

## EXHIBIT [E30]

### CONVERSATION BETWEEN ADAM BEREKI (PLAINTIFF/PETITIONER) AND BRIAN WADKINS OF THE COSTA MESA POLICE DEPARTMENT<sup>1</sup>

JULY 11, 2022

[(0:00)] Lt. Bryan Wadkins: Wonderful.

[(0:02)] Plaintiff: Are you the IA Lieutenant?

[(0:04)] Lt. Wadkins: Yes. I'm in charge of our professional standards bureau, which actually handles our internal affairs administrative investigations. In fact, I was already kind of aware of the phone call because we're the ones that reviewed your public records request to get that recording of that phone call.

[(0:25)] Plaintiff: Oh, okay.

[(0:26)] Lt. Wadkins: We were the ones that approved that. I sent that to you, and then, when the chief gets a complaint, he forwards them to me. I got your letter.

[(0:34)] Plaintiff: Okay. Great!

[(0:36)] Lt. Wadkins: So, I've listened to your conversation on the phone. I feel I got an understanding of that explanation. I think that phone call was 15 minutes. I listened to that whole thing and kind of have an understanding of what your issue is and complaint. The fact that we refused to take some kind of a criminal report from you. Is that correct?

[(1:02)] Plaintiff: Well, it's not just a criminal report. Although, criminal activity, I believe, is definitely afoot. It also is a matter of deprivation of constitutionally protective rights which the constitution protects the right to life, liberty in property, which shows up in many penal codes, for example, right? Where someone can't take your property without lawful authority, they can't use force and fear to take it. That type of thing.

So, yes, it may turn out to be a criminal issue because it's clear to me that a lot of California penal codes protect those rights in properties. Also, I think it's called the Tom Bane Civil Rights Act. Also, protections occur under the federal constitution. More specifically, just a general

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<sup>1</sup> NOTE: All efforts have been made to ensure the accuracy of this transcript. It was created by a third-party transcription company and 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 Adam Bereki'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.

doctor in a separation of powers that when one branch is usurping its role under the constitution, that another branch has a duty to intervene. Basically, because the judiciary, in this instance, is acting without lawful authority, and I've gone through the judicial process as well as the legislative process to get a remedy that the executive branch also has a duty to investigate and intervene. Does that make sense?

[(2:34)] Lt. Wadkins: I understand what you're saying. I disagree with the specifics of the issue. I guess I'll just cut to the chase. Unfortunately, we will not be able to make a report to investigate your complaint. Some of the issues obviously, we don't investigate judges based upon court decisions upon civil decisions. The place to obviously, appeal or to point out the flaw in the judge's decision would be in the appellate process. If you've already gone through that and you've voiced your concerns to the appellate court, which is multiple judges sitting on an appellate court and they stood by the ruling, then, unfortunately, you've had your due process. You had the ability to appeal and point out the error in the judge's ways, and it's a legal decision.

[(3:34)] Plaintiff: It's not due process if they're not executing the process that is due. Just because you show up in a room that has the great Seal of the State of California on it, and one or three people come out wearing black robes doesn't mean the constitution's been followed. Right? The constitution places limits and boundaries within the scope of what judges are authorized to do. And, one of those things there forbidden from doing is taking property without lawful authority or excessively fining people and conducting prosecutions in a civil context that were intended to be taken or prosecuted by the executive power of the state.

[(4:19)] Lt. Wadkins: Then the next process in your due process would be, after this appellate court would be to appeal this to the California Supreme Court, which would be the next step.

[(4:29)] Plaintiff: Been there, done that. So, there is no court in California that I can go to for a remedy for this situation.

[(4:39)] Lt. Wadkins: Then, if you have a federal violation, you could appeal it to, obviously, a higher federal authority.

[(4:48)] Plaintiff: Been there, done that.

[(4:49)] Lt. Wadkins: Again, sir, I'm sorry that we're not the answer. We're only just a tool. We're not the tool for this issue. There are things set up for this process, for the court process. It sounds like you've gone through every avenue, and now you're kind of going backwards to the lowest level. I understand listening to your recording that you've contacted two other police agencies and all sorts of other agencies. But unfortunately, it sounds like a terrible situation you're going through, and I have empathy for you for that. [crosstalk] But the due process has been done.

[(5:22)] Plaintiff: I don't understand how you're characterizing yourself or what I'm doing is going backward. Are you as the police department in the city I live in, being the lowest level? As far as I understand, you have a duty, and each of your officers takes a duty to support and defend the constitution against all enemies, foreign and domestic. It's verbatim language in your oath of office. You have a sworn duty, and your officers have a sworn duty to protect and defend my

rights.

[(5:57)] Lt. Wadkins: I understand that and I will gladly. It's not to say I can't open a criminal investigation against a judge. I can open up a criminal investigation against a judge if the judge has committed a crime. You're talking about a crime associated with his ruling. This is different. That is not something we're going to open up a criminal investigation on. If a judge goes and gets in a car wreck DUI of course, we're going to investigate a judge. We're going to conduct a criminal investigation and follow after them. I'm not saying the judge is above the law. What I'm saying is, the judge's ruling, the way to appeal those things, there's a process set up for that. It sounds like you've gone through that process and you are not getting the answers you want, unfortunately. I'm just saying we are not the answer to that remedy.

[(6:48)] Plaintiff: It's not a matter of the answer I want, although it is an answer I want. I'm just asking what's due to me under our state and national constitutions. In essence, what you're saying is that you are placing the judge above the law because you are saying that anything that they do essentially on the bench when they're wearing that robe cannot be examined by another authority-

[(7:09)] Lt. Wadkins: No. There's a presiding judge. If you think a judge hasn't done misconduct in their court, you can speak to the presiding judge of the court. In my own personal life, I've felt like I was wronged in a court process non criminal and I wrote a letter to the presiding judge, and the presiding judge responded to me and I felt like I was hurt, and like the issue that I presented would be addressed.

What you're talking about is the decision of the judge, so the presiding judges can't overrule the judge. Only the appellate court can do that. Only the California Supreme Court can do that. These other layers of due process, we're going to go round and round about this. And you, obviously are very well versed on this and very educated and I don't want to belittle you with my understanding of the circumstance. What I'm trying to explain is our agency is not going to take a criminal investigation for this. We have accepted your complaint against Sergeant Manson, and we'll deal with that situation appropriately as we deem fit. As far as we're concerned-

[(8:24)] Plaintiff: Let me say, although I filed in that fashion, if you're not going to investigate the issue that I'm recording, then it's pointless for you to even begin an administrative investigation against Sergeant Manson. The two go like opposite sides of the same coin. Essentially, you'll find that he didn't do anything and wasn't guilty of any misconduct, so to speak because you're not investigating the thing that you have a duty to investigate. That's going to be clearly unfounded. You can drop that. If you're telling me right now that the- what you're saying to me, are you speaking on behalf of the chief of police?

[(9:08)] Lt. Wadkins: Yes.

[(9:08)] Plaintiff: That this is the decision of the city of Costa Mesa, that you are not going to investigate my complaint or intervene at all?

[(9:18)] Lt. Wadkins: Yes. We're not going to take the complaint. We're not going to take your

criminal report on this matter.

[(9:23)] Plaintiff: How about a Deprivation of Rights report?

[(9:27)] Lt. Wadkins: We are not going to take a report regarding this incidence, the issues that you're bringing up regarding investigating the due process of your court procedure in the civil court which has gone through multiple layers of appeal.

[(9:47)] Plaintiff: Right. Okay. Even though the California Penal Codes clearly say, for example, 484, 487 says, whoever, they apply to judges who-

[(10:02)] Lt. Wadkins: It's not unlawful taking if it's done with a court order.

[(10:05)] Plaintiff: But if the court doesn't have authority to do that, then-

[(10:08)] Lt. Wadkins: Then the appellate court or the Supreme Court would have ruled on your behalf. If you and your attorney argued the point correctly, they would've ruled on your behalf. If they thought there was merit in your argument, they would've overturned the decision or sent it back down for retrial with a different court.

[(10:20)] Plaintiff: They do know. That is not what has happened. What I'm saying is that's not what happened. There is a clear degraded deprivation of rights that can give you just undeniable evidence of what has gone on. Even though I have gone through all of those court processes. I hear you when you say that those processes should have worked, and they should have done those things. But the reason I'm coming to you at this point is because those processes haven't worked.

When you say that the judgment was made essentially by a duly appointed judge acting with lawful authority, that's not the case because the judge has no authority any more than a police officer does to violate the fundamental law of our state and nation, so you can't say that a judge has authority to issue a near million-dollar fine when the constitution expressly forbids that. There're basic things that before, as a police officer, you have certain procedures that you have to follow when your taking someone's property or you make an arrest. Otherwise, if it could be deemed as an unlawful arrest and you may not have had the authority to do it. For example, you can't pull someone over because you don't like the color of the shirt they're wearing. If you did that and then fine or imprison them, you would be guilty of false imprisonment or unlawful seizure.

[(11:53)] Lt. Wadkins: That person can't now go to another police agency and file a criminal case against us. What that person has to do is must go to court and file a criminal, a federal, or a civil action against us. That's what you have to do. You have to use the court process to-

[(12:14)] Plaintiff: What I'm sharing with you, and I realize this is a unique situation, is that that process is not working for me. Not because my argument is BS, but because that is what is transpiring in this case right now. That does not, no matter what is going on in the court, we have a system of co-equal branches of government. That's why the powers were separated. One branch

act as a check and balance on the other. I'm not asking you to perform a judicial duty and declare that the judgment is void. What I'm asking you to do is investigate my complaint, determine from an executive standpoint because every officer of the government has the duty to interpret the constitution and do so. If this judgment turns up to where the sheriff shows up at my doorstep and tries to steal my home, the Costa Mesa Police Department may be there intervening, saying, No. This is not how this is going to go. Or there's another issue that is here-

[(13:18)] Lt. Wadkins: We don't even have the legal expertise to review a civil case of this matter, nor would we. Mr. Bereki, you're not going to get the answer from me that you want. I'm not going to convince you otherwise, unfortunately.

[(13:25)] Plaintiff: Here's the deal. I was a cop for ten years here in Southern California. If I were still a cop, I'd probably have the same time on that you do right now. So granted, I have had a little bit more time studying on this exact matter. I've taken all the leg work out of it for anyone to be able to look at the facts of the case very plainly and simply and discover whether there is a violation of a Deprivation of Rights.

[(14:11)] Lt. Wadkins: If it's that clear to look at, then why didn't the appellate court recognize that?

[(14:17)] Plaintiff: I can't tell you that. [Crosstalk] I don't know.

[(14:19)] Lt. Wadkins: Why didn't the California Supreme Court recognize that this judge was acting outside his authority?

[(14:25)] Plaintiff: The California Supreme Court has actually held that the judgment that was against me is penal. It is punitive. I don't know why the trial judge and the appellate court justices did not follow the Supreme Court but they have a duty to do that. When my case went to the California Supreme Court, the justices there had a duty to take my case because I did not have a full, fair, and impartial trial and appeal. They violated their duty by not taking my case. It was not a determination on the merits of the case because they never took the case.

Ordinarily, when you go to the California Supreme Court at that level, the court is assuming that you've already had a fair trial and a fair appeal. That their taking of your case is discretionary. Right? But that's not what happened in my case. Both the trial and the appellate court judges completely violated the constitution. When the case went up to the California Supreme Court, for whatever reason, I was not ready for their decision and they did not give a written decision other than they were not taking the case.

But again, that's not a decision on the merits of the case. They have already spoken in numerous previous cases. They said that this action is indeed penal. I have a decision from the United States Supreme Court saying exactly what I'm saying in the context of a different case. That negates if you will be the determination made by the trial court judge and the appellate court judges. What I'm saying here is I am not a lone voice in the wilderness. I have the highest court in the nation, the US Supreme Court saying what I'm saying pertaining to my case.

That's the problem. There's no remedy after going through all of the courts in California. There's no remedy. That's it. That's why I went to the legislature and said, "Hey, what is going on with this law? You need to do an investigation. This is highly unconstitutional." And they refused to do something about it.

So now, there are judgments that are being enforced upon me. As a result of that judgment, one of them is my license to act as a general contractor has been suspended indefinitely. I got no hearing. That's required that there be a judicial hearing on that. There was no hearing for that suspension. It was automatic. That's another violation of the separation of power. So now, this judgment's illegal. My license has been suspended. Now I can't work to pay my mortgage or property taxes for the property that's held in my estate. And now, the mortgage company is threatening to foreclose on the property. I suspect that the Orange county tax collector is on their heels as well.

What I'm reporting is that everything that's been done to me, in this case, has been egregious, unconstitutional, and illegal. There's no authority for any of it. Every time I go to a branch of government that says, and I report this to them, over and over. I'm saying, "Look, here's the case law on this subject. Here it is. It's clear as day." Everyone points the finger at someone else, and no one is willing to take the responsibility to do the duty of their office to protect my rights and property. It's that simple.

I realize the situation is unique. As a former police officer, what I can remember is that when I went to the academy, I got exclusive training on protecting the constitutional rights of all people. And I don't care who it was. If someone came to me and told me that another public official or another citizen had taken their property without lawful authority, I would undoubtedly, undeniably, have known that it was my duty to begin an investigation of some kind. Even if I didn't understand completely what was going on. The fact that there was something so egregious as a near million-dollar fine would've told me that there's something seriously wrong here.

From the patrol perspective where I worked most of my career, maybe my duty at that point may have just been to take a report and send it up to detectives and let them sort it out. From a detective's standpoint, where I also worked, it would've been my duty to investigate this citizen's complaint to see if there, in fact, was, a criminal violation. Even though judges are sitting on a bench and they are close with authority in the same way that police officers are, they have to stay within the bounds of the law. We can't say just because the police officer is wearing the uniform and he's a police officer doesn't mean he can't commit a criminal act. If I went to some other authority and made a criminal complaint, they absolutely have a duty to investigate that. In the same context, if I brought a civil action, then the courts would also have a duty to do that as well.

But when it comes to the deprivation of constitutional rights, there is no discretion by public officials. If you had a discretion that says, "Well, you know, Adam, we don't want to investigate that." Essentially, you're overruling the constitution because it says right there that you're bound to do these things. If I'm reporting to you that the government which you are employed is doing something illegal, you have a duty to do something about it. So, I am just blown away at the fact that you guys, as well as the other agencies I've contacted, including the courts, are just refusing

to do what is so blatantly obvious in the constitution. I'll leave it at that.

[(20:45)] Lt. Wadkins: Mr. Bereki, I apologize. I feel bad for your situation, and I hope, and I'm not saying this in a snide manner. It sounds like you could start everything you've learned. You could look into going into law or in some manner. I hope that that inspires you to find possibly some new avenue to heighten your life.

[(21:16)] Plaintiff: I actually hope to change the law. One of the ways that I'm doing- let me just clarify. I want to make certain that you have the authority of the chief of police to make this policy determination that the city of Costa Mesa is not going to investigate or intervene. You were given that authority?

[(21:37)] Lt. Wadkins: This isn't a policy decision. I'm just saying we are not going to. We have the discretion to take reports, not to take reports. We have discretion in our job. I'm telling you based upon my understanding of it, listening to your phone call, and listening to you now, we are not going to take a criminal report regarding this issue.

[(22:00)] Plaintiff: As I explain, you don't have discretion when it comes to a matter of rights violations, but if you want it, that's fine if you want to believe that. At this point, disagree, but I do believe that it is a policy of the Costa Mesa Police Department not to investigate deprivation of rights complaints and complaints of suspected criminal activity by judges or other public officials acting without lawful authority.

[(22:31)] Lt. Wadkins: In this specific case, yes. In the matter I have explained. So, yeah.

[(22:35)] Plaintiff: That is a policy determination, and that is what I'm clarifying with you. That's why I sent my complaint directly to the chief of police. It is my understanding that he has the policy-making authority for the city of Costa Mesa as the chief of police and so I wanted a determination from him on that issue. That's why I asked you, have you been given that authority by the chief to make this policy determination in my case about this issue?

[(23:11)] Lt. Wadkins: I'm telling you what I'm telling you from my perspective as the lieutenant of our professional standards bureau, that we are not going to take this report. I've accepted your complaint, which you said to go ahead and resend, and I will do that as well.

[(23:30)] Plaintiff: Right. Okay. But you still haven't answered my question.

[(23:34)] Lt. Wadkins: I've just told you. The Costa Mesa Police Department is not going to take a criminal report in this instance.

[(23:42)] Plaintiff: Okay. I will accept that, although I disagree, but could you please have the chief put that in writing and then email it to me?

[(23:52)] Lt. Wadkins: No, we're not.

[(23:53)] Plaintiff: You're not going to do that?

[(23:54)] Lt. Wadkins: I'm handling this via phone call. I'll be happy to send you a letter regarding your complaint if you'd like but-

[(24:05)] Plaintiff: No. What I'm asking for is a determination by the chief. And so, you're not going to give that to me.

[(24:12)] Lt. Wadkins: No.

[(24:13)] Plaintiff: Okay.

[(24:14)] Lt. Wadkins: Alright.

[(24:15)] Plaintiff: Alright. Well, I thank you for your time.

[(24:17)] Lt. Wadkins: I appreciate it.

[(24:17)] Plaintiff: What was your name again?

[(24:18)] Lt. Wadkins: Lt. Bryan Wadkins.

[(24:29)] Plaintiff: Okay. Thank you, lieutenant.

[(24:31)] Lt. Wadkins: Bye-bye.

[(24:32)] Plaintiff: Bye.

[END]