

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-REED,

Defendant.

**MOTION IN LIMINE TO PROHIBIT ANY USE OR REFERENCE OF THE
MOTORCYCLE ACCIDENT OF TYLER DYER**

Defendant Hannah Gutierrez-Reed, by and through her counsel of record, Jason Bowles of Bowles Law Firm, and Todd J. Bullion of Bullion Law Office, respectfully moves this Court to enter an order exclude from evidence and from any reference being made of the motorcycle accident and death of Tyler Dyer as well as the discussion of any settlement relating to Mr. Dyer's motorcycle accident. Use of this evidence by the government would violate rules of evidence 11-401, 11-403, 11-404 and 11-408. In support the following is offered:

Background

Special prosecutors have engaged in rank character assassination in this matter by claiming that Ms. Gutierrez Reed handed the keys, years before Rust, to an intoxicated individual who then died in a motorcycle crash.¹ This has caused Ms. Gutierrez-Reed to receive extremely negative

¹ 'RUST' ARMORER INSURANCE PAID OUT \$50K SETTLEMENT In Friend's Deadly Motorcycle Crash. TMZ. Published October 27, 2021. Available at <https://www.tnz.com/2021/10/27/rust-armorers-hannah-reed-50k-settlement-friend-death-motorcycle-crash/>

publicity². The individual who died, was Ms. Gutierrez Reed's then boyfriend whom she tried to stop from driving his motorcycle. The bike was a kick start and didn't require a key to start it. For the prosecution team as a whole, however, the facts have mattered less than making sure Ms. Gutierrez Reed's character has been utterly destroyed in the media and that she is made to seem generally reckless, to support their narrative.

The Special Prosecutor has disclosed a police report from the Bullhead City Police Department concerning the motorcycle accident and death of Mr. Dyer in discovery. The cover page of the report indicates that Special Prosecutor Jason Lewis made a public records request with the Bullhead City Police Department. The cover letter to Mr. Lewis is dated and signed July 12, 2023. Based on the disclosure of this document in discovery counsel anticipates that the special prosecutors may seek to use this information in trial in some form or fashion. No such use or reference to these events should be allowed.

11-401

The facts of this motorcycle accident do not have a tendency to make a fact of consequence in determining the outcome of the instant case more or less probable than it would be without the evidence. Rule 11-401. A motorcycle accident in a different state, that took place over a year before the date of incident in this case, without any persons in common with the exception of Ms. Gutierrez Reed, is simply put irrelevant to the case at hand. The fact that this incident did not involve Ms. Gutierrez Reed working as an armorer or on a film set compounds the irrelevancy of this information. It will be of zero assistance to the jury in deciding the charges pending against Ms. Gutierrez Reed and should be excluded.

² Alec Baldwin shooting: Rust armorer's insurer 'paid \$50k settlement to avoid her being sued for friend's death in motorcycle crash'. Independent. Megan Sheets. Published October 27, 2021 available at, <https://www.independent.co.uk/news/world/americas/rust-armorer-insurance-settlement-b1946611.html>

11-403

In applying NMRA 11-403 courts must engage in a balancing of interests – specifically weighing the probative value of relevant evidence against the risk of unfair prejudice. "For purposes of Rule 11-403, the term unfair prejudice means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one. Evidence is unfairly prejudicial if it is best characterized as sensational or shocking, provoking anger, inflaming passions, or arousing overwhelmingly sympathetic reactions, or provoking hostility or revulsion or punitive impulses, or appealing entirely to emotion against reason. *State v. Martinez*, 2021-NMSC-002, ¶ 101, 478 P.3d 880, 910 (internal citations and quotations omitted). This is exactly the kind of reaction that the speculative argument is designed to produce with the jury – anger at actions that would, albeit incorrectly and erroneously, be perceived to be reckless.

11-404(A)

The government may intend to utilize the motorcycle accident information to make a propensity argument that Ms. Gutierrez Reed is a careless or reckless person. While that argument would not be accurate and would in fact be misleading making such an argument is the very thing that Rule 11-404(A) expressly prohibits. This is compelling grounds to exclude any use or reference to these events.

None of the exceptions in subsection A of 11-404 could conceivably apply. If the court makes a finding that the introduction of the motorcycle accident information would violate 11-404(A) that finding should preclude even the possibility of the government making any 11-404(B) arguments.

11-404(B)

11-404(B) would potentially apply to the use of the motorcycle accident as other acts evidence. The government bears the burden of specifically articulating some permissible use of the other acts evidence. NMRA 11-404(B)(1) and (2); see also *State v. Martinez*, 2021-NMSC-002, ¶ 94, 478 P.3d 880, 908 (“The initial threshold for admissibility of prior uncharged conduct is whether it is probative on any essential element of the charged crime... [T]he proponent of the evidence is required to identify and articulate the consequential fact to which the evidence is directed before it is admitted.”)(internal citations and quotations omitted).

There is no reasonably conceivable means for the government to meet their burden to introduce information concerning the motorcycle evidence or make reference to it during trial.

Rule 11-408

The rules of evidence specifically prohibit the admission into evidence any evidence of an offer or acceptance to settle a claim as proof of the validity of that claim:

A. Prohibited Uses. Evidence of the following is not admissible--on behalf of any party--either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or contradiction:

(1) furnishing, promising, or offering--or accepting, promising to accept, or offering to accept--a valuable consideration in order to compromise the claim; and

(2) conduct or a statement made during compromise negotiations about the claim.

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In media reports it has, somehow been reported that a settlement was offered by Ms. Gutierrez Reed’s insurance company which Mr. Dyer’s estate accepted. The specific amount of that settlement has been reported to be \$50,000. There is significant and substantial risk that a juror would ignore the actual facts of the motorcycle accident and infer that Ms. Gutierrez Reed must bear some degree of fault because money was paid to settle a claim. This information should not be permitted to be admitted into evidence or otherwise utilized at trial for any purpose.

The State opposes this motion.

Conclusion

Wherefore, Defendant prays that the government be prohibited from introducing into evidence any facts or information concerning Tyler Dyer's motorcycle accident and death and that the government also be prohibited from referencing or utilizing information concerning the motorcycle accident in any way during trial.

Respectfully submitted,

/s/ Jason Bowles

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was sent through the ESF system, which caused the following parties to be served by electronic means, as reflected on the Notice of Electronic Filing this 16th day of January, 2024, to the counsel listed below:

Kari Morrisey

Jason Lewis

Special Prosecutors

1st Judicial District Attorney's Office

/s/ Jason Bowles

Jason Bowles
Bowles Law Firm