

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

STATE OF NEW MEXICO,

Plaintiff,

No. D-101-CR-2024-0013

vs.

Judge Mary Marlowe Sommer

ALEXANDER RAE BALDWIN,

Defendant.

NOTICE OF WITHDRAWAL OF NOTICE OF APPEAL

The State of New Mexico, through Special Prosecutor, Kari T. Morrissey, hereby notifies the Court and the Defendant of the withdrawal of the Notice of Appeal filed on November 21, 2024, and states as follows:

1. On October 21, 2021, Halyna Hutchins was killed when a .45 caliber revolver believed to be loaded with dummy rounds was discharged by Alec Baldwin. Both Hannah Gutierrez and Alec Baldwin were ultimately charged with Involuntary Manslaughter for the death of Halyna Hutchins.
2. The charges against Mr. Baldwin were pursued after the discovery of significant evidence that Mr. Baldwin violated numerous gun safety rules established for the safe handling of firearms on movie sets.
3. Six rounds of live ammunition were found on the movie set and all had Starline Brass casings and nickel primers. In November 2021 Troy Teske notified Seth Kenney that none of the ammunition in his possession that belonged to Thell Reed had nickel primers.
4. On November 2, 2023, Troy Teske notified undersigned counsel that he and Thell Reed had shot most, if not all, of Mr. Reed's ammunition that was in his possession. Mr. Teske

was unclear if he was in possession of any remaining ammunition belonging to Thell Reed.

5. On October 6, 2023, Judge Marlowe Sommer upheld a request by Rust Productions, LLC that all video from the filming of the movie be provided pursuant to a protective order. This ruling ensured that the public would have limited access to the video evidence from the set of *Rust* that demonstrated Alec Baldwin's reckless conduct with firearms.
6. On January 19, 2024, a grand jury made up of citizens from the First Judicial District of New Mexico returned an indictment against Alec Baldwin for two counts of Involuntary Manslaughter (in the alternative).
7. On March 6, 2024 (the same day that Hannah Gutierrez was convicted), Troy Teske turned over twenty-three rounds of ammunition to the Santa Fe County Sheriff's Department. Three of these rounds had the same characteristics as the live rounds found on the set of the movie *Rust*. None of the ammunition turned over by Mr. Teske was present on the set of *Rust* or even in the State of New Mexico prior to Ms. Hutchins' death.
8. Detective Hancock with the Santa Fe County Sheriff's Department made several requests for an interview of Mr. Teske to determine the relevance and materiality of the ammunition and her requests went unanswered.
9. .45 Caliber ammunition possessing the same characteristics as the three rounds provided by Troy Teske to the Santa Fe County Sheriff's Department are regularly available for purchase at retail stores that sell ammunition for firearms.
10. Personnel of the Santa Fe County Sheriff's Department were aware that three of the rounds of ammunition provided by Troy Teske on March 6, 2024, had the same

characteristics as the live rounds found on the set of Rust. No one from the Santa Fe County Sheriff's Department notified undersigned counsel or anyone on the prosecution team of the characteristics of the three rounds at any time prior to July 12, 2024. As a result, the ammunition was never disclosed to the defense.

11. On April 15, 2024, Judge Marlowe Sommer sentenced Hannah Gutierrez after her conviction for Involuntary Manslaughter and stated, "You, *and you alone*, stood between a safe weapon and a lethal weapon." This statement was made after the indictment of Mr. Baldwin by the grand jury and after Judge Marlowe Sommer was assigned to preside over the criminal case against Mr. Baldwin. The statement made by Judge Marlowe Sommer was made with full knowledge that Mr. Baldwin was also charged for using the firearm in a lethal manner.
12. On June 26, 2024, Judge Marlowe Sommer denied the State's request to compel the testimony of Hannah Gutierrez in the trial of Alec Baldwin. This ruling limited the State's ability to present all inculpatory evidence related to Mr. Baldwin's conduct.
13. On July 12, 2024, Judge Marlowe Sommer dismissed the criminal case against Mr. Baldwin with prejudice after determining that the ammunition provided by Mr. Teske to the Santa Fe County Sheriff's Department was material and potentially exculpatory. The Court also found that the late disclosure of the evidence (the third day of trial) negatively affected the defendant's preparation for trial.
14. The State contends that the ammunition was not material to the case against Alec Baldwin as it was unconnected to the reckless manner in which he handled his firearm at the time of the shooting of Ms. Hutchins. The State further contends that the defense

knew about the ammunition well in advance of trial (a fact that the defense has not disputed or acknowledged and therefore was not disadvantaged by a late disclosure).

15. During an on-record sidebar on July 12, 2024, the Special Prosecutor requested the Court determine when the defense team became aware of the existence of the ammunition as this information was critical to the Court's analysis. The Court declined to make an inquiry concerning the defense attorneys' awareness of the ammunition prior to trial. Despite evidence that the defense team was aware of the ammunition in question and its similarity to the live rounds from the set of *Rust* well in advance of trial, Judge Marlowe Sommer's ruling relied on the fact that they were unaware of the evidence until the third day of trial.
16. The case against Mr. Baldwin was dismissed with prejudice for the following reasons:
  - a. An interested party, Troy Teske, the good friend of Hannah Gutierrez's father, provided three rounds of ammunition with the same characteristics as the live rounds found on the set of *Rust* to the Santa Fe County Sheriff's Department more than two years after the death of Ms. Hutchins. Troy Teske previously disavowed possessing the ammunition and previously provided two photos of the ammunition in his possession that did not depict the ammunition he provided to the Santa Fe County Sheriff's Department on March 6, 2024. Ammunition identical to the rounds of ammunition provided by Troy Teske to the Santa Fe County Sheriff's Department can be purchased at retail stores throughout the country.
  - b. The ammunition was never disclosed to the defense but there are clear indications that, well before trial, the defense knew of the existence of the ammunition, knew it

had been turned over to the Sheriff's Department and knew that three of the rounds had the same characteristics as the live rounds found on the set of *Rust*.

c. The defense implied to the Court during arguments on July 12, 2024, that they were unaware of the ammunition.

17. During the pendency of the case, the Court granted Mr. Baldwin's defense team leave to file motions in excess of the permitted page limit on three separate occasions. The first and only time the State requested leave to file a motion in excess of the permitted page limit concerned the State's Motion to Reconsider Dismissal with Prejudice filed on August 30, 2024 and the Court denied the State's request.

18. The Office of the Attorney General notified undersigned counsel that the Attorney General would dismiss its appellate efforts if the reviewing court did not recommend summary reversal. Under New Mexico law only the Attorney General is vested with the power to prosecute and defend criminal appeals in the higher courts.

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 odyssey file and serve this 23<sup>rd</sup> day of December 2024.

/s/ Kari T. Morrissey

Kari T. Morrissey