

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

vs.

D-101-CR-2023-00040

HANNAH GUTIERREZ-REED,

Defendant.

**HANNAH GUTIERREZ-REED'S *EXPEDITED* MOTION FOR NEW TRIAL OR FOR
DISMISSAL FOR DISCOVERY VIOLATIONS AND UNDER THE COURT'S
INHERENT POWER**

Defendant Hannah Gutierrez-Reed, by and through her counsel of record, Jason Bowles and Monnica L. Barreras, respectfully moves this Court for new trial or for dismissal for severe and ongoing discovery violations by the State. This motion is made pursuant to Rule 5-614 of the Rules of Criminal Procedure, case law and the Court's inherent powers.

I. BALDWIN'S TRIAL EXPOSES EXTREME MISCONDUCT: *Special Prosecutor Morrissey Lies to this Court under Oath*

In the hearing on July 12, 2024, in Mr. Baldwin's case, Ms. Morrissey took the stand, calling herself as a witness and lied to this Court several times. Corporal Hancock testified that Ms. Morrissey was in on the decision to file the Teske rounds in a separate file. On direct examination however, Ms. Morrissey stated she never knew it would have a separate file number. Ms. Morrissey alleged in response to cross examination that Erlinda Johnson had resigned that day because Ms. Johnson didn't want a public hearing on the *Brady* violations. This was false. In a media interview the same day, Ms. Johnson explained that she resigned because of her ethical duties as a prosecutor, and that she had argued that the case should be dismissed by the State

because of the late disclosure and that she was overruled, obviously by Ms. Morrissey. *See* “Baldwin Prosecutor on Resigning”, Erlinda Johnson interview with Chris Cuomo, available on X (twitter). Ms. Morrissey instead decided to plow ahead in her continued “win at all costs” attitude in the Rust cases.

Second, Ms. Morrissey represented in response to questioning that she asked her prior paralegal to resign. That was factually untrue. The paralegal decided to tender his resignation unilaterally after sending several emails to the DA’s office about his working conditions and the conduct of Ms. Morrissey that led to his unilateral decision to resign. The paralegal emailed this to undersigned counsel and executed an affidavit.

Third, Morrissey represented that undersigned counsel did not want the Teske rounds and believed they inculpated Ms. Gutierrez Reed. That is an absolute falsehood. Some background is necessary on this point. The State had been aware and had access to Teske for years. Seth Kenney called Teske during a November 1, 2021, interview with then Detective Alexandria Hancock, after which Teske sent a picture of a sampling of ammunition and the sampling had bronze primers and didn’t match the live rounds on set, which had nickel primers. There was no further follow up by the State even though undersigned counsel texted Detective Hancock asking her to contact Teske. Detective Hancock also misrepresented at the hearing saying she called Teske multiple times with no response. Hancock in text responses told undersigned counsel she had already talked with Teske: “Yes I’ve been present for most of the phone calls and have spoken to him,” and also saying “ I’m aware. I’ve seen them. And spoke to Troy.” Hancock never again tried to contact him, despite her testimony to this Court.

Then, in a November 2, 2023, pretrial interview of Teske, the rounds were again discussed, this time with Special Prosecutor Morrissey. During the interview, Morrissey specifically asked

if Teske would give her the ammunition from the batch that Reed and Kenney had taken to the 1883 set. Teske agreed he would preserve it and provide it and Morrissey indicated he should and that she would work with law enforcement to collect it. Thereafter, Teske was afraid to do anything with the rounds, except preserve them for law enforcement, which he did.

Morrissey never followed up. The undersigned sent an email to Morrissey on January 8, 2024, asking if the State was going to retrieve the rounds and test them. *Exhibit F*. Counsel stated in the email that testing was important to compare the powder of the Teske rounds to the powder in the live rounds found on the Rust set. This had to be done by the FBI, through the State, as the FBI had done the original testing and analyzed the powder. Undersigned counsel had repeatedly told the State that it needed to test the Teske rounds and make this comparison. That same day, however, for the first time since November 2, Ms. Morrissey emailed back that she did not plan to retrieve or test them, because she found them visually dissimilar and not relevant. Astoundingly, Ms. Morrissey told this Court in the July 12, 2024, hearing that she had never seen these rounds until July 12 during the evidentiary hearing. It was clear in that hearing that three of the rounds were visually like the Rust set rounds, which contradicted Ms. Morrissey's statements in her January 8 email to undersigned and Ms. Morrissey's in court statements from July 11 that the rounds were not visually similar. *See also* Erlinda Johnson interview, *supra* (noting that three of the Teske rounds were visually like the Rust set rounds and indicating that this had potential exculpatory value on the theory of sabotage). Further misconduct by the State unearthed in that hearing was that CST Poppell had been directed to place the Teske rounds in a separate case file with a separate number (not Rust) and create a report that was also filed in that separate case file so that these would not be disclosed to the defense. Corporal Hancock testified that Ms. Morrissey was present for the meeting and decision to place the rounds in a separate case file. In other words,

Special Prosecutor Morrissey was in on the decision to hide the rounds and report on them in another file. Moreover, CST Poppell and Morrissey misled this jury in testimony on July 11, 2024, indicating that the Teske rounds were visually dissimilar to the Rust set rounds and therefore immaterial. That was proven false a day later when this Court opened the box and inspected the Teske rounds.

Far from distancing from the Teske rounds, defense counsel recognized their potential exculpatory value had the state tested them. However, by the time Ms. Morrissey indicated that she did not plan to retrieve them on January 8, it was too late to utilize these rounds, and impossible without the FBI comparison on the powders. This Court had also made clear in one of the motion hearings around that time that there would be no continuance of the February 28 trial date for Ms. Morrissey. Regardless, without the State testing the rounds, counsel for the defense was unable to utilize the powder comparison. Teske then turned the rounds over to the Sheriff's Office on March 6, 2024, and the defense hoped that the Sheriff's Office would finally test and analyze those rounds, while Ms. Gutierrez Reed pursued her appeal. Instead, the State placed them in a separate case file and attempted to hide them.

Erlinda Johnson recognized the import of the rounds as she stated in her interview, *supra*, as soon as she saw the three, silver primer, starline brass rounds on July 12, when the Court took the rounds out of the evidence box. Ms. Johnson indicated that it made the theory of sabotage a possible defense theory and defense assertions that Ms. Gutierrez Reed was a wonderful armorer. This goes to the foreseeability element for Ms. Gutierrez Reed as well and could have been more exculpatory in Ms. Gutierrez Reed's case.

The import is that Ms. Morrissey and CST Poppell made misrepresentations to the Court and jury regarding the Teske rounds and the circumstances surrounding their late disclosure. These

misrepresentations highlight the continued discovery abuses and fraud perpetrated and attempted to be perpetrated on counsel for the defense and this Court, by the State. Counsel for Ms. Gutierrez Reed knew that Teske had some rounds from the same batch and is not making that failure of disclosure the sole basis for this motion, except to the extent they show ongoing misconduct of the State and the failures found by the Court (although counsel for Ms. Gutierrez Reed was also never provided with a copy of the police report or lapel video concerning those collected rounds). These additional acts by the special prosecutor should inform, however, the egregious *Brady* violation regarding the Haag report and the *Giglio* violation regarding the Seth Kenney interview that was disclosed only after trial.

This Court stated on July 12 that the integrity of the judicial system demanded that the Court dismiss Mr. Baldwin's case with prejudice. How can it be any different with Ms. Gutierrez Reed's case, with this proven litany of serious discovery abuses? The intentional withholding of crucial evidence, *Brady* and *Giglio*, by the State has compromised the integrity of the entire judicial process. Justice demands that Hannah Gutierrez Reed's conviction be overturned immediately, ensuring that the legal system does not perpetuate this core affront to our system, that has been watched all over the world.

INTRODUCTION AND FACTUAL BACKGROUND

At a stunning evidentiary hearing on Friday, July 12, 2024 in Mr. Baldwin's trial, this Court found that the State had committed an egregious discovery violation by suppressing material *Brady* evidence, regarding the ammunition rounds that Troy Teske turned into the Santa Fe County Sheriff's Office on March 6, 2024. This Court entered the extreme remedy of dismissal with prejudice in Mr. Baldwin's case, finding: 1) the special prosecutor and sheriff's office suppressed evidence of the rounds that Mr. Teske turned in; 2) the evidence was favorable to Mr. Baldwin as

impeachment evidence and potentially exculpatory; 3) the evidence was material in that the late disclosure impacted the fundamental fairness of the proceedings; 4) the State's conduct was highly culpable in failing to provide this discovery and unilaterally withholding a report on the Teske rounds; 5) the State's willfulness was so close to bad faith as to "show signs of scorching"; 6) this was highly prejudicial to Mr. Baldwin, and his preparation for trial; 7) the sanction of dismissal was the only appropriate remedy for the egregious conduct; 8) despite the States' repeated disclosures to defense and the Court that they had complied with all their discovery obligations, they withheld critical evidence and 9) dismissal with prejudice was necessary to preserve the integrity of the judicial system. *See* Youtube, "See moment Judge throws out case against Alec Baldwin," July 12, 2024.

This is, of course, the same special prosecutor and same Sheriff's office that handled the Gutierrez Reed case. In the same way as in Mr. Baldwin's case, the State represented to counsel and to this Court that it had complied with its obligations under Rule 5-501, *please see State's Certificate of Compliance*, filed February 12, 2024. Yet, after the trial concluded, the State continued its pattern of discovery misconduct, disclosing a completely new interview of Seth Kenney and a third expert report of State's Expert Lucien Haag, *Please see Exhibit A, to Hannah Gutierrez-Reed's Motion for Immediate Release from Detention Under Rule 5-402 filed on June 27, 2024*. On April 8, 2024, a full month after Ms. Gutierrez Reed's trial had ended, Ms. Morrissey called counsel for Ms. Gutierrez Reed and disclosed an entirely new Seth Kenney interview and statement that contained numerous points that could have been used in Kenney's cross examination. Also, the State withheld bombshell exculpatory evidence that it had a constitutional obligation to disclose and that would have resulted in a fundamentally different trial and likely a different outcome. As the Court is aware from ongoing proceedings in Ms. Gutierrez-Reed's and

Mr. Baldwin's case, despite having in its possession a report from its own experts stating that the firearm used on the set of the *Rust* film contained unexplained toolmarks on critical surfaces of the trigger and sear, which (1) likely were not "the result of the damage incurred during the FBI's impact testing," and (2) "do not appear to be original manufacturing marks or use and abuse toolmarks based on [their] irregular orientation," the State buried this information and never disclosed it to Ms. Gutierrez-Reed. But not only that: the State then *called the expert at trial and sat idly by as he perjured himself during cross-examination*. In doing so, the State (1) suppressed exculpatory material in violation of the U.S. and New Mexico Constitutions; (2) suppressed a testifying witness's written statements in violation of Rule 5-501(A)(5) NMRA; and (3) committed additional violations of the U.S. and New Mexico Constitutions during trial. This conduct is beneath what the Court should expect from a duly appointed officer of the State tasked with doing justice. These late disclosures, occurring after trial had concluded, violate Rule 5-501(H), and there is a reasonable probability that the outcome of the trial may have been different had the State complied with its obligations.

The Suppressed Seth Kenney Interview

In the Seth Kenney recorded interview, conducted well prior to trial of Ms. Gutierrez Reed (there is no date contained in the interview, but it occurred before her trial), Mr. Kenney makes the following material statements that counsel for Ms. Gutierrez Reed would have used in cross examination:

- 1) There is a standard that the prop master (Sarah Zachry) is the boss and if something goes missing or stolen, she must report it. She is managing things which allows the armorer to focus on guns and Sarah is everything else.

- 2) Hannah grew up on the set of movies and has a lot of immersion in set industry. She has more experience with Westerns than Seth did up until 1883.
- 3) Says prop masters who handle guns won't call out armorer to test bullets.
- 4) Mentions that sheriffs confused replica gun with real gun.
- 5) Sarah told him Hannah was doing great with the guns and the director was happy.
- 6) Seth heard nothing but good things about Hannah's skills. All the stuff that came out after about safety he hadn't heard. He felt like people were "piling on" after the fact.
- 7) He mentions the anonymous hotline and that if there was something going on why nobody called the hotline.
- 8) "Alex [Hancock] has been cool, but I busted her chops on the search warrant"
- 9) Says he got 325 rounds from Thell Reed.
- 10) Says Sabotage could be anyone on set.
- 11) "It's a boy's club. Alec [Baldwin] trusts AD because he's a man." "If she said she got pushed around no one would disagree. She's got the experience. If she ever came up with that kind of defense, then I'd think well finally you're going to be real about this thing."
- 12) If the camera crew didn't feel safe well then call the hotline.
- 13) "It's kind of suspicious to me. If they got their hotels, would they have said they didn't feel safe?"
- 14) He talks about Sarah's accidental discharge. Sarah was super responsible and apologized to everyone. Hannah was trying to punch down on Sarah for accidental as discharge. Accidental discharges happen. Mentions Tim McGraw, Daniel Craig and Denzel having them. He told Hannah to let it go about Sarah's accidental discharge.

- 15) As to Hannah, says AD and Baldwin “How are you not making sure a 24-year-old armorer has every ounce of support.”
- 16) “She’s got the experience and history. She had more set time on westerns than I did before 1883.”
- 17) Sarah was collateral damage He told her he would find her an adult armorer.
- 18) Hannah came out strong. She was pushed around by Baldwin and AD.
- 19) Props dept needs every ounce of support.
- 20) Says Sabotage is bullshit.

Several of these statements are new and different and would have been critical to cross examination of Mr. Kenney, including to show Ms. Gutierrez Reed’s experience, that allegations of her being unsafe were not something Mr. Kenney ever heard, that props and armorer needed more support, that if the camera crew or others did not feel safe they should call the hotline. Most critically, he said he received 325 rounds from Thell Reed, which is important because the ammo can found at his shop PDQ was found empty during the search warrant. Mr. Kenney also represented in the Friday, July 12, 2024, hearing that he brought back 50-100 rounds with him to New Mexico and no explanation as to where they went. The State also made repeated points at trial about guns being left unattended. Yet, in this previously undisclosed interview, Kenney said that the Sheriff confused real and prop guns. Kenney also made conflicting statements on sabotage. This was favorable *Giglio* information that the State suppressed and that was material. The failure to produce this statement is a clear violation of Rule 5-501. *See State v. Allison*, 2000-NMSC-027, 129 N.M. 566 (reversing defendant’s first-degree murder and other convictions and remanding for new trial for State’s failure under Rule 5-501 to disclose defendant’s arrest record prior to trial; error not cured).

Suppression of the Haag Report

The accident involving the firearm that led to the indictment of Ms. Gutierrez-Reed occurred on October 21, 2021. The State first charged Ms. Gutierrez-Reed with involuntary manslaughter on January 31, 2023, and trial commenced on February 28, 2024. Ms. Gutierrez-Reed's principal defense theory was that no one had committed a crime and that this was a tragic accident, and if there was any negligence, it was on the part of producers, as found by OSHA. This defense would have been imminently bolstered by a legally unforeseeable intervening cause—such as a firearm malfunction—that caused Ms. Hutchins' death. This is perhaps the most important evidence in the case of an unforeseeable intervening cause. Indeed, post-trial, one of the jurors called undersigned counsel and said the jury was split and that they ultimately thought the tragedy was foreseeable and there was no intervening cause that broke the chain of causation. In short, the Haag report is critical new evidence.

On March 6, 2024, the jury returned a verdict finding Ms. Gutierrez-Reed guilty of involuntary manslaughter. The district court entered judgment on April 18, 2024, when it sentenced Ms. Gutierrez-Reed to the maximum statutory penalty of 18 months' imprisonment.

But what neither the Court, nor the jury, nor Ms. Gutierrez-Reed knew was that, months before Ms. Gutierrez-Reed's trial, the State's two firearm experts, Lucien C. Haag and Michael G. Haag, issued not just the one report that the State disclosed, but two subsequent reports. Specifically, the results of the Haags' initial examination of the firearm, performed on July 3, 2023, were published in a report dated August 2, 2023. The results of the Haags' second examination, performed on August 24, 2023, were published in two separate reports, dated August 26, 2023, and August 31, 2023, respectively. The Third Haag Report found that the firearm contained *unexplained* toolmarks on the working surface and sides of the evidence trigger/sear and that (1)

it was “*unlikely . . . that these toolmarks are the result of the damage incurred during the FBI’s impact testing,*” and (2) the toolmarks “*do not appear to be original manufacturing marks or use and abuse toolmarks* based on [their] irregular orientation.” *Ex. A* (third Haag report) at 2. Put another way, the State’s experts concluded that there were unexplained alterations to the firearm’s trigger/seal—a critical conclusion given that Ms. Gutierrez-Reed’s codefendant, Alexander Baldwin, has claimed that he never pulled the trigger of the gun prior to its firing the bullet that killed Halyna Hutchins.

The State, however, did not produce the Third Haag Report prior to the commencement of Ms. Gutierrez-Reed’s trial. Instead, the State produced them only to Mr. Baldwin, and only weeks after a jury had convicted and the Court had sentenced Ms. Gutierrez-Reed. It was only on May 31, 2024—by which time Ms. Gutierrez-Reed was already at the Western New Mexico Women’s Prison in Grants for intake and classification—that Special Prosecutor Morrissey admitted to Mr. Baldwin’s counsel that the State “fail[ed] to disclose the 8/31 supplemental” report for almost nine months and that such failure “was mine.” *Please see Exhibit B to Hannah Gutierrez-Reed’s Motion for Immediate Release from Detention Under Rule 5-402 filed on June 27, 2024, email dated May 23, 2024 from K. Morrissey to Baldwin’s counsel.*

The timeline of the State’s discovery disclosures in Mr. Baldwin’s case is important to understand for purposes of this Motion. On January 24, 2024, Mr. Baldwin made his initial discovery demand. Between April 22 and April 29, 2024, Mr. Baldwin repeatedly raised concerns to the prosecution about missing expert materials and other missing discovery. Then, on April 29, 2024, Mr. Baldwin apparently learned of the Second Haag Report when Lucien Haag referred to it during his pretrial interview. And it was then more than a month later, on May 21, 2024, that Mr. Baldwin defense learned of the existence of the Third Haag Report, during the pretrial

interview of Michael Haag. *Please see Exhibit C, to Hannah Gutierrez-Reed's Motion for Immediate Release from Detention Under Rule 5-402 filed on June 27, 2024, (5/21/24 Baldwin PTI with Michael Haag) at 31:23-33:21.*

Meanwhile, the State was actively prosecuting Ms. Gutierrez-Reed: her trial began on February 28 and the jury delivered a verdict on March 6, 2024; and the Court imposed sentenced on April 18, 2024. And during Ms. Gutierrez-Reed's trial, her attorney *examined Lucien Haag about the precise exculpatory issues raised in the Third Haag Report:*

Mr. Bowles: "Okay, sir. And in your inspection of that weapon, that Baldwin revolver, did you see any modification that would have changed the firing characteristics of that weapon?"

Mr. Haag: "No, not at all. . . ."

Mr. Bowles: "Okay, sir. So other than the FBI testing, breaking those components, you didn't see any other evidence of modification or damage?"

Mr. Haag: "I did not."

See Exhibit D, to Hannah Gutierrez-Reed's Motion for Immediate Release from Detention Under Rule 5-402 filed on June 27, 2024, Trial, Day 4 at 112:15–18. At the same time that Lucien Haag gave this sworn testimony, the State possessed a report stating the exact opposite: specifically, that the firearm contained *unexplained* toolmarks on the working surface and sides of the evidence trigger/sear that (1) "*unlikely . . . are the result of the damage incurred during the FBI's impact testing,*" and (2) "*do not appear to be original manufacturing marks or use and abuse toolmarks* based on [their] irregular orientation." *Ex. A at 2.* Although Lucien Haag's trial testimony directly contradicted his conclusions in the Third Haag Report, the State continued to withhold the Third Haag Report and its contents.

With the Third Haag Report, Ms. Gutierrez-Reed would have had a sufficient evidentiary basis from which to argue that unexplained alterations to the firearm caused it to fire without

anyone pulling the trigger—an unforeseeable intervening cause that rendered her conduct not legally responsible for Ms. Hutchins’ tragic death. This was the critical factor in the jury’s decision under the instructions as given. Nor was she able to impeach Mr. Haag’s testimony with his prior inconsistent statements. And a few weeks after that testimony, the jury convicted Ms. Gutierrez-Reed of involuntary manslaughter.

Suppression of Additional Material

This week, the Gutierrez-Reed defense has also become aware of another possible 900 or so pages of material related to state’s witnesses Bryan Carpenter and Haag that was not disclosed to undersigned counsel. This material was disclosed to counsel for Mr. Baldwin shortly before his trial. It appears that this material consisted of email communications between the state and those witnesses that were not disclosed by Ms. Morrissey. Counsel are still reviewing these at the time of filing this motion and may supplement with exhibits in a reply. It is too important for Ms. Gutierrez Reed to have her motion filed immediately, given the July 12, 2024, hearing and findings. As just one example, attached as *Exhibit E*, are numerous emails, approximately 36 pages, involving Bryan Carpenter and State prosecutors. In one dated January 18, 2023, between the State prosecutors and Bryan Carpenter related to the drafting of Mr. Baldwin’s probable cause statement. In that email, Mr. Carpenter says in part: “Team, First off, excellent job Robert. VERY compelling document and well written. I have redlined anything I found notable. ...” In another towards the end, he appears to email additional thoughts regarding Ms. Gutierrez Reed’s probable cause statement. As this Court may recall, Bryan Carpenter was the State’s expert witness in the Gutierrez Reed trial as well. This email is one that counsel has located in cursory search demonstrating the expert’s bias towards the prosecution, and the fact that he is involved in helping draft a probable cause statement supporting charges.

In yet another, he states that Sarah Zachry “knew nothing or next to nothing about firearms.” He goes on to state that her hiring was for low budget reasons and the only thing to mitigate that was to hire an experienced armorer, but that didn’t happen again more than likely for low budget reasons, again blaming production. *Exhibit E*, p.4. In another email dated November 17, 2022, Carpenter writes to prosecutors that he has talked to one of the top three prop house owners in the U.S. and a very well-known prop master and both of them without hesitation felt a major amount of responsibility fell on the prop master. He goes on to believe Hannah is “very accurate” in saying in her statement that they [production] were “jumping her ass” for not working hard on props and that they wanted more done in the props area to save money. He states that Gabrielle Pickle was the one from production who stonewalled all the training and armorer day requests. He references people believing Gabrielle Pickle and members of production being responsible. He notes further blame on production in bringing the props master and armorer in late, not giving them a props truck, and having locations working out of the same truck as being completely wrong and the fault of production. These were all themes that Ms. Gutierrez Reed espoused at trial, and she never had access to these statements to cross the government’s expert Carpenter.

In another email on February 6, 2023, Carpenter states that he is reviewing something that appears to reflect a total of 86 live rounds, which is a “big thing as they were scattered throughout and found at PDQ.” This is Seth Kenney’s business and the number of live rounds found at his business was a source of major contention at trial.

Again, these are all statements required to be disclosed under 5-501. The repeated discovery failures are certainly beneath what Ms. Gutierrez-Reed deserved. And for her, the impact has been devastating. She now sits in state prison serving an 18-month sentence based on

what we now know was a proceeding that was rendered unfair and unconstitutional by the State's conduct. This Court should not countenance the State's deplorable behavior.

LAW AND ARGUMENT

The State violates a defendant's due process rights when it suppresses "evidence favorable to an accused upon request . . . where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *see also Giglio v. United States*, 405 U.S. 150, 153–154, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972) (clarifying that the rule stated in *Brady* applies to impeachment evidence). Evidence qualifies as material when there is "any reasonable likelihood" that it could have "affected the judgment of the jury." *Giglio*, 405 U.S. at 154 (quoting *Napue v. Illinois*, 360 U.S. 264, 271 (1959)). To prevail on her *Brady* claim, the defendant need not show that she "more likely than not" would have been acquitted had the new evidence been admitted. *Smith v. Cain*, 565 U.S. 73, 75 (2012) (quotation omitted). She must show only that the new evidence is sufficient to "undermine confidence" in the verdict. *Id.*

The State of New Mexico, however, imposes heightened obligations under Rule 5-501 NMRA. *State v. Allison*, 2000-NMSC-027, ¶ 8 n.1, 11 P.3d 141 (noting that Rule 5-501 NMRA "create[s] disclosure obligations beyond those required by the Due Process Clause"). In particular, the State must disclose "any statement made by" any witness whom "the prosecutor intends to call at the trial" that "is within the knowledge of the prosecutor." 5-501(a)(5) NMRA.

"When [a] defendant has been found guilty, the court on motion of the defendant, or on its own motion, may grant a new trial if required in the interest of justice." Rule 5-614 NMRA. A motion for a new trial based on newly discovered evidence is appropriate where that evidence (1) "will probably change the result if a new trial is granted"; (2) was "discovered [after] the trial";

(3) “could not have been discovered before the trial by the exercise of due diligence; (4) is material; (5) is not “merely cumulative”; and (6) is not “merely impeaching or contradictory.” *State v. Garcia*, 2005-NMSC-038, ¶ 8, 138 N.M. 659, 661, 125 P.3d 638, 640 (quotations omitted).

II. THE COURT SHOULD ORDER MS. GUTIERREZ-REED TO HAVE A NEW TRIAL, OR FOR A DISMISSAL

A. Ms. Gutierrez-Reed is Entitled to a New Trial or Dismissal

Prosecutors “bear significant responsibility in the administration of the law.” *Matter of Chavez*, 2017-NMSC-012, ¶ 17, 390 P.3d 965. “It is as much [their] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.” *Id.* (quoting *Berger v. United States*, 295 U.S. 78, 88 (1935)). As the Supreme Court said in *Berger*, a prosecutor:

may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

Berger, 295 U.S. at 88. The conduct of the State in this case is exactly the evil the Court had in mind in *Berger*—and again in *Brady* and *Giglio*.

Under *Brady*, the State is required to disclose favorable evidence to the defense upon request. *See State v. Turrietta*, 2013-NMSC-036, ¶ 35, 308 P.3d 964. Critically, the U.S. Supreme Court has held that the State violates a defendant’s due process rights when it suppresses “evidence favorable to an accused upon request . . . where the evidence is material either to guilt or to punishment, *irrespective* of the good faith or bad faith of the prosecution.” *Brady v. Maryland*, 373 U.S. 83, 87 (1963) (emphasis added). Moreover, “the ‘prosecution’ for *Brady* purposes encompasses not only the individual prosecutor handling the case, but extends to the prosecutor’s entire office, as well as law enforcement personnel and other arms of the state involved in

investigative aspects [of the case].” *Smith v. Sec’y of N.M. Dep’t of Corr.*, 50 F.3d 801, 824 (10th Cir. 1995); *accord State v. Wisniewski*, 103 N.M. 430, 435, 708 P.2d 1031, 1036 (1985).

There can be no legitimate dispute that the State violated Ms. Gutierrez-Reed’s due process rights under *Brady* given that it has now stipulated that it failed to disclose evidence that is both (1) favorable to Ms. Gutierrez-Reed and (2) material to her guilt.

As to the first factor, the Third Haag Report is favorable to Ms. Gutierrez-Reed. It corroborates a defense theory that exculpates Ms. Gutierrez-Reed and would have changed jurors’ weighing of the evidence in essential ways: whatever conduct the State alleged against Ms. Gutierrez-Reed, that conduct was not legally responsible for Ms. Hutchins’ tragic death, because no one could have foreseen that unexplained alterations to the trigger/seal would lead to a freak malfunction causing the gun to fire. If the jury had credited this theory—which the State’s own experts’ report would have corroborated—the jury necessarily would have acquitted Ms. Gutierrez-Reed. UJI 14-251 NMRA (2000, amended 2017) (“The defendant’s act was a significant cause of death if it was an act which, in a natural and continuous chain of events, ***uninterrupted by an outside event***, resulted in the death and without which the death would not have occurred.”).

But Ms. Gutierrez-Reed was not able to pursue that theory, because the State buried evidence in its possession that was necessary for her to make that case to the jury. Nor did Ms. Gutierrez-Reed fail to ask the right question—she asked specifically and repeatedly that the State produce all evidence subject to *Brady* and Giglio, as well as Rule 5-501(A)(5) NMRA. And then at trial—even without knowing that Lucien Haag had opined in writing in the Third Haag Report that there were modifications or damage to the firearm other than what resulted from the FBI testing—Ms. Gutierrez-Reed asked that specific question:

Mr. Bowles: “Okay, sir. And in your inspection of that weapon, that Baldwin revolver, *did you see any modification that would have changed the firing characteristics of that weapon?*”

Mr. Haag: “*No, not at all. . . .*”

Mr. Bowles: “Okay, sir. So *other than the FBI testing, breaking those components, you didn’t see any other evidence of modification or damage?*”

Mr. Haag: “*I did not.*”

See Ex. D at 112:15-18.

The fact that Ms. Gutierrez-Reed asked the question and Lucien Haag perjured himself in response should dispel any suggestion that the truth—memorialized in the Third Haag Report—would have been exculpatory as to Ms. Gutierrez-Reed.

Lucien Haag’s perjury likewise supports the second factor, that the Third Haag Report was material to Ms. Gutierrez-Reed’s case. Evidence qualifies as material when there is “any reasonable likelihood” that it could have “affected the judgment of the jury.” *Giglio*, 405 U.S. at 154 (quoting *Napue*, 360 U.S. at 271). To prevail on her *Brady* claim, Ms. Gutierrez-Reed need not show that she “more likely than not” would have been acquitted had the new evidence been admitted. *Smith*, 565 U.S. at 75. She must show only that the new evidence is sufficient to “undermine confidence” in the verdict. *Id.* n.6 (clarifying that under this standard the defendant “can prevail even if . . . the undisclosed information may not have affected the jury’s verdict”).

The facts of this case far surpass that low threshold. The State’s entire theory of guilt was that Ms. Gutierrez-Reed’s criminal negligence in mishandling the gun caused the death of Halyna Hutchins and that her death was a foreseeable consequence of Ms. Gutierrez-Reed’s negligence. Ms. Gutierrez-Reed’s trial strategy was built on the assumption that there was no evidence suggesting the gun may have been modified or damaged *at the time* the incident occurred. Had the State disclosed the Third Haag Report, Ms. Gutierrez-Reed could have used its content to sow

reasonable doubt as to causation generally and foreseeability. Ms. Gutierrez-Reed never got the opportunity.

The fact that Lucien Haag perjured himself about this very subject when he testified at Ms. Gutierrez-Reed's trial, and that the State continued to dissemble about the Third Haag Report for months when Mr. Baldwin continued to press, only underscores how important the State views this evidence. There is no conceivable reason to lie and deceive about something that doesn't matter.

Whatever the State's intentions, there is no dispute that it failed to disclose the Third Haag Report until after Ms. Gutierrez-Reed's conviction and sentencing. *Ex. B* ("the failure to disclose the 8/31 supplemental [Haag] report was mine."). And that is all that matters: Whether this suppression was inadvertent or intentional does not affect the *Brady* analysis. *See Brady*, 373 U.S. at 87 (a violation occurs when the suppressed evidence "is material either to guilt or to punishment, *irrespective* of the good faith or bad faith of the prosecution"). The State's failure to disclose the Third Haag Report to Ms. Gutierrez-Reed until months after her trial constitutes a violation of her due process rights under *Brady* that warrants a new trial.

While the violation of Ms. Gutierrez-Reed's rights under the U.S. Constitution is sufficient to vacate her conviction and order a new trial, her rights under the New Mexico Constitution are even more expansive. Under New Mexico law, Ms. Gutierrez-Reed is entitled to a new trial because the State (1) violated its duty to disclose (2) evidence that was material, and thereby (3) prejudiced Ms. Gutierrez-Reed.

First, the State had a duty to disclose the Third Haag Report under New Mexico law. Rule 5-501 NMRA requires disclosure of (1) "any . . . documents . . . which are within the possession, custody or control of the state, and which are material to the preparation of the defense," (2) "any

statement made by [a] witness” that is “within the knowledge of the prosecutor,” and (3) “any material evidence favorable to the defendant.” *See also* Rule 5-505(A) NMRA (creating a continuing duty to disclose); *State v. Allison*, 2000-NMSC-027, ¶ 8 n.1, 11 P.3d 141 (noting that Rule 5-501 NMRA “create[s] disclosure obligations beyond those required by the Due Process Clause”). Here, the State was obligated to disclose the Third Haag Report under Rule 5-501 thrice over because it qualifies as a “document” material to the preparation of the defense,” a “statement by [a] witness” that is “within the knowledge of the prosecutor,” and as “material evidence favorable to the defendant.”

Second, the improperly withheld Third Haag Report was material. The materiality standard under New Mexico law is the same as the *Brady* materiality standard: “Whether evidence is material depends on ‘if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A ‘reasonable probability’ is a probability sufficient to undermine confidence in the outcome.’” *State v. Fero*, 1988-NMSC-053, ¶ 10, 758 P.2d 783 (quoting *United States v. Bagley*, 473 U.S. 667, 682 (1985)); *accord Allison*, 2000-NMSC-027, ¶ 17 (applying this standard in the failure to disclose context). New Mexico courts, including the Supreme Court, repeatedly have held that “information that would certainly impact a defense counsel’s tactical trial decisions” is material to the defense. *Allison*, 2000-NMSC-027, ¶ 17 (quoting *State v. Clark*, 1986-NMCA-095, ¶ 38, 727 P.2d 949). For the reasons explained above, the State’s failure to disclose the Third Haag Report undoubtedly affected Ms. Gutierrez-Reed’s trial strategy and was therefore material.

Third, the State’s failure to disclose the Third Haag Report to Ms. Gutierrez-Reed until months after the conclusion of her trial was prejudicial. In *State v. Allison*, on the way to finding the prosecutor’s failure to disclose evidence prejudiced the defendant, the New Mexico Supreme

Court stated that “had counsel been aware of [the undisclosed evidence], he may have altered his strategy.” *Allison*, 2000-NMSC-027, ¶ 18. So too here. Had Ms. Gutierrez-Reed’s counsel been aware of the Third Haag Report, he undoubtedly would have modified his trial strategy to attempt to introduce a reasonable doubt into the minds of the jurors about the gun’s functionality at the time of the incident. At a minimum, Ms. Gutierrez-Reed would have been able to use the contents of the report to impeach Mr. Haag’s contradictory trial testimony. The State deprived Ms. Gutierrez-Reed of the opportunity to do so and severely prejudiced her in the process.

Ms. Gutierrez-Reed is entitled to a new trial under both the United States Constitution and New Mexico law. *State v. Allison*, 2000-NMSC-027, ¶ 25, 129 N.M. 566, 576, 11 P.3d 141, 151 (granting a new trial where the State violated disclosure obligations under Rule 5-501 NMRA).

III. IN THE ALTERNATIVE, THE COURT SHOULD GRANT MS. GUTIERREZ-REED RELEASE PENDING APPEAL

In the alternative to an outright dismissal or at least a new trial, the Court should grant Ms. Gutierrez-Reed’s already filed motion for immediate release pending appeal. A defendant convicted of a non-violent offense is entitled to release on bail pending appeal if the court finds “(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released; and (2) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.” N.M. Stat. Ann. § 31-11-1(C). Involuntary manslaughter is not enumerated as a violent crime for purposes of the statute. *Id.* at (D). Moreover, such release is automatic and mandatory upon a finding that the above pre-requisites are satisfied. *State v. Taylor*, 2021-NMSC-023, ¶ 17, 491 P.3d 737, 742.

For the reasons discussed above, *see supra*, the first prong of § 31-11-1(C) is satisfied. For purposes of the second prong, all that is required is that Ms. Gutierrez-Reed’s appeal “raises a

question of more substance than would be necessary to a finding that it was not frivolous[,]” and which, if it were resolved in her favor on appeal, would entitle her to a new trial. *Taylor*, 2021-NMSC-023, ¶ 17, 491 P.3d 737, 742. For the reasons discussed above, *see supra*, the facts of this case and Ms. Gutierrez-Reeds’ present motion amply satisfy that prong, as well.

CONCLUSION

For the foregoing reasons, Ms. Gutierrez-Reed respectfully requests this Court order a new trial or dismissal of the case for egregious prosecutorial misconduct. The Court should also order Ms. Gutierrez’s release. Finally, the Court should order under its inherent power that Ms. Morrissey be removed as Special Prosecutor for the misconduct that has been found, and the violations committed in Ms. Gutierrez Reed’s case.

Respectfully submitted,

/s/ Jason Bowles

Jason Bowles

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Email: jason@bowles-lawfirm.com

-and-

/s/ Monnica L. Barreras

Monnica L. Barreras

Law Office of Monnica L. Barreras

P.O. Box 27158

Albuquerque, NM 87125

Telephone: (505) 242-3919

monnica@barreraslaw.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was sent through the ESF system, which caused the following parties to be served by electronic means, as reflected on the Notice of Electronic Filing this 16th day of July, 2024, to the counsel listed below:

Kari Morrisey, Special Prosecutor

/s/ Jason Bowles

Jason Bowles
Bowles Law Firm

EXHIBIT E

Sydney Halford

From: Bryan Carpenter [REDACTED]
Sent: Sunday, December 11, 2022 5:42 PM
To: Mary Carmack-Altwies; Andrea Reeb; Jennifer Padgett; Robert Shilling
Subject: V1 CQ - REED

OK, this is definitely a little extensive, but I wanted to be thorough when it comes to her. I approached the questioning in a slightly confrontational manner. So the questions are formulated as such and set to a particular rhythm. I listed out the questions based on my knowledge of what should occur and relied additionally on information provided. The questions are randomly set with intention, and sometimes repeated in a different format. I hope this gives you what you need and maybe some extra. Of course you guys will know what to throw away (maybe a lot) and what you need to keep and by no means is the layout and content anything but a suggestion. If it's wrong in tone or subject just let me know. At the least you should be able to 'a la carte' it.

I look forward to going over this verbally.

b

How did you get the job on the filming of the movie Rust?

Who directly hired you from the Production Company?

What position(s) were you hired for?

Did you read and break down the script before accepting the position as Armorer?

Were you aware that this was a gun-heavy movie?

Did you know Sarah Zachry (PropMaster) before being hired?

Were you aware Sarah Zachry did not have much if any gun experience as a PropMaster?

Did you bring any ammunition with you to the set of Rust at any time before Principal Photography or during Principal Photography?

Did Sarah Zachry bring any ammunition with her in her Kit before principal photography?

When did production provide the truck for Props to work out of?

Who had access to the safe on the makeshift Props truck?

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Was Rust a Union show?

Did you have a Deal Memo (Contract)?

So Sarah knew Kenny previously. Kenny placed Sarah on his ATF license in order to handle weapons and rent equipment to make money. Sarah admittedly has never even fired a weapon. Production according to statements made did not care to properly address safety matters. This leaves you as the Armorer to oversee the entirety of safety on set of ALL firearm related matters while you were also working in props as an assistant. Do you see where I am going here? Tell me why this situation was allowed to develop initially and then further compound itself until the fatal incident.

The following questions and observations are specifically from her interview

Page 8 of the transcript says that her and Sarah helped get the guns out on set the day of the incident. That would mean Sarah touched the guns that day. She also says Sarah helped her with guns during filming.

She was all over the place during her interview, with a description of the differentiation between blanks and dummies.

She specifically states on page 15 of her transcript that Sarah pulled the gun out of the safe and handed it to her after lunch where it had been locked during their break.

On page 19 of her transcript, she says that Halls was 'sitting in' for the shot until Baldwin arrived. That's usually when a double sits in front of the camera so that the operators can line up the shot and grab focus (a time saver).

Discrepancy on page 21 where she says she's loaded five dummies, but one wouldn't go in, and then she cleaned it and then loaded in an additional one making six total. Then the detective asks how many rounds and she says five again. She corrected herself once again on page 21, so the question would be how many rounds did she load into the gun?

Again on page 24 she says Sarah handled the gun directly prior to the incident.

On page 28 and previously in her statement, she refers to the fact that the dummy possibly had a live primer. This is not what occurred here. From a ballistics standpoint this was a completely live round, otherwise it would not have generated enough velocity. This is also confirmed by the FBI Lab Report.

When specifically asked about protocol by the detective, she questions the word protocol, then explains the duties of an Armorer. I feel quite certain she doesn't understand any separation protocol or has anything remotely in place that would be a system to mitigate any issues.

The fact that Alec Baldwin was inside of the church and according to Reed she was specifically told to get out due to some Covid regulation, is a direct and unquestionable breach of safety protocol, and a direct action violating safety, knowingly.

Gauging from the interview with Sarah Zachary, she knew nothing or next to nothing about Firearms. In my opinion, there is no version of a PropMaster with that little knowledge of firearms working a movie with this many moving parts and guns. So whoever hired her certainly did so probably for cost or tax incentive, or both, rather than her

EXHIBIT E

experience level and ability to safely perform her job. The only mitigation to this bad decision would've been a very experienced Armorer. Which also was more than likely hired for the same reasons.

Would be interesting to see what the ATF has to say about Seth Kenny's licensing of random PropMasters that have no experience with firearms and not directly working for him. Sarah would be considered 'on his books'.

What are you describing in your initial interview at the sheriff's department "rings on a round"? You say it several times in your interview and describe seeing the rings on page 32 after the incident occurred.

You say on pages 32/33 of your interview that you received some dummies that were "wonky". What exactly are you referencing with that statement?

You also stated that Sarah immediately called Seth after the incident and that she was aware that there were "wonky rounds". You also said that Sarah had told you that she knew where Seth Kenny got these rounds, explain.

You stated on page 34 that you "get what you get" and are told not to "bitch" or "pitch a fit". Who made that statement to you?

Sarah says that Kenny was Head Armorer on Walking Dead for 10 years. It is well-known in the industry AMC The Walking Dead had many safety violations. Were you aware of this?

On page 41 you made the remark "I hate myself for that". What are you referring to?

The fact that Baldwin was part of the incident or the fact that someone was shot?

Did you as an armor have your cart or did you all share the props cart?

So just to confirm on page 20 of Sarah's interview transcript, she says that you brought rounds when you came to work on the set of Rust? What were they?

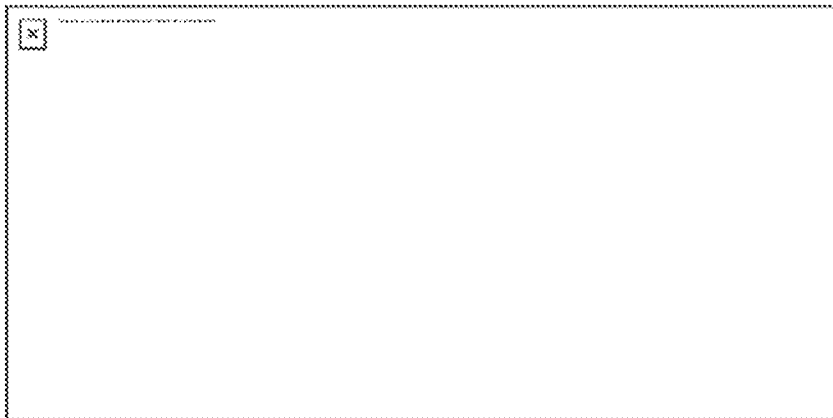


EXHIBIT E

Sydney Halford

From: Bryan Carpenter [REDACTED]
Sent: Thursday, November 17, 2022 11:36 AM
To: Andrea Reeb
Cc: Mary Carmack-Altwies; jpadgett@ds.state.nm.us; Robert Shilling; Harry Taub; Shadrick Bows
Subject: Re: RUST_17Nov22_1

One more point that might avoid any delays or stalling on those contracts and company info.

In order to receive their tax incentive monies the state film office needs to review and approve the project. In MS you receive a tax certificate after approvals with earmarked funds. NM's process I'm sure is very similar as most states are. Having said that, they will have on file a great deal of pertinent information regarding contracts, funding etc. It's worth a call and may save some time.

If you need me to call and inquire to their requirements I will, as I speak the lingo, or I can provide additional info if needed. Just let me know if you do.

b

On Nov 17, 2022, at 10:35 AM, Andrea Reeb [REDACTED] > wrote:

Thanks! I'm going to send you the stills. We do have some! Great information

On Nov 17, 2022, at 10:24 AM, Bryan Carpenter [REDACTED] > wrote:

Andi,

First off I wanted to say how much I appreciated the hospitality and meeting everyone. It's always good to work with professionals who actually care.

As to the visit and evidence review, It was crucial that I saw first hand the items, most importantly the deconstructed live rounds and the

EXHIBIT E

projectile. This 100% confirmed in my mind what the FBI report contained.

Since Monday I've been able to access a few of the documents remotely while here and wanted to further clarify a few points, as I assume Robert and Harry will probably be digging into this quickly.

Also I was able to cover everything with you via phone (THANKS!) so there's no need for a Zoom call.

Here are the first bluish points.

I was able to take a look at the actual callsheets, specifically for that day. When looking at a callsheet is it important to know, regardless of what you'll hear spoken out loud, is 50% information and 50% ego. You have below-the-line and above-the-line cast/crew involved with the filming of a movie and their placement is specific. This is especially important when it comes to the cast and above-the-line personnel. Of all the Producers, Executive Producers and Co-Producers listed on the Rust callsheet, Baldwin's name was above them all placed only under the Director. That is important and noteworthy.

Secondly, when searching for the deal memo/contracts, Baldwin as an actor, regardless if the show was unionized (IATSE) or not, will still have a SAG (Screen Actors Guild) contract. That's one piece of documentation to attain. Also there will be some type of contract written regarding his work as a producer. If you have already confirmed what LLC the film was actually being made under in the state of New Mexico in order to receive the states tax incentive monies, then that will more than likely be what the contract name is also written under. As with most investigations following the money, (Executive Producers or pre-sale) will lead you to all of the other contracts and responsibilities set forth on the show.

While piecing together the events of the day everything lines up so far. What's missing is any footage of the (what appears to be) impromptu rehearsal. Generally, rehearsals are always filmed by camera or cell phone (and still photographer who was there) for review and set up. The fact no one on set had any is curious. Just a thought.

Lastly, I spoke with a prop house owner (one the top three in the US) and a very well-known PropMaster. Without divulging any information or direction, I broached the subject of responsibility on a movie set to

EXHIBIT E

get their additional opinions. Both of them, and keep in mind they are very pro Hollywood in their thoughts, felt without hesitation a major amount of responsibility was with the PropMaster. This is because we all know how the system is supposed to work on a movie. It may seem differently looking at it from outside, but from inside it's just the way it is. I also understand from a legal standpoint there will be many hurdles that all of you have to cross, having said that I want to give you good information of the way the process works, real world.

Hope this makes some sense! If you need anything just give me a shout and I will in the meantime continue to digest all of the case information.

Best,

Bryan

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EXHIBIT E

Sydney Halford

From: Bryan Carpenter <[REDACTED]>
Sent: Sunday, January 22, 2023 11:57 AM
To: Robert Shilling
Cc: Andrea Reeb; Mary Carmack-Altwies - Office - New Mexico Santa Fe District Attorney
Carmack-Altwies; Jennifer Padgett Macias
Subject: REED PC v4
Attachments: Statement of PC v4- GUTIERREZ-REED.docx

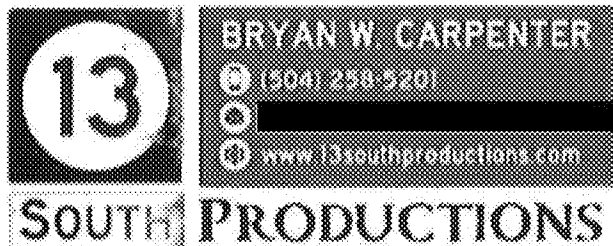
First pass.

Of most concern was the need to coalesce the armorer/actor/producer responsibilities as there is a definite overlap that I feel will help us greatly.

Here is the note from the redline in case it does not show on you devise.

Here is where I feel we need to coalesce the actor/armorer/producer relationship. If the armorer acts professionally and in good faith but the actors and producers do not...then it is the duty of the armorer to either step down or engage production officially or bring to the attention of the Unions. At a point all parties (armorer/actor/producer) reach a crossroad where they decide is my job and my money more important than people's safety. A good example of this is Baldwin as a producer (and even an actor, I have seen this) not demanding production be halted once the most important department for filming (the camera crew) quit the day before. That decision drastically increased an already chaotic and unsafe environment, causing additional stress and confusion with the cast and crew. This obviously was done to save time=money on the production shoot days. A clear and evident lack of management and caring for the safety of others. REED also choose the path of job/money and it is documented repeatability in her statements that she was overwhelmed and not capable of completing the job safely..

Just FYI one of the most asked questions from everyone I am getting is where the rounds came from. I have a direction on this I would like to share at the appropriate time with everyone. I have notes :}



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EXHIBIT E

Sydney Halford

From: Bryan Carpenter <[REDACTED]>
Sent: Friday, December 16, 2022 5:49 PM
To: Mary Carmack-Altweis; Jennifer Padgett; Andrea Reeb; Robert Shilling
Subject: Cliffs Notes Highlight Reel - Reed - 2nd Interview

This is just a quick cliffs notes highlights reel of the 214 pg interview with Reed/Attorney.

I voice dictated, sorry about the grammar.

So she only worked one other official armorer job 'The Old Way' and apparently was fired or told to leave? She was elusive during the interview concerning this. *Following up.*

She stated she has been doing PA work (Production Assistant) since. PA is basically a runner or do anything assistant from getting coffee to handing out callsheets.

She admitted to the detective she has no official training

So Seth also has Reed on his ATF books. She has no idea what that means from a legal standpoint as she states in her interview.

Seth spoke to Production and assured them that she was qualified to do the job.

The fact that she was key Prop Assistant and Armorer is 100% a conflict of interest.

What she says on page 16 is very accurate. That they were "jumping her ass" for not working hard on Props and told her to focus more there because they didn't understand the gun side of things or the safety, or didn't care. They wanted more work to be done in the Props Department so they could save money.

Also, as usual in low budget, they brought in props only a week before, so they had no prep time. That put them behind right out of the gate.

Gabriel Pickle was the one from the production who stonewalled all the training and armorer day requests.,

So apparently, there was some static between her and Sarah, because Reed wanted to be more of the boss and run two different departments.

So on page 28/29 it becomes quickly obvious that the rounds were just scattered and intermingled haphazardly with one another, with no attempt to separate them. She says that she went through a bag mixed together with ammunition and picked out dummies from them.

The weapons handling and transport of firearms from licensee to responsible party is unquestionably outside of protocol.

Also, Sarah, according to Reed, picked up all additional rounds from Seth and 'borrowed dummies' from other people. She obviously had no firearm experience yet was handling the safety of cast/crew.

EXHIBIT E

So the prop truck, that was makeshift in the first place, was also being shared by the Locations Department for the first week, which means there was no safety protocol or separation protocol. That lies directly on Sara as the PropMaster.

She also says that Nicole had the code to the safe as well.

She also says the truck was never locked, EVER, on page 39 of her interview.

She admits that some prop master's lock their own truck up.

The fact that they brought the propmaster in a week before with no prep and armorer in just a couple days with no prep and didn't give them a prop truck, then had Locations working out of the same truck is completely wrong. It's all on production which is a producer's responsibility, which is Alec Baldwin's responsibility. It was also Sarah's responsibility to complain about all of this, correct it and say this is unsafe working conditions with all the guns present along with Reed.

She says on page 41/42 that it's super common to leave dummies and rounds unlocked and just out in the open. That is not correct. They should be stored in a safe, inaccessible manner to random crew.

On page 42 of her interview, she states that Sarah helped her handle guns all the time, and all of the rounds, and all of the dummies.

She talks about some of the actors doing a safety check on page 48 by opening up the cylinder and spinning it. That's nothing of a safety check. That's just seeing if the guns are loaded! Absolutely senseless when it comes to checking for safety.

Reed says on page 61 that even craft services, which is called Crafty on a movie, was barely even allowed to make soup for anybody or any actual food because they were being so cheap.

She says on page 64, that during a safety meeting Dave Halls held on set, she spoke and clearly told everyone in the crew "don't point these guns at anyone".

She says on page 65 that Alec Baldwin stayed on his phone most of the time she was doing training with him on the set of Rust.

On page 67, she's being asked by the detective what safety rules she gives actors. It's clear she has never officially had any training for safety as there is no structure or recall.

Again Gabriel's name comes up on page 73 as the person that made sure actors had only a brief amount of training and only after Joel insisted.

Looks like they didn't train with the horses either for shooting off of them on page 74. Again, wildly unsafe

Page 81/82 she's talking about the misfires that occurred with Sarah, which is because of lack of experience and training, and again with the one actor (with the Henry lever action) also because of lack of safety training and Reed's lack of set experience.

Seth on 86/87 backed up Sarah after she texted him about the dispute between Reed and Zachery. Seth will always back her because she is the one responsible for hiring him or renting equipment.

Page 88 the stunt coordinator tells Reed "don't worry about the stunt guys. They know what they're doing". Some of them don't even know how to operate a gun at all but the coordinators will always say they do. This is where her youth and inexperience again comes into play.

EXHIBIT E

Sydney Halford

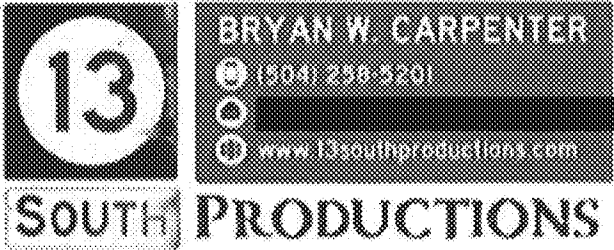
From: Bryan Carpenter <[REDACTED]>
Sent: Wednesday, January 18, 2023 12:29 PM
To: Mary Carmack-Altwies; Jennifer Padgett; Andrea Reeb; Robert Shilling
Subject: BALDWIN.PC.Redline
Attachments: Statement of PC - BALDWIN with BWC Markup Comments.pdf

Team,

First off, excellent job Robert. VERY compelling document and well written.

I have redlined anything I found notable. Then number one and two would probably be making sure that it reads he was pointing the weapon at Halyna, which he factually was, and that he has duties for safety as an actor as well as a producer, effectively doubling his responsibility in two different worlds which overlap in the one. Lastly there are a few technical items included.

All of this is in detail in the redline. Let me know your thoughts and if there are any follow up questions concerning.



13
BRYAN W. CARPENTER
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✉ [REDACTED]
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SOUTH PRODUCTIONS

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EXHIBIT F

From: [Kari Morrissey](#)
To: [Jason Bowles](#); [Melinda Zamora](#)
Cc: [Jason J. Lewis](#); [Todd Bullion](#)
Subject: Re:
Date: Monday, January 8, 2024 9:54:05 AM

Jason

I have decided not to have them tested or picked up. These are clearly dissimilar to the live rounds found on the set due to primer and projectile characteristics. If you want to have them tested feel free. I can't see how it's relevant given that they are clearly dissimilar but keep me posted if you want to have them tested. If you cant get that done within the next couple of weeks you may need to continue the trial if you intend to use them.

Kari

On 01/08/2024 9:34 AM MST Jason Bowles <jason@bowles-lawfirm.com> wrote:

Kari - these are pictures from Troy of the same rounds from the batch that thell gave to Seth. You had mentioned having the police pick these up to have tested. Do you still intend to do that? If not, we need to have them tested. Specifically, having the powder tested which is important to continue answering the question raised by the recent call we had with you and Jason.

Sent from my iPhone

On Jan 8, 2024, at 9:27 AM, Melinda Zamora <melinda@bowles-lawfirm.com> wrote:

Good Morning,

Please see the attached.

Melinda Zamora

Office Manager/Assistant to Jason Bowles

Bowles Law Firm

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

Albuquerque, N.M. 87109

Telephone: (505) 217-2680

EXHIBIT F

Facsimile: (505) 217-2681

I am in the office Monday – Thursday 9:00 a.m. – 3:00 p.m. and
Friday 9:00 a.m. – 12:00 p.m.

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