

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

vs.

ALEXANDER RAE BALDWIN,

No. D-0101-CR-2024-0013

Defendant.

Judge Mary Marlowe Sommer

**PETITION FOR OUT-OF-STATE SUBPOENA DUCES TECUM
ISSUED TO MOXIE FILMS, INC.**

COMES NOW Petitioner, State of New Mexico, by Kari T. Morrissey and Erlinda O. Johnson, appointed Special Prosecutors, and hereby respectfully petition this Honorable Court for an order, pursuant to N.M.S.A. 1978 Section 31-8-3, directing the Clerk of the Court to issue a subpoena, a copy of the subpoena which is attached hereto, incorporated herein by this reference and marked Exhibit "1" and the order by this Court on subpoena which is attached hereto, incorporated herein by this reference and marked Exhibit "2", compelling Moxie Films, Inc. to produce all of the items identified in the subpoena duces tecum concerning the above captioned matter. In support hereof, Petitioner submits the following:

1. Petitioner is the Plaintiff in a criminal proceeding currently pending in the New Mexico District Court, Santa Fe Division, entitled *State of New Mexico vs. Alexander*

Rae Baldwin, Case No. D-101-CR-2024-0013.

2. Petitioner has prepared a Subpoena for the production of items pursuant to a subpoena duces tecum, to be served upon Moxie Films, Inc. in California concerning the above captioned matter; however, such Subpoena has not yet been served pending the actions of this court regarding this Petition.
3. Upon information and belief, Moxie Films, Inc. has audio and video materials which is/are material in the prosecution pending before this court. Moxie Films, Inc. is based in Malibu, California as identified in the subpoena duces tecum.
4. The production of the audio and video information is necessary in the proceedings before this Court.
5. Pursuant to Rule 5-503(C) NMRA, information sought in discovery need not be admissible at trial "if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."
6. Petitioner has a good faith basis to believe that Moxie Films, Inc is in possession of video or audio containing statements by the defendant in this matter regarding the death of the victim, Halyna Hutchins. Petitioner also has a good faith basis to believe that said audio or video items in the possession of Moxie Films may also contain statements by some of the relevant witnesses in this matter. Accordingly, the Petitioner seeks the requested items as they may be relevant in the pending prosecution herein.

7. The production of the items identified in the subpoena duces tecum will not, based upon information and believe, be burdensome to Moxie Films, Inc.; and Petitioner will tender all fees costs and costs, if any, to Moxie Films, Inc. in regard to the production of the audio and video information requested.
7. The State of New Mexico has adopted the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, which Uniform Act is also codified in the State of California (California Penal Code Section 1334.2 et. seq).
8. As stated herein above, the State of New Mexico will pay any and all reasonable costs, fees and or expenses with regard to the materials and items identified in the subpoena duces tecum.
9. That if Moxie Films, Inc does not produce the items referenced in the subpoena duces tecum, in disobedience to the subpoena (Exhibit "1") directing Moxie Films, Inc. to produce the items so identified, Moxie Films, Inc. and its officer Mark Bailey will be subject to all legal consequences include but not limited to arrest in connection with such disobedience to produce the items and materials identified.
10. Counsel for Defendant Alexander Rae Baldwin has been contacted for their position on this Petition; and said counsel (Attorney Luke Nikas) advised the defense does not take a position on this Petition but reserve the right take a substantive position once filed.

WHEREFORE, Petitioner respectfully requests that the court issue the Order, in the form and content as set forth in Exhibit "2" hereto, by which the Clerk of the District Court is directed to issue the subpoena (Exhibit "1") and further issue a certified copy of same to Petitioner, compelling Moxie Films, Inc. to produce all audio and video items as described in the subpoena (Exhibit "1") as all such items are necessary to the prosecution of the above entitled matter.

Dated: April 19, 2024

/s/ Kari T. Morrissey
Kari T. Morrissey
Erlinda O. Johnson
Special Prosecutors,
First Judicial District
1303 Rio Grande NW, Suite 5
Albuquerque, New Mexico 87104
(505) 361-2138
(505) 573-2784
ktm@morrisseylewis.com
erlinda@erlindajohnsonlaw.com

CERTIFICATE OF SERVICE BY ATTORNEY

I certify that I caused that a copy of this Petition has been electronically served upon all counsel of record.

Erlinda O. Johnson

/s/ Erlinda O. Johnson
Special Prosecutor

April 19, 2024

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

vs.

ALEXANDER RAE BALDWIN,

No. D-0101-CR-2024-0013

Defendant.

Judge Mary Marlowe Sommer

**ATTORNEY'S AFFIDAVIT IN SUPPORT OF UNOPPOSED PETITION
FOR OUT-OF-STATE SUBPOENA DUCES TECUM TO BE ISSUED TO
MOXIE FILMS, INC.**

I, Kari T. Morrissey, Special Prosecutor, being duly sworn, deposes and says:

1. I am an attorney duly licensed to practice law before all Courts in the State of New Mexico.
2. I am an appointed Special Prosecutor in the above entitled matter.
3. I am an attorney for the above-named Plaintiff.
4. I made this Affidavit in support of the Unopposed Petition for Out-of-State Subpoena Duces Tecum for securing audio and video items and materials from Moxie Films, Inc. ("Moxie" herein) which is based in Malibu, California.
5. A detailed investigation and due diligence reveal that Moxie Films, Inc. has the following service addresses:

Moxie Films, Inc.
Attention: Agent for Service of Process Mark Bailey
29169 Heathercliff Road, Suite 204
Malibu, California 90265

Moxie Films, Inc.
Mark Bailey
7238 Birdview Avenue
Malibu, California 90265

6. The receipt of the audio and video information, as requested in the subpoena duces tecum, are critical pieces of information concerning key elements of this criminal prosecution.
7. WHEREFORE, your affiant respect prays that process be issued and the Unopposed Petition for Out-of-State Subpoena Duces Tecum for the production of audio and video information and materials from Moxie be granted. A previous application has been made to this Court in regard to Moxie's production of the described audio and video information; however, personal service did not take place in a timely fashion with regard to the previous application (and Order Granted thereon) thus necessitating this new Application.

Dated: April 19, 2024

/s/ Kari T. Morrissey
Kari T. Morrissey, Special Prosecutor
First Judicial District
1303 Rio Grande NW, Suite 5
Albuquerque, New Mexico 87104
(505) 361-2138
(505) 573-2784
ktm@morrisseylewis.com

EXHIBIT 1

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

**STATE OF NEW MEXICO,
Plaintiff,**

vs.

Case No. D-101-CR-2024-0013

**ALEXANDER RAE BALDWIN,
Defendant.**

SUBPOENA DUCES TECUM

[X] Subpoena for Documents

To: Moxie Films, Inc.
Attention: Agent for Service of Process Mark Bailey
29169 Heathercliff Road, Suite 204
Malibu, California 90265

Mark Bailey
7238 Birdview Avenue
Malibu, California 90265

YOU ARE HEREBY COMMANDED to produce at the office of the Special Prosecutors, Kari T. Morrissey and Erlinda O. Johnson, 1303 Rio Grande Avenue N.W., Suite 5, Albuquerque, New Mexico 87104-2698 on the 20th day of May 2024 at 10:00 a.m.:

[X] All audio and/ or video in which Alec Baldwin discusses, mentions, alludes to, comments on, or in any way describes:

1. Halyna Hutchins,
2. the filming of "Rust" in New Mexico,
3. the events surrounding the shooting of Halyna Hutchins and/ or Joel Souza,
4. the criminal charges filed against Alec Baldwin and/or any other member of the Rust cast and crew,
5. The firearm involved in the shooting of Halyna Hutchins

and Joel Souza, including its selection, operation, alleged misfiring or any other discussion whatsoever of said firearm,

6. Hannah Gutierrez,
7. the investigation and subsequent prosecution of Alec Baldwin by law enforcement officials, the district attorney, and/ or special prosecutors,
8. any statements of any nature referencing the shooting of Halyna Hutchins and/or Joel Souza,
9. the development and production of "Rust,"
10. Alec Baldwin's role as a producer of "Rust"

[X] All audio and/or video in which any person discusses, mentions, alludes to, comments on, or in any way describes:

1. Halyna Hutchins,
2. the filming of "Rust" in New Mexico,
3. the events surrounding the shooting of Halyna Hutchins and/or Joel Souza,
4. the criminal charges filed against Alec Baldwin and/or any other member of the Rust cast and crew,
5. The firearm involved in the shooting of Halyna Hutchins and Joel Souza, including its selection, operation, alleged misfiring or any other discussion whatsoever of said firearm,
6. The investigation and subsequent prosecution of Alec Baldwin by law enforcement officials, the district attorney, and/ or special prosecutors,
7. any statements of any nature referencing the shooting of Halyna Hutchins and/or Joel Souza,
8. the development and production of "Rust,"
9. Alec Baldwin's role as a producer of "Rust"

CALL Kari T. Morrissey or Erlinda O. Johnson

505-361-2138 or 505-792-4048

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

Kari T. Morrissey
Special Prosecutor

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ___ day of _____, ___, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena, the statutory witness fee and mileage in the amount of \$ _____.

SUBSCRIBED AND SWORN to before me this ___ day of _____, _____.

THIS SUBPOENA issued by or at request of:
Kari T. Morrissey
Office of Special Prosecutor
1303 Rio Grande Blvd. NW, Suite 5
Albuquerque, N:W1 87104-2698
505-361-2138

EXHIBIT 2

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

vs.

ALEXANDER RAE BALDWIN,

No. D-0101-CR-2024-0013

Defendant.

Judge Mary Marlowe Sommer

**ORDER/CERTIFICATE ON PETITION FOR OUT-OF- STATE
SUBPOENA DUCES TECUM ONTO MOXIE FILMS, INC.**

The matter having come before the court upon the Petition for Out-of-State Subpoena Duces Tecum for issuance onto Moxie Films, Inc. (“Moxie”) (“Petition”) and the court being fully advised in the premises finds the Petition well taken.

This Court, being the court of record in the above-entitled matter, finds that Moxie Films, Inc. is based in Malibu, California located at:

Moxie Films, Inc.
Attention: Agent for Service of Process Mark Bailey
29169 Heathercliff Road, Suite 204
Malibu, California 90265

Moxie Films, Inc.
Mark Bailey
7238 Birdview Avenue
Malibu, California 90265

The production of the audio and video items and information is discussed and set forth in the Petition, the Subpoena, and in the Attorney's Affidavit all of which has/have been presented to this Court.

IT IS THEREFORE:

ORDERED and CERTIFIED by this Court that the Clerk of the District Court issue, and provide a certified copy of same to Petitioner, a subpoena duces tecum in the form and content as presented to this Court by virtue of the Petition (Exhibit "A" thereto) compelling the production by Moxie of the audio and video information and materials as described in the subpoena duces tecum concerning the captioned matter and which information and materials shall be used in the above captioned criminal proceeding entitled State of New Mexico v. Alexander Rae Baldwin, Case No. D- 101-CR-2024-0013.

Dated: _____

Judge Mary Marlowe Sommer
District Court Judge

SEAL OF THE COURT:

STATE OF NEW MEXICO

APPROVED:

Kari T. Morrissey

By: Kari T. Morrissey, Special Prosecutor

DOES NOT TAKE A POSITION:

Luke Nikas

By: Luke Nikas, Attorney for
Defendant Alexander Rae Baldwin