

EXHIBIT [E9]

CONVERSATION BETWEEN ADAM BEREKI (PLAINTIFF/PETITIONER), SGT. SALCEDA, AND DEPUTY DEMAIO OF THE ORANGE COUNTY SHERIFF-CORONER DEPARTMENT¹

AUGUST 06, 2020

[(0:01)] Sgt. Salceda: Yes, sir.

[(0:02)] Plaintiff: Hi there. How are you?

[(0:03)] Sgt. Salceda: I'm good. How are you?

[(0:03)] Plaintiff: What's your name?

[(0:04)] Sgt. Salceda: Salceda.

[(0:05)] Plaintiff: Adam is my name.

[(0:06)] Sgt. Salceda: How are you doing?

[(0:06)] Plaintiff: So, I called the Sheriff's Watch Commander. I want to see [inaudible] but I know that's not correct.

[(0:16)] Sgt. Salceda: Okay.

[(0:16)] Plaintiff: So, I called dispatch and they transfer me to the watch commander. I said that I wanted to make a crime report, and he said after I explained to him what happened, he said, "Well if what you're saying is a crime, that it occurred at the courthouse, so, I want you to go down there and talk to the supervisor and tell him what happened and neither, A. He'll make a crime report for taking information report, nor he won't do anything.

[(0:40)] Sgt. Salceda: Okay.

[(0:40)] Plaintiff: But go down there and talk to him. So is that you that I need to talk to?

[(0:44)] Sgt. Salceda: Sure.

[(0:45)] Plaintiff: Okay, so I used to be a cop.

¹ 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.

[(0:48)] Sgt. Salceda: Okay.

[(0:49)] Plaintiff: Don't worry about me. I was fined a million dollars, close to it.

[(0:57)] Sgt. Salceda: Holy cow. Okay.

[(0:58)] Plaintiff: By a judge here.

[(0:59)] Sgt. Salceda: What judge?

[(1:00)] Plaintiff: Chaffee, he just retired.

[(1:00)] Sgt. Salceda: Okay.

[(1:01)] Plaintiff: And there is no lawful authority for him to do it. So, I did make an appeal and I went to that court and those judges did the same thing.

[(1:13)] Sgt. Salceda: Okay.

[(1:13)] Plaintiff: They said there's no merit to my argument.

[(1:18)] Sgt. Salceda: Okay. What was the fine for you?

[(1:19)] Plaintiff: For not having a construction license.

[(1:22)] Sgt. Salceda: Okay.

[(1:24)] Plaintiff: Keep in mind that the fine for not having a driver's license with a car is about \$250.

[(1:29)] Sgt. Salceda: Right.

[(1:29)] Plaintiff: The criminal fine for not having a construction license is a maximum of \$5,000. So, the Civil penalty can't possibly be \$930,000, okay?

[(1:38)] Sgt. Salceda: Okay.

[(1:38)] Plaintiff: So I made the appeal, they said the same thing that they upheld Chaffee's ruling and so then, the next option is to go to the California Supreme Court.

[(1:49)] Sgt. Salceda: Okay.

[(1:50)] Plaintiff: I went there, and they said, it's discretionary. We don't have to take your case. They didn't take it.

[(1:55)] Sgt. Salceda: Right.

[(1:55)] Plaintiff: So, I went to the US Supreme Court, it's discretionary there too. They didn't take my case.

[(2:01)] Sgt. Salceda: Okay.

[(2:02)] Plaintiff: I continued researching the law. I have the evidence that it is a fine and not what they said it was. So, literally on June 22nd, the US Supreme Court came down with the decision that is just like my case.

[(2:18)] Sgt. Salceda: Okay.

[(2:19)] Plaintiff: They upheld, if you will, all of the same arguments that I made on appeal.

[(2:23)] Sgt. Salceda: Okay.

[(2:25)] Plaintiff: So, the legal premise of my argument is that if a judge does something without either statutory or constitutional authority, everything that you or I do as a police officer, we have to have authority in the law court.

[(2:38)] Sgt. Salceda: Right.

[(2:38)] Plaintiff: Okay. So if you act without lawful authority, you're not doing something under the law. You're acting without authority.

[(2:45)] Sgt. Salceda: Right.

[(2:46)] Plaintiff: Okay. So then, if you were to do something like that, you can be either sued civilly or arrested for committing a crime. Okay. So that's what I'm here to say, is that Chafee had no authority under either statutory or constitutional law to fine me a million dollars or close to it. And so since, I have gone to the commission on judicial performance would be the agency that would investigate judges. They are only from what I can tell an administrative agency, that does not have Criminal Law Enforcement Authority.

[(3:21)] Sgt. Salceda: Okay.

[(3:22)] Plaintiff: I did submit a complaint to them. They said this sounds legal error and we've closed the complaint. I sent them a letter and I said, wait a minute.

[(3:30)] Sgt. Salceda: Legal error
on whose part?

[(3:30)] Plaintiff: Chaffee's.

[(3:33)] Sgt. Salceda: Okay.

[(3:34)] Unknown OCSD Deputy: Do you have a lawyer, sir?

[(3:34)] Plaintiff: I don't, and I don't need a lawyer because they're a part of this. The State Bar promulgated civil jury instructions on this issue. So, the other thing that I want to share is that this is not just an issue confined to me, this is a criminal policy violation that the entire State of California is involved in perpetrating against people. What happens is they come in here, someone makes a complaint that they were contracting without a license. The judges award these exorbitant fines, and then the next thing you know, the people go to appeal, they get shut down and then they say, wait a minute, you can't do this. You can't take my property without lawful authority.

[(4:22)] Sgt. Salceda: What was your first appeal based on?

[(4:24)] Plaintiff: Okay. So there's a principle and law called disgorgement.

[(4:29)] Sgt. Salceda: May I interrupt before you start, do you have a case number?

[(4:31)] Plaintiff: Sure.

[(4:32)] Sgt. Salceda: Can you give it to me?

[(4:33)] Plaintiff: Yes. it's 30-2015-00805807.

[(4:46)] Sgt. Salceda: It's 00805807, I believe that's it. The case name is B-E-R.

[(4:59)] Plaintiff: It might not have that dash there.

[(4:57)] Sgt. Salceda: Do you have a bag[?] at this one. So this is a civil case?

[(5:04)] Plaintiff: It is a civil case. However, let me share something with you about that. So in criminal law, if you make an arrest, a somebody that comes in here and steals something. You make the crime report and you send it to your investigator. The investigator, says yes, we got this guy in custody, he did it. They send over an impasse to the DA's office. The DA does whatever they going to do.

[(5:27)] Sgt. Salceda: You're right.

[(5:28)] Plaintiff: Okay. I can't go and prosecute that guy, correct? Right. He has to be prosecuted by the State of California. Okay. Same instance here, if there's a violation of a public regulatory law that is punitive penal, it has to be prosecuted by the State of California on behalf of the people, It cannot be prosecuted by a private party.

[(5:50)] Sgt. Salceda: Where was this case held? Is it [unintelligible]?

[(5:51)] Plaintiff: Here.

[(5:51)] Sgt. Salceda: It was here? Civil Court here?

[(5:53)] Plaintiff: Yes.

[(5:53)] Sgt. Salceda: Okay.

[(5:54)] Plaintiff: So, first there is no authority.

[(5:58)] Sgt. Salceda: What is your last name, sir?

[(5:58)] Plaintiff: It's B-E-R-E-K-I. The case name is Bereki v Humphreys, H-U-M-P-H-R-E-Y-S. So, there is a principle in law. It's called disgorgement and it's based upon the law of restitution. Let me give an example. Let's say, a guy robs a bank and you go down there, you get the call, you go to the bank, they say, yes, 20 grand was taken from us.

So you go down there, you take the crime report, the bank says, yes, we lost 20 grand and so then, you find the suspect. You arrest him. He goes to court. The judge says, well we have evidence that you stole 20 grand. I'm going to order you to make restitution to the bank for the \$20,000. That in-law is also called disgorgement. The word disgorge means to give up. You have to give up what you were unjustly enriched. Okay?

[(7:00)] Sgt. Salceda: Okay.

[(7:01)] Plaintiff: All right, so if the judge orders, the guy that stole the 20 grand to pay back 40 grand, the 20 grand is part restitution and the other 20 is a part penalty. Are you following me?

[(7:13)] Sgt. Salceda: Yes.

[(7:16)] Plaintiff: Okay, so in the case of contracting without a license. They're saying that the action that they took against me was for disgorgement. So in that claim, you have to go to court and the other side has to show how much I was unjustly enriched. Meaning, how much I profited by this action that never happened. What happened was they put on evidence that they paid me \$930,000 to build this custom house. I built the house. I gave them the house. Okay, so then Chafee says, they paid you \$930,000, give them another \$930,000. I said timeout, you can only take my profit and there's no evidence of that. If you take any more than my profit that's a "fine".

He denied my hearing. So then I filed another motion. I said, what is your authority to do this? He fined me and I got no hearing. So that's when I went to the appeal. So as I've continued to research all of this, this is when literally on June 22nd. The Supreme Court of the United States came down with a ruling and they said, look, the courts have been abusing disgorgement, and here's what disgorgement is, and what you have to do, and it is the exact opposite of what Chafee did, and the exact opposite of what the people in the Appellate Court did.

[(8:45)] Sgt. Salceda: Okay. So have you filed an appeal based on that?

[(8:47)] Plaintiff: No. You can't.

[(8:49)] Sgt. Salceda: Why not?

[(8:49)] Plaintiff: Because you can't. You get one shot. That's it, it's over. If the higher courts don't want to take your case, you're fucked.

[(8:57)] Sgt. Salceda: Okay.

[(8:57)] Plaintiff: So now here's the issue, there's a judgment that's in my name and it's attached to property that I am the trustee. It's my mom's house that I gave to her. It's in my name though, and I can't pay it. It's not a lawful judgment and so they can foreclose on my property at any time and take the house. The only other resolution is to go to bankruptcy, and that's irreparable harm.

So now, here I am, I've called the judicial council, I've made all the appeals. I've gone through all the civil processes to do everything. I called Santa Ana Police Department, and I said, hey, this is your city, crime happened in your city. Will you take up the report? No, we're not doing anything. Today, I called the Sheriff's dispatch because you guys supervise this place. The dispatch supervisor said to call the DA's office because it's a public official. I called the DA's office, Finley is the guy that I spoke with. He is the DA supervisor. He said all we do is officer-involved shooting. We have no authority here. He said you need to call the Sheriff's Department or the Santa Ana Police Department.

So, that's where I'm at. I did, as I said, make the complaint to the Council on Judicial Performance or the Commission on Judicial Performance, but they do not have Criminal Law Enforcement Authority. So this is where I'm at. When I talk to your Watch Commander, he said, look, you have to go down there to the court and talk to an officer. They make an information report, they make a crime report, but they're not going to know until you tell them the information. So here I am. I'll understand if you say you're not going to do anything about it, but I think you do. So, that's where I'm at.

[(10:51)] Sgt. Salceda: Have you consulted with an attorney?

[(10:51)] Plaintiff: Yes.

[(10:52)] Sgt. Salceda: Based on this?

[(10:52)] Plaintiff: Yes.

[(10:53)] Sgt. Salceda: Okay.

[(10:55)] Deputy Demaio: That's what he said.

[(10:57)] Plaintiff: That's why I'm here.

[(10:58)] Deputy Demaio: What did they say?

[(11:00)] Plaintiff: That this is it. There's nothing we can do.

[(11:02)] Deputy Demaio: The attorney said to go make a crime report?

[(11:02)] Plaintiff: No. There's nothing you can do. That's what the attorney said. Yes. So, in my study, as I said, I was a cop for about 10 years, and I did major fraud, and forgery, as a detective, in Orange County. If you take property by means of using force or fear without lawful authority, that is robbery. It's theft.

[(11:25)] Sgt. Salceda: It was a judgment?

[(11:26)] Plaintiff: It doesn't matter.

[(11:27)] Deputy Demaio: If the civil judgment is what we talking about?

[(11:29)] Sgt. Salceda: Yes, civil judgment. It's not like the judge walk up to you on the street and took your money by force or fear.

[(11:34)] Plaintiff: Correct. Let's say that you're driving in your patrol car and you say I don't like the guys wearing a pink shirt. Come here asshole. You arrest him. Bring him to jail. Now while you may have been in authority as a police officer to do your duty, that's not your duty. There's no lawful authority for you to make up your own crime, commit an arrest and violate somebody's constitutional right. Your job is limited only to the scope within your authority. Okay.

Now, if with Chafee, I had said, hey judge, time out, there's a problem here, this is a fine and so the California Supreme Court, he said, when the courts going to issue a fine, you have to consider four criteria. First, you have to take into account the person's ability to pay. You have to take into account the amount of the fine versus the gravity of the offense. Okay, so what they do is they look at comparable situations and they say, okay what's the fine for driving without a license? So that's 250 bucks. So how do we get a million dollars here? What's the criminal fine for this violation? It's only five thousand. So how can we in a civil case, award a million, you can't. So these are the criteria that the court has to follow. If they're not following them, they're not acting within authority.

They're just like a person, making an arbitrary decision. The judge has discretion, but that discretion is only within the law. He can't make something up that he just feels whatever on a whim[?] bolted out of his ass. He says this is what I think is going to happen. That's what our system is. The orderly administration of justice within the constitution in the laws that have been created by the legislature in society. So, I'm saying that if they're not going to follow the law, they're acting without authority and that's a crime.

[(13:32)] Deputy Demaio: What I hear you saying is that you don't like, or agree with the Judge's judgment.

[(13:38)] Plaintiff: Incorrect.

[(13:40)] Deputy Demaio: You don't like his decision, which, I don't blame you. So now you've gone to all the channels you possibly could have gone to and they're not giving you avenues in which to fight. This one again is not another avenue because it's not a crime.

[(14:03)] Sgt. Salceda: It's not. It was a judgment. I'm sorry you're going through this but there's really, it's not a crime.

[(14:12)] Deputy Demaio: You've been handed a judgment.

[(14:16)] Plaintiff: If I'm understanding it correctly, even if the judge had no authority to make that judgment.

[(14:21)] Deputy Demaio: Well, it sounds like he does, because of the attorney you consulted. If there was something that the judge did wrong, he would have been on it.

[(14:30)] Plaintiff: No. I hear you. Let's leave that out to the side and just consider the possibility that what I'm sharing with you is correct. Can we go there?

[(14:40)] Sgt. Salceda: If a judge got off the stand...

[(14:42)] Deputy Demaio: Do you have the judicial review?

[(14:42)] Plaintiff: I don't, but I can go in there and get a copy.

[(14:45)] Deputy Demaio: Because usually with the judgment, they say, they back it up with whatever...

[(14:51)] Plaintiff: Okay. Well, there's no backup there. Just consider if we can, the hypothetical just momentarily that I'm correct, that he had no authority to do what he did. Then where are we? Because I can show that to you.

[(15:03)] Deputy Demaio: It's not with your local police department, it's over. That is over our heads.

[(15:10)] Plaintiff: Okay. So even if that were the case, assuming hypothetically, that was the case, you're saying that it's not a crime and that you guys will not investigate?

[(15:19)] Deputy Demaio: Not for the local police.

[(15:22)] Plaintiff: Okay. Is there an agency that you know of, that would handle that?

[(15:29)] Deputy Demaio: Wouldn't it be this Judicial...

[(15:33)] Plaintiff: Commission on Judicial Performance?

[(15:35)] Deputy Demaio: Yes.

[(15:35)] Plaintiff: They do not have criminal law enforcement capability.

[(15:38)] Deputy Demaio: Okay, but this is a civil matter.

[(15:39)] Plaintiff: It's not.

[(15:40)] Sgt. Salceda: It is. It is a simple matter.

[(15:41)] Plaintiff: Okay.

[(15:43)] Sgt. Salceda: Your judgment was a simple matter.

[(15:44)] Plaintiff: Okay.

[(15:48)] Deputy Demaio: So, there's some kind of finding that they should investigate. They need to investigate what it was. If he didn't come back and tell you. Yes, he had authority or you know what, you're right. There is no authority.

[(15:59)] Plaintiff: Okay. So then what? If there was no authority, then what?

[(16:03)] Deputy Demaio: That's up to the Judicial Commission.

[(16:06)] Plaintiff: Okay. So, I disagree with you guys.

[(16:09)] Sgt. Salceda: What did they come back with? You did take it to them, right?

[(16:12)] Plaintiff: Yes. They said that you are making a complaint about a legal error and we are not going to investigate it.

[(16:21)] Sgt. Salceda: Did you assess it well?

[(16:22)] Plaintiff: No, because they don't talk to you on the phone, you can only send them a letter.

[(16:26)] Sgt. Salceda: Did you send them a letter?

[(16:27)] Plaintiff: I did. That's why I made the complaint. So, there is no agency in California that will handle it. The problem is that this is not just happening to me, as I said. It's happening to many people. And I'm not giving you any evidence yet. Your just taking my word for it, but that's the problem.

[(16:48)] Sgt. Salceda: Yes.

[(16:51)] Plaintiff: So, will you guys even take an information report?

[(16:54)] Sgt. Salceda: For what? No. It's no crime. You had a judgment made against you.

[(16:57)] Deputy Demaio: An investigator is not going to investigate that.

[(17:02)] Plaintiff: Okay. Could I write down you guys' names? Would that be okay with you?

[(17:05)] Sgt. Salceda: Yes.

[(17:06)] Plaintiff: Okay. I just want to have a record that I talk to you. Sgt. Salceda. What's your name, Ma'am?

[(17:27)] Deputy Demaio: Demaio. D-E-M-A-I-O.

[(17:33)] Plaintiff: Okay, thank you for your time. I appreciate it.

[(17:34)] Deputy Demaio: Good luck.

[(17:35)] Sgt. Salceda: Sorry.

[(17:35)] Plaintiff: It's okay.

[END]