

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

STATE OF NEW MEXICO,

Plaintiff,

No. D-101-CR-2024-00013

vs.

Judge Mary Marlowe Sommer

ALEXANDER BALDWIN,

Defendant.

**STATE'S RESPONSE TO DEFENDANT'S MOTION IN LIMINE
No. 3 TO PRECLUDE ARGUMENT, TESTIMONY, AND EVIDENCE RELATING TO
BALDWIN'S ROLE AS A PRODUCER**

COMES NOW the State of New Mexico by and through Special Prosecutors, Kari T. Morrissey and Erlinda O. Johnson, and hereby respectfully submits the following response in opposition to Defendant Alexander Baldwin's motion *in limine* number three to preclude argument, testimony, and evidence relating to Baldwin's role as a producer, and in support thereof submits the following.

Introduction

On January 19, 2024, a grand jury sitting in the First Judicial District issued an indictment charging the defendant with involuntary manslaughter alleging negligent use of a firearm and in the alternative, acting without due caution and circumspection. During the grand jury presentation, the State's expert, Bryan Carpenter, provided extensive testimony regarding the defendant's role as a producer. Mr. Carpenter also testified to the breadth of the defendant's producer contract with Rust Productions, LLC and the duties and responsibilities of producers in general. Mr. Carpenter further testified to his opinion that the defendant contributed to Ms.

Hutchins death in his role as producer by “knowing what was occurring and what should have been occurring and taking no steps, repetitively, to intercede and put a stop to it and/or correct it until the tragedy (referring to the consistent safety breaches with regard to firearms on the set of Rust).” *See* State’s Exhibit 1, at page 211 (Exhibit 1- Bryan Carpenter’s relevant testimony before the grand jury pp. 184-216).

The State has also made dozens of witnesses available to the defense for lengthy pretrial interviews. Many of the witnesses provided information about the defendant’s producer role on the Rust movie set as well as his conduct. The State produced evidence to the defense regarding the defendant’s role and safety responsibilities as a producer. Early on, the defense was made aware the State intended to introduce evidence of defendant’s role as a producer, his safety responsibilities as a producer and how those safety duties were breached by the defendant. This evidence is germane to the defendant’s willful, wanton and reckless conduct which shows total disregard and indifference for the safety of others.

Argument

Relevance

Only relevant evidence is admissible. *See* Rule 11–402 NMRA 2012. “Evidence is relevant if A. it has any tendency to make a fact more or less probable than it would be without the evidence, and B. the fact is of consequence in determining the action.” Rule 11–401 NMRA 2012. Evidence found to be relevant may be excluded “if its probative value is substantially outweighed by a danger of ... unfair prejudice.” Rule 11–403 NMRA 2012. Moreover, the New Mexico Court of Appeals has explained that “[r]elevance does not exist in a vacuum; instead, it is the logical relationship between evidence and a proposition in issue that the party seeks to prove.” *State v. Duncan*, 1990-NMCA-063, ¶ 18, 830 P.2d 554, 558.

Involuntary Manslaughter

Under New Mexico law, involuntary manslaughter is an unintentional killing, *State v. Henley*, 2010–NMSC–039, ¶ 14, 148 N.M. 359, that consists of an “unlawful killing of a human being without malice ... committed in the commission of an unlawful act not amounting to felony, or in the commission of a lawful act which might produce death in an unlawful manner or without due caution and circumspection.” NMSA 1978 § 30–2–3; *State v. Henley*, 2010–NMSC–039, ¶ 14, 148 N.M. 359. (internal quotation marks and citations omitted).

The “lawful act” portion of the involuntary manslaughter statute includes “[t]he statutory phrase ‘without due caution and circumspection’ [which] involves the concept of ‘criminal negligence.’ Criminal negligence includes conduct which is reckless, wanton, or willful.” *State v. Yarborough*, 1995-NMCA-116, ¶ 20, 120 N.M. 669 (*quoting State v. Arias*, 115 N.M. 93, 96, 847 P.2d 327, 330 (Ct.App.1993) (citation omitted)). Accordingly, the State must present evidence of criminal negligence, irrespective of the underlying statutory basis for the charge. *State v. Yarborough*, 1995-NMCA-116, ¶ 20, 120 N.M. 669; *State v. Salazar*, 1997–NMSC–044, ¶ 54, 123 N.M. 778, 945 P.2d 996 (“[I]nvoluntary manslaughter, whether premised upon a lawful or unlawful act, requires a showing of criminal negligence.”).

Criminal negligence exists where the defendant “act[s] with willful disregard of the rights or safety of others and in a manner which endanger[s] any person or property.” *State v. Henley*, 2010–NMSC–039, ¶ 16, 148 N.M. 359, 237 P.3d 103 (internal quotation marks and citation omitted); *State v. Skippings*, 2011-NMSC-021, ¶ 18, 150 N.M. 216. Criminal negligence includes conduct which is reckless, wanton, or willful. *State v. Arias*, 1993-NMCA-007, ¶8, 115 N.M. 93 (citation omitted); *overruled on other grounds by State v. Abeyta*, 1995-NMSC-051, 120 N.M. 233.

Discussion

In this case, the defendant is charged with involuntary manslaughter under the theory of negligent use of a firearm and the alternative theory charging the commission of involuntary manslaughter, without due caution and circumspection by an act committed with total disregard or indifference for the safety of others. The theory charging an act committed without due caution and circumspection requires proof of criminal negligence. In proving criminal negligence, the State will present evidence of the defendant's reckless, wanton and willful conduct.

Defendant's role as a producer emboldened him, in the days before October 21, 2021, to engage in conduct that placed others, including Ms. Hutchins, at risk by rushing crew members and making demands for quick changes to scenes, sending crew members scrambling.

Defendant's role as a producer also made him keenly aware of his duties to observe set safety rules and orderly conduct on set. This evidence is relevant to the issue of defendant's knowledge that his conduct, contrary to his duties as a producer, was reckless and wanton. It is also relevant to prove his actions in shooting and killing Ms. Hutchins was not a mistake. In other words, defendant's reckless conduct in the days before October 21, 2021, demonstrate that his reckless conduct resulting in the shooting death of Ms. Hutchins was willful. The State carries the burden of proof and as such must introduce relevant evidence that satisfies the elements of the offense as charged.

The defendant's producer contract for the movie Rust sets forth the duties expected of defendant as a producer. The contract begins with a description of El Dorado Pictures' (defendant's company described in the agreement as "Lender") agreement with Rust Productions to cause defendant, described as artist, "to render those services customarily rendered by a

producer in connection with production of the motion picture tentatively entitled ‘Rust.’”

(Defendant’s exhibit B to motion in limine 3). Under the section titled “[s]ervices”, the

defendant’s producer agreement reads, in part,

Lender shall cause Artist to render all pre-production, production, and post production services reasonably requested by Production Company and customarily rendered by individual Producers in the motion picture industry. Such producing services shall be rendered on a non-exclusive basis. Artist further agrees to perform Artist's services and comply with Artist's obligations promptly, faithfully, conscientiously, and to the full extent of Artist's talents, capabilities, whenever reasonably required by Production Company during the term, and at such other times as are provided herein, and in accordance with Production Company' reasonable instructions and directions in all matters, including those involving artistic taste and judgment, subject to the terms and conditions of this Agreement. matters, including those involving artistic taste and judgment, subject to the terms and conditions of this Agreement.

(Defendant’s exhibit B, p.1 to motion in limine 3). The producer contract does not set limitations to defendant’s role as a “producer.” Therefore, the State must be allowed to present evidence of the duties, role and expectations of a “producer in the motion picture industry,” as it relates to set safety.

Indeed, Defendant’s role as a producer also makes him responsible for set safety. Yet he was engaged in conduct violative of movie set safety rules, thus adding to his willful, wanton and reckless conduct. In other words, the defendant’s role as a producer and the duties imposed on him as such inform his knowledge that his conduct in violating set safety rules is reckless and placed others at risk and contrary to his duties as a producer. As previously noted, the State is not seeking to argue that Defendant is criminally liable because he was a producer. The safety obligations imposed on him as a producer are directly relevant to his willful and reckless conduct showing a complete disregard for the safety of others and how that conduct resulted in his willful and wanton acts that led to the shooting of Ms. Hutchins.

Indeed, many of the witnesses interviewed provided evidence of how the defendant was the boss on set and the one in charge. Witnesses also describe Defendant's demeanor and behavior on set as unsafe and inattentive of crew safety. It was likely his role as a producer that emboldened him to act recklessly and with a wanton disregard for the safety of others, eventually disregarding requests from the director, resulting in the shooting of Ms. Hutchins. Accordingly, evidence of Defendant's role as a producer is relevant and must be admitted.

Wherefore, for the foregoing reasons, the State respectfully requests this Court deny the defendant's motion in limine 3 to preclude evidence of defendant's role as a producer.

Respectfully Submitted,

/s/Erlinda O. Johnson

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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 29th day of June 2024.

/s/ Erlinda O. Johnson

Erlinda O. Johnson