

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-2024-0013
Judge Mary Marlowe Sommer

DEFENDANT ALEC BALDWIN'S MOTION TO DISMISS THE INDICTMENT COMBINED
EXHIBIT SET 10 OF 10

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*)
Michael Nosanchuk (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
michaelnosanchuk@quinnemanuel.com

Sara Clark (admitted *pro hac vice*)
700 Louisiana St., Ste. 3900
Houston, TX 77002
Tel: 713-221-7000
Fax: 737-667-6110
saraclark@quinnemanuel.com

EXHIBIT 31

Santa Fe Sheriffs Office

OCA : 2021007949

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Case Status: *PENDING ACTIVE*Case Mng Status: *ACTIVE*Occurred: *10/21/2021*Offense: *DEATH INVESTIGATION*Investigator: *HANCOCK, A. (7254)*Date / Time: *03/11/2022 12:41:11, Friday*Supervisor: *ZOOK, C. (7140)*Supervisor Review Date / Time: *03/11/2022 13:40:16, Friday*

Contact:

Reference: *Investigation Supplement*

INTERVIEW WITH JENSEN ACKLES (11/1/2021):

Jensen Ackles came into the Sheriff's Office at approximately 10:45 AM on Monday, November 1, 2021 for an interview. He advised his role in regards to Rust was one of the main actors.

Jensen advised he had been on scene practically every day since the beginning of filming, and handling firearms frequently since it was part of his character. He advised during his time of filming, he consistently performed his own self-checks on the weapons he was using. Jensen advised he is easily able to tell a blank round from a dummy round due to it having a crimped tip.

Jensen advised the morning of the incident, everything went normal. He advised they did some filming in the morning, however it got delayed. Jensen recalled they were in the van heading to set, then had to be turned around and driven back to base camp. When Jensen asked the producers what was going on, he was advised the camera crew quit due to not being housed in Santa Fe. Jensen advised there was a male identified as Reid [Russel], who stayed because of Halyna, but believed at least six of the eight camera crew members quit.

Jensen advised the first couple shots were of him riding a horse into town, and from there they moved to filming in the church later in the morning. Jensen said the scene inside the church would have been his character going to the church, with his guns drawn, and telling Alec [Baldwin] to drop his weapon. Jensen advised at that point Alec would have slowly drawn his weapon, then started shooting at him as the scene was a gun battle. He advised after working that scene, they broke for lunch, then when they returned from lunch they continued with the scene doing close ups of Alec with the firearm.

Jensen said when they returned, he was standing right outside the church for "off-camera dialogue" so you could hear him speaking, however the camera would have been focusing on Alec pulling out the firearm. Jensen advised that was where he was standing when the gun went off. Jensen then talked of how Halyna would be the individual who was directing the camera shots, and explained how she was very hands-on instead of sitting behind a monitor. Jensen mentioned how right before the gun went off, Halyna was directing Alec to "show her the action."

Jensen advised there shouldn't have been any shot that went off because there were no cameras rolling, there wasn't supposed to be a blank round in the gun, and he couldn't recall anyone advising there was a "hot gun." He said after the shot went off he observed Joel screaming, and Halyna seated with blood starting to pool at the back of her jacket. Jensen said once he saw them he started calling for a medic, then stood back and waited for help. Jensen advised the shot sounded like a real round, specifically like a .45 caliber round. Jensen recalled Mamie [Mitchell] coming out of the church and calling 911, another wardrobe person who wasn't identified, and Reid. Jensen advised he starting moving equipment away from the front of the church to make room for EMS.

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I asked Jensen if they worked with firearms in the morning, to which he said they were given the gun belts and firearms first thing in the morning due to it being a part of their costume. He said if they do any shooting for a scene, the guns are taken from them and loaded with blanks, then when they are given back they are advised it's a hot gun, and told what type of load is in them and how many rounds are in the gun. Jensen advised he does his own checks on the weapons, and tells others to as well, however he said it's not the actor's job to be checking the firearm. I asked what firearm he had in the morning, and he said it was a .45 caliber pistol that said "US Marshal" on the handle. He said the gun was loaded with dummies in the morning, to which he knew they were dummies by doing a visual check and firing the weapon into the ground. He advised Sarah [Zachry] handed him the gun belt in the morning, and Hannah [Gutierrez] handed him his gun.

Jensen said Hannah would be handling the guns the majority of the time, but did see Sarah handle them occasionally. I asked if Dave [Halls] ever handed him a gun, to which he said no. Jensen said Hannah would show him the rounds in his weapon every morning. I asked Jensen who handed him the gun after lunch, to which he advised he didn't know, but assumed it was either Hannah or Sarah. He said after the incident, he handed the belt with the gun in it to Sarah, and saw her take it directly to the cart. I asked Jensen what happened with Alec's gun after the incident, and he said he remembered Dave asking for the gun, and he observed Dave and Hannah handling the gun.

I asked Jensen if he ever witnessed Hannah to be behaving in an unsafe manner, and he advised she would always say the things an armorer would say, and doing her safety checks, but she didn't have the "intensity" of typical armorers he's worked with in the past. Jensen advised there wasn't anything that made him feel unsafe on the set of Rust, but he could tell Hannah was inexperienced.

I asked Jensen to talk about the "show and tell" day, and he advised it was during one of the afternoons on the set. He described there to be an array of weapons out, along with boxes of blanks. He said it was a "pick out your gun" day, which is what they do for their characters for the set. Jensen said he was asked about his level of experience, then Hannah went over the functionality of the weapon. He said she offered to let him shoot his firearm after it was chosen, and it was loaded with half load blanks for practice. Jensen said Hannah took the firearm to the firing line, and loaded the gun with six rounds. Jensen advised he took the gun and loaded it into this holster, then did a draw and fired all of the loaded rounds. Jensen said he was the only one on the firing line when he went to practice, and everyone else stayed back at the tables. I asked Jensen if there was any target shooting, to which he said no. Jensen advised he heard about the rumor, but did not believe it to be true.

Jensen advised the days would start at sunrise, and end at sunset. He said he would arrive sometime between 6:15 AM and 6:30 AM, and lunch would break six hours after call time, typically around 1:30 - 2:00 PM. I asked how quickly after coming back from lunch did the incident occur, and he advised it was the first camera setup after they came back from lunch. Jensen said they started with a tight camera view of Alec pulling out his weapon, where Alec would pull the gun out, pull back the hammer, then jumps up to start a gun battle with him. Jensen advised he did not see who handed Alec his gun after lunch, but said it should have been loaded with dummies due to it

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being a tight shot of the gun. He said when they were going to start filming, it would have been loaded with blanks because they were going into a gun fight. I asked Jensen if he ever got a look at the ammunition on set, to which he said he looked at the rounds inside his gun every day, and he observed boxes on ammo on the props cart. I asked him to clarify about the "clay tips" he mentioned when talking about the ammo earlier, and he said you wouldn't be able to tell off a visual inspection if they were dummies or live rounds. I asked what color the clay tip would be and he advised it would be a grey color and made to look exactly like a live round. I asked who he witnessed load the guns, to which he replied he only saw Hannah load the weapons. Jensen advised he did not see who loaded the firearms the morning of the incident.

I asked Jensen about the accidental discharges, to which he advised he wasn't present during them, didn't witness them, and didn't even hear about them after they happened. I asked about the squib that went off, and he advised he did remember that happen, and it's not unlikely for it to happen. I brought up safety bulletins, to which Jensen said there was a safety meeting hosted by Dave every morning. I asked if the safety protocols were posted somewhere, to which he advised they should be on the call sheets.

In speaking about the props cart, I asked Jensen where it was typically located and he said it would always be close to set. He advised the guns and ammo would typically be locked up during lunch, but wasn't sure if they followed that protocol during Rust. I also asked Jensen if he witnessed the camera crew walk off, and he advised he didn't observe them, he just heard about it from others. Jensen said he observed them on previous days and described one of them to be "whiny" and witnessed him have several outbursts during the production. He advised it would be very hard to believe one of the members of the camera crew would bring live ammo on set at all, and didn't think anything would be done in a malicious manner.

I asked Jensen if he ever noticed Alec to be handling the gun in a reckless manner, to which he advised no. Jensen said he was rehearsing exactly what he was going to be doing in the scene, so Reid and Halyna could see it and set up the camera angle. Jensen said he was deliberately drawing the weapon as he was told to do, and Halyna would be directing the different angles of the camera shot. Jensen advised he wasn't sure if Alec drew back on the hammer and it slipped, or if he pulled the trigger, because he wasn't going to be firing at that time, and wouldn't fire until he jumped up to shoot at him for the scene.

I asked who would be in charge of safety on set, to which Jensen advised overall it would be the first AD, Dave Halls. He said there were also various people who were in charge of their own things, such as the wranglers for the horses. He advised the safety when it came to guns was a little loose compared to what he's used to. I asked if he ever witnesses Hannah put in situations where she was pressured or could be intimidated, and he said she seemed to portray a cocky persona, and was confident in what she did. I mentioned the statement about Hannah pressing for training, to which Jensen advised he thought the statement was "bullshit" due to knowing what they were signing up for when agreeing to do a low budget film. He advised many people were hired due to their experience and being able to complete the work without weeks of training.

I asked Jensen if he heard anyone call out "cold gun" after lunch, to which he advised he couldn't recall due to

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Case Mng Status: ACTIVE

Occurred: 10/21/2021

Offense: DEATH INVESTIGATION

Investigator: HANCOCK, A. (7254)

Date / Time: 03/11/2022 12:41:11, Friday

Supervisor: ZOOK, C. (7140)

Supervisor Review Date / Time: 03/11/2022 13:40:16, Friday

Contact:

Reference: Investigation Supplement

being outside the church. Jensen said he believed he watched Hannah go inside the church after lunch, and it would make sense that she handed the gun off to Dave due to possibly not being able to get to Alec because of how the scene was set up. Jensen advised the camera, with Halyna and Joel by it, was maybe about 4 feet from Alec when the gun went off. Jensen said he only heard one shot go off, then remembered Dave trying to find the gun. Jensen also talked about how Hannah and Sarah would be carrying multiple guns and belts at a time, however that wasn't uncommon based on his experience. I asked Jensen how many guns and belts were distributed after lunch, to which he advised Alec, Swen, and himself were the only ones outfitted after lunch.

Jensen advised he didn't have any negative experiences with anyone during the filming of Rust. His interview is submitted into evidence.

Investigator Signature

Supervisor Signature

EXHIBIT 32

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.

**SUPPLEMENT TO MOTION TO DISMISS SECOND AMENDED INFORMATION AND
MOTION TO DISMISS THIRD AMENDED INFORMATION**

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, hereby submits her supplement to her Motion to Dismiss Second Amended Information and Motion to Dismiss Third Amended Information and states that this supplement and the motion to dismiss the second amended information is now directed at the governing third amended information, and in support states as follows:

In the first motion to dismiss, Ms. Gutierrez Reed raised a number of areas of constitutional infirmity related to the underlying investigation and failures by the State to disclose exculpatory information. Ms. Reed also argued that the continuing involvement in the prosecution by DA Carmack Altweis, after appointment of special prosecutor Andi Reeb, was unauthorized and prejudicially tainted numerous aspects of the investigation and ongoing prosecution. The reason for this is that, consistent with this Court's ruling under the special prosecutor appointment statute, once that appointment was made, DA Carmack Altweis lacked authority to continue, to make decisions, to enter into plea deals and to steer the prosecution.

In its response, the State indicated that it was complying with its obligations under Brady v. Maryland, and its progeny. The state further appeared to concede the jurisdictional issue regarding the district attorney, and it filed a new second amended information attempting to cure any prejudice.

Following completion of briefing on this first motion, counsel was very recently copied on an email from the State's lead investigator. This email was sent by the investigator to DA Mary Carmack Altweis and to special prosecutor Kari Morrissey.

The email is attached. Exhibit A. In that email, the lead investigator, Mr. Shilling, indicates that he has been asked to do no further work on the case. He then acknowledges that the contents of the email are "probably" subject to IPRA, but states that he felt compelled to say anyway:

The current special prosecutor has directed that I conduct no further investigation into this matter. ...The conduct of the Santa Fe County Sheriff's Office during and after their initial investigation is reprehensible and unprofessional to a degree I still have no words for. Not I or 200 more proficient investigators than I can/could clean up the mess delivered to your office in October 2022 (1 year since the initial incident...inexcusable).

Following this send, the special prosecutor emailed and asked counsel for Ms. Gutierrez Reed to delete the email and apparently act as if it never happened, because it was "inadvertently" sent to undersigned counsel. Attached as Exhibit B. Apparently, the special prosecutor misbelieved that counsel for Ms. Gutierrez Reed would have no obligation to follow up.

Counsel then emailed the special prosecutor back and asked why DA Carmack Altweis was still involved in these matters. Special Prosecutor Morrissey then emailed that the contracts were with the district attorney's office, but that Morrissey decided who was hired and fired.

Following this exchange, and media IPRA request of Mr. Shilling's emails, Mr. Shilling messaged to counsel that this IPRA request didn't give him great confidence, and that he was under

an NDA, apparently not to talk about either his being told to stop working, the reasons surrounding that, or anything about the case.

This whole exchange is beyond troubling on many fronts. First, it appears beyond doubt now that the State is attempting to sweep exculpatory information “under the rug.” But for the fortuitousness of this “inadvertent” send, defense counsel would likely have never known about Shilling’s information and extremely negative views on the investigation. Ms. Gutierrez Reed has an expert witness regarding the severe problems in the investigation. The fact that the State’s lead investigator shares those views, or some of those views, is highly exculpatory.

Second, and even more problematic is the apparent existence of an NDA. It appears that the State has actually tried to suppress the statements and testimony of its now former lead investigator. This attempted suppression includes and encompasses what are obviously exculpatory statements by the investigator. Counsel will have to interview Mr. Shilling, and he has long been listed as a witness for the preliminary hearing, and indeed he was the author of the statement of probable cause supporting the charges against Ms. Gutierrez Reed. The fact that he wrote the charges in the manner that he did, but now professes great concern with the quality of the investigation, is a very important and exculpatory matter.

In thirty years of practicing law, both as a prosecutor and defense attorney, undersigned counsel has never seen an instance where a prosecutor attempted to silence a lead investigator, with potentially exculpatory information, through the use of an NDA. There is currently a national movement to ban NDA’s, especially in respect to cases involving sexual harassment or assault, so that powerful political and social figures cannot escape scrutiny and quietly make things disappear. Likewise, Ms. Gutierrez Reed has a constitutional due process right to have exculpatory information timely disclosed to her and for her to pursue investigation of that information. This is

supposed to be a search for the truth, not a game of hide the ball to obtain a conviction. Indeed, an NDA in a state context is also completely inconsistent with the Inspection of Public Records Act and it likely violates that law.

Ms. Gutierrez Reed now requests that this Court order production of all communications and emails in and between Mr. Shilling, DA Carmack Altweis, and the special prosecutors, to review in camera. This request is made because counsel has lost faith that the State will voluntarily comply with its Brady obligations. This request is also made because it appears that DA Carmack Altweis is still having involvement in the case, despite this Court's unequivocal prior order.

Respectfully submitted,

/s/ Jason Bowles

Jason Bowles

Bowles Law Firm

4811 Hardware Drive, N.E., Bldg D, Suite 5

Albuquerque, N.M. 87109

Telephone: (505) 217-2680

Email: jason@bowles-lawfirm.com

-and-

Todd J. Bullion

4811 Hardware Drive, N.E., Bldg D, Suite 5

Albuquerque, N.M. 87109

Telephone: (505) 494-4656

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 22nd day of June, 2023, to the counsel listed below:

Kari Morrisey
Jason Lewis
Special Prosecutors

/s/ Jason Bowles

Jason Bowles

Bowles Law Firm

EXHIBIT A

Rust

Robert Shilling <shilling.robert@gmail.com>

Tue 6/20/2023 4:00 PM

To: Mary Carmack-Altwies <MCarmack-Altwies@da.state.nm.us>

Cc: Jennifer Padgett <jpadgett@da.state.nm.us>; Kari Morrissey <ktm@morrisseylewis.com>; Jason Bowles <jason@bowles-lawfirm.com>

DA Carmack-Altwies -

In accordance with the 'agreement' entered into between your office and myself, specifically item numbered '6', please accept this notice as termination of our 'agreement', effective July 5, 2023 (14 days excluding federal holiday).

The current special prosecutor has directed that I conduct no further investigation into this matter. On that note, it is extremely reasonable that the current special prosecutor have staff/investigator(s) of her choosing as this case moves forward and comes closer to court date(s) and/or dates of import.

All time/hours from this point forward will be focused on a smooth transition to the directed point of contact; including but not limited to:

- Summarizing all interviews and/or contacts into a single report
- Summarizing all diagrams, in draft form, for ready transfer
- Documentation and transfer of any/all photographs/evidence in this matter;
- Binder transfer to the directed point of contact

Knowing full well the probability that this email may be subject to IPRA, I am still compelled to respectfully offer the following:

-The conduct of the Santa Fe County Sheriff's Office during and after their initial investigation is reprehensible and unprofessional to a degree I still have no words for. Not 1 or 200 more proficient investigators than I can/could clean up the mess delivered to your office in October 2022 (1 year since the initial incident...inexcusable).

It was an honor to be considered and selected to assist in this investigation...an investigation of the preventable, recklessly caused and untimely death of Ms. Hutchins.

Respectfully,

Robert Shilling

EXHIBIT B

Fwd: Rust

Kari Morrissey <ktm@morrisseylewis.com>

Tue 6/20/2023 4:39 PM

To: Jason Bowles <jason@bowles-lawfirm.com>

Jason

Rob's email to you was intended for Jason Lewis. It was an inadvertent disclosure. Please delete it. Thank you.

Kari Morrissey

----- Original Message -----

From: Robert Shilling <shilling.robert@gmail.com>

To: Mary Carmack-Altwies <MCarmack-Altwies@da.state.nm.us>

Cc: Jennifer Padgett <jpadgett@da.state.nm.us>, Kari Morrissey <ktm@morrisseylewis.com>, jason@bowles-lawfirm.com

Date: 06/20/2023 3:59 PM MDT

Subject: Rust

DA Carmack-Altwies -

In accordance with the 'agreement' entered into between your office and myself, specifically item numbered '6', please accept this notice as termination of our 'agreement', effective July 5, 2023 (14 days excluding federal holiday).

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