

EXHIBIT [E21]

PLAINTIFF'S FOLLOW-UP CONVERSATION WITH SGT. MACCHIAROLI OF THE SANTA ANA POLICE DEPARTMENT¹

DECEMBER 15, 2020

[(0:00)] Sgt. Macchiaroli: Returning your phone call.

[(0:04)] Plaintiff: I was calling because I recall that when we last spoke, I believe you said that you were not going to investigate the claims that I had made to the 2 supervisors regarding...

[(0:23)] Sgt. Macchiaroli: No. I said that I was going to investigate it, on our phone call. And then once the investigation is complete, it gets forwarded to our chain of command and then forwarded to the chief's office, who makes the final decision on any discipline, if any.

[(0:46)] Plaintiff: So you were going to investigate the complaint that I made as a citizen complaint but you were saying if I recall correctly, that the department was not going to investigate the actual claim that I made requesting the department's assistance, because of the dereliction of duty of the public officials that I was complaining of. Does that make sense?

[(1:11)] Sgt. Macchiaroli: On the judges. Yes, we were not going to investigate that as a criminal matter, that's correct.

[(1:15)] Plaintiff: Okay. My curiosity then, is that, if you're not going to investigate that, does that not render the citizen complaint that I made unfounded or whatever terminology you use for it?

[(1:35)] Sgt. Macchiaroli: After we do our investigation, it gets forwarded obviously to the Commander, Deputy Chief, and the Chief. They make the determination whether it's a sustained, unfounded, and not sustained or exonerated or if it was one of service or procedure. So, they make that determination.

[(1:57)] Plaintiff: Correct. Okay.

[(1:58)] Sgt. Macchiaroli: Then at that point, you will be notified. Once it's been finalized, you

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.

will be notified via mail of the outcome of your complaint.

[(2:08)] Plaintiff: Have you submitted that to them yet or are you still conducting your part of the investigation?

[(2:14)] Sgt. Macchiaroli: Yeah, everything's been submitted. So it's just, obviously, it takes a little bit of time to get through the system.

[(2:21)] Plaintiff: Right. Can you tell me about when you submitted it to them?

[(2:27)] Sgt. Macchiaroli: I have to look at my stuff, but it has been a few weeks back.

[(2:32)] Plaintiff: Okay, but do you get what I'm saying that if the department was not going to investigate my initial complaint, there really was no point in doing an investigation because if those claims are not going to be investigated and are unfounded or whatever, then really is no issue for a complaint against the officers. Do you see how the two go hand-in-hand?

[(3:02)] Sgt. Macchiaroli: I know but you still made an allegation. You submitted a citizens complaint, making this allegation regarding those two sergeants. So we still have to go, move forward with our investigation.

[(3:21)] Plaintiff: I get that because I did make a complaint but what I'm getting at is there is no point in doing it if the department's not going to investigate those other issues because those are the issues that I complained about in the complaint. There was a credible deprivation of my rights and the department had a duty to investigate that and or protect me from the unlawful actions of the other public officials on behalf of the state. If those claims aren't going to be investigated, well then there's no way to determine if the officers, the sergeants, did anything wrong and then there is therefore really no complaint. Do you get what I'm saying?

[(4:10)] Sgt. Macchiaroli: I understand what you're saying. I mean we just can't make our complaints. We have an obligation to investigate them. I understand what you're saying. You're basically saying we shouldn't do anything at this point, but we still have to complete everything. Does that make sense?

[(4:30)] Plaintiff: Yes. Are you able to share with me any of your findings?

[(4:36)] Sgt. Macchiaroli: I don't make the findings, that's something that people above make the findings. So all I do is I'm a back gatherer and I pass it up to the upper management and they make that determination.

[(4:49)] Plaintiff: Okay, so are you able to share with me the facts that you gathered?

[(4:54)] Sgt. Macchiaroli: Not at this point. I mean, it's still an open investigation until it's completed. Then at that point, if you have any questions, the information will be on the complaint form, who to contact. Obviously would be, someone above me, who makes that determination on the findings. All of that will be in the letter that you'll receive.

[(5:20)] Plaintiff: Okay, great. Am I entitled to a copy of the factual findings that you made and submitted to them?

[(5:31)] Sgt. Macchiaroli: With regards to the actual investigation?

[(5:35)] Plaintiff: Yes.

[(5:39)] Sgt. Macchiaroli: I can't say 100%. I'm not sure. I'd have to check with my boss but I don't know how that works on that.

[(5:46)] Plaintiff: Okay, so I'll have to check with them on that then.

[(5:51)] Sgt. Macchiaroli: Okay.

[(5:53)] Plaintiff: All right. Thank you very much for your help. I appreciate your time and I hope you have a nice Christmas.

[(5:58)] Sgt. Macchiaroli: All right, you too. Thank you.

[(5:59)] Plaintiff: Thank you.

[(6:00)] Sgt. Macchiaroli: All right. Bye.

[END]