

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,  
Plaintiff,

v.

No. D-101-CR-2024-00013

ALEXANDER RAE BALDWIN III,  
Defendant.

**ORDER DENYING STATE'S AMENDED MOTION TO RECONSIDER DISMISSAL  
WITH PREJUDICE**

THIS MATTER came before the Court on the State's Amended Motion to Reconsider Dismissal with Prejudice, filed September 5, 2024. Having reviewed the briefing, and being otherwise fully advised, THE COURT FINDS, CONCLUDES, AND ORDERS:

**PROCEDURAL SUMMARY**

On September 5, 2024, the State filed its Amended Motion to Reconsider Dismissal with Prejudice ("Amended Motion"). Thereafter, on September 20, 2024, Mr. Baldwin filed his Baldwin's Response to the State's Amended Motion for Reconsideration ("Response"). In turn, on October 6, 2024, the State filed its Reply to Defendant's Response to Amended Motion to Reconsider Dismissal with Prejudice ("Reply").

Pursuant to Rule 5-601(B) NMRA, the Court rules on the State's motion to reconsider without a hearing.

**ANALYSIS AND RULING**

The Court denies the State's Amended Motion for the reasons set forth below.

**A. The State's Amended Motion Advances Arguments Previously Made, and Novel Arguments the State Could Have Raised at an Earlier Stage in the Proceeding.**

“[A] district court does not abuse its discretion in denying a motion for reconsideration that ‘was merely a restatement of the arguments [a party] had already advanced.’” *Unified Contractor, Inc. v. Albuquerque Hous. Auth.*, 2017-NMCA-060, ¶ 77, 400 P.3d 290 (citation omitted) (bracketed text altered). Further, “[t]o the extent Plaintiffs’ motion for reconsideration raised new matters that could have been raised during [earlier briefing] but were not, such failure would provide a basis to affirm the district court’s denial of the motion.” *Beggs v. City of Portales*, 2013-NMCA-068, ¶ 28, 305 P.3d 75.

Here, the State’s Amended Motion both restates primarily factual arguments previously advanced by the State, and raises new legal arguments that could have been raised during earlier briefing or at the July 12, 2024 hearing. Notably, after Mr. Baldwin’s counsel alerted the Court to their intention to file a motion to dismiss concerning the State’s withholding of information concerning the ammunition supplied by Mr. Troy Teske, Special Prosecutor Morrissey stated, “I don’t think I’m going to have much of a response, I can probably just do it orally, because I’ve now figured out what we’re dealing with.” 7-11-24 FTR Courtroom 237 5:00:32-5:00:42. In addition, at the conclusion of the evidentiary hearing concerning Mr. Baldwin’s Expedited Motion for Dismissal and Sanctions Under *Brady*, *Giglio*, and Rule 5-501 NMRA, the Court offered fifteen minutes for the parties to make argument. 7-12-24 FTR Courtroom 237 3:55:48-3:56:05. However, the State elected not to make any argument following the introduction of evidence during the hearing, and chose not to ask the Court to recess the hearing to allow additional time for the State to conduct research and prepare argument. *Cf. State v. Alingog*, 1994-NMSC-063, ¶¶ 8-9, 117 N.M. 756 (determining that the State failed to preserve an argument under case law by failing to fairly invoke the issue before the trial court).

Because the State's Amended Motion raises arguments previously made, and arguments that the State elected not to raise earlier, the Court does not find the Amended Motion well taken.

**B. The State's Amended Motion is Untimely.**

"[A] motion to reconsider filed within the permissible appeal period suspends the finality of an appealable order or judgment and tolls the time to appeal until the district court has ruled on the motion." *State v. Suskiewich*, 2014-NMSC-040, ¶ 17, 339 P.3d 614; *see also* Rule 12-201(D)(1) NMRA (computing extensions of time for appeal in instances where a "party timely files a motion that has the potential to affect the finality of the underlying judgment or sentence," including "a motion to reconsider a ruling that is filed within the permissible time period for initiating an appeal"). Pursuant to NMSA 1978, Section 39-3-3 (1972), the permissible time period for the State to initiate an appeal from an order of dismissal by the district court is within thirty days from entry of said order. *See* NMSA 1978, § 39-3-3(B)(1) (1972) ("In any criminal proceeding in district court an appeal may be taken by the state to the supreme court or court of appeals, as appellate jurisdiction may be vested by law in these courts: (1) within thirty days from a decision, judgment or order dismissing a complaint, indictment or information as to any one or more counts; . . ."); *see also* Rule 12-201(A)(1) NMRA ("A notice of appeal shall be filed . . . (b) for all other appeals, within thirty (30) days after the judgment or order appealed from is filed in the district court clerk's office."); Rule 12-201(D)(6) NMRA ("The three (3)-day period set forth in Rule 12-308(B) does not apply to any time limits under this paragraph.").

Here, the State filed its Amended Motion on September 5, 2024 concerning the Court's July 31, 2024 Order Granting Defendant Alec Baldwin's Expedited Motion for Dismissal and Sanctions Under *Brady*, *Giglio*, and Rule 5-501 NMRA. However, the State's permissible time period for initiating an appeal ended on August 30, 2024.

Thus, because the State's Amended Motion was filed outside the time limit for the State to initiate its appeal, the Amended Motion is untimely. Therefore, the Court does not find the Amended Motion well taken due to its untimeliness.

Although the State filed a 52-page State's Motion to Reconsider Dismissal with Prejudice on August 30, 2024, the State's motion exceeded page limits under Local Rule LR1-305(A) NMRA.<sup>1</sup> See LR1-305(A) NMRA ("A brief or memorandum shall not exceed ten (10) pages, not including the cover page, conclusion, certificate of service, and exhibits, without an order of the court."). Further, the State failed to obtain an order of the Court before filing its motion in excess of page limits, despite being aware of the local rule and seeking prior enforcement thereof. See Aug. 30, 2024 Motion for Extension of Page Limits to State's Motion to Reconsider Dismissal with Prejudice; see also June 6, 2024 State's Response in Opposition to Defendant's Motion to Exceed Page Limits ¶ 3 ("If the Court believes the rule should be followed, . . . the State requests the Court to provide guidance to the parties with regard to the never-ending flouting of the local rules."); see also *id.* ¶ 4 ("It is worth noting that today the defendant filed two replies that vastly exceeded the page limit established by LR1-305(A) without waiting for the Court's approval on the defendant's motion to exceed the page limit.").

Ultimately, the Court denied the State's August 30, 2024 motion to exceed page limits via its September 5, 2024 Order Denying State's Motion for Extension of Page Limits to State's

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<sup>1</sup> The State's argument that "at a minimum the Court is required to consider ten pages of the 52 page motion that was filed on August 30, 2024" is unsupported by the nonprecedential decisions to which the State cites. Compare Reply 10, with *Telles v. Telles*, A-1-CA-36935, mem. op. ¶ 1 n.1, 2020 WL 1845268 (N.M. Ct. App. Mar. 18, 2020) (nonprecedential); *State v. Rodriguez*, A-1-CA-37776, mem. op. ¶ 6 n.3, 2021 WL 4841175 (N.M. Ct. App. Oct. 18, 2021) (nonprecedential). Further, even if the Court were to consider the first ten pages of the State's August 30, 2024 motion (which such approach is similar to that adopted by the New Mexico Court of Appeals in *Telles*), the Court would have to guess at the State's legal arguments given that the State dedicated nearly all of the initial ten pages of the August 30, 2024 motion to a recitation of a factual narrative. Cf. *Headley v. Morgan Mgmt. Corp.*, 2005-NMCA-045, ¶ 15, 137 N.M. 339 ("We will not review unclear arguments, or guess at what his arguments might be.").

Motion to Reconsider Dismissal with Prejudice. Because the Court denied the State's August 30, 2024 Motion for Extension of Page Limits to State's Motion to Reconsider Dismissal with Prejudice, the Court does not consider the State's August 30, 2024 Motion to Reconsider Dismissal with Prejudice due to its noncompliance with LR1-305(A).

**C. The Court Will Not Modify the Court's July 31, 2024 Order.**


"Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice. Thus, a motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law." *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000) (internal citation omitted); *see also Unified Contractor, Inc. v. Albuquerque Hous. Auth.*, 2017-NMCA-060, ¶ 77, 400 P.3d 290 (citing *Servants of Paraclete* for similar proposition).

Considering the arguments of the State set forth in the Amended Motion and Reply, the Court concludes that the State does not raise any factual or legal arguments that would justify the grant of a motion to reconsider. Therefore, the Amended Motion is not well taken and should be denied.

**CONCLUSION**

IT IS THEREFORE ORDERED that the State's Amended Motion to Reconsider Dismissal with Prejudice is hereby DENIED.

**IT IS HEREBY ORDERED.**

  
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MARY MARLOWE SOMMER  
DISTRICT COURT JUDGE  
DIVISION VIII

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date of acceptance for e-filing a true and correct copy of the foregoing was e-served on counsel registered for e-service in this matter as listed below.

Kari T. Morrissey  
1303 Rio Grande Blvd. NW, Suite 5  
Albuquerque, NM 87104  
*Special Prosecutor for the State*

Quinn Emanuel Urquhart & Sullivan, LLP  
Luke Nikas (*pro hac vice*)  
Alex Spiro (*pro hac vice*)  
Michael Nosanchuk (*pro hac vice*)  
Sara Clark (*pro hac vice*)  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
711 Louisiana St., Ste. 500  
Houston, TX 77002

LeBlanc Law LLC  
Heather M. LeBlanc  
823 Gold Ave. SW  
Albuquerque, NM 87102  
*Attorneys for Defendant Baldwin*

*Faith Griego*  
\_\_\_\_\_  
Trial Court Administrative Assistant