

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Marianne Matherly
Clerk of Court

Office of the Clerk
501 "I" Street
Sacramento, CA 95814

Divisional Office
2500 Tulare Street
Fresno, CA 93721

August 21, 2018

Case Number: ^{mce} 2:18-CV-02263-AC

Case Title: ROBERT A GIBBS, vs. SHASTA COUNTY SUPERIOR COURT, ET AL.

Dear Litigant,

You are hereby notified that the above case number has been assigned to your action. You are to include the complete case number on all documents sent to the court for filing in this case. Failure to do so results in delayed processing of your documents.

All matters in this action shall be sent to the following address until further notice:

Office of the Clerk
United States District Court
Eastern District of California
501 "I" Street , Suite 4-200
Sacramento, CA 95814

For timely processing of your pleadings or correspondence, please comply with our Local Rules of Court, in particular:

Local Rule 133 The court requires an original plus one copy of each document sent for filing. If you desire to receive a conformed copy for your records, you must send an original and two copies of your document and a pre-addressed postage-paid envelope for us to return your copy to you.

Local Rule 135 Once the defendant(s) have served a responsive pleading, you are under an ongoing duty to serve them with copies of all documents you submit to the court. A proof of service shall be attached to the original of any document lodged or filed with the court, showing the date, manner and place of service. A sample proof of service is attached.

Local Rule 130 Documents submitted to the court must be legible, on 8-½ " x 11 " paper, with writing on one (1) side of the page only. Each separate document must be stapled at the top left corner and pre-punched with two (2) holes centered 2-¾" apart, ½" from the top edge of the page. Each page should be numbered consecutively at the bottom.

Local Rule 132 Every document submitted to the court must include your name, address and prisoner identification number in the upper left hand corner of the first page. The caption on the first page must include the title of this court, the title of the action, the case number assigned to this action (including all initials and letters that follow the number), and the title of your document. If you are pursuing more than one action in this court, you must submit a separate original document and the appropriate number of copies for each action in which you want the document filed.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS Robert A. Gibbs(b) County of Residence of First Listed Plaintiff Shasta, CA.
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

In pro perDEFENDANTS Shasta Superior Court,
County of Shasta - a municipality, Shasta
County Sheriff Tom Bosenko, Capt. Dave
Kent, Lt. D. Marlar SGT. B. Rodgers et al.
County of Residence of First Listed Defendant Shasta County, CA.
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

14th Amendment to the U.S. Constitution

Brief description of cause:

Due Process / arbitrary and unnecessary use of restraint / emotional injury

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$ 750,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Robert A. Gibbs #510503
Name and Prisoner/Booking Number

Shasta County Jail
Place of Confinement

1655 West St.
Mailing Address

Redding, CA. 96001
City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Robert A. Gibbs
(Full Name of Plaintiff) Plaintiff,

v.

(1) Shasta County Superior Court
(Full Name of Defendant)

(2) County of Shasta ~ a municipality

(3) Sheriff of Shasta County Tom Bosenko

(4) Capt. Dave Kent ~ Facility Manager
Defendant(s).

☒ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. 2:18-cv-02263-mce-AC
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- ☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

- ☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
☐ Other: _____

2. Institution/city where violation occurred: Shasta County Jail, Redding CA.

B. DEFENDANTS

1. Name of first Defendant: Shasta County Superior Court. The first Defendant is employed as:
~ a Superior Court of California at Redding, CA.
(Position and Title) (Institution)
2. Name of second Defendant: County of Shasta, CA.. The second Defendant is employed as:
~ a municipality at Redding, CA.
(Position and Title) (Institution)
3. Name of third Defendant: Shasta Sheriff Tom Bosenko. The third Defendant is employed as:
Sheriff of Shasta County at Redding, CA.
(Position and Title) (Institution)
4. Name of fourth Defendant: Capt. Dave Kent. The fourth Defendant is employed as:
Facility Manager at Shasta Jail at Redding, CA.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☒ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

Robert A. Gibbs, plaintiff
% Shasta Co. Jail #510503
Shasta County Jail
1655 West St.
Redding, CA. 96001

United States District Court of California

Gibbs vs. Superior Court of Shasta

Additional Respondents;

1. Judge Dan E. Flynn
2. Judge Cara L. Beatty
3. Lt. D. marlar ~ facility manager Shasta County Jail
4. SGT. B. Rodgers ~ Correctional Sergeant at Shasta County Jail
5. SGT. L. Tanner ~ Correctional Sergeant at Shasta County Jail
6. SGT. C. Reed ~ Correctional Sergeant at Shasta County Jail

D. CAUSE OF ACTION

CLAIM I

1. State the constitutional or other federal civil right that was violated: 14th Amendment to the United States Constitution ~ Due Process

2. **Claim I.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|--|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input checked="" type="checkbox"/> Other: <u>unlawful use of restraints</u> | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

The Shasta County Jail and Superior Courts have, as their regular, well-settled custom, policy or practice, the arbitrary, un-necessary and unconstitutional, use of physical restraints (Handcuff, Shackle and belly-chain) without any meaningful review or balancing between the "need" for such restraints and a pre-trial detainees constitutional rights or protections, a custom, policy or practice that violates Due Process. In my 3 years as a pre-trial detainee, I have spent approx. half of that time as a "chain-all" inmate. Any movement out of my cell requires that I be shackled, cuffed and placed in a belly-chain. Being "chain-all" has caused serious difficulty in being able to handle my court paperwork in court and when in professional visit. I have stopped going to recreation yard because, due to having to be in close proximity to Jail Deputies (who are often abusive) when I am chained-up, I have forgone exercise to minimise my contact with abusive deputies. I have not been to rec. yard for 9 months (which coincides with my last placement on chain-all status (October, 2017). Because I am getting no meaningful exercise, I am very out-of-shape and unhealthy. I have had no exposure to Sun or Sunshine and fresh air. I suffer from Severe depression and, because

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

(Continued.)
My Criminal Case has been severely prejudiced because the chains makes everyone treat me as dangerous (I am not) and guilty (I am not). The status has caused severe emotional distress and depression, limited movement and access to program and exercise.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☒ No*
- b. Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Claim I to the highest level? ☒ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

Robert A. Gibbs, plaintiff
90 Shasta Co. Jail #510503
Shasta County Jail
1655 West St.
Redding, CA. 96001

United States District Court of California

Gibbs Vs. Superior Court of Shasta

Statement of Claim, Continued;

of the chain-all status, this depression and other psychological problems have been exacerbated. I have asked several lawyers to seek review of this status but they have refused. I am getting no meaningful review of this status by Shasta Jail respondents. Although a classification officer makes a notation in my file every thirty days (my "review"), there is a discernable pattern and practice of simply continuing previous "reasoning" for continuation of the status. For example, my "review" often says "Gibbs continues to threaten deputies" or "Gibbs continues to be a threat to Security", but I have repeatedly complained that deputies are purposely provoking me into emotional outbursts and administrative respondents have refused to take any action to restrain or even supervise abusive deputies. It is well-known to administrative respondents that I suffer from mental illness (P.T.S.D., Severe depression with psychotic feature, Severe anxiety and agitation). Jail administrative respondents have continuously ignored my requests for mental health treatment and specialised housing to insulate me from abusive deputies. Jail administrative respondents have likewise repeatedly refused to train deputies to have care ^{not} to provoke me into emotional outbursts. Some deputies have seen it as a joke to deliberately provoke me, knowingly using any reaction to justify continuation of my chain-all status. Correctional Sergeants have been deliberately indifferent to both this abuse of my person as well as the abuse of my right to a meaningful review of the chain-all status.

Robert A. Gibbs, plaintiff
% Shasta Co. Jail #510503
Shasta County Jail
1655 West St.
Redding, CA. 96001

United States District Court of California

②

Gibbs Vs. Superior Court of Shasta

Statement of Claim, Continued;

I am hardly alone in being subjected to arbitrary chain-all. In my 3 years at the Shasta Jail, I have witnessed numerous other instances of misuse of the practice. There is a discernable pattern of using Chain-all on anyone who is mentally ill, a deplorable practice. Often, the mentally ill are subsequently physically abused by being carted around by deputies by being propelled, pulled or even carried by the chains. I have also witnessed a discernable pattern of deputies assaulting or using excessive force on detainees and then making false reports of violence or resisting on the detainee, which results in Chain-all status. This is what has happened to me that has led to my being chain-all for the last 9 months. I was assaulted by a deputy, who broke my nose and filed a false report that I had been aggressive and threatened him. I had witnesses who knew I had done nothing, but Jail administration did no investigation and so I was placed on Chain-all for being assaulted. I have had approx. 9 monthly "reviews" of my chain-all status in this time, but reviewing deputies have just been looking for any excuse to continue. For example, when I grieved the issue, a classification deputy (Ochoa) replied that I was on chain-all for spitting at my lawyer and numerous write-ups, but the incident with my lawyer occurred 16 months earlier and most of my write-ups are for being deliberately provoked by deputies. It is simply my word against deputies and, of course, administrators will take their side consistently.

Robert A. Gibbs, plaintiff
% Shasta Co. Jail #510503
Shasta County Jail
1655 West St.
Redding, CA. 96001

United States District Court of California

(3)

Gibbs Vs. Superior Court of Shasta

Statement of Claim, Continued;

To be abundantly Clear, my claim is one of a pattern and practice of Jail administrative respondents deliberately and indifferently failing to properly screen, train and supervise Deputies who work in the Jail, deputies who respondents know or should know are violent, aggressive, dishonest, unintelligent or otherwise unfit for duty, deputies who have no discernable respect for Constitutional rights, deputies who have no training working around the mentally disabled and who ultimately misuse chains and/or restraints in an arbitrary or retaliatory manner. To be abundantly clear, my claim is further expressed that administrative respondents not only are not supervising deputies, their interactions with detainees or their use of chains but are effectively sanctioning this practice by not meaningfully reviewing its use or continuing status of detainees being subjected to it. These actions and inactions by administrative respondents are so pervasive and consistent as to amount to well-settled custom or policy. These actions and inactions are callous indifference to my federally protected right (to due process), are a deliberate abrogation of respondents responsibilities to protect civil rights, are actions that amount to deliberate indifference and respondents are grossly negligent in their training and supervising of subordinates.

To be abundantly clear, I have included Judges Dan E. Flynn and Cara L. Beatty as well as the Superior Court of Shasta in this action because the abuse of chains and shackles which has its genesis in the Jail is spilling out into the Superior Court and becomes a violation of Due process in the Courtroom. Judges such as Flynn and Beatty are abrogating their duty to scrutinize this practice.

Robert A. Gibbs, plaintiff
% Shasta Co. Jail #S10503
Shasta County Jail
1655 West St.
Redding, CA. 96001

United States District Court of California

(4)

Gibbs Vs. Superior Court of Shasta

Statement of Claim, Continued;

Superior Court respondents know or should know that detainees and defendants have a due process interest in not being subjected to an arbitrary or unlawful use of chaining and that it is their duty to protect this right in their courtrooms. By simply turning a blind eye to more and more defendants being brought to court in chains, without independent review of the actual need for it, the Superior Court respondents are abrogating their duty to protect civil rights of defendants. This inaction amounts to deliberate indifference to the civil rights of defendants. All of these respondents are of a sufficiently high enough position in Shasta government that their actions may be fairly said to represent county policy or practice. All of these respondents have shown a discernable pattern of open disdain, ignorance of or callous indifference to other, equally essential civil rights (such as right to bail, grievance, effective assistance, discovery etc.). For this very reason, I am requesting no less than \$150,000⁰⁰ in compensatory and punitive damages. This large sum is in direct proportion to the arrogant, continuing, and flagrant disrespect these respondents repeatedly and deliberately show our American ideals of civil liberty.

Sincerely,
Robert A. Gibbs

E. REQUEST FOR RELIEF

State the relief you are seeking:

I am requesting any relief the Court sees fit to order (injunctive/mandamus), a Jury trial to prove my claims and compensatory and punitive damages not to exceed seven hundred fifty thousand dollars as I do not believe that any lower amount will prove sufficient to compel respondents to cease and desist from this abusive and wide-spread practice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.