

EXHIBIT [E20]

CONVERSATION BETWEEN PLAINTIFF AND NICOLE SIMS OF COUNTY COUNSEL FOR THE COUNTY OF ORANGE¹

FEBRUARY 28, 2021

[(0:01)] Nicole Sims: Well, I know you submitted a PRA request, and I think my name was on some documents that were disclosed to you, but I can't get into any attorney-client communications. I may have had with the Sheriff's Department.

[(0:19)] Plaintiff: Okay. So, I'm curious about that. Maybe if you could shine some light on that. I reported to the Sheriff's Department, a deprivation of my rights. How is it that the state has an attorney-client privilege with the people that are supposed to be protecting my rights? I'm just curious how that works.

[(0:39)] Nicole Sims: What are you asking me? To tell you what the sheriff told me, and what I told the sheriff?

[(0:46)] Plaintiff: No, I was just calling to generally speak with you because it looked to me like, you've forwarded the sheriff a copy of the appellate opinion. Then the investigator for the sheriff wrote a supplementary report stating that there didn't appear to be any crime, and so they were closing the case.

If one puts two and two together, if he communicated with you and did his own investigation, and if there was something troubling then the investigation would not be closed.

[(1:27)] Nicole Sims: Well, I can't get into what I told them. I can't get into that. That is an attorney-client privilege.

[(1:34)] Plaintiff: Okay. So what can we talk about? We can talk about the appellate opinion or we can talk about the decision?

[(1:43)] Nicole Sims: I do think that you should consult with an attorney about what recourse you have.

[(1:52)] Plaintiff: Okay. I'm either going to do that or not do that. As part of that process, I'm reaching out.

[(2:02)] Nicole Sims: I can't get into my thoughts, my conclusions, what I told the sheriff. That's

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.

all part of the attorney-client privilege.

[(2:10)] Plaintiff: Yes, so that's where I'm understanding. So maybe, if we can't talk about that, perhaps you could explain to me how there's an attorney-client privilege with the Sheriff's Department whom I went to report the deprivation of my rights by other public officials. Now, there's an attorney-client privilege, and the investigation was closed. Those facts won't be disclosed to me. Apparently, your finding was part of the closure of that investigation.

[(2:47)] Nicole Sims: I have no idea about that.

[(2:49)] Plaintiff: Okay. Well, the investigation's closed.

[(2:52)] Nicole Sims: All I can tell you is that discussions that I have with the Sheriff's Department are protected by the attorney-client privilege. That's all I'm telling you here.

[(3:04)] Plaintiff: Is there a statute or some other regulation that states that the County council's communications with the Sheriff's Department, in this instance, fall under the attorney-client privilege?

[(3:18)] Nicole Sims: Yes, that's all under the Evidence Code. I'm their legal counsel.

[(3:23)] Plaintiff: Okay. What Evidence Code are you referring to?

[(3:26)] Nicole Sims: I'm not going to debate the law with you.

[(3:28)] Plaintiff: I'm not asking to debate the law.

[(3:31)] Nicole Sims: The reason I'm calling you back is to complain to you because you said three times that my communications with the Sheriff's Department are protected by the attorney-client privilege.

[(3:43)] Plaintiff: Okay. I'm not asking to debate the law with you, I just asked you if you could refer me to the section of the Evidence Code that you just shared.

[(3:51)] Nicole Sims: Sure, let me look it up.

[(3:53)] Plaintiff: Thank you.

[(4:21)] Nicole Sims: Okay. The Evidence Code, Section 954.

[(4:31)] Plaintiff: What I'm just concerned about, Nicole, as you know, I called for help from this agency. I do understand you're saying attorney-client privilege. It just seems peculiar to me that I'm making a complaint to a state agency for investigation based upon deprivations of rights by other public actors. Now, I don't have access to the actual factual findings and legal bases of the investigation because you and the Sheriff's Department, are claiming that that factual foundation and legal bases are attorney-client privileges.

[(5:18)] Nicole Sims: Are you talking about the emails between me and the sergeant?

[(5:23)] Plaintiff: I don't have any emails. Apparently, I have emails that seemed like they were between you and Investigator Anderson. Now, I haven't been told this.

[(5:34)] Nicole Sims: Those emails are protected by the attorney-client privilege. Now, are you talking about the Sheriff's Department crime reports?

[(5:45)] Plaintiff: There was no crime report. There was an information report.

[(5:48)] Nicole Sims: Okay. Their information report: Did you get a copy of that?

[(5:52)] Plaintiff: I did.

[(5:53)] Nicole Sims: Okay.

[(5:58)] Plaintiff: Also, I did a Public Records Act request, and there are communications that you had with them, where you included additional information that I didn't give them. Their opinion, or their closure of the case, appears to be based upon communication with you.

[(6:20)] Nicole Sims: How do you know that?

[(6:21)] Plaintiff: Because I've been an investigator for over 20 years and I know how it works.

[(6:26)] Nicole Sims: Well, I can't get into my communications. I guess you're free to draw whatever conclusions you want. All I can tell you is that those emails are protected by the attorney-client privilege.

[(6:43)] Plaintiff: Okay. Can you just wait 1 second while I look up 954? I'd just like to see that to make sure I don't have any other questions for you.

[(6:51)] Nicole Sims: Sure. I can direct you to the County's website. If you look up County Council, we serve as legal counsel.

[(7:02)] Plaintiff: For the state, because you're a state agency?

[(7:05)] Nicole Sims: For the board of supervisors, county officers, and county department.

[(7:10)] Plaintiff: Is your position elected or appointed?

[(7:14)] Nicole Sims: Liam Peat is my boss, and he's appointed by the board.

[(7:21)] Plaintiff: Okay, by the board of supervisors?

[(7:22)] Nicole Sims: Yes.

[(7:25)] Plaintiff: Okay. I'm reading it here and just basically perusing it. I get it, but I still don't understand. This is something we can talk about, or you can decline if you want to, I guess. When I make a claim for deprivation of rights, the police department consults the County Council, and then my case gets closed. Then all of a sudden there is attorney-client privilege information and I can't find out.

[(8:00)] Nicole Sims: I'm not going to comment on that, sir.

[(8:02)] Plaintiff: The factual findings.

[(8:04)] Nicole Sims: I'm not going to comment. Did you get their report?

[(8:07)] Plaintiff: Yes.

[(8:07)] Nicole Sims: I think that would be their conclusion.

[(8:09)] Plaintiff: Right, but there are supplementary issues, i.e. conversations with you, the district attorney, the Department of Justice. All of those were part in parcel of their findings. I think it would be somewhat of deprivation of rights if I make a complaint and then do not get the actual documents that support their conclusions.

[(8:34)] Nicole Sims: But you got their report?

[(8:36)] Plaintiff: Right, and it says, "Case closed". It doesn't say that I spoke with the County council on this date and time. The County council told me that they think the Court of Appeals' opinion is valid and lawful. Based upon that I close the case. I think that would be reasonable and prudent to put it in an investigation report.

[(8:58)] Nicole Sims: I haven't seen that report.

[(8:59)] Plaintiff: I'm sorry?

[(9:00)] Nicole Sims: I haven't seen that report.

[(9:02)] Plaintiff: Oh, I'm not saying that report exists. I'm saying that is what I think would be reasonable and prudent to put in an investigation report to substantiate, "Case closed". I mean, "Case closed" is nice, but on what basis?

[(9:19)] Nicole Sims: Sir, I'm not going to debate this with you, okay?

[(9:23)] Plaintiff: That's fine.

[(9:26)] Nicole Sims: The content of the email between me and the investigator is protected from disclosure under the attorney-client privilege. I don't know about anything else that the department's given you or that you requested, but I know those emails are protected.

[(9:47)] Plaintiff: Okay. Are there any other documents in your custody or control that are not protected by attorney-client privilege?

[(9:55)] Nicole Sims: None at mine.

[(9:56)] Plaintiff: Okay. Are there any others, that you're aware of, that you gave to the Sheriff's Department that would not be protected by that privilege?

[(10:03)] Nicole Sims: No.

[(10:04)] Plaintiff: Okay.

[(10:07)] Nicole Sims: Sir, I'm going to hang up now.

[(10:10)] Plaintiff: Excuse me, you're a public servant. You can take the time to speak with me about this issue.

[(10:15)] Nicole Sims: I don't have to debate with you, okay? My position is that the emails are protected by the attorney-client privilege.

[(10:23)] Plaintiff: Okay. Great. We're done with that. I was asking you other questions.

[(10:27)] Nicole Sims: Okay. Have a nice day. Bye.

[(10:28)] Plaintiff: Okay. Bye.

[END]