

Charges dropped against man accused of starting Yosemite's Rim fire

By John
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Burned trees from the Rim fire still stand in Stanislaus National Forest near Tuolumne in September 2013.

LAWRENCE K. HO — Los Angeles Times

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- *Two key witnesses have died since charges were brought against the suspect.*
- *Earlier statements they made cannot be used as evidence in trial.*
- *A federal attorney says the case cannot be proven beyond a reasonable doubt.*

Federal prosecutors have [dropped charges](#) against a Tuolumne County man accused of starting a massive 2013 wildfire that burned for more than two months and eventually charred more than 257,000 acres in the Stanislaus National Forest and Yosemite National Park.

Keith Matthew Emerald, 33, was facing a four-count indictment that included starting the Rim fire, a blaze that eventually grew into the third-largest wildfire in California history. He was also charged with leaving a fire unattended, lying to investigators and setting a fire in an area with fire restrictions. The charges carried a maximum sentence of 11 years and more than \$500,000 in fines.

In court papers filed Thursday, prosecutors said they were dropping charges because two key witnesses had died unexpectedly since the indictment was brought last August. U.S. District Judge Anthony W. Ishii on Friday [officially dismissed](#) the charges.

“The statements of those witnesses are now inadmissible hearsay which cannot be used as evidence in trial,” according to court documents. Defendants have the right to cross-examine witnesses during trial.

The first witness, a friend of Emerald’s named Tanden Olsen, died in a February workplace accident. Federal prosecutors said that Olsen was expected to testify about his interactions with Emerald shortly after Emerald was rescued from the vicinity of the origin of the Rim fire. A story in the Amador Ledger Dispatch said Olsen, 34, tumbled 60 feet down a steep embankment while driving a man lift vehicle. He was alone at the time of the accident and wasn’t discovered by co-workers until an hour after the accident.

In March, a second witness — a helicopter pilot who first responded to the fire — died from cardiac arrest. He was expected to testify about communications concerning the initial discovery of the fire, and the rescue of Emerald from near its point of origin.

“I appreciate the hard work done by the U.S. Forest Service in investigating this case, and I understand that the government’s motion to dismiss will be frustrating to some,” U.S. Attorney Benjamin Wagner said in a written statement. “However, when circumstances change after indictment, and our judgment is that a case is no longer likely to be proven beyond a reasonable doubt, it is our obligation to the defendant and to the court to dismiss that case.”

Anthony Capozzi, a Fresno defense attorney and former federal prosecutor, said not only did the unlikely turn of events benefit Emerald, but so did having the case in federal court.

If the charges had been filed in state Superior Court, he said, there would have been a preliminary hearing in which defense attorneys would have been able to cross-examine the witnesses. If those witnesses later died, their testimony could still be used in a trial.

As it is, the grand jury that indicted Emerald would only have heard the prosecution’s case, and defense attorneys would not have been present.

Still, Emerald’s legal troubles might not be over. If he’d been convicted of the criminal charges, he likely would have been required to pay restitution for the damages caused by the fire. Now that the criminal charges are dismissed, Capozzi predicts Emerald will be sued civilly for damages.

The fire started Aug. 17, 2013 in a remote area near the tiny Tuolumne town of Groveland. It quickly grew, and in a 24-hour period less than a week after starting, the fire nearly quadrupled in size from more than 16,000 acres to 63,366 acres. A week after it started, the fire had burned more than 100,000 acres in and around Yosemite National Park.

In the indictment, Emerald — who could not be reached for comment — was accused of starting the fire and allowing it to burn or spread beyond his control. At the time, temporary fire restrictions were in place prohibiting fires.

Court documents said Emerald was rescued by a Cal Fire helicopter crew in the remote Clavey River Canyon area near the origin of the fire about an hour after the blaze started. Emerald was carrying bow hunting equipment and told authorities that he had been on a solo deer hunting trip. He told the crew that he started a rock slide that sparked the fire, a federal search warrant said. Emerald told investigators he walked away from the rock slide area and didn’t

realize flames had broken out because his view was obscured by brush. After walking for several minutes he saw a wildfire burning uphill.

Later, however, federal investigators said Emerald gave conflicting stories, including a suggestion the blaze may have been started by marijuana growers. He then confided to Olsen that he had started a campfire that got out of control, and told him not to tell anyone, according to court documents.

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