

Adam Bereki Conversation with Clerk Harris

Recording Name:

[E32 US SUPREME COURT- CLERK SCOTT HARRIS
111521]

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1 Bereki: -- and it appears to me that, um, in order to file an
2 original action, there is a 9000-count, or 9000-word
3 count limit on the Motion for Leave to File, but there
4 isn't one for the, um, actual complaint, and so I
5 wanted to verify that.

6 Harris: Well what kind of original action are you thinking
7 about, uh, filing?

8 Bereki: The original action is a complaint against 16 state
9 and federal judges, and the reason that it's come
10 about is that I have gone through all of the state and
11 federal processes to get, um, uh -- uh, a remedy or
12 relief, and there is none. And so the last, uh,
13 bastion of hope, if you will, is the Supreme Court.
14 And that is in- -- that includes having gone through
15 the, um, appellate process of the Supreme Court as
16 well.

17 Harris: Well, so the original jurisdiction of the court is
18 very limited. Um, you know, uh, virtually everything
19 that we do is through, um, a -- a served petition.
20 And, um, it -- the -- the primary way we hear original
21 cases is when there's a suit -- suit between two
22 states, um, like one state's suing another state, like
23 alleging that they are taking too much water from a
24 river, or somethin' like that. Um, so we don't have
25 jurisdiction -- original jurisdiction, um, for, you



1 know, one private litigant suing another litigant.

2 Um, so, um, what I probably ought to do is put you in
3 charge with somebody who would end up processing that.
4 But I think it's unlikely that you would be able to
5 file something like that.

6 Bereki: So, I -- I appreciate you taking the time to explain
7 that. M- -- um, m- -- my research, I've concluded
8 something different, and that's why I'm calling, is to
9 work with the court and find out, um, so that we don't
10 needlessly waste each other's time. Um --

11 Harris: Mm-hmm.

12 Bereki: Um, as -- the case that I'm referencing is -- is
13 Cohens v Virginia, and in there, uh, you know, one of
14 the most famous quotes of all times is, "Every person,
15 uh, having a claim upon his" -- the Constitution gave
16 every person having c- -- a claim upon a state the
17 right to submit his case to the court of the nation.
18 And, so I'm basing my -- the court's jurisdiction, not
19 on a statute, but on Article 3, Section 2 --

20 Harris: Mm-hmm.

21 Bereki: -- which is that every, uh -- the court has
22 jurisdiction over all cases at law and equity.

23 Harris: Mm.

24 Bereki: So I'm bringing a case at law, and potentially equity
25 because there's injunctive relief.



1 Harris: Mm.

2 Bereki: So I'm not going upon the jurisdiction of the court
3 based upon the parties, but upon the nature of the
4 case. So --

5 Harris: Mm-hmm.

6 Bereki: -- um --

7 Harris: Well, let me just -- let me just pull up the, uh, I
8 should've pulled this up ahead of time. But, um, we --
9 -- we would not accept a filing like that, and I'll --
10 I'll t- -- we are bound by our, uh, both the
11 Constitution and the statute dealing with original
12 jurisdiction. Uh --

13 Bereki: So if I understand what you just said correctly, that
14 --

15 Harris: Mm-hmm.

16 Bereki: -- the statute overrules the Constitution? Is that
17 correct?

18 Harris: No, but the Const- -- the statute is consistent with
19 the Constitution, and if you look at Article 3 of the
20 Constitution, uh, oh, where's that? It says -- well,
21 um, yeah, so the statu- -- the -- I'm gonna find the
22 statute that deals with original jurisdiction. The
23 statute is what allows us to exercise jurisdiction.
24 Um --

25 Bereki: That's what I'm confused about, because --



1 Harris: Mm.

2 Bereki: -- if I read Article 3, Section 2, it says right here,
3 "The judicial power shall extend to all cases in law
4 and equity arising under the Constitution."

5 Harris: Mm-hmm.

6 Bereki: And s- --

7 Harris: Yeah, but see, we have, um, that is -- that outlines
8 what it is that the, um, that Congress can give us the
9 authority to do. But our discretion in our
10 jurisdiction is created by statute. And --
11 jurisdiction -- maybe 1251. Just give me a second
12 here. I'm sorry I don't have this more at the tip of
13 my fingertips.

14 Bereki: That's okay. I understand, it's an unusual instance.

15 Harris: Mm-hmm. So the c- -- okay, it's 28 USC 1251.

16 Bereki: Okay.

17 Harris: Um, "The Supreme Court shall have original and
18 exclusive jurisdiction of all controversies between
19 two or more States. The Supreme Court shall have
20 original but not exclusive jurisdiction of, one,
21 actions or proceedings to which ambassadors, other
22 public ministers, consuls, or vice consuls of foreign
23 states are parties, two, all controversies between the
24 United States and a State, and three, all actions or
25 proceedings by a State against the citizens of another



1 State or against aliens." So that's the only, uh,
2 authorization that we have to file original actions.

3 So, um, uh --

4 Bereki: So this -- um, Scott, if I could interrupt you.

5 Harris: Mm-hmm.

6 Bereki: This is -- this is the jurisdiction pertaining to the
7 parties of the case. So --

8 Harris: Mm-hmm. It outlines our -- yeah, our jurisdiction for
9 original cases.

10 Bereki: But -- but -- but only pertaining to the parties,
11 because if you see -- if the -- you see everything in
12 there is all about parties to a case.

13 Harris: That's right.

14 Bereki: If you, um, read Cohens, the case of Cohens versus
15 Virginia --

16 Harris: Mm-hmm.

17 Bereki: -- the clear- -- the court clearly distinguishes in
18 there that there are basically two types of orig- --
19 original jurisdiction, or two -- two different types
20 of cases to which the original jurisdiction extends.
21 One is to the type of case, which is, here it says in
22 Article 3, Section 2, "All cases in Law and Equity
23 arising under the Constitution, the Laws of the United
24 States, and Treaties," or, two, it is the -- the
25 Court's jurisdiction extends to the type of case based



1 upon the parties that are there. So, um, if you look
2 at 28 USC 1251, this is only basically putting into
3 statute form what the Constitution already says about
4 the parties to the case --

5 Harris: Mm.

6 Bereki: -- not the actual type of the case. So, um, I'm not -
7 -

8 Harris: Yeah, I hear you, but that's not the way we -- that's
9 not the way our practice works. That's not the way
10 our jurisdiction works. We are -- we are bound by the
11 statute, in terms of jurisdiction. So you -- you can
12 submit something, but what I'm telling you is it's --
13 it's, uh, it's not going to be accepted for filing
14 unless it falls within one of the, um, provisions of,
15 uh, 2- -- 28 USC 1251. So the -- the main reason I
16 say it is I don't want you to go to the trouble and
17 expense of submitting something if it's not gonna be
18 accepted.

19 Bereki: And I so appreciate that, Scott.

20 Harris: Yeah, yeah.

21 Bereki: Um, is there a way that you could share with me,
22 because, um, I -- what -- what I'm feeling right now
23 is that, um -- and -- and I don't mean this, um, with
24 any sort of, um, uh, ego or anything like that. But -
25 -



1 Harris: Mm-hmm.

2 Bereki: -- it's -- it's very clear to me that you're incorrect
3 about what you're saying. And I know that you're the
4 Clerk of Court, but --

5 Harris: Mm-hmm.

6 Bereki: -- how -- could you imagine the problem that if I
7 submitted this case and I had a right under the
8 Constitution to submit this case, and the Co- -- the
9 Clerk of the Court didn't know what the Constitution
10 specifically said and then dismissed my case on some
11 grounds that were essentially unlawful?

12 Harris: Mm-hmm.

13 Bereki: Do you see -- I'm not saying that a hundred percent
14 that that's the case, but what if that were to happen?
15 That -- that would be, I mean, just historical
16 monumentally. So h- -- w- -- would it be possible for
17 you to review, um, the Cohens case and for us to talk
18 about it? Because I -- there's -- there's clearly --
19 the Constitution says one thing as I'm interpreting
20 it, and what you're sharing with me is something
21 different. What you're sharing with me is that, uh,
22 essentially that the Constitution isn't what gives the
23 court jurisdiction, it's the statute, if -- if I'm
24 understanding you correctly. And, um, based upon what
25 you shared with me, that statute does not apply to the



1 actual type of case, it applies only to the parties
2 that are in the case. Um --

3 Harris: Well, look, um, I -- I'm just tellin' you the way we
4 would, uh, what we would do with it. I mean, if you -
5 - you know, obviously there's a printing requirement
6 for, uh, those -- for cases, unless you're presenting
7 it forma pauperis. Um, if you would, uh, you know,
8 want -- I -- you know, if you would want to show it to
9 me, um, before you get it printed, um, I can look at
10 it, but I'm -- but I'm -- but I -- again, I'm just --
11 I know what the answer is gonna be, and it's not gonna
12 be accepted for filing. So I -- I just don't want --
13 I just don't want to put you to the trouble, uh, or
14 expense of doing it.

15 Bereki: Okay, how -- how might then, if you could guide me to
16 do this, how might I get my case to a justice or to
17 the justices to challenge this question? Because, um,
18 this is not something that could be challenged in a
19 lower court. This is essentially the rules of the
20 Supreme Court that are -- or the rules as you're
21 sharing them with me, that, um, I need to challenge.
22 So, is it possible to submit my case to one of the
23 justices directly and have them decide on that issue,
24 or --

25 Harris: No, we don't -- we don't do -- I mean, that's what the



1 Clerk's Office is here for, right, is to determine
2 whether things can be filed. And, you know, this is
3 not new, right? Like we've had, um, many people that
4 have tried to file, uh, original actions and we've,
5 uh, done the same thing. Um, uh, you know, over and
6 over in the court. Um, so this is -- this is not
7 gonna be controversial, um, here. Uh, so, um --

8 Bereki: Well, i- -- is -- is it the -- the Clerk's Office that
9 has actually denied these prior, um, uh, original
10 actions, or was it the justices? Did it -- did it
11 ever make it to the justices?

12 Harris: You know, let me -- let me see if I have -- let me --
13 can I call you -- I got your number. Let me call you
14 back and see if I can find any instances that are on
15 the record where it shows that that's not been, um,
16 permitted, and I'll give you a call back.

17 Bereki: Oh, that would be wonderful, Scott. Thank you.

18 Harris: Okay.

19 Bereki: Thank you so much. I'd really appreciate that.

20 Harris: Sure.

21 Bereki: Look, I'm w- -- I'm willing to admit -- Scott, if --
22 if I'm wrong, I'm so willing to admit that. And --
23 and I --

24 Harris: Mm-hmm.

25 Bereki: -- I'm so grateful for your time. But, um, at the



1 present time, um, yeah, it -- it -- it's not adding up
2 for me, so I -- I really appreciate the fact that
3 you're taking the time to -- to help me, and like I
4 said --

5 Harris: Okay, yeah. (Inaudible - 00:11:37).

6 Bereki: -- if it's not possible, I'll go away. Okay, buddy.
7 Thank you.

8 Harris: All right, bye.

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