

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 3 OF 10

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EXHIBIT 5

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

STATE OF NEW MEXICO

Plaintiff,

vs.

ALEXANDER RAE BALDWIN III,

Target.

No. D-0101-GJ 2023-00008
Judge T. Glenn Ellington

**REPLY IN SUPPORT OF MOTION FOR SANCTIONS AGAINST
SPECIAL PROSECUTORS KARI MORRISSEY AND JASON LEWIS**

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Counsel for Alec Baldwin

INTRODUCTION

As Baldwin demonstrated in his opening brief, this is a straight-forward motion. The State violated the Court's clear order. Instead of coming clean, however, Morrissey implies that she did not disclose information to *NBC*—notwithstanding the fact that an *NBC* journalist called Baldwin's counsel moments after the hearing ended, explicitly stated that she spoke directly with Morrissey, and both described in detail and requested a comment on Morrissey's statements to the journalist about what transpired in the hearing before Your Honor. Morrissey's false excuse—that she told witnesses details about the hearing and that those witnesses must have called *NBC* immediately and disclosed everything—is implausible, to put it mildly.

If Morrissey has nothing to hide, why didn't she submit an affidavit, under penalty of perjury, stating that she didn't speak to the journalist? And that she didn't say anything about the hearing to *NBC*? Why didn't she submit an affidavit attaching the phone records from that day of every telephone she has access to? And why does the State spend the vast majority of its brief gratuitously trashing Baldwin about irrelevant matters and disputing remedies that Baldwin does not currently seek and arguments he doesn't make? The answer to these questions is clear: Morrissey violated the Court's order and has no evidence to demonstrate otherwise. The State's distractions and factual misrepresentations cannot change that fact. Rather, the State's effort to dodge responsibility by offering a false excuse compounds the State's wrongdoing.

The State's conduct has only gotten worse since this motion was filed. Baldwin's counsel served the opening sanctions motion on the State by email on November 20, 2023. That evening, within hours of serving the sanctions motion, Baldwin's counsel received two phone calls from *NBC*. Baldwin's counsel did not answer the phone. *NBC* called again the next morning. In light of the repeated calls and their proximity to the service of the sanctions motion, Baldwin's counsel

returned *NBC*'s call that morning. The journalist at *NBC* stated that Morrissey had called her the prior evening shortly before she called Baldwin's counsel (*i.e.*, shortly after the sanctions motion was filed), read her substantial portions of Baldwin's sanctions motion, yelled at her for publishing Morrissey's statements disclosing the grand jury information and motivations for prosecuting this case, and threatened to serve her with subpoenas. The journalist was seeking comment or confirmation regarding Baldwin's motion. When Baldwin's counsel asked the journalist to describe the details Morrissey had relayed (in order to verify the accuracy of the journalist's statements), she responded by accurately recounting substantial portions of Baldwin's motion.

The State's initial violation of the Court's order that prompted this motion, as well as Morrissey's false excuse, were severe enough to warrant the sanctions that Baldwin has requested. But even the most significant sanctions seem mild for what the State has now done. It is beyond the pale, plus some, for the State to violate the Court's order, violate the Court's order *again* by disclosing details about Baldwin's sanctions motion to *NBC*, lie to the Court about what actually occurred, and then threaten and intimidate the journalist with the power of the State for exercising the media's First Amendment rights.

The Court should hold the State in contempt and issue maximum sanctions.

I. THE STATE SHOULD BE HELD IN CONTEMPT AND SANCTIONED

The elements of contempt have been met here: the State had "(1) knowledge of the court's order [*i.e.*, not to disclose any information about the proceeding]; (2) the ability to comply [*i.e.*, by not disclosing any such information]; and (3) willful noncompliance with the order [*i.e.*, by disclosing the information to *NBC*]." *Rhinehart v. Nowlin*, 1990-NMCA-136, ¶ 30, 805 P.2d 88, 95 (*citing Dial v. Dial*, 1985-NMCA-059, ¶ 17, 703 P.2d 910, 913).

First, the State had "knowledge of the court's order." *See id.* At the November 15 hearing,

the Court repeatedly ordered the parties not to disclose information about the grand jury process or what happened during the November 15 hearing. The Court stated that disclosing information about the grand jury process (*N.B.*, which the State had improperly done before) created a substantial risk of prejudice to Baldwin. For example, the Court noted that at least one member of a currently empaneled grand jury had asked to sit on the grand jury in Baldwin’s case—a troubling request that highlighted the real potential for prejudice. The State acknowledged during and after the hearing that the Court’s order was clear.¹ Despite the fact that the Court issued a clear order—and even gave this specific example of the prejudicial consequences of violating it—Morrissey says that she “*now* understands the difficulty this announcement [of the grand jury date] created for the Court and will not release the date to anyone other than the witnesses.” (Opp. Br. at ¶ 17 (emphasis added).) But that “difficulty” was clear from the Court’s statements at the November 15 hearing. Morrissey also says that *now* she will “gladly” enter into a gag order to alter the “status quo.” (Opp. Br. at ¶ 32.) As if the Court’s order had not *already* altered the “status quo” by barring her from making the disclosure to *NBC*. The State had knowledge of the Court’s order, and it has offered no good-faith basis to find otherwise.

Second, the State had “the ability to comply” with the order. *See id.* Compliance was simple: in this instance, the State just needed to refrain from disclosing the content of the hearing. Baldwin’s counsel complied; there was nothing preventing the State from doing the same.

Finally, the State engaged in “willful noncompliance with the order.” *See id.* After the Court repeatedly admonished the parties not to disclose the contents of the grand jury process or the hearing, the State could barely wait an hour before defying the Court’s ruling. Morrissey

¹ The State acknowledged this fact after the hearing in its written opposition to Baldwin’s request to obtain the hearing transcript, which the State inexplicably still opposes.

immediately spoke with *NBC*, violated the order by disclosing the details of the hearing, and made statements demonstrating her illicit motivations behind this prosecution. *NBC* stated that it spoke directly with Morrissey and that she made these statements. (*See* Affirmation of Luke Nikas, filed Nov. 20, 2023 (“First Nikas Aff.”) at ¶ 4.)

In response, the State manufactures an unpersuasive excuse, and then devotes nearly its entire brief to disparaging Baldwin and making unprofessional and false attacks on Baldwin’s counsel. Notably, the State’s description of what happened with the disclosure is suspiciously ambiguous. The State says “undersigned counsel did not wait an hour after the hearing to disclose the information, she disclosed it within minutes of the conclusion of the hearing, although not to the media.” (Opp. at ¶ 1.) The State also quotes the *NBC* article reporting that no one “comment[ed]” for the article. (*E.g.*, Opp. at ¶ 24.) While the State may or may not have disclosed information to a witness “within minutes,” and while the State may or may not have given a formal “comment” for the article, it’s clear that Morrissey disclosed substantial information directly to *NBC* within the next hour, in violation of the Court’s order. (*See generally* First Nikas Aff.) Why doesn’t the State clearly and definitively deny that fact under oath if it isn’t true? Why does the State parse its words so carefully and deceptively to avoid having to explicitly deny that fact? Why doesn’t Morrissey sign an affidavit under penalty of perjury with that denial and disclose the phone records from every phone she has access to? Why does the State quickly move from its absurd excuse about the disclosure into a 16-page diatribe about Baldwin and his counsel—nearly all of which is highly misleading, irrelevant, and untrue? There’s only one reason: the State knows it violated the Court’s order, the State has no evidence to dispute what *NBC* said to Baldwin’s counsel about the source of the information it obtained, the State knows that *NBC* published the information after speaking with Morrissey and didn’t get the information from any purported

“witnesses,” and the State knows that both Morrissey’s and the journalist’s phone records would show their phone call immediately after the Court hearing and immediately before *NBC* updated the article with information it obtained from Morrissey on the call. In short, the State knows it does not have competent evidence to oppose Baldwin’s motion.

In these circumstances, the Court should hold the State in contempt and issue sanctions.² The State’s violation is significant. Less than an hour before the State’s violation, the Court issued the Order and repeatedly reiterated the importance of compliance—even giving a specific example of the prejudicial consequences that could result from a violation. Yet the State showed zero regard for the Court’s authority, showed zero concern about the prejudicial impact on Baldwin, and deliberately defied the Court’s order by disclosing information to a major media outlet.

It would be difficult to imagine a more serious or malicious violation. Except that a more serious and malicious violation happened after Baldwin filed this sanctions motion. Baldwin’s counsel served the opening sanctions motion on the State by email on November 20 at 7:24 p.m. (Second Affirmation of Luke Nikas, at ¶ 3 (“Second Nikas. Aff.”).) A few hours later, at 9:59 p.m. and 10:00 p.m., Baldwin’s counsel received two phone calls from *NBC*. (*Id.* at ¶ 4.) Baldwin’s counsel did not answer the phone. (*Id.*) *NBC* called again the next morning, at 8:03 a.m. (*Id.* at ¶ 5.) Given the frequency of the calls, and how closely timed they were to service of

² The State argues that it was frivolous for Baldwin to name Special Prosecutor Jason Lewis in the sanctions motion, since Morrissey is the one who violated the Court’s order, not Lewis. (Opp. Br. at ¶ 33.) The State misses the point. Baldwin did make clear which sanctions should apply to whom based on their role in the misconduct at issue, such as requesting monetary sanctions personally against Morrissey, but not Lewis, because she willfully violated the Court’s order, necessitated this briefing, and therefore should be required to pay for it. In other instances, however, such as Baldwin requesting broader sanctions that should bind the State and both of the Special Prosecutors, naming Lewis in the motion is appropriate given that he represents the State, the State’s pattern of misconduct occurred at least in part on both Morrissey and Lewis’s watch, and certain sanctions should be binding on the State and each of its representatives.

the sanctions motion, Baldwin’s counsel returned *NBC*’s call at 8:39 a.m. (*Id.* at ¶ 6.) The journalist at *NBC* stated that Morrissey had called her the prior evening shortly before she called Baldwin’s counsel, that Morrissey read her substantial portions of Baldwin’s sanctions motion and yelled at her for publishing Morrissey’s statements disclosing the grand jury information and her motivations for prosecuting this case, that Morrissey threatened to serve her with subpoenas, and that the journalist was seeking comment or confirmation. (*Id.* at ¶ 6.) To verify the accuracy of these statements, Baldwin’s counsel asked the journalist to describe the details that Morrissey relayed regarding Baldwin’s motion—to which the journalist responded by accurately recounting substantial portions of Baldwin’s motion. (*Id.* at ¶ 7.) Baldwin’s counsel thanked the journalist for the call and declined to comment. (*Id.* at ¶ 8.)

It is difficult to overstate the seriousness of Morrissey’s misconduct. The State violated the Court’s order moments after it was issued. The State then violated the Court’s order a second time moments after Baldwin filed a sanctions motion about the State’s first violation. And then, while in the process of committing that second act of contempt, Morrissey threatened to use the State’s subpoena power to intimidate a journalist who was exercising the media’s First Amendment right to cover this case. *See Tachias v. Los Lunas Sch. Bd. of Educ.*, 636 F. Supp. 3d 1328, 1348 (D.N.M. 2022) (“[A]ny form of official retaliation for exercising one’s freedom of speech, including prosecution, threatened prosecution, bad faith investigation, and legal harassment, constitutes an infringement of that freedom.”); *see also Smith v. Daily Mail Pub. Co.*, 443 U.S. 97, 103 (1979) (“[I]f a newspaper lawfully obtains truthful information about a matter of public significance then state officials may not constitutionally punish publication of the information, absent a need to further a state interest of the highest order.”). Next, as if things couldn’t get worse, the State filed an opposition brief falsely explaining how *NBC* obtained the

details of the November 15 hearing. Morrissey's conduct is a threat to the integrity of the New Mexico criminal justice system. It is a threat to this Court's authority. It is a threat to Baldwin's constitutional rights. It is a threat to the First Amendment. And it is a threat to the Rule of Law. The Court should impose the maximum sanctions available.

Although the Court need not consider any further information to issue sanctions,³ the State's history of misconduct reinforces the importance of imposing maximum sanctions. From day one, the State has engaged in underhanded tactics designed to prejudice Baldwin, violated the ethical rules governing prosecutors' public statements (*N.B.*, which apply *only* to prosecutors for obvious reasons that have been explained in numerous ethics decisions and articles),⁴ violated the

³ See *State v. Cherryhomes*, 1992-NMCA-111, ¶ 15, 840 P.2d 1261, 1264 (holding that “[w]illful violation of a court’s order without testing its validity through established processes directly affects a court’s ability to discharge its duties” and where “evidence indicates that [an attorney] violated a court order, the district court had the discretion to exercise its inherent power to issue a contempt sanction to preserve its authority and maintain respect for the courts”); *In re Byrnes*, 2002-NMCA-102, ¶ 14, 54 P.3d 996, 1002 (noting that an attorney may be held in contempt and sanctioned for disobeying a court order); *State v. Le Mier*, 2017-NMSC-017, ¶ 24, 394 P.3d 959, 966 (“a single violation of a discovery order may suffice to support a finding of culpability”).

⁴ See N.D.A.A. Nat’l Prosecution Standard 2-14.2 (“The prosecutor should refrain from making extrajudicial comments before or during trial that promote no legitimate law enforcement purpose and that serve solely to heighten public condemnation of the accused.”); *id.* 2-14.2 (“Prior to and during a criminal trial the prosecutor should not make any public, extrajudicial statement that has a substantial likelihood of materially prejudicing a judicial proceeding.”); *id.* 2-14, cmt. (“Because of the prosecutor’s unique role as a representative of all of the people in the quest for justice, it would be unfair for him or her to diminish the rights of a defendant to a trial by an unprejudiced jury of his or her peers by broadcasting information through the media where it would go untested by the time-tested procedures incorporated into our criminal justice system.”). See also ABA Standard 3-1.10(g) (“The prosecutor has duties of confidentiality and loyalty, and should not secretly or anonymously provide non-public information to the media, on or off the record, without appropriate authorization.”); Andrew McCarthy, *Alec Baldwin Charge Dropped, but Prosecutor Should Throw the Whole Thing Out*, FOX NEWS (Feb. 21, 2023), <http://bitly.ws/BTsW> (“[E]thical prosecutors do not denigrate the exercise of due process rights, especially in a manner designed to prejudice the jury pool against the defendant.”); see also, e.g., Thomas Frampton (@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

New Mexico and U.S. Constitutions (twice),⁵ violated the New Mexico statute governing the appointment of a special prosecutor (which resulted in the district attorney’s withdrawal from the case),⁶ violated grand jury secrecy rules,⁷ violated the State statute regarding the timing of Baldwin’s alert letter (while giving his co-target the full statutory period), and conducted an investigation that was so egregious and flawed that the State’s own investigator found it necessary to put his concerns in writing. (*See generally* Baldwin Opening Br.) The list of the State’s troubling conduct goes on and on, to the point where prominent legal experts around the country, including former judges, law professors, and lawyers, have written articles stating that this prosecution is frivolous.⁸

defense counsel (for correctly objecting to an obviously unconstitutional charge) is consistent with this?”); Kyle Clark and Andrew George, *Guest Column: Alec Baldwin’s ‘Rust’ Prosecutors Should Do Their Talking in Court*, The Hollywood Reporter (Mar. 3, 2023), <http://tinyurl.com/43sh3dfu>; Rebecca Picciotto, *Prosecutors in Alec Baldwin ‘Rust’ shooting case are getting heat over apparent missteps*, CNBC (Mar. 6, 2023), <http://tinyurl.com/5de7uau2> (describing the case as a “media circus” and noting that “poison[ing] the jury pool” “certainly could be an issue” in this case).

⁵ *See State v. Baldwin*, D-0101-CR-202300-039, “Defendants Notice of Unlawful Enhancement and Motion Not to Bind Over Enhancement” (Feb. 10, 2023), “Notice of Withdrawal of Notice of Unlawful Enhancement and Motion Not to Bind Over Enhancement” (Feb. 20, 2023), “Defendant’s Motion to Disqualify the Special Prosecutor Under Article III of the New Mexico Constitution” (Feb. 7, 2023), “Defendant’s Notice of Withdrawal of Motion to Disqualify the Special Prosecutor and Response to Court’s Letter of March 20, 2023” (Mar. 21, 2023).

⁶ D-0101-CR-202300-039, “State’s Notice and Motion to Vacate Hearing” (March 29, 2023); *State v. Gutierrez-Reed*, D-101-CR-2023-00040, “Order Amending April 21, 2023 Order on Defendant’s Brief Addressing District Attorney’s Power to Continue as Special Co-Prosecutor After Appointment of Special Prosecutor (Aug. 7, 2023), ¶¶ A-C.

⁷ *See Davis v. Traub*, 1977-NMSC-049, ¶ 10, 90 N.M. 498, 501, 565 P.2d 1015, 1018 (“There is a uniform policy among all states that grand jury proceedings must be secret and insulated from all outside influences”); N.M.S.A 31-6-4 (noting that “all [grand jury] deliberations shall be conducted in a private room outside the hearing or presence of any person other than the grand jury members”); *c.f.* N.M. R. Crim. P. Dist. Ct. 5-506 (providing for the release of the sound recording of grand jury testimony to a party only upon request of that party).

⁸ *See* Debra Cassens Weiss, *Prosecutors face obstacles in prosecution of Alec Baldwin and armorer for cinematographer’s death*, ABA Journal (Jan. 23, 2023), <http://tinyurl.com/mpemhtck>; Jack Queen, *Analysis: Alec Baldwin ‘Rust’ shooting case could be tough for prosecutors*, Reuters

The State’s response glosses over that history. Instead, the State attempts to paint Baldwin as the one responsible for generating the media attention—going all the way back to irrelevant press about Baldwin from 16 years ago. Although it is the State’s misconduct that matters here, not how much press Baldwin has gotten in his lifetime, it is worth noting that the State’s description of Baldwin’s recent press interactions is misleading. For example, the press appearances that the State describes only occurred when there were *no* charges pending. Baldwin made one appearance shortly after the accident in December 2021, over two years *before* charges were filed. For the State to say that this single appearance is from the same press cycle that the State improperly started two years later at the end of January 2023 (Opp. at ¶ 13), when it set up a press hit on Baldwin with the *Wall Street Journal*, is meritless. And Baldwin then made one short appearance on *CNN* in August 2022, more than five months *before* charges were filed and at a time when the State had given Baldwin false comfort that charges were unlikely. The State doesn’t identify any other appearances. That’s it.⁹ In contrast to the State’s extensive, disparaging press strategy against Baldwin and his counsel, neither Baldwin nor his counsel have made comments about this matter while charges were pending.

(Jan. 31, 2023), <http://tinyurl.com/2s4cky8>; Nadira Goffe, *The Manslaughter Charges Against Alec Baldwin Truly Make No Sense*, Slate (Jan. 20, 2023), <http://tinyurl.com/4wb6jkw>; *Harvard Law expert analyzes Alec Baldwin charges in tragic ‘Rust’ shooting death*, Harvard Law Today (Jan. 23, 2023), <http://tinyurl.com/3af2f29t>; Stephen L. Carter, *Alec Baldwin Manslaughter Charge Is a Stretch*, Bloomberg Opinion, <http://tinyurl.com/2eebjr3s>; David Oscar Markus, *Prosecutors Pursuing Alec Baldwin for All the Wrong Reasons*, ALBUQUERQUE J. (Jan. 24, 2023), <http://tinyurl.com/2vem779s>; Andrew McCarthy, *Alec Baldwin charge dropped, but prosecutor should throw the whole thing out*, Fox News (Feb. 21, 2023), <http://tinyurl.com/2f89pzs>.

⁹ The State portrays Baldwin’s October 31, 2023 discussion on a podcast with Kelly Ripa as conduct intended to improperly influence these proceedings. (Opp. Br. at ¶ 9.) The reality is that Baldwin devoted the entire interview to subjects unrelated to this case, and then at the very end, when he was asked about this matter, he simply said that he would like to see reforms enacted that get real guns off movie sets. Although the State’s reference to this interview is legally and factually irrelevant, the State’s attempt to use this benign encounter to attack Baldwin highlights the extreme lengths to which the State will go to avoid responsibility for its contempt.

The State’s other arguments—that the prior prosecutors were just joking about announcing the prosecution to help Andrea Reeb (even though a self-promoting press cycle is exactly what they later did), that the Court should ignore the State investigator’s blistering email about the State’s investigation, and that the Court should focus on Baldwin’s public life and image from nearly two decades ago—are as frivolous as they are irrelevant. The fact that the State feels compelled to dredge up a 16 year-old voicemail Baldwin left for his daughter, as well as refer to what they characterize as Baldwin’s “impressive level of arrogance” (Opp. Br. at ¶ 25), only underscores the illicit motivations behind this prosecution and the State’s desperate effort to deflect from its violation of the Court’s order.

The bottom line is that the State violated the Court’s order twice, and the State’s sloppy cover-up story, as well as the circumstances of those violations, reinforce the need to impose the most serious sanctions.

CONCLUSION

Baldwin respectfully requests that the Court grant Baldwin’s motion and impose the maximum sanctions available against the State and Morrissey personally.

Date: December 15, 2023

Respectfully submitted,

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Counsel for Alec Baldwin

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2023, a true and correct copy of the foregoing brief was emailed to opposing counsel.

/s/ Heather LeBlanc
Heather LeBlanc

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

STATE OF NEW MEXICO

Plaintiff,

vs.

ALEXANDER RAE BALDWIN III,

Target.

No. D-0101-GJ 2023-00008
Judge T. Glenn Ellington

SECOND AFFIRMATION OF LUKE NIKAS IN SUPPORT OF MOTION FOR SANCTIONS

I, Luke Nikas, having been duly sworn, affirm as follows:

1. I am a partner in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP, and am admitted to practice law in the State of New York.
2. In this matter, I am associated with Heather LeBlanc, Esq., counsel licensed to practice law in New Mexico, and was granted admission *pro hac vice* in the matter of the *State of New Mexico v. Alexander R. Baldwin III*.
3. I served the Motion for Sanctions against Special Prosecutors Kari Morrissey and Jason Lewis on the State by email on November 20, 2023, at 7:24 p.m. EST.
4. At 9:59 p.m. and 10:00 p.m. EST on November 20, 2023, I received two phone calls from *NBC*. I did not answer either call.
5. *NBC* called me again on November 21, 2023, at 8:03 a.m.
6. Given the frequency of the calls, and how closely timed they were to service of the sanctions motion, I returned *NBC*'s call at 8:39 a.m. On that call, the journalist at *NBC*

stated that Kari Morrissey had called her the prior evening shortly before the journalist called me. She relayed that Morrissey read her substantial portions of the sanctions motion. She also stated that Morrissey yelled at her for publishing Morrissey's statements disclosing the grand jury information and Morrissey's motivations for prosecuting this case. Finally, she stated that Morrissey threatened her with subpoenas. The journalist said she was seeking comment or confirmation regarding Baldwin's motion.

7. To verify the accuracy of these statements, I asked the journalist to describe the details that Morrissey relayed regarding Baldwin's sanctions motion. The journalist responded by accurately recounting substantial portions of that motion.

8. I thanked the *NBC* journalist for the call and declined to comment.

The statements in this affirmation are true and accurate to the best of my knowledge and belief.

Dated: December 15, 2023



Luke Nikas

EXHIBIT 6

VIA E-MAIL

Special Prosecutor Kari Morrissey
Special Prosecutor Jason Lewis
First Judicial District Attorney's Office
ktm@morrisseylewis.com
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November 14, 2023

GRAND JURY EVIDENCE NOTICE TO DISTRICT ATTORNEY

INVESTIGATION RE: Alexander Rae Baldwin III

Hearing Date: November 16, 2023

Case No.: D-101-GJ 2023-00008

Dear Ms. Morrissey and Mr. Lewis:

In accordance with Section 31-6-11 NMSA, *Jones v. Murdoch*, 2009-NMSC-002, 145 N.M. 473, and N.M. R. Crim. P. Dist. Ct. 5-302.2(B), the above-noted target of the Grand Jury proceeding in this case requests that the Grand Jurors be alerted to the following lawful, competent, and relevant evidence, and that the proposed questions be asked of the witnesses called before the Grand Jury.

PART I: ELEMENTS¹

Mr. Baldwin requests that the Grand Jurors be alerted to the fact that the criminal negligence standard requires the prosecution to show that Mr. Baldwin had subjective knowledge of an actual risk that the firearm placed in his hand had been loaded with live ammunition.

Mr. Baldwin requests that the Grand Jurors be alerted that proximate cause is an element of causation, and that the element of proximate cause is negated where the negligence of a third party (*i.e.*, someone other than Mr. Baldwin) was the only significant cause of death or constitutes an intervening cause that broke the foreseeable chain of events.

¹ Given the factual chain of events that led to Ms. Hutchins' death and based on the core principles of Section 31-6-11 NMSA and *Jones v. Murdoch*, Mr. Baldwin submits that failure to instruct the Grand Jury on the applicability of these specific elements will result in fundamental unfairness to Mr. Baldwin.

PART II: WITNESSES

Witness No. 1: Joel Souza

Potential Testimony: Mr. Souza is the Director of *Rust*. He was primarily responsible for all creative aspects of the film and relied on the entire cast and crew to bring his creative vision to life. He was present in the church during the rehearsal scene and was struck by the fatal bullet after it passed through Halyna Hutchins. He suffered non-life threatening injuries. Mr. Souza's testimony will make clear that responsibility for firearm safety lies with the armorer and First Assistant Director, not with actors, and that Mr. Baldwin did not act negligently on set.

Questions:

1. What was your role on the film *Rust*? What did that entail?
2. To the best of your knowledge, did anyone ever raise any concerns about Mr. Baldwin's attitude towards safety on the set of *Rust*?
3. To the best of your knowledge, has anyone ever raise any concerns about Mr. Baldwin's attitude towards safety on any movie set?
4. Did you personally have any concerns about Mr. Baldwin's attitude toward safety on the set of *Rust*?
5. What kind of movie is *Rust*?
6. Does the script call for the use of firearms?
7. Does the script include scenes that required actors to point prop guns at other actors?
8. Are there any roles for children in the film? What roles?
9. Does the *Rust* script include any scenes that call for a prop gun to be pointed at a child?
10. Who was responsible for safety on the set of *Rust*?
11. Who was responsible for firearm safety on the set of *Rust*?
12. Did you observe Mr. Baldwin handling prop weapons during the production? How many times?
13. Did you ever observe Mr. Baldwin using prop weapons on the set of *Rust* in a way that seemed dangerous or negligent?
14. Do you recall what time you arrived on set on October 21, 2021?
15. Can you describe the scene that was being rehearsed before and after lunch? What happens during that scene? Does the scene involve any firearms?
16. What was the purpose of the rehearsal that began in the church after lunch?
17. Did the script direct Mr. Baldwin to draw his pistol during that scene?

18. Where did you want the camera positioned in relation to Mr. Baldwin?
19. Did you have any concerns about positioning the camera so close to where Mr. Baldwin would be drawing the pistol? Why or why not?
20. Do you recall anyone asking for Mr. Baldwin's revolver to be brought into the church? Do you recall who brought it in?
21. Do you recall how the revolver got into Mr. Baldwin's hand?
22. As far as you could tell, was everyone under the assumption that the gun was safe to handle?
23. As far as you could tell, did anyone seem uncomfortable once the gun was brought in?
24. Once Mr. Baldwin had possession of the gun, did he receive any instructions from you or Ms. Hutchins? What were the instructions?
25. Did you have any concerns about the way Mr. Baldwin was handling the gun in front of the camera?
26. What happened next?
27. Do you recall being taken to a hospital? Can you describe your injuries?
28. Do you recall giving a statement to investigators the following day?
29. Do you recall telling investigators that, shortly after the gun went off, you remember the armorer, Hannah Gutierrez-Reed, standing over you hysterically yelling "I'm sorry, I'm sorry, I'm sorry"?
30. Based on the circumstances, her demeanor and body language, and any other information you had, did you have an understanding at the time of why she was yelling that?
31. Was there a production company that was set up to make *Rust*? What was it called?
32. Were you hired by the production company?
33. Is Rust Movie Productions Alec Baldwin's company?
34. As far as you know, did Mr. Baldwin ever own any part of the production company?
35. Was Mr. Baldwin hired by the production company?
36. Leading up to and during the production, were there people working for the production company whose jobs were strictly to deal with hiring, budgeting, scheduling, logistics, day-to-day management on set, and those sorts of things? Can you briefly name those people and describe their roles?
37. Do you know whether Mr. Baldwin had the authority to hire any crew members?

38. As far as you know, was Mr. Baldwin responsible for managing or supervising any crew members?
39. Did Mr. Baldwin receive a Producer credit for the film?
40. What was that credit intended to reflect?

Witness No. 2: David Halls

Potential Testimony: Mr. Halls was the First Assistant Director and Safety Coordinator on the set of *Rust*. He was in charge of managing and supervising all departments on set and was responsible for safety conditions on set. He is aware of the conditions on set and the day of the incident. He was present in the church when the fatal shot discharged. Mr. Halls's testimony will establish that responsibility for firearm safety lies with the armorer and First Assistant Director, not with actors, and that Mr. Baldwin did not act negligently on set.

Questions:

1. What was your role on the *Rust* set?
2. What is the job of a First Assistant Director?
3. Have you worked as a First Assistant Director on other films? How many?
4. Are you a member of a union? Which union?
5. Does the union provide a specific job description for the role of a First Assistant Director? What does it say?
6. Who was the Safety Coordinator on the *Rust* set?
7. As First Assistant Director and Safety Coordinator, what were your responsibilities with respect to set safety on the *Rust* set?
8. As First Assistant Director and Safety Coordinator, what were your responsibilities with respect to firearm safety on the *Rust* set?
9. Are you familiar with Industry Safety Bulletins? What are they?
10. Are you familiar with Industry Safety Bulletin No. 1? What does it say?
11. Does Safety Bulletin No. 1 note that live ammunition should never be on set? Is that consistent with your understanding and experience on film sets?
12. Based on your experience and industry knowledge, is there ever any reason that anyone on a film set would expect there to be live ammunition anywhere near the set?
13. Did you observe anything at any time during the production of *Rust* that gave you a reason to suspect there might be live ammunition on set?

14. Are you aware of any reasons why anyone else might have expected to find live ammunition anywhere on the set?
15. Did you work with Alec Baldwin at all during the making of *Rust*? How closely did you work with him?
16. Did anyone ever raise any concerns with you with respect to Mr. Baldwin's attitude towards safety on set?
17. Did you personally have any concerns about Mr. Baldwin's attitude toward safety on set?
18. Did anyone ever raise any concerns with you regarding Mr. Baldwin's general conduct on the movie set?
19. Are you aware of any reasons why Alec Baldwin would have had any reason to suspect that live ammunition could be found anywhere on the set?
20. What is the role of the armorer on a movie set?
21. Who was the armorer on the set of *Rust*?
22. Was Hannah someone over whom you would have had oversight and control in terms of making sure they are following her department's safety protocols?
23. What is the difference between a blank and a dummy round?
24. Can you describe the scene that was being rehearsed leading up to the incident?
25. Were you present inside the church during the rehearsal?
26. Did you get on your radio and call for the gun to be brought into the church? What did you say?
27. Did you ask for it to be loaded with dummies?
28. Was it necessary for the gun to be loaded with dummies for the rehearsal? If not, why was it loaded?
29. Are there certain industry protocols that an armorer is supposed to follow when loading dummy rounds into a gun? What are they?
30. Is it customary for the armorer to take each dummy round out of the gun and shake each round before handing the gun off to the actor? If so, why?
31. Is the process of checking a firearm for dummies typically something that happens between the armorer and the First Assistant Director?
32. To the best of your knowledge, are there any rules that require actors to be involved in the process of checking the dummies that are loaded into a prop gun?
33. Is it customary for actors working with prop firearms to rely on assurances from the armorer and First Assistant Director that the firearm is safe to handle?

34. By the time a prop gun loaded with dummies is placed into an actor's hand, is it assumed that the gun is completely safe to handle?
35. Is there any reason at all why Mr. Baldwin would have or should have assumed otherwise on this set?
36. Was Mr. Baldwin asked the point the revolver in the direction of the camera? By whom? Why was that instruction given?
37. Do you have any reason to think Mr. Baldwin would have pointed the gun toward the camera if he wasn't instructed to do so?
38. In your opinion, under the circumstances as you witnessed them, did Mr. Baldwin act carelessly, negligently, or contrary to industry standards in the moments leading up to the gun's discharge?
39. Are you aware of any statements made by your lawyer to the media after the charges against Mr. Baldwin were dropped?
40. Did your lawyer state, "Mr. Halls never believed Mr. Baldwin should be charged with a crime. It was a tragic accident that is best resolved out of criminal court"?
41. Did that statement by your lawyer accurately reflect your views at the time?
42. Have your views since then changed?
43. Are you aware of any statements made by your lawyer to the media in December 2021, before charges were filed against Mr. Baldwin?
44. Did your lawyer state, "Dave has told me since the very first day I met him that Alec did not pull that trigger"? Is that an accurate statement by your lawyer?
45. And does your lawyer speak for you?
46. Do you recall being interviewed by investigators from various state agencies over the past couple years?
47. Do you recall being interviewed in January 2023 by members of the District Attorney's office?
48. Was your counsel present?
49. Did that interview take place in connection with a plea agreement?
50. What was the nature of the plea agreement?
51. Did your plea interview and plea agreement happen before or after charges were initially filed against Mr. Baldwin?
52. During your plea interview, did the Special Prosecutor ask if you felt partially responsible for Ms. Hutchins' death? If so, what was your response?

53. During that interview, did you refer to yourself as “the last line of defense”? What did you mean by that?
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Witness No. 3: Sarah Zachry

Potential Testimony: Ms. Zachry was *Rust*'s prop master, responsible for acquiring, placing, and/or overseeing any props needed for the production, including prop firearms and ammunition. As prop master, she oversaw and supervised the armorer, Hannah Gutierrez-Reed, and was the only other person on set with responsibility for the storage and handling of firearms and ammunition. Along with Hannah Gutierrez-Reed, she was responsible for procuring firearms and ammunition from *Rust*'s third-party supplier. Ms. Zachry will indicate that there were additional live rounds in the box of ammunition that Gutierrez-Reed used the day of the incident, and that Gutierrez-Reed had brought ammunition from another set she had worked on. Zachry will also identify the origin of some of the ammunition on the set. The introduction of a live round is an intervening cause that precludes liability for Mr. Baldwin.

1. What was your role on the film? What did it entail?
2. Who hired you?
3. Is that who did all the hiring?
4. Do you know if Mr. Baldwin was involved in your hiring?
5. Do you know if Mr. Baldwin was involved in the hiring of any other crew members? Whose job was that?
6. Do you know if Mr. Baldwin was involved in supervising crew members or managing any of the various departments on set? Whose job was that?
7. Do you know if Mr. Baldwin was responsible for ensuring crew members followed safety protocols? Whose job was that?
8. Do you know if Mr. Baldwin was involved in scheduling hours for crew members? Whose job was that?
9. Do you know if Mr. Baldwin was involved in budgeting for hours worked by crew members? Whose job was that?
10. Did you ever observe Mr. Baldwin doing anything in relation to the production other than acting?
11. Who was the armorer on the film?
12. As prop master, was part of your job to oversee the armorer?
13. Was part of your job acquiring prop firearms and ammunition to be used on set?
14. Did you share that responsibility with anyone else?

15. What kinds of firearms did you acquire?
16. What kinds of ammunition did you acquire?
17. Where did you acquire prop firearms and ammunition?
18. Do you know if Hannah brought any of her own ammunition to the set of *Rust*? If so, do you know why she did and where it came from?
19. When did you first meet Hannah? What was your initial impression of her?
20. Did you and Hannah spend a lot of time together on the set?
21. Did she take her job seriously?
22. Did she generally get along with others?
23. Did she pay attention and follow instructions?
24. Was she better at some parts of her job than others?
25. Did Hannah ever talk about her father? What did she say about him?
26. Did Hannah project confidence in her knowledge and handling of firearms?
27. Did you ever feel like she might have gotten too confident or lax around firearms from having grown up around them with her father?
28. Did you ever get the impression that Hannah felt like she could do things her own way because of who her father was?
29. Can you explain the difference between a blank and a dummy?
30. Under what circumstances would they be using blanks on set?
31. Under what circumstances would they be using dummies on set?
32. Is it important for an armorer to be well organized?
33. Did Hannah seem well organized to you? Did she have a system for keeping the different types of rounds separated? Did she keep loose rounds floating around the cart or in her pockets?
34. Did Hannah ever put things in the wrong place or get things mixed up? Did she ever forget about things? Did she ever lose or misplace things?
35. How were firearms and ammunition being stored on set?
36. Can you describe the prop truck that you used on set?
37. Who had access to it during the day? At night?
38. When were the guns put in the safe? Who had the code to the safe?

39. How was the ammo delivered to set? Did it come in boxes? What did the boxes look like?
40. Were boxes of ammo kept in the safe or on the truck?
41. How did you transport things from the truck to the set?
42. Do you remember what time you arrived on set on October 21, 2021?
43. Were you working with Hannah that day?
44. Were there guns being used before lunch? Which ones? Were they loaded?
45. What did you do with the guns during lunch? Were they unloaded? What about the cart? Was anything left on the cart?
46. When you got back from lunch, what was happening on set? Were the same guns being used after lunch? Who got the guns from the truck?
47. Was Alec's gun different than the others? Who carried Alec's gun? Who carried the ammo?
48. Did you notice anything different about the guns or the ammo that afternoon? Did you notice anything different about Hannah?
49. Who was going to be loading Alec's gun for the scene in church?
50. Did you watch Hannah load the gun? How many rounds did she load into the gun?
51. Were there any rounds left in the gun from before lunch? Did she take them out and check them? Is that something she was supposed to do?
52. How many rounds did Hannah load into the gun after lunch? Did you see what kind of rounds they were?
53. Did you see where Hannah pulled the rounds from? Was there anything unusual about the way in which she pulled the rounds? Did she say anything as she was pulling the rounds?
54. At what point did they ask for the gun to be brought into the church? Who asked for it? How did he ask for it?
55. Did Hannah finish loading the gun before she went into the church? Were you near her when she finished loading the gun? Did you watch her do it? Did she seem distracted? Did she do everything she was supposed to do? If not, what do you think she should have done differently?
56. What happened after Hannah brought the gun into the church?
57. Did you hear the gun go off? Where were you? What did you think it was?
58. How many minutes elapsed between the time Hannah brought the gun into the church and the time you heard the loud noise?

59. Did you or Hannah go into the church to see what had happened? At what point did you realize the gun had discharged?
60. What do you remember Hannah doing and saying over the next couple minutes? Did she say anything that stood out to you? How would you describe her emotional state?
61. Did you go back and check the box where she had pulled the rounds from that she loaded into Alec's gun? What did you find? Could you tell if there were any live rounds in there? How could you tell?
62. What was Hannah saying and doing over the next couple hours?
63. At what point did you learn that Alec was holding the gun that went off? Did you talk to him? What was he doing and saying? Can you describe his emotional state?
64. Did anybody think that a live round had been discharged at this point? At what point did you learn that was the case?
65. Do you have an opinion as to how a live round ended up on the set?
66. How does one identify a live round from a dummy round?
67. Is Hannah able to identify a dummy round from a live round?
68. Do you think if Hannah was properly checking the rounds as she was loading Alec's gun, she would have noticed that one of them was a live round?
69. What was the name of your ammo supplier?
70. Did you let him know what had happened? When? What did he say? Did he say anything that suggested he might have made a mistake?
71. After the incident with Halyna, did you become aware of a text message conversation between Hannah and Seth where Hannah asked if she could shoot "hot rounds" out of a prop gun on the set of a different film? What do you remember about the conversation? Did it surprise you?
72. Have you heard rumors Hannah engaged in "target practice" on the set of *Rust* at night or on the weekends? What did you hear? Did you think it was true?
73. To your knowledge, did Hannah drink or do drugs while she was working on set? Did she drink or do drugs off when she wasn't working?
74. Have you ever been to Seth's shop where he keeps his firearms and ammo? How would you describe it? Is it well organized?
75. How closely did you work with Alec Baldwin during the production? Did you ever speak to him? What was he like?
54. Did you have any concerns about Alec's attitude toward firearm safety on set?

55. To your knowledge, did anyone else have any concerns about Alec's attitude toward firearm safety?
 56. Did you or anyone else have concerns about Alec's general conduct on the movie set?
 57. Did you ever observe him handling the firearms in a way that seemed unsafe?
 76. Do you have an opinion about who is responsible for causing Halyna's death?
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Witness No. 4: Ryan Smith

Potential Testimony: Mr. Smith was a Producer of the film *Rust* and was responsible for overseeing the overall production. He has knowledge of the various roles and responsibilities of members of the production. Mr. Smith will establish that Mr. Baldwin did not have responsibility for selection or hiring of crew or for the day-to-day operation of the production, and that he did not act negligently.

1. What was your role in connection with the film *Rust*?
2. What is Rust Movie Productions LLC? Did you have any involvement in that company? What was your involvement?
3. Is Rust Movie Productions Alec Baldwin's company?
4. Was Alec Baldwin hired by Rust Movie Productions? What was he hired to do?
5. Was there a contract between Rust Movie Productions and Alec Baldwin? Did the contract limit Mr. Baldwin's authority in any way?
6. Did the contract say that Alec Baldwin would be credited as a Producer? Why was it important for Mr. Baldwin to be credited as a Producer?
7. Were cast and crew members hired by Rust Movie Productions?
8. Who at the production company was responsible for hiring crew members?
9. Was Mr. Baldwin involved in hiring any crew members?
10. If Mr. Baldwin wanted to hire a crew member, is that something he could have done on his own without the production company's permission?
11. Was Mr. Baldwin involved in supervising crew members or managing any of the various departments on set? Whose job was that?
12. Was Mr. Baldwin responsible for ensuring that crew members followed safety protocols? Whose job was that?
13. Was Mr. Baldwin involved in scheduling hours for crew members to work? Whose job was that?

14. Was Mr. Baldwin involved in budgeting for hours worked by crew members? Whose job was that?
15. Did you ever observe Mr. Baldwin on set?
16. Did anyone ever raise any concerns with you with respect to Mr. Baldwin's attitude towards safety on set?
17. Did anyone ever raise any concerns with you regarding Mr. Baldwin's general conduct on the movie set?

Witness No. 5: Det. Alexandria Hancock

Potential Testimony: Detective Hancock is a Santa Fe Sheriff's Detective who acted as the lead investigator on the case. She has knowledge of how the investigation proceeded and the evidence it yielded, how evidence was gathered, and potential gaps in the investigation that suggest Mr. Baldwin's innocence.

Questions:

1. What was your overall role in the investigation of this matter?
2. Once law enforcement arrived at the scene where the incident took place, did law enforcement do anything to isolate potential witnesses from one another?
3. Is it standard practice to do so?
4. Did the officers clear the firearm?
5. Is it standard practice to do so?
6. Did you issue any search warrants in this case?
7. Did you list a suspected crime in any of those warrants?
8. How long after the incident did you execute the warrant on the prop truck?
9. Did anybody have access to the prop truck during that six-day interim period? Who?
10. Who provided you with access to the truck when you executed the warrant?
11. In connection with your investigation, did you interview the film's armorer?
12. Did you develop an understanding of the role and responsibilities of an armorer?
13. Do you know who Hannah reported to? Was it Sarah Zachry, the Prop Master?
14. Did you interview an actor named Jensen Ackles in connection with the incident?
15. Did Mr. Ackles strike you as someone who was familiar with firearms?

16. Did you get the impression that Mr. Ackles was more comfortable and knowledgeable around firearms than the average actor?
17. Did Mr. Ackles ever tell you that Hannah portrayed a “cocky persona” and appeared “confident in what she did” as an armorer?
18. Based on your interviews with witnesses and other evidence you have seen, did you get the sense that Hannah projected confidence around firearms?
19. Based on your interviews with witnesses and other evidence you have seen, did you get the sense that Hannah was less experienced or less organized than she appeared?
20. Did you conduct an interview with Hannah at the Sherriff’s Office a few hours after the incident?
21. When you entered the interview room to speak with Hannah, did she immediately ask if anyone was able to get her fanny-pack, which was still at the scene where the incident took place? Did that make you wonder whether she was concerned that someone might go through the fanny-pack and find something that shouldn’t be in there?
22. During your initial interview with Hannah, did Hannah describe how she loaded the gun that killed Halyna Hutchins?
23. Did she advise that she loaded five rounds into the gun before lunch, but was having trouble getting the sixth round to go in at that time?
24. Did she advise that, after lunch, she “didn’t really check” the gun because it had been locked up during lunch?
25. Did she advise that the box from which she grabbed the rounds that were loaded into the gun after lunch may have had some “wonky” rounds in it?
26. Did she state that she “wishes she would have checked [the gun] more” before bringing it to the set?
27. Did you conduct a second interview with Hannah on November 9, 2021?
28. Did Hannah’s story change at all from what she had told you on the day of the incident?
29. During your second interview with Hannah, did Hannah describe her process for keeping blanks and dummy rounds organized?
30. Did she state that many of the dummies on the set of *Rust* were “loose dummies” that she had found in a bag from a previous project?
31. Did she state that she used various types of dummies on the set of *Rust* and that the different types would regularly get mixed up?
32. Did she state that she would put both dummy rounds and blanks in her fanny-pack?
33. What’s the difference between a dummy round and blank?

34. Did she state that she had a “pocket system” where she would put different types of ammo in different pockets?
35. Did she state that she also kept trash in her pockets?
36. Did she state that she carried her “favorite dummies” in her pocket because that’s what her dad taught her to do?
37. Did you ask Hannah which box she was pulling ammunition from on the day Halyna Hutchins was killed?
38. Did Hannah state that the box she was pulling ammunition from on that day looked “peculiar”?
39. Did she state that she couldn’t recall ever seeing that box on the prop truck before that day?
40. Did she state that she shook the whole box and heard it rattle, which indicated to her that they must be dummies?
41. Did she state that she brought that box to her prop cart for the day?
42. Did she state, as she had in her previous interview with you, that she loaded five rounds into the gun before lunch, but had trouble loading the sixth round and saved it for after lunch?
43. Did she state that she loaded the sixth round after lunch?
44. Did you ask Hannah if she checked the round that she loaded after lunch?
45. Did she state that the round “seemed fine” to her and that she “checked it while Dave [Halls] was speaking over the radio in her earpiece as she shook it”?
46. Did Hannah’s description of events give you the impression that she was rushing to load the gun as she was walking into the church?
47. Did Hannah’s description of events give you the impression that she may not have carefully checked the last round as she loaded it into the gun?
48. Did Hannah state that she showed the gun to Dave Halls when she brought it into the church so that Halls could check it?
49. Did you ask Hannah what that check consisted of when she showed the gun to Halls?
50. Did she state that the check consisted of her spinning the cylinder and telling Halls that it was “dummied up”?
51. Did she state that she left the church at that point after she gave the gun to Halls?
52. Did she state that she was standing outside of the church when she heard the gunshot?
53. Did she state that she went into the church and was informed that the loud noise came from the gun?

54. Did she state that her immediate response to learning about the discharge was to say “go check that fucking box,” meaning the box where she had pulled the ammunition from?
55. Did you ask Hannah if anyone on set was drinking alcohol or using drugs?
56. Did she state that she typically smoked marijuana on the weekends and “a little bit before bed”?
57. Other than the bullet that killed Halyna Hutchins, did you find any other live ammunition on the set? If so, what did you find? Where?
58. Based on your interviews with Hannah and other witnesses, are you confident that Hannah thoroughly checked each round as she was loading them into the gun?
59. In connection with your investigation of this matter, did you interview the First Assistant Director, Dave Halls?
60. Did Mr. Halls tell you that he was the Safety Coordinator on the set?
61. Do you have an understanding of what Mr. Halls’ responsibilities were with respect to safety on set?
62. Do you have an understanding of what Mr. Halls’ responsibilities were with respect to firearms on set?
63. Did you speak to Mr. Halls on the day of the incident?
64. Do you recall asking Mr. Halls about safety protocol on set in regards to firearms?
65. In response to that question, did Mr. Halls give the following statement: “I check the barrel for obstructions, most of the time there’s no live fire, she (Hannah) opens the hatch and spins the drum, and I say cold gun on set.”
66. Did Mr. Halls advise that on this occasion, “when Hannah showed him the firearm before continuing rehearsal, he could only remember seeing three rounds.”
67. Did Mr. Halls advise that “he should have checked all of them, but didn’t, and couldn’t recall if [Hannah had] spun the drum”?
68. Were you advised by any witnesses who were inside the church at the time of the incident whether Mr. Halls did, in fact, say “cold gun on set” as the gun was being handed to Mr. Baldwin? How many witnesses told you that?
69. Who is Seth Kenny?
70. Did Seth’s company, PDQ Arm & Props, supply the firearms and ammunition for *Rust*?
71. Are you aware of any evidence that Hannah engaged in “target practice” on the set of *Rust* at night or on the weekends? What evidence is that?

72. Were you ever informed that one of the truck drivers working on the production claimed to have engaged in target practice with Hannah on the set of *Rust* prior to October 21, 2021?
73. Did your office pursue that lead during your investigation? What did your office do to pursue that lead?
74. Were you ever informed that Seth and Hannah's father, Thell Reed, worked on a television show together before *Rust*? Was that show called *1883*?
75. Were you ever advised that Seth and Thell Reed were asked to train some of the *1883* actors with live ammo?
76. Were you ever advised that Thell Reed brought his own live ammo to the set of *1883*, which Seth then took back to his shop once the show was over?
77. Did you ever obtain a search warrant to search Seth's business?
78. Did you search the premises? What did it look like? Was it well organized?
79. Did you find live rounds on the premises of Seth's business? If so, were they similar to the live rounds that were found on the set of *Rust*?
80. Based on your investigation, do you have an opinion as to whether Seth may have inadvertently supplied Hannah with live ammunition?
81. Did you ever obtain a warrant to search the prop truck on the set of *Rust*?
82. What was the prop truck used for?
83. How many days after the incident did you execute that warrant?
84. Do you know whether anybody had access to the prop truck before you executed the warrant?
85. Do you feel confident that no one accessed the prop truck between the time of the incident and the time you executed the search warrant?
86. Are you familiar with the various statements that Joel Souza has made in connection with the investigation into this matter?
87. Do you recall a statement by Mr. Souza that, shortly after the gun went off and he hit the floor, he remembered Hannah Gutierrez-Reed standing over him hysterically yelling "I'm sorry, I'm sorry, I'm sorry"
88. In connection with your investigation, did you interview Alec Baldwin?
89. Did you interview him the day of the incident? Where?
90. Did Mr. Baldwin volunteer to answer questions? Did he ask for a lawyer to be present?
91. Did that initial interview last for more than an hour?

92. Are you aware of any evidence that Mr. Baldwin believed there could be live ammunition on the set of *Rust*?
93. Are you aware of any evidence that Mr. Baldwin didn't trust the other professionals on the set to perform their various roles?
94. Are you aware of any evidence that Mr. Baldwin didn't have confidence in Hannah's abilities as an armorer?
95. Are you aware of any evidence that Mr. Baldwin didn't have confidence in Dave Halls' abilities as a First Assistant Director?
96. Are you aware of any evidence that Mr. Baldwin was responsible for hiring or supervising any crew members?
97. Are you aware of any evidence that Mr. Baldwin was responsible for ensuring that crew members complied with safety protocols on set?
98. Based on your investigation, do you have an understanding of who was responsible for hiring and supervising crew members?
99. Based on your investigation, do you have an understanding of who was responsible for ensuring compliance with safety protocols on set?
100. Did you receive a report from the Medical Examiner?
101. Did it recite a cause of death?
102. What was the cause of death listed in that report?
103. As part of your investigation, did someone from your team speak to Katya Luce?
104. Are you aware of what Ms. Luce reported with respect to the interaction between the wranglers on set and Hannah Gutierrez-Reed?
105. Did you or your office follow up with Ms. Luce to clarify her comments?

Witness No. 6: Det. Joel Cano

Potential Testimony: Detective Cano is a Santa Fe Sheriff's Detective who acted as one of the investigators on the case. He has knowledge of how the investigation proceeded and the evidence it yielded, how evidence was gathered, and potential gaps in the investigation that suggest Mr. Baldwin's innocence.

Questions:

1. What was your overall role in the investigation of this matter?
2. Did you report to the set following the accident?

3. Around what time did you arrive?
4. Did you have an understanding as to what had happened before you arrived?
5. Was the scene of the accident secured when you arrived?
6. How was it secured?
7. Once law enforcement arrived at the scene where the incident took place, did law enforcement do anything to isolate potential witnesses from one another?
8. Were the individuals inside the church separated from one another or were they permitted to intermingle and converse with one another?
9. After being briefed by your colleagues, did you speak to any individuals who had witnessed the incident?
10. Did the witnesses characterize the incident as an accident or an intentional shooting?
11. By time you arrived at the scene, had the firearm that was involved in the incident been secured? Do you know who had possession of the firearm when your law enforcement colleagues arrived on the scene?
12. Do you have an understanding as the role of an armorer on a film set?
13. Do you have an understanding as to who the armorer was on the set of *Rust*?
14. Do you have an understanding as to what Hannah's responsibilities were as the armorer?
15. Did you ever interview a crew member named Sarah Zachry?
16. Did you have an understanding as to Ms. Zachry's role in the production?
17. Did you have an understanding as to whether Ms. Zachry acted in a supervisory role in relation to Hannah?
18. Did you ask Ms. Zachry's opinion as to what might have happened to cause the firearm to discharge a live round inside the church?
19. A couple hours after the incident, did you interview a witness by the name of Mamie Mitchell?
20. Did Ms. Mitchell say where she was when the gun went off?
21. Did Ms. Mitchell state that shortly after the gun went off, she saw Mr. Halls weeping and saying how when he checked the revolver, he noticed that one of the rounds looked different from the other five rounds?
22. Are you aware of any warrants issued in connection with this case?
23. Did any of those warrants reference a crime?

24. How many days after the incident did you execute the warrant on the prop truck?
25. Do you know if anybody had access to the prop truck during that six-day interim period? Who?
26. Do you know who provided your office with access to the truck when the search warrant was executed?

Witness No. 7: Robert Schilling

Proposed Testimony: Mr. Schilling was hired as an investigator for the state and was aware of deficiencies in the investigation, including leads that were not run down. He expressed his view that the investigation conducted by the Santa Fe Sheriff's Office over the course of more than a year could not be remediated, which, in turn, suggests Mr. Baldwin is not responsible for the death of Ms. Hutchins.

Questions:

1. How did you come to be involved in the investigation?
2. At what point did you become involved?
3. What was your specific role?
4. Did you interview any witnesses? Examine any evidence?
5. Did the investigation follow the protocols you were used to seeing? If not, what differed?
6. Did you do or say anything to try to correct any flaws you perceived in the way the investigation was being approached?
7. Were there any decisions made during the investigation by law enforcement or the District Attorney's office that caused you to doubt the motives of the decisionmakers?
8. Did you ever communicate your discomfort with the investigation to anyone?
9. Did you become aware of the District Attorney's decision to charge Alec Baldwin with involuntary manslaughter in January 2023?

PART III: DOCUMENTS

Document No. 1: Recording of 911 Call

The document is an audio-recording of the 911 call placed by Mamie Mitchell, the film's script supervisor, immediately after the incident took place. Ms. Mitchell witnessed the incident from inside the church and was standing just a few feet away from where the gun went off. On the recording, Ms. Mitchell can be heard telling the 911 operator that two people were "accidentally

shot” on a movie set. She is also heard saying that Dave Halls, the First Assistant Director, was “supposed to check the gun” and that “he’s responsible for [inaudible].” The recording demonstrates that Mr. Baldwin lacked the requisite state of mind and that Mr. Halls was an independent intervening cause of Ms. Hutchins’ death.

Document No. 2: Prop Truck Warrant

On October 27, 2021, the Sante Fe Sherriff’s Office executed a warrant for the prop truck on the *Rust* movie set, which is where firearms and ammunition were stored throughout the production. The warrant contains numerous exculpatory statements from several witnesses, including a statement from camera operator Reid Russel (who said Mr. Baldwin “had been very careful” with the firearms) and a statement from Dave Halls, who said the incident “was not a deliberate act” and “he [Halls] should have checked all of [the rounds in the gun], but didn’t.” This document demonstrates that Mr. Baldwin lacked the requisite state of mind and that Mr. Halls was an independent intervening cause of Ms. Hutchins’ death. Furthermore, the warrant does not identify any crime being committed, and the fact that it was not executed until six days after the fatal incident demonstrates that there was ample time for the prop truck to be tampered with by the armorer or ammunition supplier, both of whom had access.

Document No. 3: Church Search Warrant

On October 22, 2021, the Sante Fe Sherriff’s Office executed a warrant at the church on the *Rust* movie set where the incident took place. The warrant contains numerous exculpatory statements from the affiant, including a statement that Dave Halls “handed the gun to” Mr. Baldwin and “yelled, ‘Cold Gun,’ indicating the prop-gun did not have any live rounds.” This document therefore demonstrates that Mr. Baldwin lacked the requisite state of mind and that Mr. Halls was an independent intervening cause of Ms. Hutchins’ death.

Document No. 4: PDQ Arm & Prop LLC Search Warrant

On November 30, 2021, the Sante Fe Sherriff’s Office executed a warrant at PDQ Arm & Prop LLC, the shop that supplied the rounds to the *Rust* set. The warrant states that Hannah Gutierrez-Reed, the film’s armorer, admitted that she “didn’t really check [the gun] too much” after lunch. The warrant also states that multiple live rounds were found on the set in the box of ammo that Gutierrez-Reed was pulling from, and that Gutierrez-Reed’s father had given Seth Kenney, the owner of PDQ, a can of live ammo that may match the live ammo found on the *Rust* set. This document therefore demonstrates that Mr. Baldwin lacked the requisite state of mind and that others—particularly Hannah Gutierrez-Reed and Seth Kenney—were independent intervening causes in Halyna Hutchins’ death

Document No. 5: New Mexico Occupational Health and Safety Report

This document is a report from the New Mexico Occupational Health and Safety Bureau, which conducted an investigation to determine whether the incident was caused by the failure of Rust Movie Productions LLC or its employees to implement proper workplace safety protocols. The report demonstrates that Mr. Baldwin was not part of *Rust* Management—*i.e.*, the individuals responsible for hiring, scheduling, budgeting, and overseeing set safety. The report states that “Baldwin’s authority on the set” was limited to “approving script changes and actor candidates.” This document demonstrates that Mr. Baldwin was not responsible for hiring crew members or for any scheduling or budgeting decisions and therefore had no knowledge of any issues that might contribute to an unsafe work environment (*e.g.*, the fact Hannah Gutierrez-Reed had asked for more armorer days).

Document Nos. 6(a)-6(j): Excerpts From Santa Fe Sherriff’s Office Report²

These documents represent excerpts of reports from the Santa Fe Sherriff’s Office. Each report was prepared by the lead investigator, Det. Alexandria Hancock, or by another investigator, Joel Cano. The reports summarize interviews with several key witnesses which were conducted on the scene immediately following the incident and in the weeks that followed, including:

a. Joel Souza (director)

The report indicates that Souza, who was hit by the bullet that fired the day of the incident, recalled Hannah Gutierrez-Reed standing over him apologizing. He identified her as the person on set responsible for firearms, and that guns are to be checked by the armorer (Gutierrez-Reed) and the First Assistant Director (Halls). The report reflects that Souza did not believe there was negligence on set. The report makes clear that responsibility for firearm safety lies with the armorer and First Assistant Director, not with actors, and that Mr. Baldwin did not act negligently on set.

b. Hannah Gutierrez-Reed (armorer)

The report indicates that Gutierrez-Reed stated that she was the armorer on set and that she loaded the firearm involved in the incident. Gutierrez-Reed stated that she handed the firearm off to Dave Halls before the incident. She also stated that the dummy rounds were provided to her by Seth Kenny, who, in turn borrowed them from someone else.

c. Sarah Zachry (prop master)

The report indicates that Zachry thought there were additional live rounds in the box of ammunition that Gutierrez-Reed used the day of the incident, and that Gutierrez-Reed had brought ammunition from another set she had worked on. Zachry identified the origin of

² The Target anticipates the entire Sheriff’s Report, which was made public, will be presented to the Grand Jury, but, given its volume, the Target has excerpted these particular sections and submits them for the Grand Jury’s consideration.

some of the ammunition on the set as from Seth Kenney and Billy Ray. The introduction of a live round is an intervening cause that precludes liability for Mr. Baldwin.

d. Dave Halls (first assistant director)

The report indicates that Halls stated he was the safety coordinator and that the armorer was Hannah Gutierrez-Reed. He explained that he would routinely check firearms with the armorer, but that, the day of the incident, there was a 5 minute gap between when he checked the revolver at issue was empty and when Gutierrez-Reed returned, having loaded what he understood to be dummy rounds in the revolver. He recalled seeing three depressed primers. The report makes clear that responsibility for firearm safety lies with the armorer and First Assistant Director, not with actors.

e. Reid Russel (camera man)

The report states that Reid reported that Mr. Baldwin was “really safe” on set, including asking to move a child actor away from gunfire. The report indicates Mr. Baldwin was not negligent in his handling of firearms.

f. Jensen Ackles (actor)

The report indicates that Ackles explained that it is not the job of an actor to check their own firearms. Ackles also reported that he had not seen Baldwin handle firearms in a reckless manner on the set, and that, the time of the incident, he had heard Halyna Hutchins tell Mr. Baldwin to “show her the action” just before the fatal shot fired. He concluded that Mr. Baldwin would have been doing as instructed at the time the shot fired. The report indicates Baldwin was not acting negligently, and did not have the required state of mind, and that he was not responsible for checking his own weapon.

g. Ross Addiego (electrical)

The report indicates Mr. Addiego heard that Gutierrez-Reed say that the firearm was clear, but also that she did not check it after lunch and before the rehearsal began in the church.

The reports also summarize information obtained from the cell phones of Sarah Zachry and Seth Kenney:

h. Sarah Zachry cell phone report

Summary of text messages related to the incident found on Sarah Zachry’s phone.

i. Seth Kenney cell phone report

Summary of text messages related to the incident found on Seth Kenney’s phone.

The report also contains statements that suggest the origin of the live ammunition, but that were not investigated by the state at the time, including of:

j. Katya Luce

Summary of statements from Katya Luce related to statements she overheard by one of the wranglers on set.

These excerpts of the Santa Fe Sheriff’s Office contain numerous statements from each witness that demonstrate that Mr. Baldwin lacked the requisite state of mind and that others—particularly Hannah Gutierrez-Reed, Dave Halls, and Seth Kenney—were independent intervening causes in Halyna Hutchins’ death.

Document No. 7: Text messages between Sarah Zachry and Seth Kenney

This document contains excerpts of text messages exchanged between Sarah Zachry, the film’s prop master, and Seth Kenney, the ammo supplier for the production. The messages reflect that the film’s armorer, Hannah Gutierrez-Reed, failed to follow proper safety protocols on the set of *Rust* and a previous film project. truck the night before the incident took place. This document therefore demonstrates that Ms. Gutierrez-Reed, who was responsible for the safety of prop firearms on set, was an independent intervening cause of Halyna Hutchins’ death.

Document No. 8: Text messages between Hannah Gutierrez-Reed and Seth Kenney

This document contains excerpts of text messages exchanged between Hannah Gutierrez-Reed, the film’s armorer, and Seth Kenney, the ammo supplier for the production. The messages reflect that Gutierrez-Reed failed to follow proper safety protocols on the set of *Rust*, was negligent in her handling and storage of firearms and ammunition, and lied about her work experience and residency in applying the armorer’s union in California. The messages also contain evidence that Ms. Gutierrez-Reed went “target shooting” with the driver of the prop truck. The messages also contain evidence that Dave Halls, the first assistant director, did not follow safety protocols on set. This document therefore demonstrates that Hannah Gutierrez-Reed and/or Dave Halls acted as independent intervening causes of Halyna Hutchins’ death.

Document No. 9: Industry Wide Labor-Management Safety Bulletin No. 1

This document contains guidelines for the proper handling of firearms and ammunition on film sets, including that the Prop Master and First Assistant Director are responsible “for obtaining, maintaining and handling all firearms for the production” and that “the production’s designated Safety Representative [is] to assure that” the safety protocols are adhered to.

The Bulletin also states that actors must be “allowed to” (but are not required to) witness the loading of firearms, and that firearms must be checked by the prop master or weapons handler “before each use.” This document demonstrates that Mr. Baldwin complied with firearm safety protocols on set, but that the armorer, prop master, and first assistant director did not. The document therefore demonstrates that others—particularly Hannah Gutierrez-Reed, Sarah Zachry and/or Dave Halls—acted as independent intervening causes of Halyna Hutchins’ death.

Document No. 10: Crew Letter

The letter, signed by many of the cast and crew, refutes that the set of *Rust* was inherently unsafe, or that it was an unpleasant environment. It notes that producers were supportive of the cast and crew. This refutes any assertion that the set was inherently dangerous, or made that way by any action by Mr. Baldwin.

Document No. 11: Video Clip from *Rust* Set

This video depicts Mr. Baldwin being attentive to safety on set, and specifically shows him asking a cast member to move to another position so that he is not in the line of fire in a scene involving blanks. The video shows that Mr. Baldwin was not negligent or careless regarding set safety or the handling of firearms during the course of the filming.

Document No. 12: Video Clip from *Rust* Set

This video depicts Mr. Baldwin being attentive to proper firearm handling on set, and specifically shows him asking that a blanket be placed on the ground where he will have to throw a revolver in the scene so that the firearm is not thrown in the dirt. The video shows that Mr. Baldwin was not negligent or careless regarding set safety or the handling of firearms during the course of the filming.

Document No. 13: Video Clip from *Rust* Set

This video depicts Mr. Baldwin being attentive to safety on set, and specifically shows him halting a scene due to unstable footing for the camera crew. The video shows that Mr. Baldwin was not negligent or careless regarding set safety during the course of the filming.

Document No. 14: Halls Proffer Transcript

The transcript reflects that Mr. Halls was in charge of safety on the set of *Rust* and that he worked with armorer Gutierrez-Reed to ensure the safety of firearms used on set. He explains that Gutierrez-Reed loaded the firearm with dummies in between the time Halls checked it with her, and that he did not check it thoroughly, though that had been his past practice. The transcript further underscores that no member of the cast or crew could have anticipated there would be live rounds in the firearm on the set.

The transcript reflects several intervening causes that negate Mr. Baldwin's potential culpability, and undermines the assertion that Mr. Baldwin acted recklessly or negligently with respect to firearms on the set of *Rust*.

* * * * *

Contact information for the witnesses above is in the attached Grand Jury Evidence Alert Letter as required by *Jones v. Murdoch*, 2009-NMSC-002, 143 NM 473.

Pursuant to Section 31-6-11(B) NMSA and *Jones*, 2009-NMSC-002, the Grand Jury Evidence Alert Letter attached must be presented to the Grand Jury in this matter. We request that the Evidence Alert Letter be read into the grand jury proceeding record and provided directly to the grand jurors.

Furthermore, if any of the witnesses listed in the attached Grand Jury Evidence Letter testify before the Grand Jury, the proposed target requests that the witnesses be questioned in a manner that elicits the general information contemplated by the proposed questions attached. *See Jones v. Murdoch* (prosecutor must elicit general information contemplated by target).

Failure to present the attached letter or ask the appropriate questions of witnesses will violate Section 31-6-11 and *Jones*, 2009-NMSC-002, unless the prosecutor files a motion with the grand jury judge, with notice to the target and his or her counsel, seeking the court's permission to not present the requested evidence or grand jury letter. Notice of any motion filed may be made directly to me by email to [**Heather@LeBlancLawNM.com**](mailto:Heather@LeBlancLawNM.com)

In addition to the proposed witnesses, questions, and instruction, please be advised that the above noted client does not wish to testify.

In the event our client is indicted, we respectfully request that they be sent notice of the arraignment hearing so that they may make a voluntary appearance.

This will certify that a copy of the foregoing
emailed to the above-named prosecutor on:

Date/Time: November 14, 2023



Heather M. LeBlanc
Counsel for Mr. Baldwin

Respectfully submitted,
LEBLANC LAW LLC



Heather M. LeBlanc
823 Gold Ave. SW
Albuquerque, NM 87102
Heather@LeBlancLawNM.com
Phone: 505-331-7222

GRAND JURY EVIDENCE ALERT LETTER

INVESTIGATION RE: Alexander Rae Baldwin III

Hearing Date: November 16, 2023

Case No.: D-101-GJ 2023-00008

Dear Grand Jurors:

In accordance with the rights and obligations of the Grand Jury under New Mexico law, the above-noted subject/target of the Grand Jury proceeding in this case requests the grand jury consider the following evidence:

PART I: ELEMENTS

Mr. Baldwin requests that the Grand Jurors be alerted to the fact that the criminal negligence standard requires the prosecution to show that Mr. Baldwin had subjective knowledge of an actual risk that the firearm placed in his hand had been loaded with live ammunition.

Mr. Baldwin requests that the Grand Jurors be alerted that proximate cause is an element of causation, and that the element of proximate cause is negated where the negligence of a third party (*i.e.*, someone other than Mr. Baldwin) was the only significant cause of death or constitutes an intervening cause that broke the foreseeable chain of events.

PART II: WITNESSES

Witness No. 1: Joel Souza: Contact: souzajoel007@yahoo.com (510) 552-2171

Potential Testimony: Mr. Souza is the Director of *Rust*. He was primarily responsible for all creative aspects of the film and relied on the entire cast and crew to bring his creative vision to life. He was present in the church during the rehearsal scene and was struck by the fatal bullet after it passed through Halyna Hutchins. He suffered non-life threatening injuries.

Witness No. 2: David Halls: Contact: davehalls.ad@gmail.com (612) 414-6056

Potential Testimony: Mr. Halls was the First Assistant Director and Safety Coordinator on the set of *Rust*. He was in charge of managing and supervising all departments on set and was responsible for safety conditions on set. He is aware of the conditions on set and the day of the incident. He was present in the church when the fatal shot discharged.

Witness No. 3: Sarah Zachry: Contact: Sarahbrienne97@gmail.com (505) 264-1702

Potential Testimony: Ms. Zachry was *Rust*'s prop master, responsible for acquiring, placing, and/or overseeing any props needed for the production, including prop firearms and ammunition. As prop master, she oversaw and supervised the armorer, Hannah Gutierrez-Reed, and was the only other person on set with responsibility for the storage and handling of firearms and ammunition. Along with Hannah Gutierrez-Reed, she was responsible for procuring firearms and ammunition from *Rust*'s third-party supplier.

Witness No. 4: Ryan Smith: Contact: rs@streamlineglobal.com

Potential Testimony: Mr. Smith was a Producer of the film *Rust* and was responsible for overseeing the overall production. He has knowledge of the various roles and responsibilities of members of the production. He will be able to provide testimony about Mr. Baldwin's contractual agreements, roles, and responsibilities for the film. He will be able to testify as to the extent and limitations of Mr. Baldwin's contract with the film with respect to hiring and supervising other cast and production members in their roles.

Witness No. 5: Det. Alexandria Hancock:

Contact: c/o Sergeant Alderete ealderete@santafecountynm.gov

Potential Testimony: Detective Hancock is a Santa Fe Sheriff's Detective who acted as the lead investigator on the case. She has knowledge of how the investigation proceeded, how evidence was gathered, and potential gaps in the investigation.

Witness No. 6: Det. Joel Cano:

Contact: c/o Sergeant Alderete

ealderete@santafecountynm.gov

Potential Testimony: Detective Cano is a Santa Fe Sheriff's Detective who acted as one of the investigators on the case. He has knowledge of how the investigation proceeded, how evidence was gathered, and potential gaps in the investigation that suggest Mr. Baldwin's innocence.

Witness No. 7: Robert Schilling: Contact: Shilling.robert@gmail.com

Proposed Testimony: Mr. Schilling was hired as an investigator for the state and was aware of deficiencies in the investigation, including leads that were not run down. He expressed his view that the investigation conducted by the SFSO over the course of more than a year could not be remediated.

PART III: DOCUMENTS

Document No. 1: Recording of 911 Call

The document is an audio-recording of the 911 call placed by Mamie Mitchell, the film’s script supervisor, immediately after the incident took place. Ms. Mitchell witnessed the incident from inside the church and was standing just a few feet away from where the gun went off. On the recording, Ms. Mitchell can be heard telling the 911 operator that two people were “accidentally shot” on a movie set. She is also heard saying that Dave Halls, the First Assistant Director, was “supposed to check the gun” and that “he’s responsible for [inaudible].”

Document No. 2: Prop Truck Warrant

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Document No. 3: Church Search Warrant

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report demonstrates that Mr. Baldwin was not part of *Rust* Management—*i.e.*, the individuals responsible for hiring, scheduling, budgeting, and overseeing set safety. The report states that “Baldwin’s authority on the set” was limited to “approving script changes and actor candidates.”

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a. Joel Souza (director)

The report indicates that Souza, who was hit by the bullet that fired the day of the incident, recalled Hannah Gutierrez-Reed standing over him apologizing. He identified her as the person on set responsible for firearms, and that guns are to be checked by the armorer (Gutierrez-Reed) and the First Assistant Director (Halls).

b. Hannah Gutierrez-Reed (armorer)

The report indicates that Gutierrez-Reed stated that she was the armorer on set and that she loaded the firearm involved in the incident. Gutierrez-Reed stated that she handed the firearm off to Dave Halls before the incident. She also stated that the dummy rounds were provided to her by Seth Kenny, who, in turn borrowed them from someone else.

c. Sarah Zachry (prop master)

The report indicates that Zachry thought there were additional live rounds in the box of ammunition that Gutierrez-Reed used the day of the incident, and that Gutierrez-Reed had brought ammunition from another set she had worked on. Zachry identified the origin of some of the ammunition on the set as from Seth Kenny and Billy Ray.

d. Dave Halls (first assistant director)

The report indicates that Halls stated he was the safety coordinator and that the armorer was Hannah Gutierrez-Reed. He explained that he would routinely check firearms with the armorer, but that, the day of the incident, there was a 5-minute gap between when he checked the revolver at issue was empty and when Gutierrez-Reed returned, having loaded what he understood to be dummy rounds in the revolver. He recalled seeing three depressed primers.

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The report indicates that Ackles explained that it is not the job of an actor to check their own firearms. Ackles also reported that he had not seen Baldwin handle firearms in a reckless manner on the set, and that, the time of the incident, he had heard Halyna Hutchins tell Mr. Baldwin to “show her the action” just before the fatal shot fired.

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The report indicates Mr. Addiego heard that Gutierrez-Reed say that the firearm was clear, but also that she did not check it after lunch and before the rehearsal began in the church.

The report also summarizes information obtained from the cell phones of Sarah Zachry and Seth Kenney:

h. Sarah Zachry cell phone report

Summary of text messages related to the incident found on Sarah Zachry’s phone.

i. Seth Kenney cell phone report

Summary of text messages related to the incident found on Seth Kenney’s phone.

The report also contains statements regarding the potential origin of the live ammunition on set:

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Summary of statements from Katya Luce related to statements she overheard by one of the wranglers on set.

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This document contains excerpts of text messages exchanged between Sarah Zachry, the film’s prop master, and Seth Kenney, the ammo supplier for the production. The messages reflect that the film’s armorer, Hannah Gutierrez-Reed, failed to follow proper safety protocols on the set of *Rust* and a previous film project.

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and that he did not check it thoroughly, though that had been his past practice. The transcript further reflects that no member of the case or crew could have anticipated the presence of live ammunition in the firearm or anywhere on the set.

Respectfully submitted,

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a horizontal line extending to the right.

Heather M. LeBlanc

Attorney at Law

Date Submitted: November 14, 2023

CERTIFICATE OF SERVICE

**Grand Jury Evidence Notice to District Attorney
and
Grand Jury Evidence Alert Letter**

DATE: November 14, 2023

2nd Judicial District Attorney
520 Lomas Blvd, NW
Albuquerque, NM 87102

INVESTIGATION RE: Alexander Rae Baldwin III

Hearing Date: November 16, 2023

Case No. D-101-GJ 2023-00008

Pursuant to Rule 5-102 NMRA, Section 31-6-11 NMSA, and *Jones v. Murdoch*, 2009-NMSC-002, 143 NM 473, the below-signed counsel certifies that the documents listed above were served upon the First Judicial District Attorney's Office by email on:

November 14, 2023

Date/Time



Heather M. LeBlanc, Attorney