

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

STATE OF NEW MEXICO,

Plaintiff,

v.

D-101-CR-2023-00040

HANNAH GUTIERREZ,

Defendant.

STATE'S MOTION IN LIMINE FOR *VOIR DIRE*
OF DEFENSE EXPERT WITNESSES OUTSIDE THE PRESENCE OF THE JURY

COMES NOW, Special prosecutors, Kari T. Morrissey and Jason J. Lewis, who respectfully request this court permit *voir dire* by the State of the Defendant's expert witnesses outside the presence of the jury and as grounds state as follows:

1. The Defendant intends to call P.J. Pesce to testify as an expert witness. It is unclear to undersigned counsel exactly what Mr. Pesce intends to testify to because he was largely unable to articulate any opinions during his pretrial interview and had not reviewed any of the discovery related to the case against Ms. Gutierrez. Below is an excerpt from the pretrial interview of Mr. Pesce.

Kari Morrissey: Okay. And have you reviewed any discovery, any materials, police reports, videos, anything like that associated with this case?

PJ Pesce: I've looked, I think it's an OSHA report.

Kari Morrissey: Did you look at the transcripts of the interviews or just the report?

PJ Pesce: I really cannot recall.

Kari Morrissey: Jason, can you answer that question? Do you know what he looked at?

Mr. Bowles: I can. It was the OSHA report, but it was not the transcripts of interviews.

Kari Morrissey: Okay, thanks. So other than looking at the OSHA report, what else did you do that would help you form an expert opinion in this case?

PJ Pesce: Read the various news reports.

Kari Morrissey: Anything other than the various news reports?

PJ Pesce: No, ma'am.

Kari Morrissey: Okay. So any expert opinions you give are based on the OSHA report that you read and the news stories that you've seen?

PJ Pesce: I'd say also my experience as a director for 30 years.

Kari Morrissey: Sure. You agree, though, that in order for you to give an opinion about what happened in this case you have to have some information about this case?

PJ Pesce: Certainly.

Kari Morrissey: So what's your understanding of what opinions you're going to give?

PJ Pesce: Until you ask me my opinion, I can't really say.

Kari Morrissey: I'm asking you your opinion. What opinions are you intending to give in this case?

PJ Pesce: I'm sorry, you're asking me my opinion on what?

.....

Kari Morrissey: Mr. Pesce, are you intending to give an opinion about the way that the movie was directed?

PJ Pesce: No.

Kari Morrissey:

Are you intending to give an opinion about the role that Hannah Gutierrez had as armorer?

PJ Pesce: I'm not quite clear on what you mean, the role that she had....

2. Mr. Pesce is a film director (not producer or armorer) and is a longtime personal friend of Ms. Gutierrez' father, Thell Reed.
3. The State is asking for the Court's assistance in determining what, if any, expertise Mr. Pesce has that would be of assistance to the jury and what "expert" opinions Mr. Pesce should be allowed to give in this case.
4. Ms. Gutierrez also intends to call Frank Koucky as an expert witness. On February 12, 2024 the State was provided with a report from Mr. Koucky that is attached hereto as State's exhibit 1. The defense provided a one-page CV for Mr. Koucky (attached hereto as State's exhibit 2) that indicates that he has some experience handling and shooting firearms.

5. As the Court can see, Mr. Koucky's report seems to encompass many opinions in different areas that that he may not have sufficient expertise to give.

WHEREFORE, Pursuant to 11-702 and 11-703 the State is asking that the Court allow for *voir dire* of the defense witnesses outside of the presence of the jury so the Court can determine what, if any, opinions the purported experts will be permitted to give.

Respectfully submitted,

/s/ Kari T. Morrissey
Kari T. Morrissey
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of February 2024, I served the forgoing pleading to all parties or counsel of record through odyssey file and serve:

/s/ Kari T. Morrissey
Kari T. Morrissey

Rust Production Management and specifically Alec Baldwin deliberately ignored and defied basic film and common sense firearms safety rules leading directly to the tragic and deadly negligent discharge of a Pietta .45 Colt handgun by Alec Baldwin, killing a woman and wounding a man..

Had Alec Baldwin not defied the specific written protocol of the Screen Actors Guild Safety Bulletin #1, repeatedly rapidly pointing, cocking, pulling the trigger of a real gun and firing it directly at unprotected crew in a totally untrained new seated position, no one could have died or been injured. In the final examination, Mr. Baldwin alone shot two people, one to death.

The famous actor George Clooney said in a podcast after the shooting that it came as the result of “a series of stupid mistakes”. (Mark Maron podcast “WTF” Nov. 2021) This is an understatement as I will show the bad on and off set management, cheap props procurement resulting in unprofessional junk dummy ammo, pressure and rush to finish a cheaply underbudgeted film, last minute decisions, disregard for training, and flagrant violations by Mr. Baldwin of the vital Screen Actors Guild Safety Bulletin #1 on firearms safety. As Mr. Clooney said, it was a series of mistakes and without these mistakes and deliberate negligence no one would have died. I totally agree.

I believe Hannah has been made a scapegoat for a long series of Rust production management and Mr. Baldwin negligence and errors leading directly from the decisions of writers Alec Baldwin and Joel Souza to make a cheaply budgeted and understaffed movie too quickly with poor planning and management, ignoring and defying the protocol of SAG-AFTRA union safety Bulletins on firearms use in films and television, the industry standards as well as common sense.

These flaws were first seen by Prop Master Neal Zaromski, who turned down the job over safety concerns. In an interview with the LA Times Meg James following the shooting, he tells how he felt that “Rust” was too much of a slapdash production, one with an overriding focus on saving money instead of a concern for people’ safety, saying he thought “There were massive red flags” and “This is an accident waiting to happen.” (LA Times Oct. 25,2021 interview and article by Meg James, source verified by text to Frank Koucky) I will read extensively from the interview in court and provide it to jurors.

Read

Some terms are needed to understand my testimony:

First, “Negligent Discharge”. The term “accidental discharge” of a firearms is still commonly used, but many NRA firearms trainers, police and the military use the term “negligent discharge” to describe most times a gun goes off when it should not, as almost all these instances involve both carelessness and negligence. Guns do not go off by themselves and never point themselves at innocent people. I will read from and supply the US Marine Corp Safety Bulletin SS14-10 on Negligent Discharges (NDs) and I believe Mr. Baldwin was criminally guilty of a negligent, not “accidental”, discharge that killed Halyna Hutchins and wounded Mr. Souza.

Second, "Prop Gun". It seems common in the media to call the Pietta .45 revolver that Mr. Baldwin shot two people with a "prop gun" because it was under the care of the prop department. It is in fact, a real gun, defined and numbered by the federal governments Alcohol, Tobacco and Firearms, imported and sold legally only as an actual firearm, subject to all state and federal laws regarding firearms use and transfer. It is a high quality replica of the US Army's 1873 Colt revolver in the same .45 Colt caliber as issued to Custer and his cavalry and is fully capable of killing a horse or a man as made by Pietta. It is not a prop but a real and deadly weapon.

Show inert "prop guns" as well as real guns -rubber Pietta, inert Broomhandle Mauser, real Pietta

Third, Screen Actors Guild. SAG-AFTRA is an organization of app. 160,000 actors, announcers, broadcast journalists, news editors, program hosts, dancers, DJs, news writers, recording artists and others in the entertainment industry. They are two unions, the Screen Actors Guild and the American Federation of Television and Radio Artists. This is important to the shooting because the unions are bound by union rules and protocols including the Safety Bulletin #1 for Firearms Safety which Mr. Baldwin, a SAG member, violated. There is no special exemption in SAG union safety rules for actors to do whatever they want in pointing real guns at people on set or off. I will read the union gun safety protocol sheet a bit later.

The Props Master who turned down the job on Rust turned out to be something of a prophet as the dangerous filming he avoided turned out a tragedy. This shooting of two people resulted directly in a major federal agency investigation which condemned, cited the management of the entire Rust project.

That agency is OSHA, a federal agency operating nationally under the federal Occupation and Safety Act. In no way do they make any negative citation of Hannah Gutierrez Reed, the part time armorer and prop girl, instead showing numerous safety violations by the film management in their final report. I will read and explain the entire OSHA final report, as it, except for criminal charges and civil lawsuits, is the definitive investigation determining Rust's management responsibility of the tragedy on the Rust set and fining them for their bad actions:

Read and explain OSHA report

Notice again that in no way is Hannah blamed for anything after federal investigation.

I will give a brief reading of the history and description of the 1873 Colt Single Action Army Revolver from the December 2023 issue of "Handloader" magazine:

Read "Handloader"

Management

I am a manager in the banking and securities industry for over 35 years and in addition have co-founded and directly managed four successful businesses in real estate, software and large-scale industrial coatings. I was trained by Merrill Lynch at Princeton, have numerous licenses, and have supervised hundreds of employees in my career, both in the corporate world and in private business, as well as being an NRA certified firearms instructor. I believe Rust was seriously mismanaged in many ways directly contributing to the killing, a view shared by the federal OSHA investigation..

I point out that there are two basic forms of management, centralized and decentralized, but both have in common an attempt to accomplish a clearly specified goal. To accomplish this goal successfully each system requires clearly defined job descriptions of each person working toward the goal and each role carefully spelled out and delineated so the employee and manager knows what they should do. Usually this is done by written and professionally reviewed written standards. Such union standards exist for firearms safety as set forth by SAG-AFTRA, but these were ignored by Mr. Baldwin resulting in death and injury. Mr. Baldwin in video directly ordered what was to happen on set, telling the cinematographer and director what he was going to do, shooting blanks, ordering rapid and unsafe reloads and moving in previously unrehearsed ways, overriding others to get his way. This is "Central Management" to an extreme - one person commands all activity without input or trust in others to do their jobs. It resulted in multiple safety violations.

In the case of film armorers, no such written standards exist as they do in most occupations. Anyone can be hired as an armorer -no licenses, no training required. The same goes for the direct supervisor of an armorer, the props master. No training, no license, even though such a person is directly in charge of real guns and blanks and dummies, overseeing the armorer and all supplies. In the case of Sarah Zachry, the props supervision and "boss" of Hannah, Sarah stated in her video of sheriff's interview that she herself had never fired a real gun and had no ability to tell a live round from a dummy.

It was Sarah, not Hannah, who negligently discharged a revolver loaded with blanks, resulting in part of the complaint that led to the union film crew walking off the set over safety. In addition, it is clear that Sarah made no inventory of incoming guns, blanks or ammunition, a very dangerous precedent as normally in the gun world every real gun's serial number is noted on any transfer by those receiving them as well as the renting or selling party to guard against theft or insure safe gun return and correct numbers of blanks or dummies. OSHA says in their federal report that the dummies were supplied by Rust management, a major point in Hannah's favor, as she did not obtain or transport the box labelled as ".45 LC dummies" and was expected to use what she was given.

In respect to Rust's employee management, formal job descriptions were non-existent. There was no HR manual, no contract specifying exact duties except for the union crew who walked off the morning before the shooting over safety issues. This was just poor management.

Films (show leaked recent videos from NBC) show that Mr. Baldwin basically told the camera crew and director what he wanted done, ordering how scenes were to be filmed and violated firearms safety rules as he pleased. Mr. Baldwin clearly was ordering the director and cinematographer to film the scenes the way he himself wanted them done, taking their managerial roles away as he wished. As the digital "clapboard" with scene information is used to open and mark footage, these films are officially recorded by Rust in actual filming -I assume they are from the "dailies", the footage for review late every day.

Show recently leaked video.

This video shows Mr. Baldwin yelling for a rushed and unanticipated rapid reload of blanks, showing the push for speed, not safety, that dominated the filming over safety.

Baldwin waves the gun loaded with blanks directly at the crew and cameraman while lying on the ground and uses it, though loaded, like a pointed, crossing the muzzle at crew and bystanders.

Hannah sees his plan to shoot, then yells for safety, shouting for people to get out of the way that Baldwin indicates he wants to shoot.

Baldwin apparently hears her and only then then himself gives orders for people to move away from his shooting direction, making the decision himself on where he wants to shoot. Without Hannah yelling for people to move, it may well be that Baldwin would shoot directly into a crowd, as he did later on the day of the killing. This scene is utterly dangerous as there appears no required crew protection or planning for safety with Baldwin deciding to shoot right into the crowd of crew and cameras until stopped by Hannah, a good example of what George Clooney called “an insane shooting” from the chaos that happens when unplanned violations of basic safety rules occur. Any dirt, dust or rock in the barrel of Baldwin’s gun could injure, blind or kill someone in the path of it even with blanks.

Rust’s central management disregard for roles and job descriptions kept Hannah trying to do multiple jobs at Sarah’s orders, trying to be parts girl and armorer, alternating between lower pay as a props assistant and slightly higher pay as a part-time armorer, while both should have been full time jobs.

An Oct. 14, 2021 text to Hannah and others from Gabrielle Pickle is the definition of bad management by Rust in respect to both industry gun safety and job definition: “Hannah,...We hired you as both Armor and Key Assistant Props. ...It aids the production to have you do both so you can bounce back and forth as needed. However, it has been brought to my attention that you are focusing far more on Armor and not supporting props as needed. I know this is a new role for you, but I need to know you will take the Key Assistant Props position seriously and support that department....” (Read from Pickle text obtained through Discovery)

This is exactly the dual-role safety issue that the props Master refused the job over – vital gun safety is being compromised because Hannah is ordered to do props jobs like rolling cigarettes while firearms protocol and standards are violated and ignored. I believe this is all due to management being too cheap to pay for even a full-time armorer or full-time props assistant. Basically, Pickle orders gun safety disregarded for cheap production as Hannah was paid less as a props assistant than an armorer and Rust can make her try to do two jobs at once, doing the work of two or more for half the price. I call that irresponsible and dangerous, as gun safety violations can kill people, and did.

Read aloud the two texts -Pickle to Hannah, Hannah’s reply on the problems of safety due to this order.

The Rules of Gun Safety

As an NRA Certified Pistol Instructor and serious firearms collector, I have visited the great firearms museums of many countries like Russia, Ukraine, Britain, India and the US. In every country, the basic firearms safety rule is essentially the same: “Don’t point guns at people you don’t want to kill.”

Despite common belief, there is no special rule for the movies that says actors, A-list or not, can ignore basic gun safety and union protocol. Real guns are real guns everywhere and subject to real gun rules and laws.

The SAG-AFTRA Firearms Safety Sheet #1 says how actors must handle guns:

READ SAG Safety Bulletin #1 and distribute.

Mr. Baldwin deliberately broke many of these rules as shown in several videos including the final fast-draw practice before the killing.

I have been taught gun safety from early childhood. Including rifle classes at camp in Butte, Montana from age 6 with little .22 single shot rifle. My father, A WWII vet, had me shooting .22 handguns by age 8 and I was hunting and skeet shooting by age 10,, but it was the Boy Scout Merit Badge for Rifle Shooting that was my first gun award.

I will read from the Boy Scout Rifle Shooting Manual (p.18) the "Fundamental Rules For Safe Gun Handling" which millions of Scouts have studied:

- 1)"Always keep the gun pointed in a safe direction."
- 2) "Always keep your finger off the trigger until you are ready to shoot."
- 3) Always keep the gun unloaded until ready to shoot."

Read the Boy Scout "Rules For Using or Storing a Gun" p.18-19

"Know your target and what is beyond."

Mr. Baldwin deliberately broke many of these rules.

Safety is important to hunting gun use and have had hunting licenses and classes in several states, so I will read from New Mexico's Study Guide for Hunting Education Course. It was proposed by NM's legislature that everyone involved with guns in the film industry pass this safety course, but rejected by politicians.

Read Firearm Safety Rules" from Study Guide

I am an NRA Certified Pistol Instructor so I will present the most basic NRA fundamental gun safety rules, presented nationally for National Safety Month in the NRA blog:

- 1) Always point the gun in a safe direction.
- 2) Keep your finger off the trigger until ready to shoot.
- 3) Keep the gun unloaded until ready to use.

Had Mr. Baldwin obeyed these most basic gun rules would have saved Halyna's life and kept Mr. Souza from tragic injury.

Next, I will read from the Pietta "Great Western 1873 Single Action Revolver Manual of Instruction and Safety", the exact gun that Mr. Baldwin shot two people with and the exact gun that I personally own:

P. 40 "CAUTION: Use extreme care when attempting to decock the revolver, as the thumb slipping during this process can result in accidental discharge if the trigger is held to the rear."

This, in my opinion, is exactly the deadly error Mr. Baldwin made - he removed his thumb from the hammer after fully cocking the gun while pressing on the trigger and pointing the gun directly at people. We will review this along with the Haag forensics of the shooting, but the warning comes from the gun maker and is known to all trained Colt and other trained revolver shooters including modern guns and other weapons. I believe Mr. Baldwin pulled the trigger.

Read Gun Safety Manual p. 28 "Safety Precautions and Warning":

.....read 1-12

- 4) "Always handle your gun as if it were loaded so you never fire it accidentally when you think it is unloaded."
- 5)"Always make sure your gun is not loaded before...handing it to another person for use."

This basic rule of being sure a gun is unloaded before handing it to another person is a rule George Clooney spoke of as a gun check, saying he actually dry-fires the revolver 6 times after taking and inspecting it. Mr. Baldwin stated in his sheriff's interview that he was "trained" never to check a gun when handed it, a dangerous and potentially deadly claim violating all normal gun safety rules.

Colt manual

Read safety rules

The basic safety rules of firearms apply to all rifles, shotguns and handguns on set and in the real world. Every single firearm on the Rust set needed specialized training and to follow SAG gun safety protocol.

The conclusion to basic safety is common sense: "Every parent of an 8 year-old with a toy gun has told the child many times "Don't point that gun (or stick or cocked finger) at your brother."

Not pointing guns at people is the basic rule of all basic firearms safety which Mr. Baldwin broke, along with not knowing to keep his finger out of the trigger guard and off the trigger, refusing even basic training which Hannah offered, and not knowing how to safely decock his real revolver. His preventable reckless bad gun handling resulted in death and injury. Safety is basic film industry protocol, the protocol of his union and basic common sense, but he chose to ignore and defy it.

In the final video (show video) Baldwin breaks the most basic rules, as Haag correctly demonstrates.

Dummies

What are dummies? They are non-firing replica cartridges, made for a variety of guns for a variety of purposes. They contain no powder, no live primer and cannot fire.

DRAW CARTRIDGE COMPONENTS ON BOARD- brass case, bullet, powder, primer, headstamp on base

*Training dummies - used by the military, police and civilian shooters to practice loading and unloading, to practice dry firing where you pull the cocked trigger on a known inert cartridge and to test the function of a guns action to cycle properly without firing. These dummies do not have to look like live cartridges a bit and can be colored red or black, have cases drilled full of holes, have orange plastic primers or be made of bright plastic. The idea is to not look like a real live cartridge for safety.

I, as a reloader, frequently make my own dummies for a variety of my guns, making them with no powder or primer to test function. These can easily be made by anyone with a reloading press, as can film dummies.

SHOW TRAINING DUMMIES

*Film, Theater and Display Dummies - these are made to look as closely as possible like real live ammunition and are shown in holster belts, on bandoleers, spilled out on tables, ejected from guns being unloaded on camera, filmed inside a revolver cylinder looking loaded, or shown as the few remaining rounds of a surrounded outlaw. They must look completely real even in close-up or tough audiences will know they are fakes. This can be dangerous if they come from unreliable sources as shown by the Baldwin shootings.

Again, anyone with a reloading press, brass cases and some bullets can make them, but quality dummies for the film and television are made professionally by prop companies in new brass so that they can be trusted as safe, reliable and look uniform. It is possible to order them in a great variety of designs, with dented primers, with no primers, with orange plastic primers, with fake bullets and with realistic plastic cases and easily age them if desired. Rust apparently did not care to order professional dummies from a reliable known prop company, a big mistake.

There is a myth that all dummies rattle. There is no such written rule in SAG film protocol or anywhere. This "all rattle" myth is quite simply not true as evidenced by the deposition of film supplier to Rust Seth Kenney in his deposition. He stated quite simply that not all dummies rattle, but he would not use no-rattle dummies. I agree with Mr. Kenney that not all dummies rattle and responsible films attempt to use rattle rounds where possible. I frequently make my own no-rattle dummies on my reloading equipment to test various rifles and handguns cycling and will demonstrate a variety of no-rattle dummies from professional dummy suppliers to the film industry, police and civilian market.

The claim that Hannah should have known that the live round was live instead of a dummy because it did not rattle is simply not true, as not all dummies rattle. I will show a variety of professionally made rattle and no-rattle dummies.

Show my dummies.

Show the ads proving rattle costs extra, that the company that makes professional dummies for 1883 and many other top Western films makes rattle and no rattle dummies in Starline brass.

The federal Occupational Safety and Health investigation determined that Rust supplied the dummies involved in the Rust production.

I will now call for all the dummies and boxes from Rust to be brought as evidence before the jury.

We will shake and examine each one, next to the professional dummies supplied by real prop companies.

I believe that Rust ordered unprofessional amateur junk for dummies rather than ordering quality from one of many trusted professional suppliers to the industry, a dangerous decision that added to the trail of bad management leading to tragedy.

The Rust dummies are mostly made by hand from old mixed range brass, fired once or more often, picked up for nothing, left with the old primer in them, not tumbled clean or resized, explaining occasional jams, and showing a wide variety of headstamps from many different ammo sources. These are made from old scrap brass on an amateur loading press, not the professional quality turned out by professional dummy manufacturers I have shown. They are cheap mixed junk, bought, in my opinion, because Rust was either too cheap, ignorant or hasty to order quality uniform dummies from a reputable prop house.

Hannah is now on trial because she supposedly loaded a live round in the gun because she was negligent, unable to tell the live .45 rounds in an old cardboard box she was given by Sarah and brought in by Rust management, as the federal OSHA investigation determined.

We have shown that the claim that all dummies rattle is simply untrue - Hannah could not tell by rattles, but standard loading of a Colt revolver or replica, particularly under stress for speed or from a small surface like the crowded table Hannah had to load from, is to pick up several cartridges at once. If two or more cartridges are picked up and shaken, with only one a rattle dummy, she will hear a rattle.

Demonstrate loading multiple cartridges, showing one or more rattle and one does not. You will hear rattle.

Now, the next argument against Hannah is that she should have recognized a dent in the primer of the dummies and none in the live cartridge. This is easily proven to be a false accusation for three reasons.

First, if you examine carefully the dummies taken from the Rust set, you will see that some of them have no dents in the primers. No dents. Are these live primers? We cannot tell but they were given to Hannah by Rust management and represented as dummies. She had to use what she was given.

Second, there is the matter of misfires. A misfire is a strike on the primer of a live cartridge when the primer is dented but the cartridge does not go off. This can be because of a light strike by the hammer, a bad primer, a loose primer seated wrong, a damp or oily primer or other reasons. The effect is that the gun just goes "click" when the hammer is pulled, with no "bang". On a second strike by the hammer the round may very well go off. With such a misfire, a live cartridge remains live but looks to all appearances just like a dummy, complete with a dent in the primer. It is potentially deadly as it may well go off if struck a second time by the hammer of a gun.

Read Black Hills President on Misfires.

Seth Kenney, supplier of the guns to Rust, in his deposition, describes misfires and states that a misfired cartridge could display a dented primer.

It is my expert opinion that such a misfired live cartridge could have been one of those in the old cardboard box marked “.45 LC Dummies” that Hannah was given by Rust management to load guns with. She would have seen the dent in the primer, believed it a dummy like the other mismatched dummies and loaded it in good faith, trusting the label and Rust to have given her dummies. This dented primer live misfire may have been looked at by Hannah and AD Halls when he says he spun the gun’s cylinder as a gun check when taking the gun from Hannah. Halls says he is not sure if he saw all the primers, but saw at least three. In fact, all cartridges may well have had dented primers and looked safe, but one was a deadly misfire waiting for the second hammer strike from Baldwin’s cocked revolver, firing on that second strike and shooting two people.

Was Hannah somehow criminally negligent for not spotting a misfired live cartridge in a box labelled dummies? I think not.

Last, I will show you an undented primer with a spot of dirt on it, an event quite possible if you must load guns under very adverse conditions in the middle of a New Mexico dirty movie set with people and horses and cameras tossing up dust everywhere near you. This dark spot could look just like a dent in a primer, particularly if it came from a box clearly marked as dummies and you loaded amidst noise, confusion and chaos as the union crew had just walked off the set. I think a small dark dirt spot could easily be mistaken for a dented primer by Sarah or Hannah and AD Halls. This is tragedy, not negligence, the result of Hannah and Sarah being forced to load delicate guns in the middle of chaos.

The argument is that Hannah should have somehow suspected that live rounds were buried in a box clearly marked “.45 LC Dummies” and given to her by Rust management. As I noted before, none of the incoming guns or blanks or dummies were properly inventoried by Sarah, the props manager. Hannah had every reason to trust that Rust had obtained the labelled box of dummies from a reputable supplier.

Never in the history of films has live ammunition been mixed with dummies. Never in the history of films has anyone ever been shot by a live round coming out of a box marked dummies. Hannah was clearly capable of doing any normal duties of an armorer if given time, but no one in history has ever had an event like this occur or could fairly be assumed it would happen. (supply sources)

Many of us know of the death of Bruce Lee’s son Brandon. He was killed when a bullet previously lodged in the barrel of a rented gun was propelled by a blank. A few years back, an actor killed himself accidentally by holding a blank gun close to his own head and firing it. Blanks can kill, which is why gun safety must be maintained on set.

I make the point that no armorer could possibly expect live rounds mixed in with dummies as it quite simply has never happened before and the live rounds were not distinguishable by rattle or dented primer from the mixed boxes dummies.

Hannah was not negligent, but OSHA says Rust management was.

Not Modified

There have been false claims that the Pietta revolver in the shootings was somehow “modified” in some sort of way that made it go off without pulling the trigger. This is absolutely not true as the FBI said it worked, firing normally in tests and could not be made to fire without pulling the trigger until they beat it with a hammer so hard the smashed interior parts, a test of its great strength. The FBI saved and delivered exactly the parts they say they broke. Far from showing the gun ‘modified” or going off without the trigger pulled, the FBI tests showed the extreme strength and safety of the gun -it could only fire with no trigger pull if deliberately smashed with a hammer hard enough to break steel parts.

I totally believe the FBI -they state formally the gun worked “normally” when tested, meaning Baldwin had to pull the trigger.

With those parts broken, the damage was such that Mr. Baldwin could not have fired the revolver as the cylinder would not line up and it could not hold full cock. This means, as they said, the FBI broke it in testing.

Seth Kenney, the supplier of the gun, stated it was brand new, just out of the box and never had any modification done at all.

The Haag forensic exam makes it clear that with the parts the FBI say they broke replaced, the gun works normally just as the FBI said it did and that even with the parts broken reinstalled the gun could not fire.

I am quite familiar with gun modifications to lighten trigger pull and I see no evidence that breaking those parts would ever be done to somehow “modify” a gun. I can go into much more detail on this if questioned.

Show photos of gun parts broken by FBI and correct parts.

Target Practice Claim

There also is a false rumor that someone was using the Rust guns for target practice with live ammo on the set after hours. I have heard many interviews and there is no mention of this from anyone interviewed. I am aware of no such shooting, but I am told that there was National Guard range practice within earshot, perhaps mistaken for Rust target shooting.

Training

Fans of action films are familiar with the John Wick series. They may not know that Keanu Reeves and Halle Berry trained for many months with famous gun coach Taran Butler in order to be safe and proficient in the use of the arsenal of John Wick weapons. He and the other actors in the series knew that preliminary training is essential in the handling of firearms and other weapons to look proficient and to be safe. Reeves was no exception as since the 1930s actors, particularly in Westerns, have trained to proficiency with guns using professional gun coaches, learning safe use of the Colt, Winchester, coach gun and other weapons.

In all the Westerns and action and military films ever made since the 1930s, no one has ever been shot except Brandon Lee due to the standards and protocol and training of the film industry. Hannah had no way to expect that Mr. Baldwin and his company would deliberately ignore these standards.

To make themselves safe and to look proficient It has been common practice for actors to train before and during films with any weapons they expect to use. All actors and extras must, by SAG safety protocol, be trained to be safe with any weapon they use. Mr. Baldwin ignored the training and then totally refused to be trained on his deadly seated crossdraw and decocking safely..

One of the most famous of all movie gun trainers in film history is Thell Reed, Hannah Gutierrez Reed's father. He has trained Russell Crowe Brad Pitt, Michael Biehn and many more film actors and actresses. His movie training credits include Tombstone, L.A. Confidential, 3:10 to Yuma, Cowboys and Aliens, Django Unchained Flags of Our Fathers, Miami Vice. The Wild West, Mr. and Mrs. Smith, Blade and many more films.

Hannah grew up with her famous gun trainer and actor father, not as an ignorant and untrained beginner as she may have been portrayed, but as a skilled and proficient firearms expert herself, trying to break into the industry by taking jobs at lower pay and even agreeing to work only part time as an armorer. That is how you build the resume and credits to be allowed to join the union.

Training is essential, but Dave Halls, on-set safety director to the Rust, did not have the pull to insist on it as needed or to enforce it for Mr. Baldwin or to have detailed and complete safety meetings or even to post the required SAG-AFTRA firearms safety bulletin daily as OSHA fined Rust for. Time was money for Rust and they cut corners everywhere they could, I believe.

It takes extensive time and focus to train each actor and extra in the safe and proficient use of the gun he will use. Added to that, Rust had a props manager in Sarah Zachry who had no working knowledge of guns at all, states she never had fired a real one and says she could not distinguish live ammo from dummies herself. Sarah was herself directly responsible for a negligent discharge of a blank-loaded revolver while trying to decock it, a major safety violation that should have been addressed by management but was not.

To show the variety of firearms Hannah was responsible for, the guns that Rust did not provide adequate time to train cast on properly, I will demonstrate from my own collection most of the real guns rented by Rust and used in the filming and their features to demonstrate safety training needed.

These are all real guns, not prop guns, as were the guns on the Rust set, each potentially deadly even if fired with blanks. Each requires special training including safe cocking and decocking as I will show.

- 1) Pietta revolver identical to the one that was used to kill Halyna Hutchins plus box
- 2) Uberti revolver
- 3) Coach gun - shotgun
- 4) Winchester Trapper
- 5) Bulldog revolver

I intend bringing these guns to court to demonstrate if allowed by the judge, but if not allowed will have expert filming done of my demonstrations of these guns.

Read Pietta manual on decocking.

Now I will show proper cocking and decocking of the Pietta revolver, the exact duplicate of the gun Baldwin fired.

Show illustrated page on cocking from "Single Action Sixguns" by John Taffin, and read directions, giving jury a copy

Demonstrate cocking and decocking, the C O L T clicks and meaning of each.

I will now show proper loading and unloading of the Pietta replica.

Show loading and unloading

The gun cannot go off by itself and fires only when the trigger is pulled unless dropped or hit extremely hard over the firing pin with a hammer or similar heavy object.

I will show that the hammer cannot go off when cocked even when hit. Hit with hammer. The FBI tested the strength of the Baldwin gun by hitting it so hard that the finally broke through the steel of the sear stop and cylinder stop before it could fire by impact, a fine testament to the strength and safety of the revolver. It cannot go off by itself unless dropped very hard on a hard surface.

Another myth sometimes claimed is that a Pietta or Colt can be fired without pulling the trigger by "fanning", which is rapidly passing the off hand over the hammer to cock and fire it rapidly. This belief in no trigger pull is quite simply false, as a Colt of its replica can only fire if the trigger is pulled or help back. When you see a Colt fired rapidly by fanning in the movies, the trigger is held back and, in some cases, tied back with string to speed up the firing. In any case, the hammer must be fully cocked and the trigger pulled or held back.

Demonstrate fanning

Live ammo

I will now talk about the live ammunition found on the set. I have showed that the federal government's extensive OSHA investigation has determined that Rust management supplied the box of dummies, not Hannah, and I have shown that not all dummies rattle, that not all dummies supplied by Rust have dented primers, that live ammunition can have a dented primer due to a misfired and still go off if struck again and that dirt on a primer can also look like a dent. Because of those considerations and the fact that such an event had never happened before in film history, I do not believe Hannah could have anticipated or recognized the live ammunition in the labeled box.

Strangely enough, no attempt was made by the Sheriff to trace the origin of the live ammo. No DNA or fingerprint testing of the ammo or box was ordered from the FBI even though such testing is possible, and no attempt was made to protect this evidence from contamination by handling.

The live ammunition in the box is interesting to me as a handloader because it is loaded in brass cases made by the Starline Brass company and has their headstamp on the case proving they are maker of the case and case only.

Starline Brass does not load any live ammunition themselves, so I know immediately that Starline did not load their case into live ammunition. They only make brass cases. Someone else loaded the ammunition.

Starline Brass is a major seller of brass cases in various calibers to the large community of handloaders of ammunition like me, selling empty brass cartridge cases by mail and in stores. Handloading involves custom loading of live ammunition from individual components, usually by private individuals, for hunting, target shooting, competition and self-defense. It is a very widespread hobby and avocation with many books, tools and even its own "Handloader" magazine and requires a press, dies and various specialized components including bullets, powder and primers. In a pinch, a \$35 hand reloading kit also can be used for very slow production. There are thousands of handloaders like me that could have made the live ammunition and that seems the most likely source, as Starline is very well known and used for brass, selling tens of thousands of cases to private handloaders monthly. I have Starline Brass to load in perhaps ten different chamberings or more.

Secondly, the Starline Brass company also sells their brass with their Starline headstamp to smaller specialty commercial companies, these selling loaded ammunition for profit. Such companies cannot yet afford to have Starline make custom brass with their headstamp on it, like Winchester or Hornady or other big companies do. Such boxes of .45 Long Colt ammunition could be ordered from many companies by mail or bought in stores that stock such ammunition.

The conclusion of this is that, without DNA or fingerprints, the deadly live ammunition could have come from private handloading at home, from a gun store or by mail. The generic Starline headstamp makes it impossible to trace by manufacturer, untraceable as to source of the loader of it by the brass itself.

The powder in the remaining cases is fairly generic as well, possibly the "Trail Boss" brand used in cowboy action shooting and casual plinking. The FBI could have determined exactly what brand this powder is, but did not.

Again, with hundreds of possible sources for the bullet and primer, no specific source can be determined in my opinion, meaning anyone with any motive could have placed the live ammo in the box before it came on the set, placed it accidentally off a bench with the dummies or even added it afterwards due to poor security. The only determination so far is the federal government says Rust supplied the box and dummies.

With no inventory done by Sarah or ordered by Rust management on the arrival of guns, props and ammunition, we cannot even know exactly when the box arrived, but I believe the old cardboard box and handwriting on it show the box and dummies came from Seth Kenney's rentals.

Crossdraw

The seated crossdraw from a shoulder holster is perhaps the most dangerous way of drawing a revolver known.

Crossdraw even from a low belt is banned in cowboy gun competition and forbidden on most ranges because of the danger, and it requires extensive practice and training to be fast and safe or even slow and safe.

I know, as I have worn a crossdraw shoulder holster as my legal Concealed Carry holster with a Glock for many, many years. In seated crossdraw, in a church pew as Mr. Baldwin did, or in an office chair or a car, the dangers go up in many ways.

Show video of Baldwin crossdraw. There actually is a longer version showing him drawing twice.

Read and show Haag report on crossdraw.

Mr. Baldwin only got the crossdraw shoulder holster a day or so before trying it in the church before shooting Halyna and Mr. Souza. He never tried it with a gun before, much less a real gun, as the guns were on the truck and SAG safety demands real training with an inert gun. A rubber Colt revolver and an inert one sat right on the gun cart outside, but Baldwin wanted the real one and Hannah was barred from even entering the church to act as armorer as SAG rules demand. Instead she had to hand off the gun to AD Halls, something that never should be done by film protocol. For some reason, the gun had to be loaded with dummies to look good even though this was just a rehearsal not requiring a real gun at all and Mr. Baldwin refused a gun check when taking the gun from Mr. Halls, a disaster. He should have checked the gun himself and clicked it 6 times in a safe direction. No gun cocking was in the day's plans but he did it anyway.

Mr. Baldwin had for his own reasons refused crossdraw training from Hannah as evidenced by texts which I will read and tried to teach himself seated crossdraw, doing everything possible wrong and eventually shooting two people.

The Haag report details and shows exactly how Mr. Baldwin failed from his video of practicing in front of people, but I will explain the dangers of the seated crossdraw from a shoulder holster in detail and then demonstrate with my own Pietta revolver and crossdraw shoulder holster made for that 1873 Colt design.

All training with such a holster should be done with an inert gun, preferably a rubber or inert duplicate to the real gun, not a real gun, as SAG and any NRA instructor would say. Baldwin and Mr. Halls did not take the available rubber gun sitting there on the cart outside. This was a real gun and required to be treated as one, with an armorer right there, not shut out.

We have a saying in gun training: "Slow is fast." This means that training very slowly and perfectly produces speed. Mr. Baldwin, who had never used this holster with a real gun or even a rubber one and never was trained, tried to go as fast as he could right from the first. That was wrong.

Here are my observations on this shoulder holster crossdraw tragedy:

- 1) First, the gun is pointed away from the person drawing it, either to the side or the rear. This endangers anyone in the path of the gun. No one should be there with a real gun practice.

- 2) The gun must be drawn carefully with the finger off the trigger, out of the trigger guard. Mr. Baldwin ignored that rule, placing his finger right on the trigger with pressure, as the Haag report and video clearly shows.
- 3) The difficult part is that the gun muzzle must not sweep across the crotch or legs if pointed down in the draw, must not sweep across any people in front and must find a safe path to the target without pointing at anything or anyone wrongly. Usually pointing up is safest. Mr. Baldwin swept the gun quickly across anyone in front of him, endangering everyone nearby.
- 4) Do not ever cock the gun while drawing - this violates the finger-off-the-trigger, outside the trigger guard rule, making it likely that someone will negligently be shot. Mr. Baldwin clearly cocked the gun while drawing it with his finger on the trigger.
- 5) Do not ever put a finger on the trigger or inside the trigger guard until the moment the shot is to be made. The reason for this is that a sudden jolt or lack of attention will cause the trigger to be pulled. Mr. Baldwin ignored this rule with a cocked and pointed real gun.
- 6) Mr. Baldwin made the most fundamental error of all, pointing a cocked real gun directly at multiple people with his finger on the trigger, ignoring all safety standards yet again.
- 7) Mr. Baldwin had no training on decocking the gun, his final deadly error, as the FBI report and the Haag report and my own experience with Colts, Ubertis and the duplicate Pitte 1873 all show the gun worked normally - he pulled the trigger.
- 8) Tragically, had the union camera crew not walked off earlier over safety and work conditions (which we will read when obtained in full), Halyna would not have been in back of the camera and not taken Baldwin's bullet, another link in the poor management leading up to this.

My conclusions are simple: Mr. Baldwin, not Hannah killed Halyna and wounded Mr. Souza through deadly violations of basic industry firearms safety standards. The tragedy occurred at the conclusion of a foreseeable chain of cheap money-saving attempts by Rust management with Mr. Baldwin as Producer to produce a hasty and understaffed film as quickly and cheaply as possible, ignoring basic industry standards, making Hannah do two jobs instead of acting as a full time armorer as the film required for safety. These violations resulted in the union crew walking off the set and finally, in the chaos of bad management and ignoring gun safety, Mr. Baldwin shot two people, killing one.

I will take questions as required referring to and reading from the full OSHA determinations, the FBI report and the Haag report as Mr. Bowles requires during trial.

I will also talk about the probable need for haste on the film completion to obtain NM tax credits by year end, the methods of financing films, and the actual budget versus spending.

I am waiting to obtain extensive financial details including but not limited to the actual original budget, the real expenditures versus the budget, full financing details, Mr. Baldwin's salary and his residual payment contract.

I also must see invoices for the dummies and blanks plus actual amounts spent versus original budget.

I also require and attempting to get the full actual union walkoff documentation.

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Advanced Securities Training, Merrill Lynch, Princeton, NJ

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Managing Director, Blair Financial Group LLC, Carmel Valley, CA 2009 - present

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Firearms Experience:

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NRA Life Member (NRA classes and testing)

Federal Firearms License 9-77-053-03-3F-02494 - (International - level specialty collector)

California Entertainment Firearms Permit # 12-961

California Concealed Carry Permits (training, testing, live fire qualifications) #DBR5AO626

California Firearms Safety Certificate

Experienced Rifle and Pistol Ammunition Reloader (20+ rifle and handgun cartridges)

Safari Club Member

California Hunting Licenses (training and testing, rifle, shotgun and handgun)

Ohio Hunting Licenses (training and testing, shotgun, pistol, blackpowder rifle)

Competitive Shooting – Steel Challenge (combined rifle and pistol), Vintage Military Rifle

Sergeant of Artillery, 1st American Regiment

Live fire CA state CCW pistol qualifications: Walther PPKS, Glock 22 (.40), Glock 27 (.40), S&W .38s, Sig Sauer 9mm, NAA .32

Experience/Qualification/Competition: SVD Dragunov sniper, Mosin snipers, M40 Remington sniper, AR variants, AK variants, vintage Sten 9mm, vintage Thompson .45 ACP, H&K MP5 9mm submachine guns wide variety of hunting and target handguns to .500 S&W Magnum

Extensive Blackpowder experience in re-enactment, films and training (artillery, muskets, rifles)

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