . as it might help in my campaign lol.” *Jacobs, Julia, Ex-Prosecutor in ‘Rust’ Case Suggested Role ‘Might Help’ Her Campaign*, N.Y. TIMES (Mar. 21, 2023), <http://bitly.ws/BUtv>. In response, the District Attorney wrote: “I am intending to either introduce you or send it in a

press release when we get the investigation!” *Id.* Representative Reeb’s prosecution of this case against Mr. Baldwin to advance her political career is a further abuse of the system and yet another violation of Mr. Baldwin’s constitutional rights.

4. Given Representative Reeb’s resignation, which was constitutionally compelled, Mr. Baldwin withdraws the Disqualification Motion as moot. But Mr. Baldwin does not waive the rights to raise the disqualification issue in the future or to otherwise challenge the prosecution as a whole on the grounds that the State’s conduct to date—including evidence that Reeb charged the case to advance her political career, the inclusion of the unlawful firearm enhancement, the State’s improper and prejudicial public statements, and Representative Reeb’s principal role in the investigation and prosecution—has violated Mr. Baldwin’s constitutional rights. *See State v. House*, 1999-NMSC-014, ¶¶ 26, 59, 127 N.M. 151 (explaining that due process requires “a fair and impartial trial” and that “prejudice from pretrial publicity [can] evolve[] to such a degree that a fair trial is improbable”); *State v. Trujillo*, 2002-NMSC-005, ¶ 48, 131 N.M. 709 (stating that New Mexico courts “review each of Defendant’s allegations of prosecutorial misconduct individually in addition to considering their cumulative effect” in determining whether a due process violation exists).

5. On March 20, 2023, this Court issued a letter inquiring whether Mr. Baldwin has an “objection to the District Attorney and a special prosecutor prosecuting the case together.” While reserving all rights to challenge the appointment of a new special prosecutor on any other ground, Mr. Baldwin states that he does not object to the concurrent service of the District Attorney and a

properly appointed special prosecutor in this case. For that reason, in accordance with the Court's letter, Mr. Baldwin does not intend to submit further briefing on that specific question.

Date: March 21, 2023

Respectfully submitted,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: /s/ Luke Nikas

Luke Nikas (admitted *pro hac vice*)

Alex Spiro (admitted *pro hac vice*)

51 Madison Avenue, 22nd Floor

New York, NY 10010

Tel: 212-849-7000

Fax: 212-849-7100

lukenikas@quinnemanuel.com

alexspiro@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

Heather M. LeBlanc

823 Gold Ave. SW

Albuquerque, NM 87102

Tel: 505-331-7222

heather@bll.law

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 21, 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 LeBlanc  
Heather LeBlanc