

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

**STATE OF NEW MEXICO,**

**Plaintiff,**

**vs.**

**ALEXANDER RAE BALDWIN,**

**No. D-0101-CR-2024-0013**

**Defendant.**

**Judge Mary Marlowe Sommer**

**STATE OF NEW MEXICO'S EXPEDITED MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO  
DISMISS THE INDICTMENT**

COMES NOW the State of New Mexico by and through its Special Prosecutor Kari T. Morrisey, and hereby respectfully moves this Court for leave to file a supplemental response to the defendant's motion to dismiss the indictment and in support thereof, the State submits the following.

1. On March 14, 2024, the defendant, through counsel, filed a motion to dismiss the indictment claiming prosecutorial misconduct before the grand jury.
2. On April 5, 2024, the state filed its response to the defendant's motion to dismiss. On April 22, 2024, the defendant filed his reply (the defendant's reply was filed late as he was given until close of business on April 22, 2024, and filed his reply at 9:00 p.m. on April 22, 2024)
3. The State now seeks leave of the Court to supplement its response with minimal additional arguments critical to the Court's analysis of the defendant's motion to dismiss.
4. The defendant has taken advantage of the Court's permission to exceed the page limits by filing approximately ninety pages of motion/reply. The thirty-page reply is not simply a reply to the State's response but contains new exhibits and intentionally misleading statements of the law

by defense counsel. It is these issues that counsel for the State seeks to address in her minimal supplemental briefing.

5. It is critical that the Court have all factual information and legal arguments before it prior to deciding a dispositive motion on a case involving a death. Mr. Nikas' position (asserted via email to the Court on April 23, 2024) that the State's arguments have been waived and/or must be reserved for oral argument is simply an attempt to withhold pertinent information that would aid the Court in a full analysis of the facts and law as they pertain to defendant's motion to dismiss.
6. The district court has discretion to hear a motion to file a supplemental pleading at any time during which the action is before it. *See* 6A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1509 (2023).
7. Additionally, pursuant to its supervisory powers, this Honorable Court has the discretion to allow the filing of a supplemental response by the state. *United States v. Hasting*, 461 U.S. 499, 505 (1983)(A court's supervisory power is utilized not merely to enforce the rights of litigants, but also to vindicate the court's interest in judicial integrity).
8. The State respectfully requests that in the interests of justice and completeness, this Honorable Court exercise its discretion and allow the state to submit a supplemental response of no more than 10 pages in length, to be filed within two hours of the issuance of the Court's order authorizing the supplemental response.
9. The defendant through counsel Luke Nikas advised he opposed the relief requested herein.

Wherefore, for the foregoing reasons, the State respectfully requests this Court authorize the State to file a supplemental response to the defendant's motion to dismiss the indictment, to be filed within two hours of the issuance of an order authorizing the supplemental

submission.

Respectfully Submitted,

/s/ Kari T. Morrissey

Kari T. Morrissey

Special Prosecutor

First Judicial District

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I hereby certify that a true and accurate  
Copy of the foregoing was provided to  
Counsel for the defendant via e-mail  
This 24th day of April 2024.

/s/ Kari T. Morrissey

Kari T. Morrissey