

Name: Robert A. Gibbs

Address: P.O. Box 686  
Shasta, CA. 96087  
1/6 Shasta County Jail  
1655 West St.  
Redding, CA. 96001

CDC or ID Number: Shasta Key #510503

Shasta County Superior Court  
1500 Court St.  
Redding, CA. 96001

(Court)

<u>Robert A. Gibbs</u>
Petitioner
vs.
<u>Shasta County Jail, Family Court,</u>
Respondent <u>Cheri A. Dubuque</u>

PETITION FOR WRIT OF HABEAS CORPUS

No. \_\_\_\_\_

(To be supplied by the Clerk of the Court)

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the superior court, you only need to file the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal in paper form and you are an attorney, file the original and 4 copies of the petition and, if separately bound, 1 set of any supporting documents (unless the court orders otherwise by local rule or in a specific case). If you are filing this petition in the Court of Appeal electronically and you are an attorney, follow the requirements of the local rules of court for electronically filed documents. If you are filing this petition in the Court of Appeal and you are *not* represented by an attorney, file the original and one set of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies of the petition and, if separately bound, an original and 2 copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court (as amended effective January 1, 2007). Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

- A conviction
- A sentence
- Jail or prison conditions
- Parole
- Credits
- Prison discipline

Other (specify): Interference with parental rights, Alienation of affection

1. Your name: Robert A. Gibbs
2. Where are you incarcerated? Shasta County Jail
3. Why are you in custody?  Criminal conviction  Civil commitment  pre-trial

Answer items a through l to the best of your ability.

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Criminal threats

b. Penal or other code sections: 422 p.c.

c. Name and location of sentencing or committing court:  
Shasta County Superior Court  
1500 Court St.  
Redding CA 96001

d. Case number: 15F5736

e. Date convicted or committed: 9/11/2015

f. Date sentenced: N/A

g. Length of sentence: N/A

h. When do you expect to be released? unknown

i. Were you represented by counsel in the trial court?  Yes  No If yes, state the attorney's name and address:

Mr. Ted Somers  
1714 West St. Suite C  
Redding CA 96001

4. What was the LAST plea you entered? (Check one):

- Not guilty
- Guilty
- Nolo contendere
- Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

- Jury
- Judge without a jury
- Submitted on transcript
- Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "The trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page 4. For additional grounds, make copies of page 4 and number the additional grounds in order.)

The Shasta County Family Court has repeatedly failed to enforce my parental contact and visitation rights with my daughter Forest H. Gibbs (D.O.B. 1-27-14). Her mother, Cheri A. Dubuque has very serious psychological issues (psychopathologies) and refuses to respect father/daughter relationship. Mother refuses to bring child to visit in the Jail. Shasta County Jail is illegally using Disciplinary System to retaliate against detainees which leads to a state of perpetual sanction, thereby denying all visitation. Despite many requests and motions in the family court to order parties to allow and facilitate this fathers visitation rights with minor child, the Family Court has ignored these requests.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts on which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel, you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See In re Swain (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is, who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.) I have been unlawfully incarcerated by Shasta County since September 2015. I have been unlawfully denied meaningful bail while in the Jail I have been abused by Jail deputies, denied mental health and kept on perpetual "disciplinary" and solitary confinement. Since December of 2015 I have been corresponding with the Shasta County family law facilitator's office and the family court in order to enforce existing child visitation rights with my daughter Forest H. Gibbs (D.O.B. 1-27-2014). The Family Court has repeatedly ignored these requests and filed motions to enforce. On 12-10-2015 I wrote the Court to request a visitation schedule for as long as I would be in custody for Forest's psychological well-being. To be clear, I do not believe that denying visitation simply because I am in jail is appropriate and is psychologically harmful to my daughter. In response to my letter I received acknowledgement that the Court received but refused to read the letter. I wrote to the family law facilitator and met with the Facilitator Nanette Stamberg, who helped me file a motion to enforce orders. This process took several months, was needlessly complicated and delayed because the mother is not compelled to keep an address for service on file with the Court and even when the process was completed, the Family Court failed to have me transported from the Jail to attend the hearing. I wrote the facilitator again and began the process over. Despite several motions and months of waiting, I was not actually brought to court until February 2018. Again the hearing was delayed because the mother could not be located for service. Finally in April 2018, I was brought to court, the mother attended telephonically and Judge Molly Bigelow violated my hearing rights by arbitrarily refusing to listen, conflating my overall visit rights, with my specific request for visits while I am in custody and completely ignored my argument that I am entitled to visitation even while incarcerated, thereby denying unlawfully my parental rights and my right to meaningfully access the Court.

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.) "Any order concerning child custody and visitation must comport with due process" - 14th Amend. to the U.S. Const. "Prison inmates retain reasonable visitation with their child" - Authority cited in: Hoverston v. Superior Court, 74 Cal. App. 4th 636, 88 Cal. Rptr. 2d 197 (2d Dist. 1999) "a county Jail policy that effectively prohibits the visitation of minor children with their parents are a denial of the Constitutional rights of Association and privacy" - In re Smith 112 Cal. App. 3d 956 "the Court shall grant reasonable visitation rights to a parent unless it is shown that visitation will be detrimental to the child" - Family Code Section 3100 "children have strong emotional ties to even the worst of parents" - Hansen v. Dept. of Social Services (1987) 193 Cal. App. 3d 283, 292, 238 Cal. Rptr. 230

7. Ground 2 or Ground \_\_\_\_\_ (if applicable):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

a. Supporting facts:

Relief Sought: I respectfully move this court to recognize previously ordered visitation rights of this father, order mother to keep a current address on file for service with the court, order an emergency hearing where father can be heard on issue of visitation while incarcerated and order that mother and Jail allow, facilitate and transport minor child for on-going visitation with her father.

b. Supporting cases, rules, or other authority:

"Visitation rights arise from the very fact of parenthood" - In re Brittany S. Supra, 17 Cal. App. 4th 1399, 1422 Cal. Rptr. 2d 50. See also: In re Juliem. (1999) 69 Cal. App. 4th 4149, 81 Cal. Rptr. 2d 354

8. Did you appeal from the conviction, sentence, or commitment?  Yes  No If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Division of Superior Court"):

b. Result: N/A

c. Date of decision:

d. Case number or citation of opinion, if known:

e. Issues raised: (1)

(2) N/A

(3)

f. Were you represented by counsel on appeal?  Yes  No If yes, state the attorney's name and address, if known:

N/A

9. Did you seek review in the California Supreme Court?  Yes  No If yes, give the following information:

a. Result:

b. Date of decision:

c. Case number or citation of opinion, if known:

d. Issues raised: (1)

(2) N/A

(3)

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Administrative review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500.) Explain what administrative review you sought or explain why you did not seek such review:

Neither Jail nor mother will allow or facilitate visits unless ordered to do so by the Shasta Family Court.

b. Did you seek the highest level of administrative review available?  Yes  No

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court?  Yes *if yes, continue with number 13.*  No *if no, skip to number 15.*

13 a. (1) Name of court: Shasta Co. Sup. Court  
(2) Nature of proceeding (for example, "habeas corpus petition"): Habeas  
(3) Issues raised: (a) Excessive force, denial of mental health care  
(b) denial of Bail, Bail hearing, notice  
(4) Result (attach order or explain why unavailable): pending  
(5) Date of decision: N/A

b. (1) Name of court: \_\_\_\_\_  
(2) Nature of proceeding: N/A  
(3) Issues raised: (a) \_\_\_\_\_  
(b) \_\_\_\_\_  
(4) Result (attach order or explain why unavailable): \_\_\_\_\_  
(5) Date of decision: N/A

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:  
pending hearing

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)  
no delay

16. Are you presently represented by counsel?  Yes  No *if yes, state the attorney's name and address, if known:*  
Mr. Ted Somers Habeas Attorney: Margaret Huson  
1714 West St. Suite C Shasta Public Defender  
Redding CA. 96001 1815 Yuba St. Redding CA.

17. Do you have any petition, appeal, or other matter pending in any court?  Yes  No *if yes, explain:* 96001

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:  
N/A

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 4/15/2018

Robert A. Gibbs

(SIGNATURE OF PETITIONER)