

TRANSCRIPT: HEARING: Will Alec Baldwin's Indictment Be Dismissed?

Date: May 18, 2024

NOTE: All LOSD video/podcast transcripts are prepared in rough form, provided solely for our members' convenience & documentation, and are not thoroughly reviewed for accuracy. Refer to the original video/podcast for the authoritative form of this content.

IMPORTANT: Licensed possession of this attorney work product is strictly limited to active Law of Self Defense Members.

Welcome everybody. Welcome to this Saturday episode of the Law of self-defense. I am, of course, Attorney Andrew Branca for the law of self-defense. Welcome. Welcome, welcome.

Come on in. Make, make yourselves comfortable. We are here of course to talk about the Alec Baldwin manslaughter trial. That's upcoming over the shooting death of cinematographer Helena Hutchins on the set of the low budget Western movie, Rust, Alec Baldwin was uh rehearsing dry, rehearsing a uh a scene they were setting up the shot, so to speak.

Helena Hutchins was by the camera behind her was director Joel Souza. The camera was directed at the actor, the lead and a producer of this movie, Alec Baldwin. He was in costume.

He was supposed to be reenacting a pulling his single action 45 long cult western revolver just pulling it out of the um cross draw holster on his belt. And what he elected to do is completely present the gun pointed towards the camera um and cock the hammer and press the trigger on this revolver. Importantly, without ensuring that there was no live ammo in the gun critical here is that Alec Baldwin knew he was handling a real gun.

He told that to investigators when he was first questioned the same day as the shooting. And of course, we know that he pointed the gun directly at Helena Hutchins because the bullet that was fired from that gun as a result of Alec Baldwin cocking the hammer and pressing the trigger, hit Helena Hutchins in her right armpit, traversed her body, broke her spine, emerged from under the uh the left back of her body struck Joel Souza with enough energy to penetrate his shoulder and be captured by the skin on his back. That's where the bullet would be recovered.

Elena Hutchins injury, of course was fatal. She died as a result of Alec Baldwin's conduct and he's now been charged with involuntary manslaughter. Now, Alec Baldwin has, uh, of course, we've already had the trial earlier this year of Armorer, Hannah Guterres. Um, she handed the gun onto the set with a live round in the gun. Uh, she was tried for involuntary manslaughter. And again, we'll go over the new Mexico law in just a bit on involuntary manslaughter and she was found guilty and sentenced to 18 months. The maximum by judge trial, Judge Morrow in this case.

Now, it's Alex turn, he's coming up for trial, uh, early July. Uh, let's see. I believe, uh, jury selection is supposed to take one day on July 9th and then the trial starts on Wednesday, July 10th. We will, of course be live streaming uh the trial um I may be doing that collaboratively

with uh Joe Nearman uh good logic. Uh We're, we're talking about it. We're gonna see if we can make that work from a technical perspective. Uh But it's always more fun to do this trial coverage with somebody else, another uh capable lawyer in real time uh than, you know, just, just by myself.

And uh and Joe's great fun to hang out with and a very, very smart lawyer as well. So hopefully, we can manage to pull that off. Now, um Earlier this year in March, the defense team for Alec Baldwin, which is largely a set of very um highly paid Manhattan, mostly civil litigators, not criminal defense attorneys, um very high paid high powered lawyers from New York, however, not from New Mexico, they of course, have a New Mexico lawyer on the team. You have to have a local lawyer admitted to practice on the team.

Heather Leblanc is her name. She's well respected in the uh defense legal community in New Mexico. Um was the head of the Public defenders felony division, I believe. Um So I'm presuming extremely capable as a lawyer.

I haven't seen much of her. Uh So there's a, you know, a question of whether she's really just a fig leaf, a technical requirement for this legal team. Um The, the New York associated lawyers, there's six or seven or eight of them at this point. Uh Not all of them are based in Manhattan, but they all work for the same Manhattan law firm and two of them, uh, at least two of them will hear from during today's hearing. So to circle back back in March, the defense filed a motion with the trial judge to have the grand jury indictment against Alec Baldwin dismissed on a variety of grounds which will go over. Um, now I should point out that this is the second grand jury indictment of Alec Baldwin.

There was an initial indictment by different prosecutors. Um, and that indictment was, uh, dismissed the earlier one for, for good reasons. Uh One is that they had included in that indictment, a gun sentencing enhancement charge.

Uh, so there's the manslaughter charge and then because the gun was used, New Mexico had recently adopted a gun sentencing enhancement charge. Uh, the, the manslaughter is only good for 18 months maximum. The gun sentencing enhancement charge would have required a mandatory five year minimum, but the prosecutors, those first prosecutors screwed up. Uh, in fact that gun sentencing enhancement law was not created until after the shooting of Helena Hutchins. And we don't apply criminal laws retroactively.

So it was inappropriate to charge Alec Baldwin with that sentencing enhancement. Uh, also one of the, uh, the special prosecutor who'd been assigned, decided to also run for office as a New Mexico legislator. And apparently it's either is, or it's questionable whether or not someone can hold both jobs, a special prosecutor and a legislature.

Uh So ultimately, she resigned that position, that grand jury indictment was dismissed. And then a few months later, Kerri Morrissey was brought on as a new special prosecutor. Kerri Morrissey is normally who spent her career as a criminal defense attorney. Um And she's in the now for

her unusual position of being the special prosecutor on this case, she prosecuted. Uh Hannah Guterres successfully achieved that guilty verdict.

Judge Morrow, who's the judge on the Alec Baldwin trial was also the judge for the Hannah Guterres trial. So there's continuity there. And Kerrie Morrissey presented evidence to a grand jury and obtained a second indictment of Alec Baldwin this time just on the manslaughter charge. And that's what the defense is attacking. They have a number of critiques of the manner in which this grand jury indictment was obtained and they want the grand jury indictment to be dismissed. Uh So I've covered all of that in depth. Uh Previously, the, the defense filings, the motion to dismiss the Granger is like 60 pages.

Kerrie Morrissey's response was like 30 pages. Then the defense filed a response to the response. That was another 30 pages. I'm not going to go over all that again here. Um Except I will take a moment to summarize it. So before I do that, I may as well go ahead and launch the formal start of today's show.

Here we go. All right. And The sponsor of today's show is CCW Safe, a provider of legal service memberships. While many people mistakenly call self defense insurance in effect CCW safe promises to cover its members legal expenses if they're involved in the use of force events, if they're compelled to use force in defense of themselves, their family, their property and find themselves facing criminal charges or civil liability. As a result, they do much more than just pay legal expenses.

They also fly in their own investigative team to work on behalf of their member. Otherwise, the only investigators are working for the state folks. Um, and they do much more.

There are a number of companies out there who purport to offer similar kinds of services, especially the, the legal expense coverage. Some of them are out there are worth considering. I've spoken one of them in the past.

Others are just a dumpster fire which I cannot recommend under any conditions be an informed consumer. None of these programs are inexpensive folks. Uh, they typically tend to average about the cost of a glock pistol a year, not an insignificant amount of money, make sure you're not paying for garbage. Uh Now you don't necessarily need to choose CCW safe if that's not the best fit for you, but I have found myself that CCW safe is the best fit for me. I'm personally a member of CCW Safe. My wife Emily is personally a member of CCW Safe. I trust them if you'd like to learn why I trust them specifically.

I have a little video that explains that briefly at Law of Self defense.com/trust and at that same URL, you can get a discount code for 10% off your own membership at CCW Safe. Again, that's law of self defense.com/trust. All right, let's take a look at my notes here. Oh, by the way, I do wanna mention thank you to all of you who follow me on Twitter just hit 80,000 followers on Twitter. That's greatly appreciated.

Uh If you'd like to see my snarky takes on lots of law and social issues, that's the place where I tend to hang out on social media. Um If you see me on Facebook or Instagram, that's not really me. That's our marketing people. Full disclosure.

I don't, I don't even remember how to log into Facebook. Um But if you see me on Twitter, that's uh except for the, unless it's a little short video clip, that's also our marketing people. But if you see a snappy comments flying around, that's me personally on Twitter. You can follow me at, at law self defense.

No of in there at law self defense. So thanks folks for 80,000 of you deciding to follow me on Twitter. That's really humbling. All right.

So where are my little cheat cheat notes? Here we go. Make this bigger. So I'm just gonna summarize here the uh defense arguments in favor of dismissing the indictment. This was their initial motion to dismiss the indictment filed on March 14th. Uh, and I'm, uh in, in bold here essentially is the defense argument. And then, uh below that is the counter argument against it.

Basically, the, um, um, a lot of this is just my response. Uh Much of this is such nonsense. Much of this argument by the defense is such nonsense that Kerry Morrissey, the special prosecutor didn't bother responding to it because it's so ridiculous. Um But I'm the non bold content here is, is me sharing with you. Why? At least I feel it's ridiculous.

So March 14th, defendant, motion to dismiss the indictment first, the defendant or the defense argues that the previous prosecutors and indictment were defective. They spent several pages of their motion talking about that writing about that. Uh But it doesn't matter that the previous prosecutors in the indictment were defective because they're gone, they were dismissed.

So this is an irrelevant argument that of course, Carrie Morrissey need not address. Uh The defense argues that the new prosecutors, meaning Kerri Morrissey sought to limit the defense time to file an alert letter with the grand jury. So an alert letter folks is a letter written by the defense that the prosecution is obliged to provide to the grand jury. Uh And basically, it's alerting the grand jury to witnesses and evidence that the defense believes are exculpatory to their client that are consistent with their client's innocence. And so the, uh, under New Mexico law, the defense has the privilege to present this alert letter or to have the prosecution present the alert letter to the grand jury. Keep in mind the grand jury is not really an adversarial process like a trial. Uh, the defense doesn't really get to present a defense to the grand jury.

It, it's the prosecutor's theater. Uh, so the prosecutor is the one speaking to the grand jury, not the defense, there are no defense lawyers speaking to the grand jury very one sided in that respect. That's by design, that's how grand juries always are.

But in New Mexico, the defense at least has the opportunity to file this alert letter that has to be shared with the grand jury. In fact, Ky Morrissey, the prosecutor literally read it aloud to the

grand jury as well as providing them with printed copies. Um, alerting the grand jury to evidence.

The defense wants the grand jury to be aware of. And at one point, the, uh prosecutor was moving forward with a grand jury that had been scheduled, uh, and they wanted to move forward quickly and they asked the judge to limit the time the defense had for drafting their alert letter. Whether or not you think that's inappropriate. It doesn't matter because the defense complained to the judge and the judge said, yeah, I'm not going to limit the time. So the judge ruled in favor of the defense. The defense got more time than scheduled grand jury did not hear argument from the state. Um, the state had to make its argument to a later scheduled grand jury, a different grand jury.

So the defense ultimately had all the time it needed for its alert letter. So no harm done here either. Here's the big one.

The defense says that the prosecution failed to share exculpatory evidence with the grand jury. So, although it's not an adversarial process in which both sides, the state and defense have an equal opportunity to present evidence to the grand jury. If there's genuinely exculpatory evidence, the prosecutor is obliged to present that to the grand jury. Now, it's important to understand what genuinely exculpatory evidence means. It means it goes to a material element of the criminal charge or a material element of some legal defense that's being raised. That's what makes evidence relevant.

Does it help the jury decide to a greater or lesser degree that a fact has been proven? And a material fact material to the charge or defense has been proven or not proven evidence that doesn't do that is not relevant and is not in any material way exculpatory. So to give an extreme example, uh say, for example, the defense wanted to present to the grand jury evidence that Alec Baldwin when he was a child used to shovel his neighbors driveways for free. Is that a nice thing to say about Alec Baldwin? Does that make him look like a, a caring and giving person? Sure. Is it material to the criminal charge of involuntary manslaughter in this case? No, it has nothing to do with the criminal charge. So, although it's a feel good story about Alec Baldwin, it's not material, it's not relevant and therefore it's not exculpatory in the context of the criminal charge. So, what kind of evidence did the defense want to present to the grand jury? Well, they wanted to present testimony from Joel Souza, the director of Rust David Halls, the first assistant director who handed Alec Baldwin the gun with the bullet in it.

Sarah Zachary, the props master for the set. Ryan Smith, a producer of the movie, financial producer of the movie, uh won a testimony from all these people saying they didn't think it was Alec Baldwin's fault that he fired the gun that killed Helena Hutchins. Well, that's nice that they don't think it was Alec Baldwin's fault. But is that material? Do they get to make the legal determination? Does their legal opinion on a final ultimate finding of fact matter or is that the province of the jury? All of their testimony is just, well, we think Alec Baldwin is a nice guy and shouldn't be held responsible.

That's not exculpatory evidence. Folks, it doesn't negate an element of the criminal charge. It doesn't go to an element of a defense.

They want to point out things like the script supervisor who called 911 after the shooting described the shooting to 911 as an accident. Well, that's not a material fact. The script supervisor doesn't have any legal expertise or authority to determine whether or not the shooting was legally an accident.

That's not material. They pointed that OSHA which investigated the shooting didn't find Baldwin at fault. Well, OSHA doesn't find individuals at fault. They're not permitted to do that.

Osha's mandate is to find out whether a company has fault. And of course, they did find that and they find rust with the highest fine possible under new Mexico law. The defense wanted to present a letter signed by many of the cast and crew contesting that rust was inherently unsafe. Well, it really doesn't matter if rust was inherently unsafe. All that matters is whether Alec Baldwin in the moment he shot Helena Hutchins was unsafe.

So this is a relevant testimony. They wanted to present testimony from the lead investigator, um Alexandra Hancock, uh and uh detective Kano, uh who were would testify about things like um what were they going to testify about things like the investigation could have been better. For example, mistakes were made in the investigation and that's true. Like guns were picked up with bare hands as opposed to like the gun that Alec Baldwin was handling with a bare hand of a police officer as opposed to wearing a rubber glove that's that's poor form. Um, in terms of evidence gathering because of course, the officer might put his own prints or, or disturb prints that were on the gun. But none of these errors in the investigation were material because there's, for example, there's no dispute who was holding the gun when it was fired.

So it doesn't matter what other fingerprints are on the gun. We know the gun was in Alec Baldwin's hand when it discharged and killed Helena Hutchins. Then the defense wanted to present testimony from a Robert Schilling who was a contract investigator hired by the state whose contract was not renewed and then was embittered and began to criticize the investigation in much of the way I just described saying he was one of the worst investigations he he's ever seen sloppy, uh et cetera, but, but none of the sloppiness goes to any material, contested fact in the case.

So again, irrelevant, not material meaningless. What does matter in this case? Let's take a look at that. Alec Baldwin is charged with manslaughter, specifically involuntary manslaughter.

So we can take a look at the actual new Mexico statute for this 30-2 dash three, involuntary manslaughter paragraph, being involuntary manslaughter consists of manslaughter committed in the commission of an unlawful act, not amounting to a felony. And the state is arguing here. This is one path to conviction that Alec Baldwin was. This is a second crime with which he's charged negligent handling of a firearm is a crime under New Mexico law. So, if the jury

concludes that it's been proven beyond a reasonable doubt that Alec Baldwin was committing negligent handling of a firearm. That's a crime that's an unlawful act, not amounting to a felony.

It's a misdemeanor. If it did amount to a felony, Alec Baldwin would be looking at felony murder, right? But he's not negligent handling of a firearm is an unlawful act, not amounting to a felony. It's only a misdemeanor. And in the course of committing that negligent handling of the firearm, the death of Helena Hutchins resulted as a consequence. That's one path to Alec Baldwin being found guilty of involuntary manslaughter. The other path is that if you don't believe he was engaged in an unlawful act, if you believe he was engaged in a lawful act, which could produce death in an unlawful manner, meaning this was not a justified shooting of Helena Hutchins, obviously, it was not, for example, self defense in the unlawful manner or without due caution and circumspection and the death of Helena Hutchins resulted from that conduct.

That's also involuntary manslaughter. What's without due caution and circumspection? Well, it means that if you're in the context of handling an inherently dangerous instrument like a gun that you have a absolute obligation to make sure that you don't kill somebody with that gun through your own intentional conduct. Now, this is not a case where Alec Baldwin was struck by a piece of the set falling on him and he drops the gun and the gun discharged when it hits the ground.

That might be an accident. Accident is also a legal defense that could be raised to this charge of involuntary manslaughter, but no one's alleging that's what, what's happened. Really. The uncontestable evidence is that Alec Baldwin had what he knew to be a real gun in his hand, did not check or have anyone else check in front of him to make sure there was no live ammo in that gun pointed that gun directly at Helena Hutchins cocked the hammer and pressed the trigger, firing the bullet that killed Helena Hutchins. That is a lack of due caution and circumspection when you're handling an inherently dangerous instrument.

Ultimately, the mental state required for involuntary manslaughter is not that you intended to kill anybody that would be murder. It's that or it could be involuntary manslaughter. If the intent was in the context of the heat of passion, uh in hot blood, as opposed to cold blood, involuntary manslaughter, you don't intend to kill anyone, but you're engaging in reckless conduct, conduct that you know, creates an unjustified risk of death to another and you ignore that risk and death results. The classic example of course is drunk driving. You get drunk in a bar, you get behind the wheel of your car to drive home, you're not intending to run anybody over and kill them.

That's the last thing you wanna do. You just wanna get home. But you know, if you're drunk driving, you're creating a reckless, an unjustified risk of death to anybody else on the roadway.

And if you do end up killing someone unintentionally on the way home because it was reckless. That is involuntary manslaughter here, the pointing of the gun at Helena Hutchins cocking the hammer pressing the trigger without ensuring it's not loaded. Is that reckless conduct? It's knowingly engaging in conduct that creates a risk of death or serious bodily injury to another

person and unjustified risk in doing it anyway. And death results, we also have the New Mexico jury instruction which the defense complains about.

Uh, the, the, the defense has their own version of the jury instruction they'd like to present, uh, specifically, and we'll come back to this in a moment. The defense wants the jury to be told that the only way to find Alec Baldwin guilty of involuntary manslaughter is if he actually knew that there was a bullet in the gun, we're gonna see that the New Mexico involuntary manslaughter does not require actual knowledge. By the way, if you actually know the guns loaded and you cock the hammer and press the trigger and shoot and kill someone that would be murder, then it's not speculative whether or not you're creating the risk. There's not merely a chance. If you're playing Russian roulette with somebody, you put one round in that gun, you spin the cylinder, you cock the hammer, you press the trigger, that's just murder. That's not involuntary manslaughter. And as we'll see, because what's happening in involuntary manslaughter is it's the risk creation that you're ignoring.

So, here's the jury instruction, 14-231 for you to find the defendant guilty of involuntary manslaughter. The state must prove to your satisfaction to the jury's satisfaction beyond a reasonable doubt, each of the following elements of the crime. And we see this is like many standardized jury instructions in a fill in the blank form.

Uh, because of course, you have to fill in the defendant's name. You have to fill in the specific conduct that you feel is reckless. So I have a version of this with the blanks filled in the defense doesn't like the fact that Kerri Morrissey filled in the blanks. They complain about that rather bitterly because of course, they don't like the way she did it, but she did it the way the jury instructions called for. Uh, let's see, there's the jury instruction. So when we fill in the blanks, this is what the jury instruction reads for you.

The jury to find the defendant guilty of involuntary manslaughter, the state must prove to your satisfaction beyond a reasonable doubt, each of the following elements of the crime. Alec Baldwin pointed a loaded firearm at Miss Hutchins and depressed the trigger, firing a bullet into her that's incontestable. Alec Baldwin should have known of the danger involved by his actions. That's incontestable. He knew he was handling a real gun. He told the police that afterwards Alec Baldwin acted with willful disregard for the safety of others that follows. If you know you're handling a real gun, you cock the hammer, you press the trigger while you're pointing it directly at another human being and you didn't bother to make sure there's not live ammo in that gun that's willful disregard.

You know, that gun in your hand is capable of firing a real round into a human being and killing them. And that Alec Baldwin's act caused the death of Miss Hutchins again, incontestable. And of course, that had happened in New Mexico. That's it. That's why I've been saying from the day after this shooting occurred when I first saw it in the news and did my initial analysis of it that this is involuntary manslaughter every day of the week and twice on Sunday. You put this in front of a rational jury and there's no way they return anything but a guilty verdict on involuntary manslaughter, which I expect is why the defense is working so hard to not get to a

trial jury at all because I think they know that they're doomed if that happens. Uh That's why they're working so hard to get the grand jury indictment dismissed.

So that's the New Mexico law on this. More complaints from the defense in their motion to dismiss the grand jury indictment. Uh, they complain that the prosecutors declined improper instruction. That criminal negligence requires that Baldwin must have known that there was a bullet in the gun. That's what the defense wants the instruction to read because of course, no one's arguing that Baldwin knew there were bullets in the gun. If he knew there were bullets in the gun, he'd be looking at a murder charge, not involuntary manslaughter. All that involuntary manslaughter requires is recklessness, not knowing.

And the defense requested instruction was ruled by the court by the trial judge then involved in the process as being materially different than the standard jury instruction under new Mexico law. And there and there's, there's, the court is not supposed to deviate from the standard jury instructions. The defense was very upset that the prosecution made statements to the media and there was a court order that there were not supposed to be statements made to the, to the media. But, but the the prosecutors statements were in response to defense statements to the media, misleading mischaracterizing statements to the media and Alec Baldwin's own internationally televised interviews on television media and the prosecutor is allowed to respond to defense statements to the media. They complained that the prosecutor did not allow sufficient time for the grand jury only two days. Well, two days is sufficient for what had to be presented to this grand jury unless you believe that the, all that immaterial irrelevant testimony from Alec Baldwin's friends, all that feel good testimony um was required to be submitted to the grand jury.

If you believe that, then you probably needed a week for the grand jury. But I don't believe that immaterial irrelevant evidence is required to be presented to the grand jury. So I don't believe there was a shortage of time when you narrow the grand jury presentation to the actually relevant immaterial testimony and testimony, any testimony the grand jury asked to hear. And by the way, the grand jury was made aware of all this defense testimony and evidence that the defense wanted the grand jury to be aware of. And the grand jury was told if you wanna hear from David Halls, if you wanna hear from Joel Souza, if you wanna hear from Sarah Zachary, if you wanna hear from any of these witnesses listed in the defense alert letter, just tell us and we'll bring them to you or we'll have them on Zoom, you'll have an opportunity to hear their testimony.

If you want that joy, didn't ask for that. In terms of documentary evidence, the state had a box or boxes of evidence that they felt the state felt was irrelevant and immaterial. And therefore, they were not obligated to actually make a presentation of that evidence to the grand jury. But the evidence itself was made available to the grand jury. They were told it was there. If they'd like to look through this box of materials prepared by the defense, they were free to do that.

And the grand jury decided not to do that. Uh, and the, uh, the defense Kerri Morrissey rather would point out that in New Mexico for a first degree felony charge like murder where the

defendant is looking at spending the rest of their life in prison without possibility of early release. The typical time for a grand jury presentation is a few hours here for 1/4 degree felony where the maximum sentence is 18 months. The prosecution spent a day and a half on the grand jury presentation. Uh The defense complains that the prosecutor did not present grand jury, the grand jury with defense arguments and evidence now present is important here because what the defense is arguing is that Kerry Morrissey, the prosecutor should have stood up and made the defense argument to the grand jury. That's not what's required. What's required is that the prosecutor make available to the grand jury actually exculpatory evidence and testimony.

And here the prosecutor went far beyond that. They made available to the grand jury even evidence that's not legally exculpatory because it's irrelevant in the material. The defense complains that the state of the defense did not like the witnesses that the prosecutor did present to the grand jury. So they uh the prosecutor presented uh investigator Alexander Hancock. They uh they presented um expert witness, Brian carpenter who has been a long career as an armorer on movie sets and the state had various objections. For example, they said that um, Brian Carpenter was falsely presented to the grand jury as a movie producer when really his expertise is as an armorer.

Well, Brian Carpenter actually does both. He, he, he has long history as a, as a armorer and he's recently started a production company there, there's no harm in presenting that truthful statement to the grand jury. So then the state responded, I've covered the state's responses in a three show series part one, part two, part three. If you go to Alec Bald, sorry if you go to, um, let's see if I have that banner handy. Um If you go to Law of self defense.com/baldwin, there it is in the bottom of the screen. Law of self defense.com/baldwin.

Uh You can access my three show series on the state's response to the defense motion. Um Again, Law of Self defense.com/baldwin. After the state's response, the defense came back with the response to the state. Uh basically arguing the following first, the state failed to address the majority of our motion, their whining motion. Uh And that's true.

Uh Because much of the motion was just a relevant material immaterial nonsense. Like all the talk about how they, they didn't like the first prosecutor in the first grand jury indictment. So what that's got nothing to do with this prosecutor and this grand jury indictment. So of course, this prosecutor did not bother addressing that. Then the defense claims the state concedes it violated a court order. Well, of course, the state would say we didn't do anything of the sort. Um, the defense complains that the state ensured the grand jury would not have access to exculpatory witnesses and evidence.

Here. The defense is arguing things like, well, the state didn't have all these witnesses we wanted waiting in the hallway outside of the grand jury room. Well, that's not required by the state. The state is only required to, if the grand jury asks to hear those witnesses to make them available, but you can make them available in person or by zoom my phone. So the fact that

they weren't out in the hallway does is not really a problem. The defense complains that the state questioned witnesses to illicit false testimony.

Here. Again, they're talking about things like, uh, Brian Carpenter, the state's expert armor witness. Uh, they're complaining that, well, he said he was a producer. He's not really a producer, I guess maybe he hasn't produced a film yet. He, he's got a production company. Uh They say the state issued an improper jury instruction. Uh We already know that's not the case because I just showed you the new Mexico Uniform Jury instruction for involuntary manslaughter, appropriately filled in the blanks for the facts of this case.

And they argue that the state admits that it had a bad faith motive for pursuing the indictment. And here, the defense, uh proof of this is a unattributed unsourced purported quote of Kerrie Morrissey in a Hollywood news publication, media publication. Um We don't know, this is really triple hearsay. Uh So we, we don't have Kerrie Morrissey actually saying it, there's no evidence of that. We have somebody saying Kerri Morrissey saying it and then that unsourced somebody being anonymously cited in the media, the Hollywood Press. So triple hearsay for this supposed admission of a bath, bad faith motive.

Ok. So with that all out of the way, let's get ready to dive into the actual hearing yesterday. Uh 2.5 hours long just about. Uh I'll be playing it at least at 11 and a quarter speed and skipping over breaks if we have any breaks like that. Uh Mostly I'll be just letting it play because I've provided, I think most of the context I need to provide already. And before I do that, let me take a look and see if there are already questions or comments I need to address.

Um Now if you're watching this on youtube, you can submit a question or comment, but it needs to be a minimum \$10 Super Chat. Uh I don't recommend you do that. I think that's ridiculous to pay \$10 a question. I would recommend that instead you become a law self defense member uh where it's less than \$10 a month to get all your questions and comments addressed for free. During any of these live streams. You can try it for two weeks for 99 cents. 99 cents at lawselfdefense.com/trial gets you a trial, two week trial membership for 99 cents.

And after the trial, it's only about 30 cents a day, less than \$10 a month to be a law self defense member. And if you want, you can cancel anytime, no questions asked. Or if you insist on doing a Super Chat, it needs to be a \$10 minimum.

So let me open up that screen just to see if already there's anything, nothing in the Super Chat realm. Let me take a look at what the law self defense members are up to this Saturday morning. Uh, let's see.

Maybe I need to refresh the page. Oh, I think I wonder what's going on. I'm not seeing the, uh, I think I'm signed in, uh, oh, is the member chat not working? Mhm. I thought I saw some comments already.

Let me take a look. Bop, bop, bop. Ok. Well, we're gonna have a couple of hours together. So I'm going to take a moment and call Emily and see if she can fix this.

Hey, you're on the show. Hi. Um, just because I have you on speaker phone. I, I just went to look at the member chat on the live stream and the member dashboard and it's telling me to join to chat.

I can't see any of the comments, but I am logged in. Uh so if you could diagnose that because I have another two hours on this show, I'd like to be able to get the member comments and questions. I'll do my best to text you as you get.

Ok, thank you. Bye bye. There we go. That's the kind of back office support everybody should aspire to. All right, hopefully we can get that fixed. If not, we'll just have to make do as we go.

Uh, let's see if there's, uh, an alternative. Mm, if I go into the, ok, we'll have to see what happens. Yeah, I would never try to fix it myself.

I don't know how to do that. All right, folks, here we go. I'll make myself a smaller here. This is Judge Morrow, who was the judge for the, who was the judge for the, um, Hannah Guterres trial as well that resulted in her conviction of involuntary manslaughter. And this hearing happened yesterday. So Friday, uh, May 17th, 2024 responses.

So replies. So, go ahead. Let's start. Thank you, your honor. Um, I, I know the court has, uh, carefully read the papers and we appreciate the long window. So this is Alex Spiro Spiro. This is one of the two partner level, uh, Manhattan law firm.

Um, I believe the firm's Emmanuel Quinn. It's like a top 50 worldwide, uh, law firm. So huge, huge law firm.

Um, and he's a partner there. Alex Spiro, I believe these, him and his, um, uh, the other fellow's name is Luke. I'm blanking on his last name, but we, he'll pop up as well.

I think he actually makes the other partner. Makes most of the argument here. Um, very highly paid. I think they mostly do civil litigation, not criminal defense law. However, it'll be interesting to see if Heather Leblanc, the, the local uh New Mexico, the only local New Mexico attorney involved in this case makes an appearance in this hearing. So the court gave today and I'm hoping it won't take that much time. How we'd like to proceed is uh break this up into two sections.

I'll give you an overview of our view of the grand jury process. And then Mr Nikas would take a second issue which would be the waiver, um the legal instructions and the arguments and remedies there. So Luke Nikas is the other partner I was just referring to. Um So just to start, um and take a step back about, can I interrupt? So when you're, when you're arguing thing? So there is as you know, there's uh two types of challenges and I, and I need you to hone in on

which one, you, which one or both? You, you want, you, the evidence you're arguing um should be considered. So the sufficiency quality or sufficiency of the evidence. And then the second one is the structural challenges. Yes.

Um And, and Mr Nix is going to break that down in his sort of subsection. All right, thank you. So, so just taking a step back your honor.

And I'm not gonna obviously recite the history of, of the, the case here, but there's a couple of points that obviously, the court in our judgment should think about and consider, which is the posture we found ourselves in before the grand jury was a case that had been dismissed and brought back. Um, a court can consider right how strong a case is, whether it's at the fringes of criminal law or whether it's a case with, you know, 15 witnesses, DNA and video um in sort of assessing these things. So we get brought back um on, on a criminal case and we were set for a preliminary hearing originally and it was switched out of that posture into a grand jury, which is, of course, a prosecutor's right in New Mexico. Um The purported reason was to sort of save the defense something or another. But, but frankly, we, we wanted our, our open court, we wanted the chance to, to press and cross examine these witnesses and the state took, took a proceeding and brought it into a private chamber at that point. Um You know, the notice um went out and it did not have the 48 hour um language that by Miss Morrissey's own um, statement to the judge.

Um, she had never seen a notice without that and the identical notice served on, uh, the co-defendant on the same case. Didn't, it didn't. So what he's talking about is, uh, I mentioned this earlier, Carrie Morrissey was trying to get this before a grand jury that had been scheduled. Um, she was, uh, trying to do it on a, a relatively tight time limit, The defense objected.

Uh They said we need, um, you know, more time this, that's what he's talking about with this 48 hour notice requirement. Um, but the bottom line is that the, the judge at that point in this process agreed with the defense and told Carry Morsey. Uh, I'm gonna give them more time and they got the more time. So all this complaining is meaningless and have this absence, right, sort of surprising, sort of looking at you saying, what is this? Um, and, and then further to that, you know, we raised the issue and there's, you know, there's, there's AAA fight of litigation and, and the state lost that issue. Um Then there is the idea of this one sided voir dire, which was seemed a bit unusual.

So as he said, the state lost that argument. Kerry Morrissey wanted to go before an already scheduled grand jury and a tight time schedule. The defense objected. It was argued before the judge and the judge went with the defense the state lost that argument. They concede the loss.

It was not presented to that grand jury. A later grand jury was scheduled as the defense requested. So I don't know what they're complaining about.

Again, we raised it, they fought it, they litigate it, they lost. Um, and, and, and again, I, you know, these things just seem strange to be dug in on. Right. And, and, um, your mind, what's

strange is that he's talking about it? Is, is he trying to create some, like a sense of a generalized atmosphere of misconduct by the prosecutor? That this is how criminal proceedings go, the parties argue things back and forth in front of a judge, the judge makes a decision and the parties adhere to that decision and kind of goes back at least mine did to comments that the judge made. Judge Ellington said, you know, it's the strangest thing in 30 years. He had never seen the media know when the grand jury was gonna convene on a case before the target letter even went the way Strange.

And, um, you start remembering, I start remembering, you know, these comments from the prosecutor about humbling Mr Baldwin, this is a homicide case. So whenever he makes reference to these comments, he's always either one referring to the earlier prosecutors who are not involved in this indictment. So whatever they might have said is irrelevant to this prosecutor Kerri Morrissey in this indictment or he's referring to these anonymous quotes by unnamed people in Hollywood media that are being attributed to Kerri Morrissey with, with no evidence that she ever said these things, a homicide case, the humble of another human being. And you start thinking what's really going on here.

And so ultimately, what judge the judge ordered was that these witnesses, the evidence being made available to the grand jury, that's really important. So what the judge ordered was that the witnesses and evidence be made available. So that means telling the grand jury if you'd like to hear these witnesses and you'd like to see this evidence, we make them available to you. It doesn't mean they have to be presented. Um, he was not going to deal with logistics. This was the prosecutor's duty, their ethical and prosecutorial duty to be fair, impartial, to be a guide and a help not to be an advocate in that moment to just be the eyes and the ears of the court and of justice. And so, you know, I can tell the court personally, I, I was concerned and we sent a letter the day before the in many states.

By the way, uh, a grand jury is not required, uh, for most felonies. Uh, for example, in Florida, grand jury is not required unless it's a capital charge that's being uh brought. Um, the, the prosecution can simply file what's called an information before the court. And information is a sworn affidavit in which the prosecution lays out its allegations, the elements of the crime and the evidence to support those elements. And the court reads that and determines whether or not they believe that there is probable cause to believe that the person charged committed the crime, factual disputes to go before a trial jury. And in which case, the person is effectively indicted, they're going to trial without any requirement for a grand jury. Proceeding to say, please, please, we get it.

It's a high, a high pressure case. We get it everybody. You want the indictment, we get it.

There's all these things we brought to the court's attention. The court ruled in our favor. The grand jury is going to be ending soon. Please. We're, we're, we're practically begging. The prosecutor. Don't run through the stop sign.

Don't be reckless. Don't lose your way. That's rich. They're telling the prosecutor not to be reckless. Their, their clients charged with a crime premised on recklessness. You have to have the witnesses and the evidence there and the grand jury needs to know that it's there.

It's a real process. This isn't rubber stamps. So, you know, concerned about that, that they so you don't have to have the witnesses and the evidence there. You have to have them available to be there.

If the grand jury wants to hear or see that witnesses are evidence, the case was just going to be closed. We sent that letter and I think that's very important, your honor. And I think the court should consider that.

And, and from my position, the Fix was in, there were no witnesses, there were from my position. The Fix was in no witnesses there to testify. There was no evidence binder of the defense exhibits, there was no evidence binder. So even if OK, well, we'll have to see how Kerrie Morrissey responds to this.

There were witnesses presented, right? Kerri Morrissey presented witnesses. She presented a detective Hancock, she presented Brian Carpenter, their expert witness of the state, the armor expert witness. It's just what the defense wanted was. They wanted these witnesses like David Halls, Joe Sousa, Sarah Zachary to, to provide what we think, we think Alec Baldwin's a nice guy. Um And uh didn't do anything wrong and shouldn't be held criminally liable that's not relevant and material testimony. It doesn't go to the elements of the crime or any legal defense. Somebody had wanted to speak to somebody.

There was no time, there was no ability and, and that is so so important because the prosecutor never intended for that. You see, just like prosecutors argue in summation. It, it, it, the truth is so compelling.

They never intended for the grand jury to ask for witnesses, they never wanted the grand jury to ask for exhibits. Um And so not by d so this of course, is just mind reading, but Carrie Morrison gets to respond, not by word, not by spirit. They did not comply with the court's order or the law. Um, and surprise, surprise. The grand jury didn't ask for any of it.

Right. That's what the prosecutor's gonna say. But of course, they were led, they were led nowhere.

They were led to the closed door of the grand jury room with not sufficient information and explanation. And I'll tell the court and the courts reviewed many grand jury minutes and I remember many times when I was a prosecutor, but there is a way to do this. That's fair. There's a way to say this is a murder case. I'm just gonna give the court example. There's an alibi witness. This is very, very serious stuff.

The defendant says that he was at the movies with his mom at the time he could be completely innocent. There was a movie ticket. Yeah.

So right here, I'm gonna leave it right here on the table. You all should think about looking at it. The defense would like you to look at it. The mom is in the hallway. Ok? We want just now what he's citing in his example. His hypothetical is material evidence, right? An alibi would be material evidence.

It wasn't me, it was someone else. I have proof. I was not there. I could not have committed this crime. That's a material fact because part of the criminal charge is that this person committed this crime if he couldn't have been there. If there's evidence that he was somewhere else.

His mother took him to the movies and he's got a ticket that would be material evidence. What's the parallel to that in the Alec Baldwin shooting of Helena Hutchins? That it wasn't him. It was a stunt double who was holding the gun that shot. Helena Hutchins ridiculous.

Just here. You should consider these things. You can, you don't have to do it, but I'm gonna leave the movie ticket here and the mom in the hallway. And by all means, we want to get to the right result here. That's not what happened in this case.

That's not what happened in this case. And so it's not what happened because the witnesses and evidence you put forward were not material, you know, and, and, and another thing is again our letter, the term ending the next day, you know that, that, that you're gonna have to, it's like, listen, understand, we're gonna give you plenty of warning so that you can tell your, your job so that you can have extra time if you need more time. That's easy. We will accommodate these people waiting here, but there were no people, there were no exhibits because the state was never gonna comply. So when we got the transcripts, of course, and we looked deeper at, I'm just gonna pause for a second folks and see if maybe we have this fixed the the law self defense live stream comments fixed Well, I still can't see it.

So just a heads up because our normal mechanism for addressing questions and comments is not working. Um I will be taking a look at questions and comments on youtube. So if you're a law self defense member, um and you wanna hop over on youtube, uh it's in the link is in the email you would have received as a member, all the links on the various social media platforms. I'll take a look and see if I can pick out any, anything useful from those questions and comments. We don't normally do that, but this is obviously an exceptional circumstance that this, the witnesses were diverted, right? You know, it, it's a very important thing that Miss Morsy was preparing for the Gutierrez retrial at the time. She knew she knew, by the way, I do a lot of live streaming off a laptop when I'm not in my office.

When I'm traveling, you could have, you know, you're allowed to prop the laptop up on, on some books or something so that it's, it's looking you straight in the face. So it's not looking at the bottom of your, of your chin and at the ceiling knew exactly what was going on. She exactly had to divert the witnesses away from information that helped Mr Baldwin.

She diverted them and the legal instructions, you know, the filing um that was made when the, the issue of the legal instructions was before the prior judge, the state says in there, it's just a little, little piece in the papers, but it says we'll insert the language we intend to use. That's what they say in the papers. And they don't tell the judge, I'm gonna insert this language that they ended up giving. They don't tell the judge that and they could have easily, they could have called that judge back at any point.

Hey, thank you, Zach. Zach told me how to fix it. So the the member comments are back up. So those of you on youtube, you're, you're back out of luck. It's got to be a \$10 Super Chat. And uh ok, let me just text Emily so she can stop working on this.

All right, thank you, Zach. Much appreciated. So the members, uh your, the comments and questions are working again. So let me take a quick look at that as I intended to do earlier. It's true. I don't know how to operate my own, uh my own web platform for Law of Self defense.

Apparently Trey says hello from Nashville. I will be in Nashville shortly. Coming up quick. Nashville is probably the uh number one spot we're looking at for relocating out of the communist hellhole that Colorado has become uh not the city, of course, but um the suburbs outside of the city, Terry says Baldwin's attorneys are grasping for straws. The charges against him are going to stick like paper gel on like pepper gel on an attacker. Yeah, I, I think so but it's, of course it's up to the Judge Jeffery says will judge summer issue a written ruling on this or will it just be oral? So uh spoiler cause I, I did watch the last couple of minutes of this.

Um Otherwise I haven't watched this. Folks. This is all new to me as it is to all of you. But I did, I did go to the end just to see how it concluded and she says she's going to issue a written ruling next week.

Uh Let's see. BBBB. Let's see. BBB looking, looking, looking. Yeah, that was a problem. I had to, I had to uh join, put my name in and click, join. Normally I don't have to do that.

I've never had to do that before, but that's what fixed the uh the member comment viewing for me. Zuza is fixed it for me. Yeah. Thank you very much Zuza.

Much appreciated. OK. Back to the video now and said we have a question just because of all of the um, concerns in this case and because we want to do the right thing.

Is it OK? If we insert different words, they don't do that, they shut the door to the grand jury room, they got their indictment. That's so he's talking about, they wanted to insert different words into the, uh, into the new Mexico Uniform jury instruction for involuntary manslaughter. The different words, of course, he makes it sound innocuous. The different words would fundamentally change the legal premise of involuntary manslaughter law in New Mexico. And of course, it would be favorable to their client. So, of course, the prosecution objects the different

words, the different words are not New Mexico Law. That's why we need this court to step in and check this abuse of power.

It's just that simple. Um And, um, you know, I, I, I'm, I'm gonna end and turn it over to Mr Nis. Um, um, in a minute, uh on these specific issues.

Um, um, but, but again, I, I will sort of end where I began that, that, that this is a case involving an accident at the outskirts, very outskirts of, of criminal law as we know it and, and I don't think there could be much debate about that. I'll debate it. You want to debate it, Alex. It couldn't be more clearly within the bounds of involuntary manslaughter under New Mexico Law, the outskirts, my butt. Um The, there was no check in that grand jury room.

Uh, the prosecutor was alone to do as they wished despite every warning and every judicial order otherwise. And, you know, even in front of the court, the court perhaps can see what, what I believe to be going on here, which is, you know, and, and Mr Nus is going to address this waiver issue that this response comes in from the state and has no case law in it. It's like a breathless, you know, you know, go get him kind of a response and that's fine.

But it's, you start thinking, you know, are we're not losing our way here is the, is the high pressure case not starting to sort of take control over, um, good judgment and everything else. And I just think the court can have no comfort in this indictment can have no comfort in the way it was procured, cannot possibly believe it was fair and impartial. It should be dismissed, it should be dismissed for Mr Baldwin and for any other person that comes before a grand jury and falls the victim of a overzealous prosecutor and that's what we would ask you to do.

So I'm now gonna turn it over to Mr Nis. Um, if there are no direct questions for me to address. Uh, so before we do that, I just want to point out that one possibility of what's actually happening here is, um, not that the defense believes they can get the grand jury indictment dismissed and not that they believe they can win a trial, but that they actually believe they cannot get the grand jury indictment dismissed and they cannot win a trial and their client, if he's put before an unbiased jury is going to be convicted of involuntary manslaughter. And I think likely, uh, sentenced to the maximum 18 month penalty for the killing of Elena Hutchins.

But they're thinking about after the conviction and after the sentence, how do you rehabilitate Alec Baldwin's reputation and career? And one of the ways to do that is to establish now, pretrial, the sense that this was all a terrible miscarriage of justice. We were arguing that from the very beginning, the indictment itself was improper. So everything else that happens is improper as well.

Um I think that's what they may actually be going for from a strategic sense. So that may be what Alec Baldwin's actually paying for. Now. They may have told their client, Alec, listen, the truth is, we don't like the New Mexico law either.

We think it's ridiculous but it is what it is. It's what the jury is gonna hear. You're gonna get convicted. Overwhelming probability.

There's no real prospect for us to prevent that. But what we can do is mitigate the damage of that conviction and rehabilitate you afterwards. Jeffrey in the law, self defense comments says, uh, your honor, we're from New York. We don't know New Mexico Law. Can we just use New York law instead? I'll tell you a funny story. So, of course, I went to uh law school in New York and then when it was time to take the bar exam, I had, uh, I had, uh, graduated from law school, I had met a girl who lived in Boston and so I followed her to Boston So now I'm living in Boston studying for the bar exam.

It's time for me to take the bar exam and I decide I'll take the bar exam in New York and Massachusetts the same week. So, the way that works is one day you take, um, New York law then in those days I don't know how they do it today. This was 33 years ago. Uh, then, uh, you take what's called the, the multi state, which is kind of a multiple choice kind of exam that's generic for all the states, uh, not state specific. And then the next day I would take, I would drive from Albany, New York back to Boston and take the Massachusetts bar exam, which is what I did.

So I was living in Boston, I drove my, uh, 1973 Volkswagen Carmenia convertible in the winter winter bar exam to Albany, New York, took the New York State bar exam, took the multi state the next day in New York. Then hopped back in my Carmela convertible, drove back to, uh Boston and took the Massachusetts bar exam on Thursday. This was a Tuesday, Wednesday, Thursday affair. I knew not a word of Massachusetts law that'll work. I went to law school in New York. Uh, the bar review course I took was specifically for New York.

Uh, so all I did was I applied New York law to the Massachusetts bar and I passed both. So there you go. It can work. Um, uh, the specific arguments regarding waiver, the legal instructions and the legal remedies we sought. No, I don't have any questions at this time. Thank you, Ron. Good morning.

Your honor. It's morning at this, I'm getting some feedback. So this is, uh, the other partner from Emmanuel Quinn, the, uh, the high level Manhattan law firm, Luke Nikas. I think it's a little better. Good morning again. I, it looks like he's home, right? Doesn't it look like this is like his home office or something? It looks like a Harvard banner in the background. Why, why I mean for your client, why wouldn't you go into the office? Your honor? So I'm gonna address three issues in a little bit more detail and I'll try to keep it brief because we know your honor reads all the papers very carefully.

So, what I'd like to do is highlight a few key components of three issues in the case. The first is waiver. Hey, on civil law in the chat. How you doing, man? Kurt. Kurt and I met up in, uh, where the hell was it? Was it Austin, Texas? No, gosh, it must be a couple of years ago.

Now when I was down there on the motorcycle had dinner together. Great fun. If you don't, if you don't follow uh a civil law on uh youtube, subscribe, uh you're doing it wrong. He does great work.

Good lawyer. The second is the ground for dismissal that the prosecutors engaged in bad faith. And therefore, the court should review the sufficiency of the indictment and evidence that supported it. And the third is the structural problems with the grand jury process in that it was conducted in violation of the law. And therefore, no prejudice is required in order to dismiss. So I'll break it down into those three categories, uh, that we believe justified dismissal independently, each of them of the indictment. But the first, your honor, the state has waived its challenges to the motion to dismiss.

We filed, the state did not cite a single case in its opposition brief. It did not cite a single legal authority in its opposition brief. It did not distinguish any of our legal authorities and it didn't challenge the majority of our factual statements either. And even when so I talked about this, right, the, um in their response to the state's response to their motion to dismiss the defense says, well, the, the, the state didn't even bother addressing most of what we talked about in our motion to dismiss. And that's because most of what they talked about was irrelevant and it did purport to challenge the basis for our factual statements.

It mischaracterized our position and argued against something we had not, in fact even asserted, for example, the state argues that Mr Baldwin asserted the grand jury process was too short and therefore, that is one ground for our dismissal. As you just heard, Mr Spiral explain the argument was not that the process was too short. It was that if this state was going to conduct the grand jury process, consistent with the law present, the evidence that we believe was required to be presented, instruct the grand jury properly as to its roles and responsibilities.

Then a day, a day and a half would not be enough time to do that. And so that was not a basis for how, how are those two arguments different? We didn't say the grand jury period was too short. We're just saying if the state was gonna present all the evidence and witnesses, we wanted, wanted them to present then a, a day and a half was not long enough missile. That was one of many, many facts that as we laid out in our brief points toward the mindset, the motivation of the state in conducting this prosecution, which was directly relevant to bad faith where the courts have defined bad faith as dishonesty and purpose, belief or motivation. And so even where we made arguments about things that were mischaracterized and responded to in a different way when the state actually did respond.

And so ultimately, so the defense is trying to characterize this as bad faith by the prosecutors. One, the prosecutor claimed that we said the grand jury period was too short. Two, we didn't say it was too short. We just said it wasn't long enough three, that's evidence of bad faith by the prosecutor. The state waived the challenge and we cited a number of cases to demonstrate that for example, we cited the Delta Automatic Systems case. That was a waiver case. Now, short summary, your honor.

Just so you can see how on point our cases are versus what the state cited in its supplemental brief Delta Automatic Systems. Plaintiffs filed a brief, they argued their claim was not time barred. It was in the limitations period. The defendant explains. Well, no, your case is time barred because actually the limitations period started earlier. Plaintiff doesn't respond to that.

What does the court do? The court says, if you don't respond in opposition to an argument, then you've waived it, dismisses the plaintiff's claim on the merits. There was no discussion of wanting to hear the case on the merits. So this is, this is what they're trying to argue. They're trying to argue that um we made some arguments in our motion to dismiss the indictment that the state did not respond to. Therefore, the state gives up its claim to the indictment entirely. No, no.

What, what the state gave up was a counter argument to a particular claim in the motion. So one of the claims in the motion to dismiss the grand jury indictment was that? Well, you, the, the grand jury didn't hear from uh Joel Souza, the director of the movie, who, who doesn't have anything to say that would be material to the criminal charge or any legal defense. His testimony would be irrelevant.

So, of course, the grand jury didn't hear from him. Now, the, the, the prosecutor is trying to say, well, because you didn't allow the grand jury to hear this irrelevant evidence, that means you've waived the entire grand jury indictment. That's nonsense. It would make as much sense to say. Well, in our motion to dismiss, we argued, one of the reasons to dismiss is that Alec Baldwin at the time this happened, was wearing red underwear and the state doesn't bother to address that ridiculous argument.

And then the defense comes back and says, well, they didn't address our red argument, our red underwear argument. Therefore, your honor, you have to dismiss the entire indictment that that's the level of argument we're seeing here. It's no discussion of liberally allowing parties to ignore responses, period. Full stop dismissed the case on the merits. Same thing happened with respect to an argument and state versus Vaughan. But he, uh, he works in New York, this guy, he's a partner in the Manhattan office of Emanuel Quinn, which is a Manhattan headquartered, they're a worldwide law firm, but Manhattan headquartered law firm, defendant argued that the court violated his due process rights because he was subject to prosecution for refusing a Breathalyzer test.

When in fact, the first Breathalyzer test he took, he agreed to take, he said, you can't prosecute me for refusal. When I gave one, doesn't cite a legal authority to support that argument. Factually, it was true. Doesn't support one. What does the court say? You haven't cited a legal authority? We will not consider an argument that lacks citation to any legal authority.

And when you do that, we assume no such authority exists. Period. Full stop rejects the argument. No discussion of liberally granting opportunities, et cetera. We cited the state versus Def Foia case.

Same exact thing. Court explains you. Defendant argued the jury instructions were insufficient, but you didn't cite any legal authority for that argument rejected. You don't cite legal authority. You don't oppose legal authority that's cited to you. You've waived it.

And what does the state say? The state does not distinguish our cases? It doesn't challenge those principles instead, if your honor even considers the state's supplemental reply, which we don't think you should because the waiver cases do not allow that. But even if you did your honor and looked at the cases, the state cites none of those cases are about waiver. They're about default judgments, which we know is a very different scenario from waiver. For example, in the Gangler versus Phelps case, that the state cites, the plaintiff sued two defendants. The parties agreed that the defendant's time to answer would be extended when they entered the order.

However, it only applied to one of the defendants. It was an accident. One of the defendants therefore didn't respond on time. The plaintiff got a default judgment. What do we think happened? Of course, the court said we don't we vacate default judgments liberally and everyone thought this was supposed to apply to both. And so we're not gonna hold you responsible for not responding on time.

Springer versus Herrera. Same exact thing. Default judgment entered and the court says we liberally vacate default judgments.

Nothing about waiver Sunwest Bank versus Rodriguez. In another case, the court cites or the, the state cites to the court. This is an interesting one. Your honor. There, there for a couple of reasons there, the plaintiff sued two defendants, a husband and wife who had been, yeah.

Somebody in the comments says, uh the court can always take judicial notice of the law obviously. So do, do we need a legal site that the sky is blue? Of course not separated because they defaulted on a loan, the wife or the ex-wife comes into the court after a default judgment was entered and says, I didn't know this wouldn't be handled. My ex-husband has all the information about this. I thought he was going to answer the complaint and therefore this is excusable neglect. The court says fine. We think that is excusable neglect, but ultimately, we don't find your defense on the merits persuasive and therefore we're keeping the default judgment intact.

And why is this interesting your honor? Because when you look at these default judgment cases even though they don't apply here, even though the waiver cases are the controlling cases. And we ask ourselves, even if we applied that standard excusable neglect, would the state be able to meet it? If that were the standard? Is the state's knowing and intentional failure to respond to any of our legal arguments? Any of our cases, its failure to cite any cases of its own excusable neglect. How about the state's failure to address any of our factual statements? Is that excusable neglect? Nn No, it's not. This is not a case where the state failed to answer at all and said, oops, we missed a deadline by accident.

Can we please file our brief now where in those circumstances, the court would look at office failure and technical issues. That's not this case. This is a case where the state did respond and they responded on time and they made the response they made deliberately knowingly with a calculated strategy to disparage Mr Baldwin to disparage me personally rather than deal with this case on the merits knowing full well the risks of taking that approach.

This would not be excusable neglect even if we did have to prove it, which we don't. And the state also cites this people versus Davenport case. That was a Colorado case about civil forfeiture where the defendant didn't show up in response to a civil forfeiture claim, got a default judgment and said against him and said but that should be vacated. And when asked why he said, because the statute says I can either file a response or appear in person. I filed a response.

The court says, yeah, that's right. You did. You complied with the statute by filing the response, you forgot to pay the fee, but you can do that later under Colorado law. Therefore, the default judgment shouldn't have been entered in the first place. Those are the ca the the state cases, your honor, none of them on point at all.

The only one that has some language that even if it were relevant, it's not, would actually support the entry of dismissal because of the state's waiver. And so the state waived these challenges. It was the state's decision to present its opposition as it did the state's decision not to cite a legal case, the state's decision to do all of these things. The states of, hey folks, I forgot to speed up the video. Sorry. Uh So I'm gonna switch it to one and a quarter speed now and that, that's why they're gonna start sounding funny.

I just in full transparency. Well, that wouldn't be fair. It wouldn't be fair. It wouldn't be fair to give them this opportunity to have them take the approach they wanted and then give them a redo if let's talk about fairness for just a moment, your honor. Let's talk about what the courts say about fairness in the context of a grand jury proceeding. Herrera said we need to protect the targets, fundamental fairness, strict adherence to the rules is required. Yaari said that prosecutors must conduct themselves.

As Mr Spiro said in a fair and impartial manner, Yaari said that it's the target's right to a fair and lawful process that should be rigorously protected. That's what fairness is about in these circumstances. It's fairness to the target. And the only unfair outcome here on waiver would be not to apply waiver cases and not to dismiss this indictment on the basis of those controlling cases.

When the state brought this circumstance on itself by choosing the response it made. That's ground number one, your honor on which we believe the court should dismiss the indictment. Ground number two and three, as I mentioned, bad faith and judicial review of the evidence. And then so interestingly what the defense position here is, we filed the motion to dismiss the grand jury indictment. The state's response, the defense is saying the state's response um was so inadequate that it amounts to a dismissal. Therefore, because of the state's inadequate

response, you should dismiss the grand jury indictment. He's literally just waved away all the arguments they made in their initial motion.

Now, he's saying it's not the reasons we gave in our initial motion that you should dismiss this grand jury indictment. It's the manner in which the state responded to our complaints, the structural defects in the process. I'm going to start with the structural defects in the process. You know, the the violation of the grand jury process under New Mexico law, that is a basis for dismissal without proving prejudice. Once again, the state doesn't cite any cases about this ground for dismissal in the state. Supplemental reply. They say we've misrepresented the fact that bad faith is not required.

It's very clear your honor. We put it in our brief, that bad faith is required on the third round, I'll talk about but it's not required on the second round. The courts have made that clear in New Mexico, Herrera said, for example, when we're talking about a violation of the grand jury process, a different standard applies to the target's claim, different standard from bad faith. It's quoting directly from the Harar case.

And the reason is that the grand jury process is one where the prosecutor has the control. There's no direct supervision of the judge. Sora noted the prosecutor has the control of the room, the control of the witnesses and ultimately has to rigorously follow the grand jury process to ensure that the grand jury has all the evidence before it. So it can comply with its obligation to receive and evaluate all of the exculpatory evidence. All of the evidence that the grand jury is not supposed to have all the evidence.

The grand jury is supposed to have all the material and relevant evidence. That's a very important distinction. They're not supposed to have all the evidence as defined by what the defense thinks all the evidence is. Otherwise, the defense could throw in the, if you're old enough, throw in the Encyclopedia Britannica as an exhibit in evidence and demand that, that be read to the grand jury. Would that make any sense that may make an indictment less justified? And so in the Harar case, I wanna start there your honor because in the Harar case, there were two grounds for dismissal. Independent. One was that the prosecutor asked the witness a question and the prosecutor didn't let that witness answer it.

And the court said ultimately, if the prosecutor had questions about whether the grand jury secure that information should have its questions answered by that witness, then the prosecutor should have gone to the judge. And the second was that we see a lot of that here, your honor as, as we've explained in our briefs. The second is that the prosecutor read proper UJ I instructions to the grand jury, but then commented on one of them in a way that was consistent with the instruction but sort of expounded upon it a bit.

And the court said, no, no, no, we have to comply rigorously. We have to read those instructions exactly as they are word for word. We cannot. This is, this is a pretty rich argument coming from the defense given that the defense proposed an alteration of modification to the new Mexico, jury instruction on manslaughter, manipulate, we cannot change, we cannot modify. It is critical

that the instructions are exactly what they need to be and they weren't. And that failure also provided a separate ground for dismissal.

So let's start here your honor with the three reasons we give on this ground independent again for dismissing the indictment on the basis that it violated the grand jury process. The first is that the jury instruction was inaccurate. The first element of the jury instruction that the state read was that probable cause exists.

If the grand jury, it finds that the target discharged a firearm during the production of the movie without first verifying the firearm contained no live ammunition. And while the firearm was pointed in the direction of another, the state then had a witness testify that Baldwin had an obligation to verify the firearm contain no live ammunition. The most troubling to us, the instruction is not correct. Judge Ellington heard argument on what this instruction should say and we should, we put our position forward, said it should reference Baldwin's subjective knowledge, which we do think is the law in New Mexico. And the state said this is not about whether Mr Baldwin should have verified whether the firearm contained live ammunition. There are other grounds completely distinct from that, that serve as the basis for this indictment.

And Judge Ellington accepted that argument that representation. That that's right because what does the statute actually require? It doesn't explicitly require that you check the gun for ammo because involuntary manslaughter can be committed in any number of ways. What the statute requires, how it describes what's required to be guilty of the crime is that the person charged caused the death when conducting himself in a manner that might produce death without due caution and circumspection. It's a generalized phrase to encapsulate the infinite number of ways a person might act dangerously without due caution. And circumspection is pointing a real gun. What you know, to be a real gun at another human being cocking the hammer and pressing the trigger without ensuring there's no ammo in the gun. Is that acting without due caution and circumspection? I would suggest.

Yes. Does the jury instruction, does the statute need to say he didn't see if there was ammo in the gun? No, that's a factual manner in which this element was satisfied. Remember what the SA guidelines say, safety bulletin, number one firearms, the number one safety bulletin safety is everybody's responsibility.

Actors should never point a gun at anybody. Actors should not put their finger on the trigger unless they're ready to discharge the weapon in the Gutierrez Reed trial. That was exactly the opposite of that.

Sorry folks. Sorry. Let me rewind it a little bit, mis answer it. And the court said ultimately, if the prosecutor had questions about whether the grand jury secure that information should have its questions answered by that witness dismissal.

In the state's supplemental reply, they say we've misrepresented the fact that bad faith is not required. It's very clear your honor. We put it in our brief, that bad faith is required on the third ground. I'll talk about, but it's not required on the second ground. I'm different from bad faith that's quoting directly from the control control of the J that the grand jury has all the evidence made.

And so in the h for dismissal, prosecutor didn't let that witness answer it. Peter should have gone to the judge. The second is that the prosecutor read proper UJ I instructions to the right. This, this is where I cut out before we're back and jury. But then commented on one of them in a way that was consistent with the instruction but sort of expounded upon it a bit.

And the court said, no, no, no, we have to comply rigorously. We have to read those instructions exactly as they are word for word, we cannot manipulate, we cannot change, we cannot modify it is critical that the instructions are exactly what they need to be and they weren't. And that failure also provided a separate ground for dismissal. And so let's start here your honor with the three reasons we give on this ground independent again for dismissing the indictment on the basis that it violated the grand jury process. The first is that the jury instruction was inaccurate.

The first element of the jury instruction that the state read was that probable cause exists if the grand jury finds that the target discharged a firearm during the production of the movie, without first verifying the firearm contained no live ammunition. And while the firearm was pointed in the direction of another, the state then had a witness testify that Baldwin had an obligation to verify the firearm contain no live ammunition. The most two pieces of this, your honor the most troubling to us, the instruction is not correct. Judge Ellington heard argument on what this instruction should say and we should, we put our position forward, said it should reference Baldwin's subjective knowledge, which we do think is the law in New Mexico. And, and the state said this is not about whether Mr Baldwin should have verified whether the firearm contain live ammunition. There are other grounds completely distinct from that, that serve as the basis for this indictment.

And Judge Ellington accepted that argument, that representation that that's not what this case was going to be about. Shocked we were when we see the grand jury instruction inserting this exact language, but the state had just argued was not going to be the basis for its case. Again, the grand jury judge was there for guidance.

If the prosecutor had concerns about whether this language could be added in, that's what the judge was there for that's what Herrera said. The prosecutor should have done when deciding to cut off the witness. So that's troubling your honor. What's even more troubling to us is that the state called Ryan Carpenter to testify in the grand jury and Brian Carpenter testified that it was Mr Baldwin's responsibility to check the firearm. Mr Baldwin's responsibility to verify the ammunition and the gun was not live ammunition. It was instead a dummy or a blank and that was definitive. They also had Detective Hancock say that the actor had to do the safety checks.

Two weeks later, your honor, her testimony in the Gutierrez Reed trial. That was exactly the opposite of that. We've quoted that testimony in the brief. Your honor. Mr Carpenter said, actors sometimes view the safety checks, but that's for a warm and fuzzy feeling and that's rare.

He said, sometimes actors say, nah are his words? Nah, I don't wanna check the gun and that's ok. As long as you've checked it with the other sources, the other people who are responsible for checking it, not the, so the, the actual legal standard here is it's ok for an actor not to check if the guns loaded, it would have been fine for Alec Baldwin not to check if the gun was loaded unless he kills somebody. That's how involuntary manslaughter arises. You've taken a human life. And then the question is, did you do that recklessly if nobody dies? If there's no bad outcome.

Obviously, there's no criminal charge and it doesn't matter that you didn't check the gun. But it's like the drunk driver, the drunk driver who gets behind the wheel and drives home. If he doesn't run anybody over and kill them, then he didn't commit manslaughter, duh. But is he nevertheless engaged in the reckless conduct? Sure. The actor, it's the armor's responsibility for verifying whether the gun has live ammunition in it or not.

And you heard Miss Morse in closing argument say the armor is the autonomous decision maker, the actor is going to manipulate again. S A says, safety is everybody's responsibility. S A says, never point the gun at another human being. That's Alec Baldwin. S A says, never put your finger on the trigger unless you're prepared to discharge the gun. That's Alec Baldwin, the, the responsibility and the liability for recklessness can be on many people's shoulders after all.

When Hannah Guterres was convicted of manslaughter. David Hall had already pled guilty to criminally negligent handling of a firearm. Does the fact that Hall pled guilty in this case over this death mean Hamah Guterres could not also bear liability. No, and it doesn't mean Alec Baldwin can also bear liability, laid the gun. Of course he is, that's foreseeable your honor. We do not think a as an officer of the court, a lawyer can elicit testimony from a witness on these grounds saying X and then two weeks later procure A guilty verdict in a related case by having that witness testify, not X, we do not think as an officer of the court, a lawyer should be able to argue one theory to the grand jury. And then in a related case turn around and argue an opposite theory to obtain a guilty verdict just as an officer of the court at a minimum.

But to push it even further into the context of the grand jury process, all these cases, aurora the grand jury statutes, they all say the prosecutor is there. And as Mr Spyer explained, they are not to be the grand jury, but to aid the grand jury to ensure a fair and impartial process, to ensure the grand jury hears the evidence. That's contradictory.

Lampman said, for example, if you put a prosecutorial witness up the state witness and that witness has information that's contradicted by another, you have to call the other lampman dismissed on those grounds that didn't happen here. Your honor. Exactly the worst scenario happened here. The same expert says, X two weeks later, the state has that expert say not X,

that is not fair and impartial, your honor. That is not the presentation of contradictory evidence. It's exactly the opposite of that.

The, that's, that's number one, your honor related to this instruction, the premise of it, the history in front of Judge Ellington and your honor. It's like saying, well, Alec Baldwin, you know, actors often don't check to see if the gun is loaded. It's a warm and fuzzy feeling. Do people often drive home drunk and not run anybody over? Sure. Of course, every, every day of the week, especially on weekends. Does that mean that if they do run someone over, they're not guilty of involuntary manslaughter because normally they don't hit somebody.

Normally there's not a bad outcome, of course not or has, you know, those orders and has that briefing number two, again, under the violation of the structural rules, the process, the state failed to advise the grand jury of its proper authority and role and failed to correct the, the grand jury's inaccurate view or misunderstanding of its authority in these circumstances. The rules are simple. Grand jury is required to obtain exculpatory evidence. The word under 31 6 11 B is shall obtain not may or might and the prosecutor has an obligation to facilitate the grand jury's inquiry into that evidence. And again, facilitate is the word the courts use to describe this, obtain, not may or might or under 31 6 11 B is shall obtain the evidences. The rules are simple.

Grand jury is required to obtain exculpatory evidence. No, no, no, no. That's not the rule. The rule is not that the grand jury is required to obtain exculpatory evidence as defined by the defense. The grand jury is required to consider material and relevant exculpatory evidence, not immaterial and irrelevant exculpatory evidence.

Just because the defense wants to put the label exculpatory on there. They always leave that out. They, this defense team, they left it out in their motions too. They always say exculpatory evidence, exculpatory evidence. They never say what the legal standard actually is, which is relevant, exculpatory evidence. They want to characterize Joel Souza the director in the movie, his good feelings about Alec Baldwin as exculpatory evidence, it's not exculpatory, it's not relevant and not material if it doesn't go to an element of the criminal charge or a legal defense.

The word under 31 6 11 B is shall obtain not may or might. And the prosecutor has an obligation to facilitate the grand jury's inquiry into that evidence. And again, facilitate is the word the courts use to describe this obligation even above and beyond what the prosecutor decides to present the prosecutors there to be the aid to the grand jury to ensure that the grand jury understands its role as responsibilities. The state did exactly the opposite. Again, the state told the grand jury who the witnesses will be not, might be not, maybe not the witnesses that the state intends to call the who the witnesses will be. And then the state reinforced this message by saying that the grand jury could consider the alert letter or just begin hearing witness testimony without explaining the third option.

Consider the alert letter. Here are the state's witnesses. And as Mr Spyer explained, call the alibi witness out in the hallway and look at the movie ticket except there is no alibi witness out in the hallway and there is no movie ticket. If there were an alibi witness, the prosecutor Ky Morrissey

would have been absolutely obligated to present that alibi, alibi evidence to the grand jury. If Alec Baldwin's defense here was an alibi. It wasn't me sitting in that pew with the gun in hand, cocking the hammer and pressing the trigger and firing that bullet into Helena Hutchins and Joel Souza, it wasn't me. I was at a movie, I have a movie ticket.

My mom took me, she'll testify that I was in the theater at the time the shooting occurred. That must have been a stunt double. That would have been a material fact to present to the grand jury. There is no alibi here, Alec Baldwin has never contested that it was he who was holding the gun that discharged and killed Helena Hutchins. That third option was never explained.

Number one and number two, it's clear the grand jury had no idea that was an option at all because when the grand jury was asked how you wanna proceed. They said, well, I guess if that's all our questions about this letter and the question they asked your honor was about a typo. They said, I guess we'll begin hearing witnesses.

In other words, the witnesses, the state pull them definitively, they were going to hear from. And so the whole exchange in the grand jury transcript demonstrates that the grand jury did not understand the purpose of the alert letter, its obligations and responsibilities and the state didn't correct them. The state never explained. Baldwin's witnesses were available to testify. In fact, they weren't, mom wasn't in the hallway, even though Judge Ellington told the state you need to arrange for the scheduling to make them available.

The state didn't, that, that doesn't mean they have to be physically in the hallway. This, this hearing is he physically in front of Judge Morrow right now making this argument. No, he's doing it over Zoom or some equivalent of Zoom. That's how witnesses can testify before a grand jury.

They don't have to physically be in the hallway. Hm. Didn't even call them, didn't contact them. They never intended to call these witnesses. That's just mind reading. We gave multiple examples. Your honor of briefing in our briefing where the grand jurors were asking for information that would have been answered by the S A statement by Dave Halls, by Sarah Zachary, the industry safety guidelines, Joel Souza or any number of other sources.

Instead, when the grand jury asks those questions again, the industry safety guidelines S a safety bulletin number one firearms, it's not exculpatory for Alec Baldwin. But even if it were, it wouldn't matter because sad guidelines don't Trump New Mexico Criminal law, the state cut them off. Exactly the kind of behavior in Harar that justified the dismissal on this ground presented testimony from a different witness. And oftentimes testimony that contradicted what a different witness would have said Carpenter is the best example or aig aig suing Mr Baldwin seeking money damages. And MS Morrissey put some footage on a screen for digi to explain.

And as we've all seen intervening cause is a material issue here. Judge Ellington required the instruction to be read if there was evidence to support it, the state read it. And so Mr Deigo is testifying about the footage that the state had put on the screen and he says, well, there are a

number of things that I'm concerned about here. First of all, as soon as Mr Baldwin emptied the firearm and we had to reload it. Dave Hall should have called cut to give everybody the moment to safely reset. It appears as though he continues.

The armor is putting spent ammo in the same fanny pack. Her pouch is li live ammo as she pulls as she's pulling live ammo out of it. You kind of went past this for a moment.

Adio says to M Morrissey Dave Halls the first ad who is in blue jeans and a black shirt is not M Morrissey cuts him off. He's explaining intervening cause I couldn't have dreamed of better testimony to start to explain intervening cause Miss Morrissey cuts him off in the middle of it. And after she had already taken something off the screen that he was trying to explain and she says to him and so one of the arguments of the defense, they tried to make this for Hannah Guterres too was intervening cause.

So, intervening cause is a legal doctrine that would apply where you engage in some conduct that ends up having a bad outcome. But the only reason it has a bad outcome is that between your conduct and the bad outcome, there's an intervening cause intervening between those two things, your conduct and the bad outcome. So your conduct might be uh driving a car down the street and a child runs out into the street and you hit the child with your car and kill the child. And they say, well, you were acting recklessly in the manner in which you were driving the car, that's what killed the child. But you're able to show that in fact, between your car and the child, someone else had spilled oil all over the roadway. The only reason you were not able to stop was not because you were driving recklessly, but because there was an intervening cause, the roadway was made unpredictably slippery as a result of the oil.

You could not have foreseen that. Therefore, you should not have liability for your car having killed that child. That's an intervening cause.

What's not an intervening cause is something that happens before you start driving. That is not between you and the bad outcome. Alec Baldwin knows he's holding a real gun. He knows it's capable of holding live ammo, capable of firing live ammo. He knows he's pointing it at a human being. He knows he's cocking the hammer and pressing the trigger all the steps required to fire what he knows to be a real gun in his hand. There was nothing between that conduct and the bullet striking Helena Hutchins.

There was no intervening event. He was not, for example, firing off to the side of Helena Hutchins and a piece of the set broke off, fell in front of the path of the bullet and deflected it into Helena Hutchins. That would be an intervening cause nothing like that happened here. However, the bullet got into the gun. New Mexico law does not care.

In fact, we have actual New Mexico Law on this New Mexico Supreme Court. When it comes to the question of how did the bullet get in the gun? It could have made no difference to the trial of a charge of involuntary manslaughter as to who loaded the gun? New Mexico Supreme Court does not care how the bullet got in the gun. All that is necessary to establish for involuntary

manslaughter by the use of a loaded firearm is that a defendant had in his hands, a gun which at some time had been loaded and that he handled it without due caution and circumspection, cocked the hammer pointed the gun at a human being and pressed the trigger without ensuring it wasn't loaded and that death resulted, period. And after she had already taken something off this explaining intervening, cause I couldn't have dreamed of better testimony to start to explain intervening cause Miss Morsey cuts him off in the middle of it. And after she had already taken something off the screen that he was trying to explain and she says to him and keep in mind we're here for Mr Baldwin Horns, your narrative. What is Mr Baldwin doing in this scene that we watched? It's funny, I guess my uh this live stream has popped up on the Alec Baldwin um um public relations team radar screen because I see him popping into the uh comments now and anything that happened after when the camera turns off because we're not there, that's concerning you. That's exactly the kind of conduct, cutting off a witness who withholding evidence, a witness is about to give whoever Glenn is in the comments.

He says all actors, all actors are capable of taking a weapon out of battery, inspecting the action to ensure it's clear, then unloading the ammunition to be able to inspect each round to know which of three kinds of blanks it might be and how to determine if it's a dummy Glenn. Your, your, your questions don't matter. It doesn't matter what all actors could do, what matters is what Alec Baldwin could do and you know what Alec Baldwin told the police when he was questioned by them the day of the shooting, he knew this was a real gun. He knew how to handle guns. He knew how to identify and differentiate blanks from live ammo. He told the police, he knew all of that.

That's the defendant. If that ground alone in Herrera was a basis for dismissal independent of anything else. That one thing. And that's because the whole point of the grand jury process as Judge Ellington explained it in some of his orders to give the grand jury more, not less. This is exactly giving the grand jury less on a critical issue of intervening cause. And then as we explain in our brief, your honor, there are examples of where the grand jury misunderstood evidence and said, Mr Baldwin refused to check the gun and then he got the gun. How would he check it? Would he shake the bullets? Would he put them in his hands? A question that has no premise in the evidence and is not accurate instead of correcting that misunderstanding instead of having a witness who could explain Mr Carpenter as he did in the Gutierrez trial, saying the actor has no responsibility, she cuts it off.

She calls Mr Carpenter who testifies exactly the opposite of what he testified under oath in front of your honor in the Gutierrez region. It's so funny this Glenn character in the comments. He's like, what's his most recent one? The whole, the entire system is built to not rely on actors. Is it Glenn? Then why does the S A bulletin say safety is everyone's responsibility including the actors? Why does the S A safety bulletin number one for firearms? Say actors should never point a gun at anybody. What, what, what does the safety bulletin say, actors should never put their finger on the trigger until they're prepared to discharge the weapon? Why doesn't the s a safety bulletin say actors have no responsibility for the safe handling of firearms if the entire system is built to not rely on actors.

You hack trial, Mr Baldwin was responsible for checking the firearm and verifying whether it had bullets exactly the opposite. These are things that Herrera dismissed the indictment for. And when you look at the grand jury record, that first point I made about the grand jury's understanding of its role and responsibility. There's literally nothing in the grand jury record, nothing in the transcript to show that the grand jury was informed of its obligations and responsibilities. The state says, well, that's the court's responsibility.

Judge Ellington should have done that. Well, there's nothing in the record to show what they learned what they received and how they were told about their responsibilities. The state didn't do it and the state didn't correct it when it was clear they didn't understand and the Yaari case, your honor dismissed for exactly this kind of reason. And Yaari the state argued that the grand jury was given a grand jury instruction manual, apparently from the description of a big pile of information that had all the things the grand jury could ever want to know about. Its responsibilities, its roles, all the different kinds of crimes that exist, the elements of the crimes, everything you'd want to do to instruct the grand jury about how to be a proper grand jury was in that manual.

But the state when it came time to read the jury instructions in the Lari case just referred the grand jury to the manual and showed them how to use it and said, go there and that's where you'll find the instructions. The court dismissed the indictment on this ground. Didn't have to prove prejudice, didn't have to prove materiality because that violated the process. Why did it violate the process? Because the court explained to you lava, it's the prosecutor's obligation to act in a fair and impartial manner. It's there to ensure that the grand jury received all the information it was supposed to receive.

And the grand jury was supposed to be aided by the prosecutor in doing that. And there was nothing on the record, even though the prosecutor said that they gave the grand jury this manual. And even though the grand jury was supposedly told how to use it, there was nothing in the grand jury transcript that gives us or gave that court confidence that the grand jury had been properly instructed, nothing in the transcript. And the court said that alone requires dismissal. If you can't in the four corners of the transcript, find those instructions and have confidence in this indictment that the grand jury knew its role and responsibilities.

Then that's the end dismissal. No materiality required, no proof of prejudice, no proof of bad faith in the state versus Hill case. Talk about grand jury secrecy. We read in the New York Times when the grand jury date would appear. New York Times reported that M Morrissey had conducted an interview explained that the grand jury would take place on November 16th.

And there was a lot of other comments about the firearm and the trigger of things that the prosecutorial rules of ethics don't allow prosecutors to say focusing particularly on the grand jury date, but also the rest of it. But on the date, if we look at state versus Hill State versus Hill had a special prosecutor involved and that special prosecutor had not been properly appointed. Therefore, when the special prosecutor was in the room of the grand jury presentation, there was an unauthorized person in the room. The court said end of story, this indictment dismissed.

Why? Because the grand jury rules need to be enforced rigorously, secrecy is a vital requisite of grand jury procedure, quote unquote State versus Hill. The fact that there was an unauthorized person in that room meant that the secrecy rule had been violated. Highly, highly technical, no proof of materiality, no proof of prejudice didn't matter.

We safeguard the system. Secrecy is a vital requisite. The state disclosed the grand jury date to the New York Times in an interview. We've cited the article that breached the secrecy rules. So did a number of other comments, you have all the briefing in front of you related to that, that alone, as Judge Ellington said, could cause significant prejudice, which we don't have to prove anyway.

But Judge Ellington said, I am deeply troubled. The world knows this grand jury date. I don't want to read the New York Times tomorrow about anything that's happened here. Clearly, he had read the New York Times before and saw that interview because there are members of the grand jury coming to me, at least one coming to the clerk and saying, I wanna sit on the Alec Baldwin grand jury. That's entirely unacceptable. Highly prejudicial. That's exactly what state.

So this is more nonsense from the defense. They're saying your honor, someone, someone actually asked the judge if they could be on the grand jury, that's completely inappropriate and you know what? It is completely inappropriate and you know what happened? That person was not seated on the grand jury. So a request for improper conduct that was not allowed is not a problem. Mrs Hill was getting at you violate the secrecy rule which that interview did by disclosing that date to the New York Times. That's the end.

And you have a harmless consequence. Someone asked to be on the grand jury and was told no nly and strictly enforce the rules and this whole process your honor violated the rules from start to finish the secrecy rules. The court ordered that witnesses be available, they weren't made available, they were not called, they were not scheduled. The state went on multiple media shows and made statements that violated the grand jury secrecy rules in violation of the ethical rules. As so Maris Morrissey would point out that she made statements to the press only in response to misleading information put into the media by Alec Baldwin and his defense team, which is permitted. Well, governing the statements that prosecutors can make, which Judge Ellington expressly called out as I mentioned and we actually learned just this week your honor that the state paid Brian Carpenter to go on multiple TV shows including the Sean Hannity show to disparage Mr Baldwin make comments about his ultimate guilt saying he pulled the trigger, had a duty of care saying the prosecution was doing an excellent job not disclosing. He was a paid expert being paid to go on a TV.

Show to disparage Baldwin by the state. And so that, that's the second ground, your honor for dismissal. No prejudice for the third ground is that the prosecution acted in bad faith, which allows the court to review sufficiency and the judicial review of the indictment and the evidence demonstrates that it should be dismissed. Now, number one, the state again cited no cases on this other than saying bad faith is required on this standard, we agree with that. That's not the

standard for the second ground. It is for this one. If you look at bad faith, your honor, bad faith is defined very broadly.

It's dishonesty of purpose, belief or motive. And we've cited numerous examples. I won't belabor the court today.

It's all in our briefing page. They're not gonna belabor it because it's all bullshit. And so the, the evidence of bad intent on the part of Kerry Morrissey, bad motive is, is this triple hearsay, anonymous claims that Morrissey said something, uh, by an unnamed source published in the Hollywood media publication. That's why he doesn't want to belabor it just 36 to 38.

For example of our opening brief, several examples of dishonest belief, purpose or motive, things like granting the 48 hour deadline to Gutierrez Reed. And on the same day saying to Alec Baldwin, you're not gonna get that 48 hour deadline even though we've never seen this done before. Again, harmless harmless error, even if it was error because the judge said, I agree with the defense, you need to give them the 48 hours and the defense got the 48 hours and more harmless error even if it was error, those are the sorts of things that in the aggregate and individually are sufficient to show a motive, a purpose, a belief that we believe opens the indictment to judicial review. So is Carpenter's testimony, having a witness testify, one thing in one trial and then the opposite in one presentation and the opposite in another shows dishonesty and purpose.

And this is dishonesty and purpose. Having a witness testify that Hannah Guterres had responsibility for making sure there was no ammo in the gun. And that Alec Baldwin had responsibility for making sure there was no live ammo in the gun is not inconsistent testimony.

They can both have that liability, have that responsibility, this belief or motivation. Your honor has all that. I won't believe it when you look at the evidence and do a judicial review of sufficiency. It's important to look at a few different examples. Again, I won't belabor the point.

It's all in our briefs, but I, I wanna highlight two things. The state called Detective Hancock, the state called Detective Hancock. And at the same time, she was on Mr Baldwin's list of, of witnesses that we submitted to judge Ellington and believe should be called to testify in front of the grand jury.

Judge Ellington said, if you call any of these witnesses to the state, you're not required to ask word by word the questions that Mr Baldwin put in his attachment to the alert letter, but you are required to elicit the information from those witnesses that Mr Baldwin is intending to elicit so the grand jury can hear it when you look at Detective Hancock's testimony, your honor. What you'll see is that Detective Hancock gave very tight testimony under very tight questioning from the state. She said Mr Baldwin was required to do the safety checks of the gun, even though Detective Hancock had been specifically told by certain witnesses that he wasn't required to do that. She testified that the investigation was, it's like the drunk driver, right? Uh Listen, you, you

don't have to drive sober. You can drive drunk if you want. And if you don't kill anyone driving drunk, you haven't committed vehicular manslaughter.

But if, if you decide to drive drunk and you do do kill someone, it's manslaughter. So the fact that some other people have said they think it's not required for Alec Baldwin to check to make sure there's no rounds in the gun. Well, Alec Baldwin's free to point the gun at Helena Hutchinson. Cock the hammer and press the trigger without making sure there's no live ammo in the gun.

And if it turns out there's no live ammo in the gun, he hasn't committed manslaughter, but he assumes the risk, the legal liability. If he doesn't check that there's no live ammo in the gun and it turns out it's there, that gun in his hand where he cocked the hammer, he pulled the trigger, he pointed the muzzle directly at Helena Hutchins and he does kill her. That's manslaughter perfectly proper.

The crime scene was secured, et cetera. Even though there was specific evidence in the state's files from, from chilling. For example, that it wasn't, she was asked a number of questions, very tight rope that did not elicit the information that Mr Baldwin argued should be elicited and Judge Ellington approved of that. So if you look at that testimony alone, your honor, you will see a violation of the requirements of Judge Ellington's order and New Mexico law, the state put Carpenter on the stand. You've heard the contrast as I've described it, the case law is very clear, your honor that when you put a witness on the stand, a state witness and that witness, a law enforcement witness, a law enforcement expert gives testimony, you're required to put on testimony that contradicts it. The state doesn't do that. We put all this evidence in our brief.

Your honor, your honor has the grand jury alert letter with that. So I won't go through it all. But the bottom line is that the list of evidence that the state had in its possession did not elicit and should have elicited is significant. Its own gun expert testified. The FBI broke the gun, no signs of modification admits in the Gutierrez Reed trial that the, the firearm shows evidence of rough tool marks on the hammer. We could go on and on your honor.

The point is rough tool marks in the hammer is not evidence of modification. That's evidence of poor machining at the factory. There's significant evidence that was not presented to this grand jury that should have been elicited from Detective Hancock, that should have been elicited to carpenter that contradicted the evidence the state had presented at the Gutierrez retrial that upon review in the aggregate we believe is more than adequate to show this indictment should be dismissed when you conduct a review of sufficiency. And so those are the three grounds your honor. I'll stop and ask if you have any questions, but otherwise, uh our briefs, you know, detail this extensively. So I'll, I'll rest there. Thank God.

All right. Thank you. I'm going to um, oh my God, we're only 45 minutes into this two hour and 24 minute hearing. Oh, I told my wife, I told Emily I would be home by noon.

That's in less than an hour. That's not happening. We take a bathroom break and um, we'll get back on here. So, um, it's 1047. Let's return at um, 1055.

Ok. Thank you. Your honor. Oh my God. Only a 10 minute break. All right.

Let's see if I can, uh, pull this off. Let's see. Ok. So I don't have questions from your presentation at this point. However, I will later as, as we, when the state finishes their response.

Ok. And an interchange. Ok. Go ahead. Were you finished mister you.

Can I am? Thank you, your honor. All right, thank you. Go ahead, MS Morris. Uh your honor. Thank you.

So I want to begin by uh briefly addressing the uh initial comments by Mr Sparrow. Um By the way before Carrie jumps in uh full disclosure, I think Carrie did a great job in the prosecution of Hannah Guterres. I think she did a great job in the um uh defense of, uh, oh, my gosh, what was that guy's name? Uh, Dean Cummings, Dean Cummings was the, uh, the world-famous skier who was trying to buy some land in New Mexico and ended up killing the man, uh, who owned the land, um, in a physical confrontation was, uh, charged with that man's murder, was acquitted. Um, and her half of his defense team was Kerri Morrison.

She did a great job in that as defense counsel. Uh, she's now a special prosecutor, I think, to my knowledge, the first time she's ever played the role of prosecutor, uh, in the Hannah Guterres trial. And now here of course, and she did a great job in Hannah Guitars, very, very sharp attorney. But it is her first time as a prosecutor.

Is it theoretically possible that she screwed up the grand jury indictment process? Because she's sitting on the other side of the table? Maybe Mr Spiro seems to think that there's something wrong with the fact that the case was dismissed and brought back there's absolutely nothing wrong with that. Uh That was an independent decision made by the special prosecutors because Mr Nus asked us to do that. That is exactly what happened. Uh, and his ask was not unreasonable. Um, we did it because Mr Nus came to us and said, hey, it doesn't seem fair that this case continued to hang over my client's head while you guys are waiting for forensic testing that could be dispositive. So, would you do, would you do the right thing and dismiss it without prejudice? We agreed to do that. Uh So any complaints that the case was dismissed and brought back are, are an absolute uh misrepresentation of the history of this case.

The issue with regard to the removal of the 48 hour language in the target notice, I've never fully understood what the concern here is. This isn't something nefarious. This is something that the state did because we intended to ask the court for a scheduling order under 5302.2 subsection D which has since been removed from that rule. Uh But it certainly was in the rule at the time that we were dealing with this because it struck us that this case was going to require that the court have enough time to consider all of the legal issues. And 48 hours was not enough time keeping in mind that we served Mr Baldwin with his target notice approximately

three weeks before the grand jury date. Uh So we had created a situation where there was going to be plenty of time because the rule contemplates 10 days, the rule contemplates that the defendant receive his target notice 10 business days before the presentation, we gave it to him three weeks in advance. We asked the court for a scheduling order under the rule that allowed us to do it.

The court declined. Uh We understand that we never asked the court to give Mr Baldwin any less than 10 days, which is what the rule contemplated. There's no problem with that. If we had included the 48 hour language in the target notice and then filed a motion to modify it. The complaint would have been that they relied on the 48 hour notice in the target letter.

So we removed it told them we removed, it told them why we removed it. There's nothing nefarious about that. You know, we asked the court to permit a minimal voir dire of the grand jury because of the tremendous amount of press coverage that the case had received. We were open to having a conversation with defense counsel to see if we could come to an agreement about, you know, just like somewhere between five and 10 questions to make sure that we had grand jurors who weren't prejudiced against either side based on all of the press coverage that they've seen. Um The, the defense didn't really object to that what the defense did was they filed a motion saying we want to ask these 100 questions.

I mean, they, they wanted to do a Voir Dire. That would have been AAA trial voir Dire. And at that point in time, it was clear that we weren't going to be able to work together, uh, in order to craft a few questions to make sure that all the grand jurors were, were good to go. Uh The court denied our motion, we didn't do it. There's no prejudice there, there's no problem with any of that. We asked the court to let us do something.

The court said, no, we respected the court's ruling that, that that's not evidence that that a fix was in. It's not evidence that there was anything nefarious going on. Mr Nicas has continued to a a and Mr Spiro supported it today.

He has continued to indicate that that there was a, a statement that they claim to be attributed to me that came out. I think on the Today show, that statement has never been attributed to me. Mr Nichols has, has just continued to cite to a Today Show or an NBC news story and say that for some reason, he thinks that I was the source that provided the information. He's never demonstrated that that was me.

I don't think in my entire life I've ever used the phrase teaching moment. I don't think I've ever even said that in my entire life. So when we filed our response to the motion to dismiss the grand jury, quite frankly, I didn't have a lot of disagreement with the controlling case law. I don't disagree that Herrera is a case that should be reviewed by the court. I don't disagree that Jones is the controlling case. Both of which are actually cited in my brief.

Uh I referred to judge Ellington's order citing Herrera and Jones. So when Mr Nicas tells the court this morning, we didn't cite to, to a single case. That's not true.

Um, we talked about Herrera, we talked about Jones. Um, we've asked the quote, we've given the court a little bit more information in, in our, uh, uh, request for, for supplemental briefing with regard to Herrera. Uh, we cited to 31-6 dash 11 A. We cited to UJ I 14, 231. That is the controlling law on this issue. We discussed it, we cited it where we disagree with the defense is on the facts as they have presented them to the court. So as, as a threshold issue, the, the court has to find that there is bad faith on the part of the prosecution before conducting a review of the grand jury in support of bad faith.

The defense seems to rely on the Herrera case, but I, I don't think the Herrera case is hang on, let me get to, um, in terms of bad faith the Herrera case found bad faith on the part of a prosecuting attorney. But in that case, the prosecuting attorney ordered the target, the target not to answer a direct relevant question from a grand juror. That is not at all what happened during this grand jury.

The attorney also in that case told the grand jury that the target's testimony should not be considered because it was an impermissible attempt to make the grand jury consider the consequences of its decision to indict that is not what happened in this case. I agree that Herrera should be reviewed by this court. Um but the facts as presented don't support a dismissal of the indictment based on Herrera. Herrera is completely distinguishable and Herrera was cited in our brief in the Baldwin grand jury, we had witnesses who were not at all familiar with how safety protocols work on movie sets because hardly anyone knows how safety protocols work on movie sets. Detective Hancock, a grandeur posed a question to Detective Hancock about the specifics of how safety protocols work on movie sets. I decided to have another witness who actually understands how those safety protocols work. Answer the question.

II, I didn't hide any information from the grand jury. I certainly, when I did that, my intention since we're talking about bad faith was to ensure that the grand jury got information that was accurate and reliable and they were going to get accurate and reliable information from the guy who's an expert in movie set safety. Not from a Santa Fe county sheriff's detective who doesn't know anything about set safety on movie sets. That's not an example of bad faith.

I see this person, Kevin diets in the, in the comments offering to debate. But Kevin, you're, you're acting in bad faith right here. So why would I debate someone who's, uh, actively engaged in bad faith argument? She writes, given that Carrie Morsey just said, hardly anyone knows how safety protocols work on movie sets.

And Kevin quotes that I love that. Hardly anyone knows how safety protocols work on movie sets, including people who work on movie sets. That's not true. Kevin, the people who work on movie sets get safety bulletins throughout their careers and every morning on the movie set, so they know how safety works because they're trained on it.

Alec Baldwin knows how gun safety works on movie sets. He's done some 60 movies. Half of them roughly involved him handling firearms. He bragged to the detectives when questioned the day of the shooting of Elena Hutchins, how well trained and experienced he is with firearms on movie sets. Brian Carpenter would know how AAA Career Armor on movie sets would know. So of course, people know how guns move on movie sets. If they have the training and experience the specialized knowledge to know.

But if you lack that, then you wouldn't know a police investigator with no experience on movie sets would not be expected to know the safety protocols on movie sets because she lacks the specialized knowledge and experience. She would not be the appropriate person to answer questions about safety protocols on movie sets. She literally does not know she has no firsthand training or experience who would know another witness that Kerri Morrissey presented to the grand jury.

Brian Carpenter, whose career has been as an armorer on movie sets. Might he know something about safety practices on a movie set? Yes. So of those two witnesses, Detective Alexandra Hooters, Hancock and Brian Carpenter, which would be the most appropriate to answer a grand juror's question on safety protocols on a movie set.

Mr Nus has tried to, to convince the court that somehow there's something wrong with Mr Carpenter's testimony and that his testimony before the grand jury in this case is somehow supportive of a nefarious or uh uh intention on the part of the prosecution. I have reviewed Mr Carpenter's testimony from the trial. I have reviewed Mr Carpenter's testimony from the grand jury. Carpenter's testimony in the Gutierrez trial is that the armor is in charge of gun safety. We agree. He also testified to that before the grand jury. Mr Carpenter's testimony in the grand jury was that the actor has a responsibility for the firearm once it is in his hand, that is absolutely accurate.

I have gone through and pointed the court numerous times to the safety protocols for movie sets. Boom, boom. And what they say is the person who's holding the gun isn't supposed to point it at anyone.

The person who's holding the gun is supposed to keep their finger off the trigger, the person who's pointing, who's holding the gun is supposed to know what their intended target is. All of those are things that Mr Baldwin failed to do so much for the actor having no responsibility for safety with a firearm on the set. And that information was appropriately presented to the grand jury in this case.

Through the testimony of Mr Carpenter, the defense wants somehow to try to convince the court that the actor who is holding a real gun in his hand has absolutely no responsibility for what he does with that gun. And it's simply not the case and it's, it's, it's not the case when you look at the, at, at, at Mr Baldwin's own guidelines from the screen Actors Guild. So we're presenting the evidence that we have that supports the charge. In addition to doing that, we, we presented this grand jury with lots and lots of exculpatory information about MS Gutierrez

failure about the source of the live rounds. That is the proximate cause the proximate cause issue that the grand jury absolutely needed to hear about and understand is MS Gutierrez put a live round in the gun and Mr Baldwin didn't know that there was a live round in the gun. That's, that's proximate cause and that was presented to the grand jury because I agree it's exploratory.

It goes directly to the proximate cause jury instructions that they didn't have to argue with us about. We, we gladly presented those jury instructions to the grand jury and, and I don't, I can't, I can't imagine a world at trial where we're going to object to those. There's not bad faith here, there was no testimony at any point in time, not in the grand jury, not before the nn not at the Gutierrez trial, that the actor is required to participate in the safety check with the armor and the assistant director, nobody ever said that it's not true.

It's his option and he declined to take advantage of it. We are presenting the facts to the grand jury as we see them with regard to Mr Nichols in his motion goes through these, this series of, of bullet points uh that he believes are related to, to bad faith. And one of those that, that has been discussed today, prob probably the only one that that's actually relevant to the grand jury. Uh is, is the, is the information or, or, or the ra rather the interview. I wouldn't call it an interview. Um But I did provide the New York Times with the date of the grand jury.

I've acknowledged that I've never tried to hide that. Um Honestly, I, I absolutely understand that grand jury proceedings are secret but the date of the grand jury, this isn't a federal grand jury. The date of the grand jury proceeding is given to witnesses who do not have an obligation to keep it secret. They don't sign an oath. They have no obligation to keep that secret. Uh, it is given to the target.

The target can give it to his wife. He can give it to his parents, he can give it to his wife's hairdresser. He can give it to whoever he wants the date of the proceeding. So the date of the grand jury is not privileged information.

Thing in my opinion, is not secret, but best case scenario for Mr Baldwin, let's say it absolutely is the date specifically uh is something that nobody's ever supposed to know about, even though we give it to a whole bunch of people. The grand jury didn't happen on November 16th. The judge moved it, he moved it because he needed more time to address the legal issues. And that was the reason that we asked for a scheduling order in the first place. So the grand jury was moved from the 16th. Mr Nichols has continued to try to, to, to argue in his pleadings, although he hasn't seemed to argue it much uh this morning, but he seems to argue in his pleadings that after that, I again provided the grand jury date to the press. Absolutely not.

That absolutely did not happen. So and I can tell you judge it wasn't bad faith. It was just my understanding of the fact that that everybody ends up with the date. Um A bunch of people who, who are not required to keep it secret, get the date.

Uh and, and if that was a mistake, it's my mistake and I'll take responsibility for it in terms of the waiver issue. All of the cases cited by Mr Nuss are civil cases, but again, they presented the case law that we agree is the controlling case law. We simply disagree with their recitation of the facts.

So I filed a response that was largely my recitation of the facts. I do wanna say with regard to Herrera paragraph 20 our grand jury statutes require that the prosecuting attorney alert the grand jury to the existence of Target offered evidence and do not require the prosecutor to actually present such evidence. I've made this point over and over and over again because the defense and their motions keeps conflating these issues, make available on the one hand and actually make a presentation of the of defense evidence. On the other hand, the state obliged to make the alert letter specified, claimed exculpatory information available to the grand jury. The state is not required to actually make a presentation to the grand jury once alerted to Target offered evidence. The grand jury remains free to decide not to hear the evidence or to hear the evidence. And weigh it as it sees fit.

So despite that, that is the law in the State of New Mexico, the defense continues to argue to this court that our failure, 21, notify the grand jury of their obligation or not their obligation, but notify the grand jury of their power to call witnesses and, and review documents uh was somehow inappropriate. And in addition to that, the argument that we didn't call their witnesses, we, we didn't present the testimony that they wanted us to present. We are not required to do that. We went above and beyond in this grand jury proceeding, providing to the grand jury, not only did I read the target letter in its entirety. Word for word I gave each and every grand juror a copy of it, they had it the entire time. We were going through the presentation, we didn't take those copies back. We left those copies with the grand jury the entire time so that if at any point in time they wanted to reconsider and they wanted to say, hey, we'd like to hear from so and so they had it with them the entire time.

Well, I I I'm I've always been a little mystified other than reading the entire target notice and giving each and every grand juror a copy of it to read, asking if they want to take a break, to consider it, giving them time to consider it waiting for them to knock on the door coming back into the room and saying, how do you want to proceed now that you've had time to review the target notice and them saying, let's proceed with the witnesses. You have. What other than that, what am I supposed to do? And, and, and in this regard, if the court will indulge me to a certain degree, the defense has misconstrued what Judge Ellington ordered when we had our hearing on January the 11th, uh 2024. Prior to the grand jury, I would like to play just five minutes, a five minute audio of that hearing.

So the court can understand exactly what Judge Ellington ordered and the back and forth that we engaged in. Would the court indulge me five minutes? Is it judge awake? Your honor, Mr N Mr Spiro, what's your position? I'm sorry. Yeah, I would, I would object unless we're putting in the whole transcript and she can, she can submit to the court in camera. I don't think we have to sit here and, and see some snippet of it and I have to, to redirect.

I would ask that the court just review it in camera. If the court thinks it's necessary. I know the court has the transcript and I would also add your honor that none of this was presented in the context of the opposition brief. So the request for full context, the whole transcript argument on this would be highly prejudicial if we were going to be this focused and narrow.

I'm aware of the, um, I've certainly read the, the um, log notes and listened to the log notes of, of Judge Ellington's order. Uh So make your point, Miss Morrison. I don't, I don't need to uh be refreshed. Thank you.

So, the point is Judge Ellington asked the grand jury clerk to provide refreshed copies of the grand jury orientation instructions so that the grand jurors, even though they had already had all of that information in November, even though they already understood that they could call witnesses that they could subpoena documents. Judge Ellington had the grand jury clerk give them those instructions again so that they would be refreshed about what they can do in the grand jury, the powers that they have the witnesses that they can call there. There is no obligation on my part to start explaining to the grand jury something different than what the court has already provided them. They were provided those as a refreshment and that explained everything that they could do. They understood their powers.

I had a discussion with Judge Ellington about the fact that obviously, because this decision is coming, I think less than a week before we're presenting the grand jury that there would be some witnesses that we wouldn't be able to get there. Um We weren't going to be able to get out of state witnesses there. I had this entire discussion with Judge Ellington because I had concerns about it. And a a and I, I asked the judge if they want to hear from a witness and I can't get them there by the time the term ends, what's the best thing for me to do? Are we gonna ask the grand jury to stay together to come back on another day? Judge Ellington said that's a possibility. If any of these problems arise, I will be in the courthouse because I'm gonna be in trial, just come and, and, and speak to my staff. And if I need to, to render assistance, I'll render assistance.

The grand jury never asked to hear from the witnesses. There's nothing I can do about that. Again, judge, I, if, if, if the court wants to buy Mr Nichols argument that, that, that is uh uh predicated on a bunch of civil cases um with regard to waiver, that's ok.

We can just focus on the cases that, that the defense presented because those are the controlling cases. Uh And that, that is the controlling statute. We did everything that we were supposed to do. We went above and beyond and I want the court to understand at the conclusion of evidence.

I reminded the grand jury that if there were any documents in Mr Baldwin's target letter that they wanted to see, I had copies of them right there. And when I said it, I pointed to three bankers boxes that were sitting behind me they were sitting there in the room and I pointed to them because I had copies of each and every document for all of the grand jurors. And I think there were like 22 grand jurors in the room.

So not only did I tell them, knock on the door and let me know if you wanna see any, I made very clear to them that they were there and that they would all have copies of them if they needed them. This is not a trial. This is grand jury. They provided an alert letter, we read it, we followed all of the judge's orders.

If the court has any questions for me, I'm happy to answer them. I'm gonna let you do your reply. So, um, your, your honor just very briefly. Um and then I'll turn it back over to Mr NICUs because a couple of the points directly related to his points. But um the, the colloquy with Judge Ellington suggested that he understood the logistic problems. That's what being the prosecutors like.

Sometimes it's not easy. You want to have a case in the last day. You don't get to fast pitch it. You just, there's lots of options, right? One option is to have the witnesses there, one of them there, one exhibit there, right? There's nothing in the transcript about pointing at some boxes of evidence. There's nothing like that there.

Um And there aren't any witnesses there. So what Judge Ellington is saying is a hint, hint, you might want to be careful. I know I'm gonna get emotion on this. And um this is a runaway case and there's a lot of zealous going on. You can also.

So this is, this is all just a AAA motive, uh propagandist. Uh speaking, this is a runaway case. Is it a runaway case? Who says it's a runaway case? The defense does, that's how they want to characterize it. The judge is saying, hint, hint, what's a hint? Hint, judges give orders, they hear motions and they give orders.

There's no hint, hint, delay, the graduate presentation so that you're not on the last day. Lots of options to do it. Anybody who's a Houston prosecutor knows that. Um And then uh the other point that I would just make is, is, is where M Morrissey started with everyone who's an experienced prosecutor should know that this is just a dig, a personal dig at Kerri Morrissey because of course she's a special prosecutor. She's a career defense attorney. Uh So she's not an experienced prosecutor, you know, who else is not an experienced prosecutor. This guy, Alex Burro Luke Nikas, neither one of them are experienced prosecutors.

They're not even experienced criminal defense lawyers. There's civil litigators which is, you know, this wasn't nefarious, wicked, evil acts of, of horror. I I never said that it was, I don't think this is, this is some wicked evil prosecutor or some horrible person. But on that day in that grand jury, they didn't do what they should have done. It's just that simple. You're not supposed to do that when you're a prosecutor you're not supposed to conduct yourself that way.

And that's not an indictment that this court could hang their hat on. Completely ambiguous. You're not supposed to do that.

You're not supposed to conduct yourself that way. What way, what way? And I have just a few points, your honor. Our, our briefs address anything that the state has argued most of what it's argued in fact, has been waived in any event. Uh But just a few points to illustrate some of the, the areas where the state has made comments that are not accurate. And, and ultimately, we hang our hat on everything else we put in our brief to demonstrate that the rest of it is consistent with these. And so number one, the state says we don't cite any criminal cases on waiver.

We only cite civil cases that's not accurate. We cite state versus Vaughn, the standard on waiver is exactly the same for both scenarios. Number two, the state says we didn't call Detective Hancock to talk about gun safety because she didn't know about gun safety.

That's why we stopped her and we actually had somebody else testify that's not accurate. MS Morrisey asked Detective Hancock about what happens when the armor hands the gun off to the actor and Detective Hancock said she's supposed to do a safety check with the actor. And ultimately, that wasn't done. So the testimony of Hancock, even though we just heard from the state, which is not acknowledgeable about safety standards, the state elicited that number three, the Harar case, your honor. The Harar case does not say when a target is giving testimony and the target is saying a certain thing and the state cuts them off the target because the target has a right to be there.

Therefore, has created a scenario where an indictment must be dismissed. The outcome of that case had nothing to do with the fact that it was the target testify. The court made very clear that when a prosecutor cut somebody off and, and denies the grand jury information that they've asked for that period, full stop is an interference with the process and denies them what they're entitled. See, this is the misrepresentation if, if you, if the prosecutor cuts off witness, a who's about to speak to some information, but then the prosecutor brings in witness b who speaks to that information, that's not the prosecutor denying the grand juror, the grand jury, the information, the grand jury got the information from the witness best position to provide it.

There's no denial of information they do. And if your honor looks through the transcript and sees the number of times the state said words like let me stop you or I'm going to stop you or you're gonna hear this information from somebody else. It's over 20 times. That's not a denial of information to the grand jury. He just said it. You're going to hear this information from somebody else, did they? Yes. Day one pages 2026 27 34 88.

100 and 60 I can go on and on and on your honor. This was something that happened. It was pervasive throughout the entirety of the process. And so if you look at the Harra case and the basis for it, and you look at the cases, we cite we respectfully submit, they require dismissal and the state did not discuss and talk about and analyze these cases.

The only reference the state made to any cases was when it said in Judge Ellington's order where he cited Carrara and quoted Jones. Judge Ellington said such and such. There was no

analysis of the case law, there were no cases cited for authorities. The state didn't address any of these issues in its brief.

And so your honor, we could go on and on. But your honor us questions. That's what's most important to us and everything else that we've written in our brief, we believe is clear and we simply refer to them. All right. Thank you. Um First of all, I wanna ask MS Morrissey where she's relying in Jones and Herrera on the fact that um, they have to demonstrate bad faith before they can get into, um, any of these arguments.

Yes, your honor. Uh, it is. Hang on just one second. Give me just one moment. Sure. Take your time. I wonder if you could make any, uh, paragraph 13, I believe your honor.

And in addition to paragraph 13, I would also rely on 31 6 11. A, the sufficiency of the evidence upon which an indictment is returned shall not be subject to review, absent a showing of bad faith on the part of the prosecuting attorney assisting the grand jury. Ok. So I started off um asking uh counsel to address two types of errors. One is which I'm quoting from uh Herrera. And that's paragraph 12 challenges arising from grand jury proceedings ordinarily fall into two categories, challenges to the quality or sufficiency of the evidence before the grand jury and structural challenges involving the manner in which the grand jury process has been conducted. If you finish the paragraph 13, it says in accordance with the statute, our courts will not entertain a target's challenge to the quality or sufficiency of the evidence presented to the grand jury unless the target demonstrates prosecutorial bad faith and your site to 31 6 11.

Also talks about the sufficiency of the evidence upon which an indictment is returned shall not be subject to review. Absent a showing of bad faith that doesn't include structural and Mister Nis um addressed structural right after the waiver. And so I I think that, um, the fact that you're arguing that he has to show bad faith is incorrect on other than the sufficiency of the evidence. So I don't think that that was, uh, properly addressed, um, by you. Now, I'm going to ask you some questions and I'm, I'm gonna ask you questions because you were the one doing the, the, um, grand jury.

So that, I mean, you know, I may ask, uh, uh, Mister Baldwin's counsel, but I'm primarily focused on, uh, what occurred at the, um, grand jury. So one of my first questions is, um, and I, I'll try to, I'll try to stay, um, oh, let's go to the, um, information about the lack of advisement about the target. Um, the target.

You're saying that reading the target alert letter went above and beyond, uh, what you require required to do and you gave some information about it at the very end. You even reminded them of the boxes and I'm just wondering why you wouldn't have reminded him of the witnesses as well at that time. Well, the reason that I wouldn't have reminded them of the witnesses is because they had the target's alert letter in their hands the entire time. I know for a fact that they reviewed it and you can see that from the transcript because they were actually asking about typos in it.

So I understood that they had reviewed it. I understood from the hearing that we had on January the 11th that the clerk of the grand jury was providing them with a refreshed instruction that they had the power to request any of these witnesses. So it was my understanding from the hearing that we had on January 11th, that they were being provided a refreshed instruction in that regard. Ok, thank you. When you talk about, um, as we know, Judge Ellington said, make the witnesses readily available. And one of, and in your response, you said that you would have made them read readily available.

Had the, had the um grand jurors asked and you said, if they couldn't come in person, I asked the grand jury judge for permission to um have them appear by video testimony. But then you also said, well, I would have given them interviews of um that, you know, pretrial interviews or, or investigative interviews. Um How can a grand juror ask questions from a, from a transcript? I I agree with you your honor. And, and this was one of the things that, that was discussed during the hearing with Judge Ellington. I believe it was the same hearing on January 11th.

Um was the fact that some of the witness testimony that Mr Nicas wanted to present was directly from the interviews. So, so for example, what Mr Nicas would do and, and you can see uh in his notice and his alert letter he provided to the court, these exhibits that were summations of the police report. So for example, he provided the court with a copy of uh Detective Hancock's supplemental report that described her interview of Jensen Ackles. Um And so I had a discussion with the court about if what the defense is asking for and they certainly were not asking for this for every single witness.

So, so I, I didn't think that this was gonna with every single witness, but if what they were asking for was this witness's testimony as it was given to Detective Hancock or Detective Kano. And we had those audio recordings, then we don't need to bring that person from California uh to have them talk about that in front of the grand jury. We discussed that with Judge Ellington and he indicated, yes, that would be a possibility. Um So I do agree with the court that when presenting the testimony, that way, if the grand jury had questions, they would be having to pose those questions to Detective Hancock uh as the person who did the interview. And I actually, I want the court to know that I actually spoke to other prosecutors um primarily in the second judicial district to ask if they had ever presented witness testimony over video, uh Zoom or Google Meets and they indicated that they do it all the time. So I had actually taken steps to, to ensure that I had a leg to stand on with regard to having witnesses testify via, via video understanding grand jury secrecy, that one of the things that we would have to do if we did that, if, if Judge Ellington approved, it would have been having the witness under oath, uh testify that they were alone and that they weren't recording and et cetera, et cetera uh to, to try to ensure ensure grand jury secrecy.

Um So I was trying to come up with ways of um presenting some of the testimony now with regard to some of the witnesses though. Um I was not at all opposed to having them there in person. The, the problem with the situation was we only had a week, uh, from January the 11th, we didn't know how Judge Ellington was going to rule. So on January the 11th, we get the ruling.

And then at that point in time, I'm trying to figure out what to do with these out of state witnesses. It's true. I didn't have Sarah Zachary sitting in the hallway.

Um, but I, I could get her there and I knew that I could get her there. Um, because I had talked to her attorneys on the phone, uh about grand jury. So for the local witnesses, the witnesses, uh that, that were local, that the defendant wanted the state to, to make available. I absolutely was intending to, to have them there in person.

It was the out of state witnesses that I was trying to figure out how I could juggle those So I was hoping that if the testimony was requested, we would be able to do it either from video interviews, understanding your honor and, and that, that there may be um an issue with regard to grand jury questions uh or just having them present by video, which my understanding is in a second is routine. Uh So that was my plan at the time. Um I'm curious as to that you didn't reach out to any of these um witnesses other than what you just said, Sarah Zachary to just sort of touch base with them. See if they were available even by video.

I'm not iii I actually don't agree that I didn't reach out to them to see if they were available. Um I recall, I believe I had a conversation with Mr Souza. I did not have a conversation with Mr Halls, but that's because he was represented by Council. Um A and his attorney was historically very difficult to get a hold of. So, uh I was gonna have to try to manage that as best I could through judge Ellington if the grand jury wanted to hear from Dave Halls.

Um iii I don't think that it was just Sarah Zachary. I'd have to go back and look um at all of the witnesses that the defense asked that we present um because I did make phone calls uh to kind of let people know that this may be an issue uh that that would be coming up. I specifically spoke to, to Mr Winger with regard to uh MS Zachary. Do you want me to go through the witnesses? I, I'll have to pull up their alert letter. I can go through each and every witness.

You, you never responded that you didn't, they said you didn't and you didn't respond um that you did and there was there seven of them? Sure. I'm just ask, I mean, if you, if you're saying that you did, I mean, I'm just curious as to you're saying, well, I was trying to coordinate this and, you know, I knew that Zachary I get, and, and, and Hall's attorney is pretty difficult to, to, to get a hold of them. I just, I'm curious as to even by video, how you would got, how you, how you, uh, needed to common sense tells me you should have reached out ahead of time.

That's all. Oh, I, I agree with you. Um, and a, and I'm telling you that I think with regard to Mr Halls, I did, I reached out to these people.

Let me let, but for, for, for this, let, let me look at specifically all of, uh, all of the witnesses and, and, and let me address, uh, the court's inquiry here. I have, I'm, I have so many documents in front of me. I'm trying to find their time. I'm trying to find their, uh, their alert letter. I had it in front of me here. I'm, I'm uh I'm getting there.

Ok. Um Witness number one, Mr Souza, Mr Souza was extremely co-operative with me. He made himself available anytime I wanted to speak with him. Um I believe that I would have had absolutely no issue having Mr Souza appear uh via video. Uh The next witness witness number two Mr Halls. I've explained that he's always difficult because we have to go through his attorney and she can sometimes be somewhat non responsive.

M Zachary witness number three, I've addressed that witness number four, Ryan Smith, I did not reach out to Ryan Smith. He a as a member of, as a producer for Rust productions. I believe that technically he is currently represented by Ryan Villa. Ryan Villa has been extremely cooperated with me and I expected that if the grand jury wanted to hear from Ryan Smith, I would have been able to present his testimony through the co-operation of Mr Villa. Detective Hancock was there.

Of course, the grand jury was free uh to ask her any questions that they wanted, that she could have had the answers to um witness number six, Joel Ko. Absolutely. He, he's with the Sheriff's Department.

I could have had him there within 10 minutes. Um Mr Schilling, I did not reach out to Mr Schilling, but I absolutely had full confidence that if the grand jury wanted to hear from Mr Schilling. Um although I hi his testimony I can't imagine would have been highly relevant to them. Um I would have been able to get Mr Schilling there.

I think Mr Schilling lives in Santa Fe. Um He would have been very, very easy for me to contact and have him there. He's retired. Uh And he is generally available and, and I want the court to know that, you know, one of the reasons that we read the target's alert letter at the beginning of the grand jury is so that if they say, ok, we've met and we've conferred and we wanna hear from these three witnesses or we want to hear from all seven, then I can tell my investigator while I'm presenting the witnesses that we have here. You gotta go get these other guys, you gotta call Mr Winger and you gotta tell him that Sarah Zachary needs to be here and you need to go knock on Mr Schilling's door if he doesn't answer his phone.

So we would have had time to do those things. We knew that this grand jury was going to take quite a long time. Uh I know that the defense has continued to argue that this was something that we rushed through as this court knows. Uh It, it's, it's almost unheard of to have a day and a half long grand jury proceeding. Uh We didn't rush through anything. We spent a long time.

We had every single grand juror come back the following day. Um The I I, in terms of let's say worst case scenario, worst case scenario, the grand jury wants to hear from a witness that I can't get there. So I had a specific conversation with Judge Ellington, if that worst case scenario arises, what do we do? Do we ask the grand jury as a group to agree to come back uh as a, at a later date? And he indicated that was a possibility. Now, the other possibility is, is that if the grand jury wants to hear from a target's witness and for some reason, we can't get them there and this didn't happen. Um, we, we can, if we choose to start the process over. Um, uh, there,

there's no way that we would have if we had a grand jury that said I want to hear from Dave Halls and I'm not, I, I can't get Dave Halls there for some reason.

I'm not gonna continue with this grand jury proceeding and a a and, and just have them indict him and come to the court and say I couldn't get a hold of Dave Halls. That's not how this works. Uh, we, we would have just had to have dismissed it and we would have had to issue a new target notice and start over. And at that point in time, we would have had a much better idea about what the court's ruling was going to be. We didn't know the court's ruling until January 11th.

But if we had to dismiss it and start over, which we absolutely were, were contemplating, could be a possibility. We were willing to do that. We were never going to have a grand jury issue a ruling if they wanted to hear from a defense witness and we couldn't get that person there. Absolutely not. Ok. I have one more question on, on, with respect to the target letter. So as an aid to the grand jury, um, and I remember listening to the, the transcript and you said, um, after you read the t the target letter, you said we have witnesses available now and you emphasized in your tone now and then you, then you stopped and told them, go ahead and, and read, read it among yourselves and things.

Why would you not just at that time you're telling me that you, uh, in your response, you said it's not your duty. All, all you have to do is alert them. And then I asked you today and you're saying, um, well, they were getting, um, they were told to the jurors, judge instructed the jurors to get another copy of that. Um, your duty had the duty, um, what's read to them about their duties. And then, um, and, and so that, I think that's, I don't want to misstate, but I think that's the sum total. So as an aid to the grand jury, I'm just curious as to when you when they were seeing typos, did you not feel as an aid that you might let them know that you could get them there? That's why I asked you about the boxes at the end because you went to the boxes at the end, you said we've got the, we've got the boxes here, but you didn't mention the witnesses. And so I'm just curious as to as an aid to the grand jury, why you just didn't, what, what would have been the, you know, what was the motivation or what would have been the harm of just not saying and you know what I can get him here if you need him or something to that effect, just, just make them a little more schooled in what, in what they, what they were.

Do you stand by that? It's not your duty. Basically, I stand by uh that, that it's not my duty because the law and the case law doesn't require me to do it. But I don't want the court to feel like there were things that we were unwilling to do because we were kind of engaging in some kind of gamesmanship.

Like if the law doesn't require me to do it, I'm not gonna do it. My honest belief at the time was the judge has provided them today with the, with the refreshed instructions about their duties. So I had no reason at that point in time to believe that they were confused about whether or not they could ask to hear from any of these witnesses.

Um If there, it, it, if Judge Ellington hadn't specifically asked that that instruction be provided to the grand jurors again, because it was provided to them in orientation and he had them refreshed. Possibly, I would have handled it differently. Um But because he did that, I didn't believe that that, that it was necessary.

Do you know whether they got that? You said that morning? Do you know whether they got that? I, I was assuming that when Judge Ellington and that was actually part of the audio that I wanted to play. Uh when Judge Ellington instructed, I think he instructed me. I think he said, MS Hurtado, I think that's ruth uh when he instructed her to provide those, uh I had every reason to believe that she was going to do that. She was on the call.

So when we had the hearing on January the 11th, um there, there, there were several court employees that were, that were on the, the, the video hearing and she was one of them. So the court specifically told her during the hearing, the court didn't say this is what I'm gonna do. He told her during the hearing, this is what you need to do.

Uh I assumed that she would have followed his instructions. I had no reason to believe that she wouldn't have done that. I am aware of. Uh of that.

I did listen to that. Um I wanna get into um what was raised about um a asking the witnesses questions in the beginning, in the beginning. You, you tell the grand jurors that this is how we're gonna, we're gonna do it. I'm gonna ask questions of the witnesses and then you can ask questions and I'm gonna um interrupt and say you can't answer that question if I consider it to be um not, not a lawful question and I may have them ref rephrase um the question.

And so um at my notes here. So um so having gone through the, the, the transcripts, I'm um in, in Herrera and talking about how Herrera says you and, and so you're honing in on the tar, you seem to be honing in on the target in Herrera. That, that um you in Herrera says by preventing the target from answering a direct relevant question from a grand juror, the prosecutor prosecuting attorney interfere with the grand jury's statutory duty to make an independent inquiry into the evidence supporting a determination of probable cause. So you said, I think you've said two things and please correct me if I'm, if I'm wrong because I've been, you know, taking notes, but I'm not a transcriber. So um you talked about that it was a target in that case and you seem to make a distinction between um uh the, the, the appellate court saying that um that they interfered because um they wouldn't let the target answer the question. Um But then you also said that um uh that you came well within her era, uh uh and so that you didn't interfere with um their ability to ask questions. So I, I just need clarification.

Are you, are you interpreting her, er, to mean that um, the appellate court based it on the fact that the target was interrupted from answering the question versus uh uh another witness of the, of the state, you know, judge. The only thing that I can say is when we're trying, when we're looking at cases and we're distinguishing cases, uh, looking at the facts of the case. That's what we look at to see if it's distinguishable. I don't know what I, I don't know what the Court of Appeals.

Uh, Kevin de seems to be suggesting in the comments that there's a different standard for criminal involuntary manslaughter, depending on whether the person involved is on a movie set or not on a movie set. That's just not true. The baseline for involuntary manslaughter with a firearm is handling the firearm without due care and circumspection. That's New Mexico Criminal law. That's this, that's the new Mexico statute in the Commission of a lawful Act which might produce death in an unlawful manner, meaning unjustified or without due care, due caution and circumspection.

There's nothing in the new Mexico statute that says, unless you're on a movie set, there's a different standard and movie set practices do not Trump New Mexico criminal law in a New Mexico criminal prosecution. So as a baseline concept, it's important to understand that movie set practices and S A guidelines cannot help Alec Baldwin if they're inconsistent with New Mexico law, so they would appear to help him. New Mexico Law trumps them. S A guidelines do not change New Mexico criminal law. That's ridiculous. Now, to the extent the sad guidelines are consistent with New Mexico law. It can only hurt Alec Baldwin, New Mexico in the interest of attracting more movie set production within its jurisdiction.

Could have created an involuntary manslaughter law that carved out an exception for movie sets that took into consideration favorable sad guidelines for acting recklessly with a firearm. But the New Mexico legislature has not done that. It has an involuntary manslaughter law that is independent of whether or not the act of manslaughter is committed on a movie set or not. What I can tell you, uh, looking at the facts of the case.

That's what we look at to see if it's distinguishable. I don't know what I, I don't know what the Court of appeals, uh, would do if it wasn't the target. What I can tell you is that I think that, uh, depending on the substance of the testimony that's coming out, um, the court of appeals may handle it differently because the target has a right to testify. So I, I think that is a difference. Uh, the target has a legal right to testify. The target is the only person who has a legal right to testify before the.

Now, Kevin says I would argue that having an armorer load, the gun is due caution or circumspection. That's where we disagree. And also he says the law doesn't say a gun handler must personally verify the status of the gun. Well, to your second point, that's because statutes are written in general language to encompass the infinite number of ways that someone might commit involuntary manslaughter. This involuntary manslaughter statute also doesn't say if you're driving drunk and you run someone over, you've committed involuntary manslaughter. It speaks generally about acting without due caution and circumspection. The particular facts of an event get plugged in to the general description as will happen with Alec Baldwin.

And in terms of, I would argue the armor loading the gun is due care and circumspection. Alec Baldwin's defense counsel gets to argue that fact claim to the jury, that's what the trial is for. And if the jury buys it, Alec Baldwin gets acquitted and I'm fine with that. But nowhere in any gun safety rules I've ever seen has it said if someone hands you what you know to be a real gun

and tells you that it's empty and you point that gun at someone, cock the hammer, pull the trigger and a live round comes out and kills that person that you have no criminal liability its entire preference. Uh, the target has a legal right to testify.

The target is the only person who has a legal right to testify before the grand jury. Um, so I, I think it's entirely possible that the higher courts would treat that somewhat differently depending on what the substance of the testimony was. And again, it was my intention not to prevent the grand jury from getting the information. I just wanted the grand jury to get accurate information. And uh I, I had concerns that a police detective wasn't going to give accurate information about safety protocols for guns on movie sets because she's never worked on one. And, and I certainly would submit to the court that that's not bad faith.

Uh That's me trying to make sure that the grand jury doesn't get confused by getting inaccurate information. Ok. So, um it was a, it was, it did involve the target, but it said it's not, it's not the target.

Um I don't think Herrera was focusing on the targets, right? I think Herrera was focusing on the, on the grand jury's ability to ask questions without interference, it says by preventing. So and so from answering a direct relevant question from a grand juror prosecuting an attorney interfered with the grand jury's statutory duty to make an independent inquiry into it. So I have um I noticed that um Corporal Hancock was able to answer several questions. Um, and they were about, they were about the firearm. They were about, um, all right, she was able to ask questions about, I'm sorry, I, I will say the judge is being, I don't hostile may be too strong a word. Uh, this judge is being very tough with Kerri Morrissey.

Uh, if, if I were going to call this off the judge's demeanor, I would say the judge appears likely to dismiss this grand jury indictment. And I, I don't know the answer to the question of if this grand jury indictment is dismissed, can they indict him again? Uh Grand jury law varies a lot from state to state. I, I don't claim great expertise in the esoteric field of grand jury law in New Mexico. I'll, I'll, we'll find out right away. I guarantee you if the grand jury indictment is dismissed, we'll immediately find out if the prosecution is able to bring another indictment. Ok. Um So they're asking questions like, you know, uh they were talking about live rounds, they were all in different places.

One was in the actual gun that was used and Hancock says yes, there was, there, there wasn't another one in the gun. Corporal Han Hancock answers that. Um And then um they're, they're talking about um were you able to, to get all a, all of them back? Um Yes. Um The gu the gun was already unloaded when, when um when um we got there um and then, oh none, none of these are gun safety questions. These are just fact questions. Um And then, you know, they, they're asking her questions and you say, can I, can I try to help and, and, and you, you go along. Um but then, um but then the first time you interrupt a juror is um with corporal Hancock is um is when one of the jurors asked if the bottom line is the res response, it's a very, it's a very direct question.

And I, and, and so you're gonna tell me that she could not have answered this. And so the bottom line is the responsibility of making sure these guns, these bullets are not live are up to what David Halls and Hannah and you did not let her answer that question. You said we are going to have another witness address those issues for you. We have an expert who works on movie sets and he's going to answer those questions for you if that's OK. And so my question is she was the lead investigator on the, on the case. I don't, her testimony shows that she could have answered that question and you would not let the grand juror get the question from his Hancock. Why, why and you and why, why is that not? What, what Herrera says? She can't do so what Herrera in, in my reading of Herrera and the way that it would apply to this case is the grand jury was prevented from getting the answers to the questions.

I did not prevent the grand jury from getting the answers to the questions. I made sure that the grand jury got the answers to their questions from the witness with the most experience when it and, and I, I wanna back up because judge what you indicated in terms of all of the questions that, that Detective Hancock did answer those all pertain to her criminal investigation. Uh Where, where the guns were, where, where the bullets were, how, where did they recover all of them? Those all pertain to her criminal investigation. My concern was that Detective Hancock didn't understand or perhaps didn't recall what she had been told because so much time had passed since the time that she did her interviews, the very specific way that the safety protocol takes place between the armor and the assistant director. So I presented that information to the grand jury. I had their question answered and I and my expert absolutely said, absolutely said the safety check is a safety check that takes place between the armor and the assistant director. He did not say that it took place with the actor in terms of that initial safety check.

So I think that there is a, a very stark difference in what happened in Herrera and what happened in this case, especially when we're talking about bad faith because my intention was to get them the most accurate and reliable information and having a police detective who's never worked on a movie set, try to give some kind of a detailed explanation about the exact manner in which this uh safety inspection is supposed to happen was concerning to me. And I also want the court to know that the reason, the reason that this case, the reason that this death occurred is because the safety protocols were not followed. So during her investigation, what Detective Hancock learned was the way not to do things.

Detective Hancock never talked to. I don't think Hancock ever interviewed any of the crew members and asked the experienced crew members how the safety protocols were supposed to work in a way that wasn't the, this distorted way that happened on this movie set. So it, it wasn't, it wasn't necessarily that I didn't want her to give the information.

In fact, I can tell you it wasn't at all that I didn't want her to give the information to the grand jury. Detective Hancock got a bunch of information from people about the way not to do things. That's the reason that Helena Hutchins died. So I actually didn't believe that she fully understood the way that things are supposed to happen because the sheriff's department doesn't go hire a, a, an expert and, and, and get a teaching lesson in how these things are actually supposed to happen. Uh She got her information about how things are supposed to

happen from the three people who didn't follow the rules that being Hannah Gutierrez Dave Halls and Mr Baldwin, uh she didn't conduct any of the other interviews with the crew who would have been able to tell her, had they been asked, uh this is the way this is supposed to happen. So I had a good faith basis to believe that she only understood how it's not supposed to happen and didn't understand how it's actually supposed to happen. Well, to that point, a couple of things.

Well, first of all, Corporal Hancock interviewed Jason Ackles. And in that interview, he had different information about safety pro protocols on movie sets, which is, would that have been exculpatory information. Uh I'd have to review it. Do you want me to review it now? OK. So here's I I'm just saying she did have some information I think, but in any event when you're saying, so you're saying she was not the best witness to, to answer that question or she wasn't, she wasn't capable of answering that question, given her limited. Um She didn't know what the best practices were.

Is that correct? Ok. Well, so, but in other, in other ones where you go, this is uh I think this is Mister Rice or is it? Uh Yeah, I think it's Mr Rice and you say on exhibit 20 page 86 and it says looking back at the alert letter, there's a notation that Sarah Zachary, the prop master for the film was also the supervisor for Hannah Reid, but nobody's talking about her playing this. So you know where I'm going, go ahead and you say you interrupt her and you say, I don't know if he's familiar enough with that with the relationship between the prop master and the armor to answer that question. But we have a witness sitting out there who may be able to answer it if we can bring back Mr Hooper back if you want us to.

And the juror says, my biggest part of the question, my biggest part of the question is she was also responsible for procuring firearms and ammunition for a third party, not just Hannah. And then you said, understood, let me back up for a moment. And instead of asking him about procuring firearms, you say, do you have any information about the firearms training or firearm familiarity with Sarah Zachary? And you do that? But then later on, even though you say this is not the, the he's not familiar.

I don't think he's familiar enough with this. He doesn't, you do end up asking him after, you know, maybe three minutes later. Um You know, do you know about whether she was responsible for procuring and he answered it? And so my, my point is is that you decided that she wasn't the best one.

You said we've got, we've got another witness to do this and, but then we have an example here where you're saying, I don't think he's familiar enough with it, but then you let him answer the question, which you just, you just ask the question of the juror. I can read, read that into the record if you want. Let, let II I just wanna, I just wanna follow where you are so that I can page 86. It's page 86 of exhibit 19 and it says hang on, hang on just a second. Let me, let me catch 20.

It's 20. Page 20. No, it's exhibit 20.

OK. I have exhibit 20 in front of me. OK? And it says on page 86 you say, you know she's asking a question and you say hm it, I th th this is but OK, so you, you say he's, I don't think he's familiar enough so we can bring in somebody else. He asked her a different question from procuring you ask him about training. But then later on, we finally get to what you say um on page 87 1 18. And in terms of Miss Zachary, what is your understanding of where she, where she procured the, you know, the guns.

So my, my point is is that I don't understand how you can say I wanted there was a better witness at this. So I just said there's a better witness with Hancock and then in A N with rights, you say, I don't think he's familiar with it, with it. But then you let him, but then you ask the question anyway. I, I don't understand why the grand juror couldn't ask MS Hancock the question and tell, tell the grand juror herself that she couldn't answer it. Why, why were you telling the grand juror that she couldn't answer it? So, first of all, in terms of what you're speaking uh about with regard to Mr Rice, um I would need just a moment to review that if, if that's OK. So uh because I think that's gonna be pertinent to my answer. So I'm, I'm on, I'm on 86 and I, in fact, judge, I already have that portion highlighted.

Um mm OK. So to, to let, let me kind of um describe what was happening here at le at least in my mind. So the, the initial question on 86 that is asked by the juror, the, the, the grand juror says, looking back at the alert letter, there's a notation that Sarah Zachary, the prop master for the film was also the supervisor for Hannah Reed, but nobody's talking about her play in this.

So, you know where I'm going, go ahead and, and I, I don't believe I interrupted her. Um And I said, I don't know if he's familiar enough with that with the relationship between the prop master and the armor to answer that question. Um And, and the issue that's going on in my mind is is Mr Rice who has also never worked on a movie set familiar with whether or not the prop master is the supervisor of the armor when it comes to the armor's responsibility for gun safety. So what I'm thinking in my mind at that point in time is my investigator can't answer that because he's never worked on a movie set.

Then things change because the grand juror says she clarifies her question. My biggest part of the question if she was also responsible for procuring firearms and ammunition from a third party when she clarified her question in that regard about where the, the firearms and the ammunition are coming from. And at this point, I understand she's not asking about the relationship as it pertains to who, who can tell the armor what the armor can and cannot do with guns.

She clarifies the question when she clarifies it. I realize he can answer it. Uh He actually does know the answer to that. He knows that Sarah Zachary got the guns and she got some other ammunition from Seth Kenney. So at that point in time I say, oh, ok. Uh now that you've clarified your question, I mean, I didn't say it, but that's what's going on in my mind. He can go ahead and answer.

So I let him go ahead and answer when she clarified it. And I understood that he did have the knowledge and experience to answer that specific question by the way I just want to point out, we should not underestimate how challenging it would be to recall all of this kind of back office reasoning from a grand jury presentation that was years ago, but a, a year ago, I guess January, right, of this year. Uh, so not years ago. Uh but this is a day and a half presentation. A lot of other stuff has been going on.

Right. She's at the whole Hannah Guterres trial, presumably she's busy with other work too and she's recalling her reasoning behind this kind of intricate questioning or participation with witnesses in a grand jury. I don't think I would remember. I'd like to think I would make a reasoned decision in the moment about how I was conducting myself. But if you ask me later, I'd have to say, well, I, I presumed I had a good reason for doing that because I don't do things for bad reasons.

The fact that you can recall this level of detail. Exactly why she made. The decision is remarkable question. Unless you believe, of course, she's just fabricating it in the moment at a whole cloth. Um I judge, I have to tell you that's dangerous to do in front of a judge though, if I, if I asked Detective Hancock right now to give us a detailed explanation of the way that safety protocols on a movie set are supposed to work, not the way they're not supposed to work.

I don't believe I could get a reliable answer out of her. Um And while I understand the court's concerns, I want the court to understand that all I was trying to do was get the most accurate information before the grand jury and everything that Mr Carpenter said is absolutely accurate about the way that safety protocols on movie sets are supposed to work. Thank you. I appreciate that. I just have one more question. So, um the rule on grand jury proceedings 5-302 0.2 it talks about instructions to the grand jury and of course elements and defenses is one.

But the second requirement is the prosecuting attorney shall provide the grand jury with other instructions that are necessary to the fair consideration by the grand jury of the issues presented. And because um it seems to me that doc uh Mr Carpenter was um provided a lot of provided opinion testimony, which uh which is true. Um An expert can rely on that and I know that they weren't put in as experts because it's not a trial. But um you're, you're basically indicating that he, that you relied on him for, for, for this kind of testimony.

You've got Mr Hagen there. Um I'm wondering why you didn't provide uh that instruction to the, the jury so they could um the, the uh credibility instruction on um uh witness, credibility or opinion testimony instructions. It didn't occur to me. Um I, I it didn't occur to me uh to, to provide that. Um And the uh defense understood um the kind of testimony that we were going to elicit. Um It, it absolutely did not occur to me to, to give the, the credibility instruction. Um It didn't occur to me until this moment, your honor.

Ok. Those are all the questions I have and thank you for being patient with me and answering them if, if, if you would permit me judge uh because I have this, this morning, I had to deal with

Mr Spiro and uh Mr NICUs. Uh Would you give me 60 seconds to confer with my co counsel not to have? Yes, thank you. Yes. BBBB.

OK. I'll skip forward. Let's see. Wow, that's a big, this judge is staying hydrated.

I hope that's water. Not margaritas. Do you think, how much money do you think you could make selling hair brushes in a courtroom in New Mexico? Good Lord. Fast forward, skipping, skipping, skipping what we're arguing right now.

In terms of witness testimony, this goes to the sufficiency of the evidence. II, I and I, I believe though that their argument. So you, so you want to answer it as sufficiency of the evidence because I did, I miss a question. Hold on anything else, Miss Morsey? Yeah. Um So I want to make clear that what we're arguing right now in terms of witness testimony, this goes to the sufficiency of the evidence.

II, I and I, I believe though that their argument. So you, so you want to answer it as sufficiency of the evidence because Herrera was structural that, but I believe Herrera was structural because it was dealing with a jury instruction. And I believe that's proper. Uh So, so in terms of when we're dealing with jury instructions, that is a structural defect. So that comes in under a subsection B of the statute, in terms of sufficiency of the evidence, which is what we're talking about right now.

This requires a showing of bad faith. So I agree with you that Herrera was talking about a structural defect, but that's because it went directly to a jury instruction. Uh So in terms of witness testimony and sufficiency of the evidence, they have to demonstrate uh bad faith. And I, I think that this is clarified um in state V law, uh that, that specifically indicates um that challenges PURs pursuant to 31 6-11 B, 31 6-11 B requires a showing of bad faith. And I'm looking at paragraph eight of state versus law. Ok. And so, no, you're all right.

Well, no, that's good. Yeah. Ok.

Well, I think it's um your honor if I could just 60 last seconds on, on just some quick comments that just the things that come up, I know the court's been patient and, and yeah, II, I just wanted to just very quickly you know, Miss Morris, who started by saying, you know, we had this plan that if this didn't all work out, we just miss dismiss the case and start over. Right. If this whole, you know, there's obviously this is the problem with the waiver issue, there's no contemporaneous records that that was actually what was going on. And you're right, it's not that big of a deal to, could dismiss this. If she thinks she should give this a third try, she could.

But I just found that to be remarkable comment. Um And of course, we've had the opportunity to talk to the witnesses and the lawyer mark. It's not that big of a deal poking, could dismiss this if she, there's no contemporaneous records that that was actually what was going on. And you're right. It's not that big of. So he, I think he says here, this is defense counsel that the court

can dismiss this and if she wants another try to re indict, she can do that. Is that what he's saying here? Let's listen, obviously, this is the problem with the waiver issue.

There's no contemporaneous records that that was actually what was going on. And you're right, it's not that big of a deal. Court can, can dismiss this if she thinks she should give this a third try, she could. But I just found that to be a remarkable comment. Um And that's interesting and of course, we've had the opportunity to talk to the witnesses and the lawyers, some of whom Miss Morrissey was kind of recreating and she was live um being questioned by you your honor. And even just now, uh they're confirming she never contacted them. Um uh Mr Halls lawyer confirms never was contacted about the grand jury.

Mr Sousa's lawyer previously commented, not contacted. In addition, and the court should go, we serve the discovery request. He said any communications, any witnesses, ok. Tell me one email, one internal anything saying, hey, we've got a grand jury in a week. The way this is supposed to work is the grand jury in a week. There's all these witnesses that could come, you hit him with a subpoena, they come to the grand jury or you have them on standby and you talk to them.

This isn't how you're supposed to do it, period and this is why the rest of it happens, right? And the grand jury, they don't know what's going on. They're, they're looking about typos, they call it a warrant letter. And the fact that there, there may have been a repeating of the very generic instructions that that Judge Ellington was right to provide them.

Judge Ellington saw it. He said we're in the last day, they've never seen an alert letter. You have the obligation, you have the obligation. This is a homicide case and, and by the way, in Ulu Bari, um the indictment was dismissed even though the grand jurors were presented with the generic sort of instructions.

And so the final thing I will just simply say is what am I doing? What am I doing here? Why is this just like M Morris M Morrissey, please don't interrupt him. Ok. If you want to respond, I'll give you three minutes, but go ahead, let me finish. Let him finish. So, so and then this was the, the frankly the most remarkable part, the idea that it was, oh, it was gonna be video testimony. This was, this is what she purports to be her idea at the time or read the police reports. You see, because she has to answer your honor's question, she can't answer.

So there's no good answer, right? So she says read the police reports, which is, of course hearsay. It's the lead detective, the lead investigator testifying through a document is the hearsay, right? That's, she has no choice but she's backed into a court. She has to say that then when she has the answer for the next issue, she said no, no, no, no, no Hancock and, and, and, and rice, they, they can't be asked to testify about things that they learn from other people. I mean, it, it just, it, it, the story doesn't work, doesn't check out, doesn't pass the laugh test.

And so um of course she, she cuts them off. Um And if you look at all the cuttings off the 2020 times don't answer that one. No, not that one. Not that one.

It's always, it's always in one direction. She doesn't cut off anybody saying I don't like Alec Baldwin, that's for sure. It's always in one direction. This is a homicide case. Prosecutors are required to do better than this indictment should be dismissed. All right. And you make close MS, uh, Morrissey, I don't recall representing to this court that I reached out to Mr Hall's attorney.

I did not represent that to the court today. I specifically indicated that there was always a problem because he was represented by an attorney that was non responsive. Mr Sousa isn't represented by a lawyer. I have no idea what Mr Spiro is talking about everything that he's saying to you right now is a complete misrepresentation about what has happened and that's what these people do. So hearsay is admissible in grand jury, Hancock and Rice. I never said that they couldn't testify about what people told them.

I didn't want Hancock testifying about what people told her if it wasn't going to be responsive to the question that is clear, I'm not gonna have Hancock talk about gun safety on movie sets. If all she knows is the wrong way to do it. Hearsay is admissible and grand jury, all of that was absolutely appropriate. Mr Rice's testimony was perfectly appropriate. It was based on hearsay.

This court knows very well that hearsay always comes in before the Grand jury. But if I, if I'm talking to a detective and I know that her answer is gonna be based on unreliable hearsay and that's what it was, it was unreliable hearsay, then I'm gonna stop it because I want the grand jury to get the most accurate responses to their questions. You know, Mr Spiro want, wants to, wants to say to this court this morning that I'm just kind of making this up as I go along, uh that I had no intention of ever presenting anyone over video.

I can give you the names of the Das in the second that I spoke to prior to taking this case to grand jury to ensure that this was a practice that was normally done. And why am I speaking to Das in the second rather than Das in the first? Because Das in the second deal with more complicated cases, they see more alert letters. So that's the reason that I was reaching out to them.

I, I, I'm not gonna sit here and be called a liar. Um I absolutely have did. I, I did everything that I have told the court that I did today.

He's right. I didn't reach out to Mr Hall's attorney and I didn't tell the court today that I did. So let's be clear, Mr Spiro is intentionally trying to misrepresent and mislead this court right now. Thank you. All right. Thank you, counsel for your presentations.

Um I am going to um, issue my ruling by, by order. Uh, next week I'll put it in writing. Ok, so you may look for that. Thank you very much.

We are in recess. I don't know who that is. Summer green. Hi, summer. A brief moment.

And she's like, oh my gosh, at least she brushed her hair. All right. So I'll get to questions and comments. Now, I'll check out Super Chats if you're on youtube And, uh, you want me to, uh, address a question or comment.

I'm happy to do that, but it needs to be a \$10 Super Chat or be smart and just for less than \$10 a whole month, become a law of self defense member. You can try it out for two weeks or just 99 cents. Trial membership at [law of self defense.com/trial](http://lawofselfdefense.com/trial). If you don't like it, just cancel, no questions asked if you stay a member.

It's only about 30 cents a day, less than \$10 a month and you get all your questions and comments answered for free, for free. And I'll mention one more time our sponsor, what's going on there? CCW Safe, a provider of legal service memberships. What many people mistakenly call self defense insurance? There are, uh, what they in effect do is promise to pay their members legal expenses of the members involved in the use of force event, compelled to defend themselves, their family or their property and they do a whole bunch more than that as well.

There are other companies out there that purport to provide similar services. Some of them are fine. Some of them are a dumpster fire, know what you're paying for. None of these plans are inexpensive. I've looked at all of them as you might imagine. And my personal choice is CCW Safe.

They're the ones I trust. They're the best fit for me personally. Maybe they're the best fit for you. If you'd like to learn why I choose CCW safe, why I trust them. You can go to [Law of self defense.com/trust](http://Lawofselfdefense.com/trust). There's a little video there where I explain exactly why I feel they're the best fit for me. And if you decide they're the best fit for you at that same URL [law of self defense.com/trust](http://lawofselfdefense.com/trust), there's a discount code you can use for 10% off your membership with CW Safe.

All right, let's see. Take a look at the uh, let's see. There is one Super Chat. It's only uh it's €5 which is not \$10 but I'll read it anyway from Creed. €5.

If you have an actor who plays a drug dealer is the actor liable if the prop master provides a real drug and another actor O DS or a war movie with a real grenade. So, Creed, here's the thing. If you have an actor playing a drug dealer and the prop master provides a real drug and the actor knows it's a real drug and how it can kill someone if not properly handled. And the actor has training in the proper handling of that real drug and they violate that training and they expose someone to that real drug in a manner that kills them.

That's involuntary manslaughter. Here, Alec Baldwin did not tell police. Oh my gosh. I thought this was an inert prop, incapable of firing a bullet. He didn't tell police, I thought that this was a fake gun and then it made a loud noise and killed Elena Hutchins. He told police, I knew this was a real gun.

So yes, if an actor is given a real drug and training and how to handle that drug and awareness that that drug can kill and how it can kill and then they mishandled the drug and kill someone that's involuntary manslaughter. What about if they're in a war movie with a real grenade? If the actor knows it's a real grenade receives training in how to safely handle that grenade and then handles that grenade without due care and circumspection and kill someone that's involuntary manslaughter. Do better creed. Come on. All right.

Now, from the uh, law of self defense members bab lawful to shoot, says when you see an actor with their finger on the trigger during a scene, the weapon is not pointed at anything other than what they approve to point the weapon at. It's never at a person on set Yeah. So folks, I've, I've done a lot of writing on this case as you might imagine on the Alec Baldwin event. And it's all aggregated here. [Law of Self defense.com/baldwin](http://LawofSelfdefense.com/baldwin).

And one of the shows aggregated there is an interview I did with my good friend, Adam, not Alec, but Adam Baldwin who you'll know from um Full Metal Jacket, uh the TV series Chuck, uh the TV series, the last ship, um the TV, series Firefly and the movie Serenity and, uh, lots more. He was in Independence Day. Adam spending a lot of, a lot of great flicks. Um, and of course, he spent his whole career in Hollywood often, mostly I would think, yeah, in movies handling guns. And, uh, he came on the show and we did a lengthy interview and, uh, he says he's never appointed, uh, a gun at a person, uh, on a movie set, you always point it just a little bit off and the camera angle allows for that and the scene works fine just for that reason.

Let's see, BBBB, uh, Alec Baldwin, of all actors who had handled weapons for decades under the training of skilled armorers knew he should never chance pointing a real gun at a director. And we know he knew that because when he was questioned by detectives the same day as the shooting, he said, I would never point a real gun at another person. So he knew that's why he can't take the witness stand because he'll, he'll get destroyed based on his police interrogation and all these interviews he did with all these inconsistent stories he told, let's see, lawful to shoot says Baldwin pointed a real gun at someone on scene. That's all that needs to be said and judged. I, I agree. I think that's enough right there.

Just the pointing of a, of a, what, you know, to be a real gun without making sure there's no ammo in it. If Alec Baldwin, if the scene had called for Alec Baldwin to point that gun at his own head, you don't think he would have made damn sure there was no live ammo in the gun. Let's see. Let's see. Yeah, someone, uh, asked of that, uh, this hearing cost Alec Baldwin, uh, \$50,000 in legal fees. It might have, it might have, especially if you count the preparation work. Pop, pop, pop, pop.

I don't know that being a law self defense member would get you off a jury. It might, in the use of force case in particular, it might, should I add that to the membership benefits? Uh, yeah, I mean, the, um, so Kerrie Morrissey is kind of a little explosion at the end there. Uh, yeah, she's offended. She has a absolute pristine reputation as a criminal defense attorney in New Mexico and she's, uh, just being called basically a liar and a schemer and a fixer and AAA prosecutor

with bad intent, uh, by this defense team. Um, and of, of course, she finds it personally offensive.

I presume she's normally treated with respect by her, uh, legal peers and colleagues throughout the New Mexico Bar. As would be appropriate. Given what I know about her. Uh, so sure she's, she's offended by this kind of, uh, derogatory remarks towards her professional ethics. Let's see.

Yeah, I'm, I'm sure that Baldwin's lawyers, you know, they're, they're in a skyscraper in Manhattan. I'm sure is where their office is with a window view, maybe a corner office, who knows. Uh, and they're looking at Carrie Morrissey, like some podunk New Mexico backwoods lawyer, right? Uh Kent says Alex Burrow was a prosecutor in the Manhattan das office up until 2000, thir 13, received his law degree in 2008. So five years, um, you know, it's hard to know, um, especially in New York prosecutors offices. It's, it's, it's a different kind of animal.

Um, it's just like if you, if you're in the New York Police Department, your experience in the New York police Department can be very different if you're like an ordinary person without connections when you go in and if you have a rabbi when you go in, uh, so I'd be interested in knowing just what Alex Burro did in the D A's office. Uh May, maybe he was a fantastic prosecutor. I don't know, but I, I wouldn't assume that to be the case just because he got the job posting. I don't even know how many prosecutors there are in New York, but there's got to be thousands of them. I would be more impressed if he'd been a public defender in New York because then I, then I'd know for sure. You, all you do then is trial work.

Um, let's see. Yeah, I don't know. Kevin dies in the youtube comments. Uh, I, I don't know, Kevin. Uh, I'd be happy to look at something he's written about the case. I, I don't know how to find that or how he would get that to me again.

I don't, I don't know who he is. Um, and if, if there were, if there appeared to be some meat to debate, uh, I'd be happy to do that. Um, I mean, I, I'm not gonna debate stuff that doesn't matter. I'm not gonna debate that Joel Souza thinks Alec Baldwin shouldn't be held criminally responsible. That's there, there's no substance there. It's not legally relevant. I'm not saying that's Kevin's argument.

I just, I'm just pointing out there, there's things that are worth debating and things that aren't. Uh, but, you know, I'm not hard to find if Kevin wants to send me his view of this trial and it's, there's something substantive to debate, I'd be happy to do it or at least respond to it and, and share whatever he shared with me. Uh, ok. So those are all the member comments. Let me take one last look at Super Chats. There is 1 \$10 from John.

Thank you, John. Uh John says if the judge throws out the indictment, do you think Alec Baldwin ends up taking a plea bargain with no jail time? Assuming? Well, first of all, we have to assume that um another indictments on the table that Carrie Morrissey has the option to go to a grand jury again if she doesn't. This is over. So there's nothing Alec Baldwin doesn't have to do

anything. Um, if she can go to a grand jury, if that's the option on the table, I don't think there's a chance in the world.

Alec Baldwin's getting offered a plea agreement. No way. Not after his lawyers just treated Ky Morris like this, impugned her professional integrity.

She's going to a grand jury. If she's allowed to go to a grand jury for a third indictment, she's going, maybe she loses in front of the grand jury, but she's going down swinging. She's not gonna be treated in this manner and then just bend the knee and offer a plea deal.

He was offered a plea deal and he turned it down. So, no, she's, I just don't see that happening if, assuming she can go back in front of a grand jury, which, which defense counsel seemed to suggest late in this hearing. Uh That's what I would expect her to do. Uh, ok, I think that's everything. So folks, I'll go ahead and wrap up, just remind all of you 3.5 hours. Good Lord. I, I love my community.

Obviously, what a way to spend a Saturday. Uh If you carry a gun, so you're hard to kill if you carry a knife. So you're hard to kill, carry pepper spray, study jiu-jitsu. I skipped jujitsu this morning just to cover this hearing with all of you.

If you do any or all of that, I do all of those things if you do any or all of that. So you're hard to kill. So your family is hard to kill, then you also owe it to yourself and your family to make sure you know the law. So you're hard to convict as well. Until next time I remain attorney Andrew Branca for the law of self defense. Stay safe.