

EXHIBIT [E6]

CONVERSATION BETWEEN ADAM BEREKI (PLAINTIFF/PETITIONER) AND SGT. GIL HERNANDEZ OF THE SANTA ANA POLICE DEPARTMENT ¹

JULY 13, 2020

[(0:01)] Plaintiff: And then a couple of days later, I sent her a reply back and she said that she received the reply and would forward that to you. And it's been 3 weeks now and I've not received any reply whatsoever.

[(0:15)] Sgt. Gil Hernandez: I see. Okay. Yes, I just got this now. And I'm told that you requested a conversation? Regarding our response. And so I'm just [inaudible] to inquire, what else? What is it for beyond our response?

[(0:38)] Plaintiff: Okay. Just so I'm clear. Did you read the response that I sent in relations to the initial request that I made?

[(0:51)] Sgt. Gil Hernandez: Yes. So I read the one that was dated June 5th? [(0:55)] Plaintiff: Let me look at. Okay, let me just.

[(0:57)] Sgt. Gil Hernandez: June 5th, just a matter of days.

[(1:00)] Plaintiff: Yes, Okay.

[(1:01)] Sgt. Gil Hernandez: And you attached some federal statutes? [(1:09)] Plaintiff: Right. And a California case regarding that. [(1:16)] Sgt. Gil Hernandez: Yes. Yes, I did read that.

[(1:21)] Plaintiff: Okay. So I guess what I was calling the Chief for was, at this point, I was going to inquire about making a complaint. Because I think that there is a serious dereliction of duty going on and it needs to be handled. I realized the sensitivity of this issue. I served as a police officer for 10 years, so I do know a bit about this. I'm reaching out to your agency for help and I believe you have jurisdiction over this issue. And I'm not...

¹ NOTE: All efforts have been made to ensure this transcript's accuracy. However, it was created by a third-party transcription company. It is not a verbatim transcript in that 'words' such as "um" and "uh", stuttering, and other 'abnormalities' inconsistent with written speech have been excluded. Because neither the transcriber nor Plaintiff's assistant (who reviewed the transcript for accuracy) were present during the call, there may be slight discrepancies. The actual audio recording should be relied upon for best evidence.

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[(2:10)] Sgt. Gil Hernandez: We don't. [(2:11)] Plaintiff: Okay.

[(2:12)] Sgt. Gil Hernandez: That's what complicate it for us because although they're federal court is within our city limits, it is a federal court that is...

[(2:21)] Plaintiff: Okay. This happened in state court.

[(2:25)] Sgt. Gil Hernandez: Okay. Even state court, I mean, we don't have jurisdiction over our local judges.

[(2:30)] Plaintiff: But you have jurisdiction when a person, who is not acting within lawful authority, commits a crime. Correct?

[(2:39)] Sgt. Gil Hernandez: So, I'm sorry, what's the crime that you alleged? That a judge committed a crime?

[(2:44)] Plaintiff: Yes, yes, multiple crimes. One of them is theft and the other one is violation of multiple rights that are protected by the California Constitution and the Constitution for the United States. So let...

[(3:02)] Sgt. Gil Hernandez: [inaudible] Let me ask you this, Mr. Bereki. Is that [how you say it?]

[(3:06)] Plaintiff: Just call me Adam. It's fine. What's your first name again?

[(3:09)] Sgt. Gil Hernandez: Gil.

[(3:10)] Plaintiff: Gil. Okay, cool.

[(3:12)] Sgt. Gil Hernandez: So, Adam, I'm assuming the theft allegation is because of loss of attorney fees or penalties resulting from the outcome of your case. Correct?

[(3:27)] Plaintiff: Well.

[(3:29)] Sgt. Gil Hernandez: He didn't go and take your clothes or take your money or go to your house, take something from you.

[(3:35)] Plaintiff: That, no. Not in that regard. No, the judge did not do that. However, under law, there are certain requisites that a judge has to follow regarding the amount that they can take or order in a judgment. So let's say that you commit a crime of driving without a license. The judge can't fine you for \$1,000,000.

[(3:57)] Sgt. Gil Hernandez: Correct.

[(3:58)] Plaintiff: Right? So, if he does and the law only allows for a fine of \$100, then \$999,990 is theft. Because it's an excessive fine and there is no authority under the law, conferred by the legislature, for the judge to order a fine in that amount.

[(4:20)] Sgt. Gil Hernandez: So, are you alleging that this judge fined you an excessive amount, and then he kept that money for himself?

[(4:27)] Plaintiff: No, I'm alleging that the judge ordered that I give this money, that I pay this money to another person without any lawful authority. So he's ordering to take my property to give it to somebody else without lawful authority. That is theft.

[(4:50)] Sgt. Gil Hernandez: So you disagree. Well it's not theft, under the definition of theft in the California Penal Code. That is not theft. That is a decision made by a judge that maybe you have an argument for it being outside of his authority, I could see where that's going. But there's an appeal process for that. That another judge can review, or another court can review the case.

[(5:19)] Plaintiff: Gil.

[(5:20)] Sgt. Gil Hernandez: [inaudible]

[(5:21)] Plaintiff: Gil. I went to that process and the 3 appellate justices did the same thing. They did exactly [crosstalk] the same thing, and no joke. I mean, I'll just share with you that on the 22nd of June, the U.S. Supreme Court came down with the ruling that very much supports my case and the accusations that I'm making to you right now. So, if one of your officers acts without authority and takes something from somebody, whether they order someone to do it or not, they are complicit in the taking of property without authority. And that is theft. I mean, maybe we can...

[(6:05)] Sgt. Gil Hernandez: We're not comparing the apples here, though. So, if an officer took something from a person, regardless of what their story has anything to do with it. If you took something from a person that didn't belong to them, and if they kept it for themselves for their own personal gain, you're right, that would be theft. If they weren't allowed to have permission, then they didn't have a right to this property. What we're talking about here is a judge making a decision based on the evidence and the facts that he considered it in that case. And he made a decision that was of no personal gain to him, that it was just a decision, like many others he's made in his career. The judicial system has a hierarchy that we are not part of. The law enforcement entity does not go in. We're not part of the appeal process to rectify a...

[(7:12)] Plaintiff: I understand Gil. I understand what you're saying. But there is a crime that's been committed and you are the principal law enforcement agency for dealing with the commission of crimes that violate the penal code. Now, if 484 or 487 isn't the statute that we need to look at, then let's go with 211, because that is the taking of property by means of force or fear, and that has occurred. Whether the person takes the property and gives it to someone else, and they don't keep it, is not an element of either one of those statutes. It is the taking of property. You can give it away after you take it. You can give it to someone else if you want to.

You can turn it into charity for all that matters.

[(8:01)] Sgt. Gil Hernandez: I think we're stretching even talking about 487. Now, force or fear by a court? That is not the definition of force or fear. Now, even though a court can compel you to do something because of the legal system, they can compel people to. The court hears arguments on both sides, and they make decisions based on evidence that's provided.

[(8:29)] Plaintiff: Right, so... I...

[(8:31)] Sgt. Gil Hernandez: There's no force or fear there. [(8:32)] Plaintiff: Oh [crosstalk]

[(8:33)] Sgt. Gil Hernandez: The definition of 211.

[(8:34)] Plaintiff: Okay, so...

[(8:35)] Sgt. Gil Hernandez: I respectfully disagree with you.

[(8:36)] Plaintiff: Okay. I respect your disagreement, but let's say that a police officer, he's off duty and he goes to someone's house and he takes something from them. All right? And he says, "Oh, I'm... [crosstalk]

[(8:54)] Sgt. Gil Hernandez: [It's not inaudible?] to apples to apples Adam. [(8:55)] Plaintiff: Okay. Well...

[(8:56)] Sgt. Gil Hernandez: The scenarios you're giving me are not even close? [(9:00)] Plaintiff: Okay..

[(9:01)] Sgt. Gil Hernandez: To what we're dealing here.

[(9:01)] Plaintiff: So, okay. Let me explain it in a different light. Let me explain it different light. We'll go step by step. Would you agree that the constitution and the laws of the state of California authorize judges to perform certain behaviors?

[(9:16)] Sgt. Gil Hernandez: Yes.

[(9:17)] Plaintiff: Okay. And would you agree that the constitution and the laws of the State of California also withhold certain authority from judges to do certain things?

[(9:27)] Sgt. Gil Hernandez: I don't know. I don't know. I mean, I think...[crosstalk]. Any citizen from breaking the law there is no justice above that.

[(9:38)] Plaintiff: Okay, okay. I know it's not apples to apples, but let's just really simply go to the example of an officer in a police department. The law confers on a police officer...

[(9:51)] Sgt. Gil Hernandez: Courtesy of your time and my time, let's stick to apples to apples. Let's stick there.

[(9:58)] Plaintiff: Okay. I will stick to apples to apples, but I do feel that I'm being respectful of your time. I'm just trying to explain the aspect of the judge, and then I will move on. Can I have that time to just make that one little explanation?

[(10:13)] Sgt. Gil Hernandez: Sure.

[(10:14)] Plaintiff: Okay. Would you agree that the laws of the State of California and the Constitution confer on police officers powers to do certain things?

[(10:25)] Sgt. Gil Hernandez: Yes.

[(10:25)] Plaintiff: Okay. Would you also agree that the laws of the State of California and the Constitution withhold certain powers and authority from police officers?

[(10:37)] Sgt. Gil Hernandez: Yes, that's reasonable.

[(10:38)] Plaintiff: Okay. The same thing applies to all public officials. There are limits to their authority, things that they can and cannot do. When they do those things within their authority, they are under immunity for performing those acts like. Let's say that... [crosstalk]

[(10:57)] Sgt. Gil Hernandez: I understand.

[(10:58)] Plaintiff: Okay. Okay. So now, if a public official does something and they do not have authority to do it, they are no longer acting as a public official. Because they are without the bounds of their duties.

[(11:13)] Sgt. Gil Hernandez: Okay.

[(11:14)] Plaintiff: Their duties say you must do x, y and z. If they don't do x, y or z, they're not acting in that official capacity. So they're not acting as a judge.

[(11:25)] Sgt. Gil Hernandez: So, Okay. Let me ask you this. If the judge decided, in your favor or against your favors and he disagree with it, or yes, I disagree with it, disagrees with his decision.

[(11:47)] Plaintiff: Correct.

[(11:48)] Sgt. Gil Hernandez: That is a process to review that further. [(11:52)] Plaintiff: Correct.

[(11:53)] Sgt. Gil Hernandez: Right.

[(11:53)] Plaintiff: But what I'm talking to you about [crosstalk] Gil?

[(11:56)] Sgt. Gil Hernandez: That being said, there's a process for it being judged by the court of law, right? He could have been makes an allegation against you. The police comes in and sets the case, that provides the outcome of that investigation to the court. Now the Court... or to the DA's office. The DA's office can say "not enough evidence to file. Or he states, "No, we got enough evidence to file." The court now hears the case. The defense has an opportunity to defend themselves. They're innocent until proven guilty, right? At some point, based on the laws of our land, we have agreed that the final word is whether you're a jury or the judge.

[(12:47)] Plaintiff: No, we have not. [crosstalk] That is, that is incorrect. That is incorrect because the supreme law of the land is actually the constitution, not what a judge says or does.

[(12:58)] Sgt. Gil Hernandez: In the constitution, it states that at some point when we can't agree, somebody's gotta make that decision. Somebody's gotta be the mediator, the final word, and we have to accept whether we like it or not.

[(13:16)] Plaintiff: Yes. What you are talking about is when a judge is using lawful authority. You've left out the point, that is the paramount importance here, which is that they acted without authority.

[(13:32)] Sgt. Gil Hernandez: Okay. [(13:32)] Plaintiff: Without law.

[(13:33)] Sgt. Gil Hernandez: Let's take it that the allegedly did. Then that the process for that, because they are human, right? The process for that, if they acted outside of their authority within the scope of a court proceeding.

[(13:50)] Plaintiff: Okay. There is another point right there. That is not within the scope of a court proceeding.

[(13:55)] Sgt. Gil Hernandez: Well, now we're getting in some legal definitions here. [(13:59)] Plaintiff: Okay.

[(14:01)] Sgt. Gil Hernandez: He didn't step off his bench and [say?] empty your pockets. He didn't wait for you at the parking lot. And if the judge did that? Absolutely.

[(14:11)] Plaintiff: Okay, okay, let's... Gil, Gil, let's stay right there. What is the difference then? Let's say this. I'm going to use apples to apples here. You're talking about if the judge came to my person while I'm walking down the road, he takes money out of my pocket and he gives it to someone else. You're saying, in that instance, I could report a crime to you. But now if the judge puts on a black robe and sits on a bench inside of a room, and he says, "Oh, I'm a judge. Now

take out that \$1,000,000 in your pocket and give it to that person." You're saying that that's not theft? And the judge had no authority to make that order? See, the situation is very simple. I'll put it to you like this. A motorist driving down the road gets pulled over by a police agency for not having a driver's license. The cops writes a ticket, cite and release. They go down to court and the judge says, "Okay, first time offense. The fine for that is \$250." All right? That's been taken to be a reasonable and necessary fine. It is within the law, it is within the Excessive Fines Clause, and every bit of authority was done there.

[(15:26)] Sgt. Gil Hernandez: Right.

[(15:26)] Plaintiff: Take no problem with the cop, no problem with the judge, no problem, nothing. Now, let's say in that same example, that person gets the ticket, they go down to court and the judge says, "You're to give your entire life savings to the State of California." And you say, "Under what authority?" And he says, "Under my authority. You're to give your entire life savings, and if you don't, you're going to bankruptcy." Now, in that situation, the judge does not have the authority to render a judgment on that amount. The only authority he has to render the

judgment in, is for the \$250. That's what the legislature has said. Here's the amount that the judge can order.

If he goes beyond that amount, he's not acting within authority. And so he's not sitting in the capacity as a judge. He is taking something from someone, whether giving it to the state or giving it to another person that he has no authority to take. Now, in the case of my situation, I was fined \$1,000,000. That's 46 times my net worth. For not having a construction license, allegedly. There is no law in the State of California, and I'll be happy to show you all the laws on the subject, that authorizes a judge to take that amount. Just to give you something to compare to, the maximum criminal penalty that a judge can order in a criminal unlicensed contractor case is \$5000. \$5000. Oftentimes they award...

[(17:13)] Sgt. Gil Hernandez: Is that civil or criminal?

[(17:14)] Plaintiff: That is criminal.

[(17:16)] Sgt. Gil Hernandez: But was it in the civil court or criminal court?

[(17:19)] Plaintiff: This was in a civil case, but here's the problem, it is really a criminal case because the statute...

[(17:28)] Sgt. Gil Hernandez: But it is in a civil court, All right? [crosstalk] Civil court's do grant judgements that are beyond 5000, way beyond that, you know that?

[(17:36)] Plaintiff: Correct. But here's the thing, Gil. First off. [crosstalk] They have to be within the confines of the Constitution. And there are criteria within the Constitution. Number one, in the case that I sent you, it was by a California court. It says that you have to take into account the reasonableness of the offense. A million dollars is not reasonable. Second, you have to take into account the person's ability to pay. How am I going to pay something that's 46 times my net worth? These are all criteria that have been established by the United States Supreme Court and

the California Supreme Court that require judges to act within their authority. If they don't take into account these considerations, they're not acting within the authority and their judgment is void. It's not difficult. It's impossible that under, either the Excessive Fines Clause or the State of California or the United States, which are both in your policy that you have to respect. The rights of state citizens and citizens of the United States. And here I'm reporting to you, a public official who is not following these duties and therefore committing a crime.

[(19:06)] Sgt. Gil Hernandez: It isn't applied here Adam. That's why it's so... Just let's go down that road. Okay?

[(19:10)] Plaintiff: Okay. Yeah.

[(19:11)] Sgt. Gil Hernandez: You come in. I take your statement. [(19:14)] Plaintiff: Great.

[(19:15)] Sgt. Gil Hernandez: You give me the evidence that you provided in court and transcripts. I book them into evidence, and get your statement. Basically, you went to court for

this, and the other party alleged this, or you alleged this or whatever. We'll go through the whole thing. We upload it and we send it to the DA's office. At some point, we'll request an interview with the judge.

[(19:47)] Plaintiff: OK.

[(19:48)] Sgt. Gil Hernandez: The judge we'd like to sit down with you. "I don't have time." OK. So let's try to get a court order to compel a judge to come provide a statement on a decision that he made in a civil court to a local police department. I would venture to say, that has never been done.

[(20:17)] Plaintiff: I've never heard of compelling someone to make a statement. You can't do it, so. It's not [crosstalk]

[(20:21)] Sgt. Gil Hernandez: Let's leave it to the judge. [(20:22)] Plaintiff: Well, anyone so...

[(20:23)] Sgt. Gil Hernandez: That's to say what we have is... I don't know we would even get a statement. Well, that would have happened...

[(20:38)] Plaintiff: Can I interrupt you for just for a second? All the time, we arrest people, and they don't want to give a statement, or we get a crime report about a suspect, and they don't want to give a statement. We cannot compel them.

[(20:51)] Sgt. Gil Hernandez: [inaudible] Sometimes they give out statements. Yeah, we can't compel them. You're right.

[(20:55)] Plaintiff: Exactly. So this is no difference, no difference. So I come down and make a crime report. I said the judge committed a crime. You've taken a report. You have all the evidence. And he says, "Look, I don't want to talk to you. I'm asserting my fifth amendment privilege, or whatever. He's not under arrest at that point, but he just says, "I don't want to talk to you." So then, you send the case over to the DA. What's the issue?

[(21:16)] Sgt. Gil Hernandez: Before I do that, I have to determine a violation of the law.

[(21:21)] Plaintiff: Okay, great.

[(21:22)] Sgt. Gil Hernandez: And it doesn't fall under 487, 211.

[(21:30)] Plaintiff: Ok, so let's go to 487.

[(21:35)] Sgt. Gil Hernandez: The judge me basically contradicting the decision of a judge in his court.

[(21:44)] Plaintiff: No. You're contradicting the taking of property without judicial process. It is different if I'm just...

[(21:55)] Sgt. Gil Hernandez: But there was the process, right? You we're in court.

[(21:56)] Plaintiff: Yeah, but it was not a lawful process. [crosstalk] They didn't follow the law.

[(21:59)] Sgt. Gil Hernandez: [inaudible]

[(22:01)] Plaintiff: Correct? Correct. But the finding was not made by lawful process.

[(22:07)] Sgt. Gil Hernandez: So Adam, this is what I'm saying. That, I would venture to say, has happened because that's what we have in appellate court system. And the appellate court have reversed findings based on...

[(22:26)] Plaintiff: Correct. I agree with you, but if the appellate court makes the same errors, now what? I'm still out of \$1,000,000, and it wasn't done lawfully. And that is a crime.

[(22:37)] Sgt. Gil Hernandez: They made it more errors?

[(22:39)] Plaintiff: They are. The Supreme Court of the United States just came out and said they are.

[(22:46)] Sgt. Gil Hernandez: So why don't you appeal it to the next court?

[(22:48)] Plaintiff: There is no appeal to be made. Gil, it's over.

[(22:55)] Sgt. Gil Hernandez: So, then you want to go all the way down to the City Police

Department to find some justice here where you've gone to a higher court, and they told you...

[(23:06)] Plaintiff: Let's read 484 of the Penal Code. It says...

[(23:11)] Sgt. Gil Hernandez: Adam, it does not apply.

[(23:12)] Plaintiff: Gil...

[(23:13)] Sgt. Gil Hernandez: You can waste your time.

[(23:16)] Plaintiff: Can you show me? Can you please tell me where in there it doesn't apply? I am happy, I am open-minded. I'm open-hearted. I'm reasonable. I would like to see here how it doesn't apply. It says every person. Does that include a judge? Absolutely. The word person includes a judge. Who shall feloniously

[(23:40)] Sgt. Gil Hernandez: It does not include a judge in this court. Adam, you know that.

[(23:46)] Plaintiff: I don't know that, Gil.

[(23:48)] Sgt. Gil Hernandez: Forming a [doing inaudible?] his job.

[(23:49)] Plaintiff: No. If he's not. If he's not. Okay.

[(23:53)] Sgt. Gil Hernandez: What's the difference?

[(23:53)] Plaintiff: So, Gil. Can you give me the example? We're just going to take authority here. It doesn't matter whether we're talking about a judge or a police officer. But what can a police officer do that is not within his authority that he can be held criminally liable for? If he doesn't act and he is not authorized by the law of the state to do that act. He's not acting in official capacity anymore and he can be sued civilly and held criminally liable. The police officer's not above the law, and neither is a judge.

When they take actions that are clearly in violation of penal law or constitutional law, they are not acting within their authority. And so just as if one of your officers pulled me over and ripped out my stereo and took it. I could come down to your police department, I could say, "Hey, he stole this item of mine," and you could say, "Yes, he took the stereo. He was not acting within his authority. We're going to file criminal charges against them." Even when he was in a uniform, or you could do what you're saying right now. You could say, "Well, Adam, the officer thought it was in his legal authority to take your stereo. So he's not committing a crime. I'm not going to take a report." That's what you're saying to me.

[(25:23)] Sgt. Gil Hernandez: That's not what I'm saying because those are 2 different scenarios. If he took your stereo that's your property. If he took from you for his own personal gain, outside of a courthouse, outside of his jurisdiction. This is a judge that acted in his jurisdiction?

[(25:40)] Plaintiff: No, that's what I'm saying to you. That is what I'm saying to you, Gil.

[(25:45)] Sgt. Gil Hernandez: You don't agree with what his findings were. [(25:47)] Plaintiff: It's, no.

[(25:49)] Sgt. Gil Hernandez: And a higher court also agreed with him. [(25:51)] Plaintiff: No, they didn't.

[(25:53)] Sgt. Gil Hernandez: Oh, man.

[(25:54)] Plaintiff: The United States Supreme Court actually disagreed with them.

[(25:58)] Sgt. Gil Hernandez: Adam. Does the United States Supreme Court did not hear your case?

[(26:03)] Plaintiff: They heard a case.

[(26:05)] Sgt. Gil Hernandez: It was in an appellate court, right?

[(26:07)] Plaintiff: Ok, hang on a minute. We're talking about different needs at the same time.

[(26:12)] Sgt. Gil Hernandez: You're citing maybe similar cases, but [inaudible], I haven't read the case that you have provided.

[(26:22)] Plaintiff: Okay. I'd [crosstalk]

[(26:23)] Sgt. Gil Hernandez: Some illegal, professional has to made those legal interpretation on the case. If that's even applies, cause it may not even apply.

[(26:32)] Plaintiff: I understand what you're coming from [crosstalk] but what you're saying...

[(26:37)] Sgt. Gil Hernandez: You're comparing, by the way you're comparing [inaudible] It isn't even comparable to what you were doing.

[(26:54)] Plaintiff: Okay. And on what grounds would you make that assumption?

[(26:58)] Sgt. Gil Hernandez: Just based on the way [inaudible] whatever [inaudible] property [inaudible]. It's not even close.

[(27:17)] Plaintiff: But the point that you're missing is that you keep saying that the judge did it within his jurisdiction. The word jurisdiction means authority.

[(27:25)] Sgt. Gil Hernandez: But Adam, that's you. That's your opinion [crosstalk] You had another court that reviewed your case and also agreed with him. [crosstalk]

[(27:36)] Plaintiff: Gil [crosstalk] they did not. Gil, they did not, okay. Let me back up [crosstalk]

[(27:43)] Sgt. Gil Hernandez: [inaudible].

[(27:44)] Plaintiff: Okay, okay. Let me explain what happened. There's something in law that's called disgorgement. The word disgorgement basically means to give up. But in law, the action of disgorgement, just like the action of theft or the action of robbery, has certain elements to it. Those elements, for an action for disgorgement, are basically that you have to give up your profits when you commit a wrong. It's the same thing in a robbery. A guy goes down and robs a bank, he's been unjustly enriched by however amount when he robbed the bank, let's just say it's 20 grand. He then has to give back, he has to make restitution for the money that he took. The money that he profited illegally. So the judge orders that he give back the \$20,000. That is an order for disgorgement. That's lawful.

Okay now, let's say you hire me to build you a custom house. You pay me a million dollars. I go out, I buy all the materials and I hire all the laborers and I build you the house valued at a million dollars. Now, you find out, you say, "Uh-oh, Adam wasn't licensed." You go down to the court, and you say, "I want disgorgement. He didn't have a license to do my project." So under a cause of action for disgorgement, the judge is authorized to refund the amount that I profited. What you have to do is you have to say, "Look, you have to call an expert witness." And you have to say, "We went through his accounting, we went through all of his records, he profited a hundred thousand dollars off of this million dollar contract." And that is the amount I would have to refund. That is not what they did here. There is no evidence of that.

They took the entire million dollars and made me refund the million dollars, and the people kept their house. That's the problem. So now, when it came to what the US Supreme Court ruled on, just recently, it was in the context of something called SEC disgorgement. And this is when a day trader commits securities and exchange fraud on people that are making investments with them. It's the same type of action. They took money that they didn't have the right to take, and they have to give back the money that was illegally taken. But what the Supreme Court said, which is the same thing I'm saying to you, is the court is required to make offsets for the reasonable value of services that were provided. In other words, meaning that, in my situation, the court had to take into account that I provided a million dollars worth of remodel construction to these people. And the court never did that.

Because the court didn't do that, it's no longer a civil judgment. It becomes a penal judgment. And because it's a penalty, it's subject to the Excessive Fines Clause of both the California Constitution and the United States Constitution. And in those Excessive Fines Clauses, they withhold authority from a judge to issue a fine unless it meets certain criteria. The Excessive Fines Clauses state excessive fines shall not be imposed. In the same thing, it says a police officer shall not take property that does not belong to them. It's the same thing.

[(31:36)] Sgt. Gil Hernandez: Okay, so what if I did agree or disagree with that? But I... [crosstalk]

[(31:41)] Plaintiff: Okay, okay. So, that's fine. But what is within your purview that I believe you are qualified, is that if I come to you and I'm able to make a complaint that shows that a public official acting without lawful authority is taking something from me. Whether it's given to something else is not a matter of the statute. It says, "Every person who shall feloniously steal, take, carry, lead or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property." It goes on to say all of those things which are in 484. Those are all the taking of property without a lawful authority. That is theft.

[(32:47)] Sgt. Gil Hernandez: Right, but because you say... [crosstalk]

[(32:50)] Plaintiff: No, I [crosstalk] I'm not saying because I say, Gil. The constitution says it.

[(32:56)] Sgt. Gil Hernandez: [crosstalk] There was no personal gain. None of that applies. That you just read right now? None of that applies. And the difference— even if it did apply. You say he's outside of his lawful authority.

[(33:09)] Plaintiff: Well, it is your duty to investigate whether he is within or without his lawful authority. I am reporting to you that a public official that I believe a crime has been committed and a public official is acting without authority in the taking of my property. It is then your duty under your policy...[crosstalk]

[(33:30)] Sgt. Gil Hernandez: But it is not, it's not. You're right, if there was a crime, if there was any [crosstalk] that we can investigate.

[(33:37)] Plaintiff: There is.

[(33:40)] Sgt. Gil Hernandez: In good faith. [inaudible]

[(33:41)] Plaintiff: There is.

[(33:42)] Sgt. Gil Hernandez: If we couldn't investigate, then there isn't, Adam. [(33:46)]

Plaintiff: Okay, can you please [crosstalk]

[(33:47)] Sgt. Gil Hernandez: Not based on the circumstances that you described. This is based on a legal proceeding in a court of law, which is where this occurs. If it were outside of that, I would say, "You know what, let's look at this. Or let's have the DA's office look at this."

Absolutely, I would refer you, I would even say, "Let's have a DA investigator contact you and examine this... [crosstalk]

[(34:21)]Plaintiff: Okay, why [crosstalk] why don't we do that because you've shared with me...

[(34:23)] Sgt. Gil Hernandez: [Maybe?] you should call the DA's office, you'll get a better response from them directly. [inaudible] would have to file this. [inaudible]

[(34:40)] Plaintiff: The investigation has to begin with you, from my understanding. Now, I'm maybe wrong there, can the DA...[crosstalk]

[(34:46)] Sgt. Gil Hernandez: [inaudible] What you're alleging, we have never ever [inaudible] in my twenty years on the job [crosstalk]

[(34:56)] Plaintiff: I agree. I never heard anything like that myself. [crosstalk]

[(34:59)] Sgt. Gil Hernandez: If you go to any agency, no local law enforcement agency has ever done that before.

[(35:05)] Plaintiff: Doesn't matter. Doesn't matter. I'm coming to you with the basics, I'm coming to you with an allegation that a public official is acting without their authority to take property from me. It doesn't matter if they dressed up in a costume and worn a black robe or they don the uniform of a patrol officer, it doesn't matter. If they don't have authority to take it, it's theft.

[(35:35)] Sgt. Gil Hernandez: Adam. [(35:36)] Plaintiff: Yes, Gil.

[(35:38)] Sgt. Gil Hernandez: I have all respect to you, I don't want to be out of line or be disrespectful to you because we've spoken here for close to 40 minutes now. And you're not going to convince me to act [inaudible] here [crosstalk]

[(35:55)] Plaintiff: Okay, that's great. So now [crosstalk]

[(35:56)]Sgt. Gil Hernandez: It's not even to the extent that we should investigate,[inaudible] [crosstalk]

[(36:00)] Plaintiff: Okay, great.

[(36:01)] Sgt. Gil Hernandez: Okay. I'm going to [crosstalk] Okay? I'm not going to tell you [crosstalk]

[(36:04)] Plaintiff: Gil, I hear you. I hear you.

[(36:09)] Sgt. Gil Hernandez: We're out of our jurisdiction here. If something had occurred, there's an appeal process for that. I don't think you are interested in pursuing that, or I don't know if that's even an option anymore.

[(36:21)] Plaintiff: All of those options have been pursued, and the people that the appellate justices are committing the same lawful violation that the trial court judges. What I'm reporting to you is the systemic problem in California. A systemic criminal problem being perpetuated by judges.

[(36:39)] Sgt. Gil Hernandez: Let me ask you this? [(36:40)]Plaintiff: Yes.

[(36:41)]Sgt. Gil Hernandez: And I think you will agree with me that, who gives the power to the judicial branch to decide on statutes?

[(36:58)] Plaintiff: The people by way of the constitution. Article 1, Section 10.

[(37:03)] Sgt. Gil Hernandez: The only segment of the government that can make alterations to that or enact new laws to prevent the [inaudible].

[(37:22)] Plaintiff: Okay, well, what you're talking about Gil, the example that you gave me, is a judge acting within his authority.

[(37:29)] Sgt. Gil Hernandez: Okay. So, if there is something wrong with our system...

[(37:33)] Plaintiff: No, there's nothing wrong with it. They're just not acting within their authority.

[(37:38)] Sgt. Gil Hernandez: So who would hold the judicial branch accountable if they acted outside of their authority?

[(37:47)] Plaintiff: Well, it depends. If what they did was a criminal act, you would go to the police department where the crime occurred, and you would make a crime report. Because the law, the penal code applies to everybody.

[(38:05)]Sgt. Gil Hernandez: But it does not pertain to legal proceedings within the court of the law. It does not apply to that.

[(38:14)] Plaintiff: If the judge's acting within his authority, I agree with you.

[(38:18)] Sgt. Gil Hernandez: It does not apply to judicial proceedings within the court of the law.

[(38:24)] Plaintiff: Okay, so you're saying that [crosstalk] a judge can commit a crime in a courtroom, he can just completely - let's say you were in divorce proceedings, and the law says that the judge is to give 50% to you and 50% to your wife. But what if the judge came in, and said, "Okay, Gil, I want you to give your wife a million dollars." And you said, "Judge, on what authority?" "Well, because I said so."

[(38:53)] Sgt. Gil Hernandez: So then you go to the District Court of Appeals which is a higher authority, and then let them then judge [crosstalk]

[(38:59)] Plaintiff: And then the district court of appeal? [crosstalk]

[(39:02)] Sgt. Gil Hernandez: It's not a higher authority than a judge. That's what I'm trying to say. It's like you're mom did something, like you're mom didn't feed you enough protein in your dinner. And so, you go and you tell you're little brother, "Mom, said that, [right?]" Then you should let your dad or the grandfather to rectify it. Your little brother's not gonna fix it. That's what you're doing.

[(39:35)] Plaintiff: No, it's not. Okay? Because the analogy that you're using is not, the actual level of authority is the law itself. It's not the police department. You are...

[(39:47)] Sgt. Gil Hernandez: Ultimately, ultimately, if we package this case and lets the DA's office says this is what I'm doing here. Who's gonna decide on that case down the line? Another judge.

[(40:03)] Plaintiff: Correct. That's the law. Just like if you broke the law or if I broke the law, a judge is going to decide on it.

[(40:09)] Sgt. Gil Hernandez: But they will have to be a legal statute that was violated, and we haven't found one. We haven't found one [crosstalk]

[(40:18)] Plaintiff: Okay, okay. So let's, can you pull up 484 on the leginfo website [crosstalk]

[(40:23)] Sgt. Gil Hernandez: 484's not going to be it Adam. I'm sorry. Twenty years on the job. I know what 484 is.

[(40:29)] Plaintiff: Okay, then can you explain to me why it would not be appropriate here?

[(40:35)] Sgt. Gil Hernandez: Because 484 does not cover a judge's discretion[?] in a court of law. It does not apply that.

[(40:49)] Plaintiff: Gil, we're not talking about [crosstalk]

[(40:50)]Sgt. Gil Hernandez: That's not the way the system was set up. [inaudible] [(40:55)]

Plaintiff: Gil, we're not talking about a judge's discretion. We're talking...

[(40:59)]Sgt. Gil Hernandez: You're just not recognizing the discretion of the judge. You're not recognizing it. Court, an appellate court, that is a higher court. That's a court where you, that may grant the million dollar [inaudible]. He's not wrong.

[(41:19)] Plaintiff: Gil, let's go back to the example of you getting divorce from your wife. So you're in court...

[(41:25)] Sgt. Gil Hernandez: No, I'm not going to go back and forth. This will [crosstalk]

[(41:28)] Plaintiff: I'd appreciate [crosstalk]

[(41:29)] Sgt. Gil Hernandez: Adam you seem like a nice guy. Maybe you'd be more open to a conversation with an attorney.

[(41:38)] Plaintiff: Gil, I've had many conversations with attorneys. I don't [crosstalk] need to go down.

[(41:42)] Sgt. Gil Hernandez: [inaudible]

[(41:44)] Plaintiff: What's that?

[(41:45)] Sgt. Gil Hernandez: You're talking to a police sergeant right now. [(41:48)] Plaintiff: Great.

[(41:49)] Sgt. Gil Hernandez: Right. Right. I don't know what's attorney's job, but this is best suited for [inaudible] your type, I mean, this is best suited for a conversation with a legal professional, and just exactly what you're talking about. Because what you would like it to be or [inaudible].

[(42:16)] Plaintiff: Gil

[(42:17)] Sgt. Gil Hernandez: It's not [inaudible] [crosstalk]

[(42:19)] Plaintiff: Okay. [crosstalk] Hang on a minute. Can you please explain to me this, I need to go back to the divorce example really quickly. Let's say that there's a law that allows the judge to give, that you have to give 50% of your property to your wife, and the judge says, "I don't care about that, Gil. I've heard bad shit about you, you give your wife a million dollars." And so, Gil, let me finish please.

[(42:45)] Sgt. Gil Hernandez: I know...[crosstalk] [(42:46)] Plaintiff: Let me finish please. [crosstalk]

[(42:47)] Sgt. Gil Hernandez: I know what you're going to say. It is way above and beyond to a million dollars. The maximum penalty which is \$1000.

[(42:55)] Plaintiff: Okay.

[(42:56)] Sgt. Gil Hernandez: Then he called at million dollars, I get that. That's the same reason, that's why I ask you if it was a criminal court or if it was a civil court because [inaudible]. You can Google settlements, or civil court.[crosstalk]

[(43:23)] Plaintiff: Okay, Gil. Hang on a minute. [crosstalk] Hang on a minute. I do agree with you, however, those judgments that were made were also made within the bounds of the constitution. What were talking about here is not. That's the difference.

[(43:41)] Sgt. Gil Hernandez: It's not the local police department that rectifies that [crosstalk]

[(43:45)] Plaintiff: Okay. So [crosstalk]

[(43:45)] Sgt. Gil Hernandez: [inaudible]

[(43:47)] Plaintiff: Well, if a crime has been committed, you're a part of that process. So back to...

[(43:52)] Sgt. Gil Hernandez: But a crime that's not been committed.

[(43:54)] Plaintiff: So let me ask you this, again, back to the divorce example, really quickly. The maximum the judge could take, let's just say in your divorce proceeding, was a thousand dollars and he orders a million. So you say, "Judge, where is your authority to take a million dollars from me?" And he says, "Well, Gil, I just made it up. There isn't any," and you say, "Well, you can't just do that because you're not acting within the law." And so you say, "Okay, fine, judge. I'm going to appeal." So you to the appellate court, and the 3 justices say, "Yeah, he had an authority to do that." And so you say to them, "Where? Where is his authority?" And they cannot give it to you. So then you say, "Well, wait a minute." Now what's happening is I have a process that was designed by the constitution that gives the judge through the legislature the authority to take a certain amount. And that is the law. The Black Letter Law says, "In this case, Gil has to pay a thousand dollars." But the judge has ordered a million. So now, the judge is taking something from you without lawful authority, meaning theft. If you take someone...

[(45:06)] Sgt. Gil Hernandez: But that's what you're saying though. He had 3 judges that said, "Here is within his authority."

[(45:12)] Plaintiff: No, the 3 judges are wrong and I'm happy to sit down and show that to you.

[(45:16)] Sgt. Gil Hernandez: So now, 4 judges now are guilty of some kind of theft.

[(45:22)] Plaintiff: Yes and I can show you the Supreme Court Case that shows that they're completely guilty. I can show it to you. But you keep thinking that there isn't a crime here, and what I don't seem to understand and if you can explain it to me, I'm here and open to listen to it. I really am.

[(45:46)] Sgt. Gil Hernandez: I don't think you are, Adam. [(45:47)] Plaintiff: If you have a public official...

[(45:48)] Sgt. Gil Hernandez: You're not even accepting the judgment of 3 appellate judges, that there are much more... they're legally versed than any of us. [inaudible]

[(46:01)] Plaintiff: Okay and they [crosstalk] so let me just give you an example right now. [crosstalk] Let me give you another example right now.

[(46:09)] Sgt. Gil Hernandez: I don't need any more examples.

[(46:11)] Plaintiff: Here's the case. Right now [crosstalk], Gil...

[(46:13)] Sgt. Gil Hernandez: I don't need any more examples. I have to get off the phone now.

[(46:17)] Plaintiff: Okay, so ultimately, you're saying you're not going to take the crime report?

[(46:20)] Sgt. Gil Hernandez: We are not going to take that report.

[(46:22)] Plaintiff: Okay, great.

[(46:22)] Sgt. Gil Hernandez: Okay?

[(46:23)] Plaintiff: I would like to speak [crosstalk] to you

[(46:24)] Sgt. Gil Hernandez: You talk to you [inaudible] [crosstalk]. You can talk to your legislator. You just mentioned that...

[(46:30)] Plaintiff: Gil, thank you so much for that, but what I would like to do right now is either: A) you talked to the chief or B) talked to someone in professional standards. So that I can make a complaint for dereliction of duty. Can you...

[(46:42)] Sgt. Gil Hernandez: So, Adam, the respondent duty or original public records at with Commander Rodriguez. He's our commander of our professional standards division.

[(46:53)] Plaintiff: Great.

[(46:54)] Sgt. Gil Hernandez: Okay. So he responded to you [crosstalk].

[(46:58)] Plaintiff: He responded to a public records at request, and now I am making a request to make a complaint for dereliction of duty.

[(47:07)] Sgt. Gil Hernandez: Okay. So are you local? [(47:09)] Plaintiff: I am.

[(47:10)] Sgt. Gil Hernandez: Okay. You can come into the station, and we will provide you with a complaint form [inaudible].

[(47:17)] Plaintiff: Okay, great. Because of the COVID crisis thing going on right now, is the complaint available online, or can you email it to me?

[(47:26)] Sgt. Gil Hernandez: You know what? That's a good question. I can mail it to you, for sure.

[(47:30)] Plaintiff: Great.

[(47:31)] Sgt. Gil Hernandez: I can mail it to you, for sure. [(47:33)] Plaintiff: Great.

[(47:34)] Sgt. Gil Hernandez: I will say this, it is against our policy to refuse a person that's interested in a complaint, so if you want to do that, you're within your rights. I'm not going to refuse you that, but out of courtesy to you, I mean, I spoke to you for 48, 49 minutes now.

[(47:57)] Plaintiff: Great. And I appreciate that.

[(47:58)] Sgt. Gil Hernandez: [crosstalk] I didn't take this lightly, okay? But I also have a job. You know, the chief, he's not interested [inaudible] [crosstalk]

[(48:09)] Plaintiff: So Gil, let me ask you this. What if I'm right? What if I'm right? What if I'm right, Gil?

[(48:17)] Sgt. Gil Hernandez: Okay.

[(48:18)] Plaintiff: What if I'm right?

[(48:20)] Sgt. Gil Hernandez: This is what I'm gonna say to you. You have 4 judges evaluate this case. We, here in the police department, I will speak for every person here, we are not, we would be outside of our jurisdiction to contradict 4 judges.

[(48:40)] Plaintiff: Even if they committed a crime? Even if... [(48:42)] Sgt. Gil Hernandez: That's your opinion.

[(48:44)] Plaintiff: No, okay. But I'm just saying. Let's give a hypothetical example, if they committed a crime, if what [crosstalk]

[(48:50)] Sgt. Gil Hernandez: Let me interrupt you really quick. I don't want to do back and forth.

[(48:53)] Plaintiff: I'm not trying to go back and forth with you, I'm just trying to understand that if [crosstalk] I came to you...

[(49:00)] Sgt. Gil Hernandez: That's the problem, that's why we disagree. There is no crime that has been committed. This was a decision that was made in a court of law. That we, in the society, recognize. That's the final word. Do you think people on death row will agree? With their findings of the subject... [crosstalk]

[(49:18)] Plaintiff: If they are within the law, I get it. You can be upset, and you can say, "Okay, I don't agree with it, but it's within the law." I'm talking about something totally different, Gil.

[(49:29)] Sgt. Gil Hernandez: Right.

[(49:30)] Plaintiff: I'm talking about something that [crosstalk]

[(49:31)] Sgt. Gil Hernandez: It have been evaluated by 3 additional judges, that said it was.

[(49:34)] Plaintiff: Okay, well, let me tell you something right now. Right now, the US Supreme Court in the case that I'm talking about, it just overruled the 9th circuit, the 9th circuit is a court of appeal, and there are 3 judges that are there and it just voided their judgment because they said they were wrong, for the same reason in my case.

[(49:56)] Sgt. Gil Hernandez: Okay, Adam. So then, why don't you have your attorney appeal this to the Supreme Court, then?

[(50:01)] Plaintiff: Because they do not have to hear your case, Gil. It's not a matter of they have to take your case and give you justice. If they don't want to hear it, they don't have to. You're done.

[(50:13)] Sgt. Gil Hernandez: Then you're done, Adam. [(50:15)] Plaintiff: No, I'm not done. I'm not done. There is...

[(50:18)] Sgt. Gil Hernandez: You think it's some type of release through the local police department, why are you hoping[?] something that is done. You took the process [crosstalk]

[(50:30)] Plaintiff: Because: Because Gil... [crosstalk]

[(50:30)] Sgt. Gil Hernandez: They did it the right way. [crosstalk]

[(50:32)] Plaintiff: Because, Gil, a crime has been committed. It is unlawful [crosstalk]

[(50:35)] Sgt. Gil Hernandez: It has not.

[(50:36)] Plaintiff: Okay. Fine.

[(50:37)] Sgt. Gil Hernandez: [inaudible]

[(50:38)] Plaintiff: Gil, [crosstalk] I'll give you my address, can you please send me the form? Or I can give you my email tor if you're able to scan it?

[(50:46)] Sgt. Gil Hernandez: I sure will. You're basically... I'm not gonna try to dissuade you from a complaint. You can submit a complaint form, and complain for every employee that took the time to talk to you. To hear you out, and discuss it with you.[crosstalk].

[(51:03)] Plaintiff: But ultimately did not do their job. You, ultimately, did not do your job, Gil.

That's the complaint. [crosstalk]

[(51:09)] Sgt. Gil Hernandez: [inaudible] That's fine. Against the opinion of 4 judges. Rope me into it too if you want.

[(51:15)] Plaintiff: Okay.

[(51:16)] Sgt. Gil Hernandez: What's your address? Is it in your complaint or original letter?

[(51:21)] Plaintiff: Yes, it is.

[(51:22)] Sgt. Gil Hernandez: Let's see, I got a 818 Sprint, Costa Mesa, California, USA. And then, I guess, your email is abereki@gmail.com

[(51:33)] Plaintiff: Yes. Spirit is correct, yes. It's not sprint.

[(51:39)] Sgt. Gil Hernandez: Oh, I'm sorry. 818 Spirit, Costa Mesa, California [(51:43)]

Plaintiff: Yes

[(51:44)] Sgt. Gil Hernandez: Okay. I'm going to forward this to Commander Rodriguez, who's our internal affairs commanding officer. I'll let him know that we spoke, and if it's appropriate, you will get a complaint form to that address, okay?

[(52:02)] Plaintiff: Okay, no, there's not an, if it's appropriate. I'm asking you for a complaint form.

[(52:06)] Sgt. Gil Hernandez: The complaint will ultimately be investigated by his office. You'll get your complaint form, I'm not gonna decide yes or no. Okay, Adam?

[(52:18)] Plaintiff: Okay, okay, great. Thank you so much for your time. I appreciate it. Bye bye.

[(52:23)] Sgt. Gil Hernandez: Okay. Have a good day. Bye bye.

[END]