

Name: Robert A. Gibbs
 Address: 40 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>Entity known as Shasta County Stephanie</u>	
<u>Respondent Bridgett, Dane Flynn, Tom Boscho</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 need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

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): Violation of the Americans with Disabilities Act.

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 subdivisions a. through i. 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: _____

e. Date convicted or committed: Arrest date: 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:

Ineffective assistance of 7 assigned counsels.

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 four.

For additional grounds, make copies of page four and number the additional grounds in order.) The trial Court is not recognizing my right under the Americans with Disabilities Act to be formally recognised by the Court as a disabled person, to avail myself to the special protections and rights under the Act to receive considerations under the Act to be protected from undue harm by my society and government, by undue criminalisation based upon actions of mental instability wrongfully interpreted by my government as crime which thereby causes incarceration and undue conviction which only causes a worsening of my mental state and undue stigmatisation as a "criminal" which only further alienates me from my society which causes further disability.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon 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.) The spirit of the Americans with Disabilities Act is to empower disabled Americans to lead meaningful and independent lives in spite of their disabilities. It makes law the responsibility of all government to both recognise disabled persons, but also to take steps to protect those persons rights to live the same kinds of lives as non-disabled persons enjoy. The Act is intended to equalise the access to meaningful, independent lives by disabled persons by allowing them to avail themselves to the special considerations and protections of the government. As a person of severe and debilitating mental illness, whose behaviors are sometimes misinterpreted by others as criminal, I believe I am entitled under the Act to an additional layer of review in the criminal courts, to wit: An honest and meaningful examination by the court to determine if my mental disability may have played a role in my behavior and if so a resultant and corresponding consideration to deflect or defray undue exposure to criminal proceeding, conviction, incarceration or stigmatisation. This is not to be confused with the right to plead Not-guilty, Insane or the right to a trial to determine Insanity or Culpability, but a pre-trial right to psycho-social services and intervention to protect me as a mentally disabled person from being unfairly criminalised due to the ignorance of non-disabled persons. As a disabled person, the ADA is my lawful mechanism to restrain my government from taking actions that penalise me for my illness or unduly interrupt the normal flow and independence of my life. The ADA, once invoked, should trigger immediate protections and considerations which would defend my life from actions by my society which diminish my independence and the quality of my life. Not only is a mentally disabled person more likely to act in ways that can easily be construed or interpreted as criminal, but they are more likely to be brought to the attention of the police, more likely to have people mis-portray their behavior to police, more likely to be treated as criminal by police, more likely to fail to defend their actions when confronted by police, more likely to appear guilty, more likely to respond to excessive stress with anger or violent rhetoric, more likely to disrupt court proceedings which tends to alienate the court, more likely, in general to be unduly and thoroughly criminalised for their illness.

(Cont)

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.)

The Americans with Disabilities Act, the 10th Amend. to the United States Constitution (rights otherwise not enumerated, reserved to the people - right to life, liberty and the pursuit of Happiness)
See also: U.S. vs. Hayes, 227 F.3d 578 (2000) U.S. Court of Appeals - 6th Circuit

Continued..

7. Ground 2 or Ground (if applicable):

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In my case, my severe depression (and the provocative, dishonest and immoral actions of others) created in me a defensive, reactive state whereby I over-reacted (or appeared to over-react) in my defense of myself and family. In one case, while suffering from severe P.T.S.D and Post-partum depression, the disrespectful and dishonest actions of my girlfriend and her parole agent led to me to use violent rhetoric in my disgust and outrage. In another case, I committed traffic infractions that I should have just admitted to but when confronted by the C.H.P. officer (who only wanted me to admit crossing a double yellow line) I became unnecessarily fearful and refused to admit anything (my right under the 5th Amend). In his anger, the C.H.P. officer then charged me not with a traffic infraction but a misdemeanor and felony (retaliation).

a. Supporting facts: In another case, my girlfriend attacked me during an argument. I defended myself as best I knew how which caused superficial injury to my girlfriend. I would have only faced a misdemeanor for mutual combat domestic violence (or been not guilty by self-defense) but in my severely agitated state I did not think to show arresting officers my injuries (large red marks to my chest from my girlfriend grabbing me and twisting - marks that turned into large, garish, grapefruit-sized bruises). Neither did the arresting officers ask me if I was hurt (see reports) or allow me to make a full statement (they cut me off deliberately and then pretended in their report that I refused to make a statement). In my last case, a severe depression lasting several weeks induced a delirium state while I was speaking on the phone to the Attorney General. I was attempting to make the A.G. understand that I was becoming reactive to police (as a result of abuse and false arrest) and that I feared a violent confrontation. I only wanted people to see that the abuse of my life by others was causing me incredible de-stabilisation. I did not deserve all that was happening to me and my family. My delirium had removed my ability to censor my words or control my pain and rage and then the A.G. began interjecting the names of individual policemen into the conversation and asking me if I thought I might hurt them (these were officers that had falsely arrested me and assaulted me). Without any thought to consequences whatsoever, I agreed that I might hurt them. I never thought that the A.G. would take my hypothetical, raw and hyper-emotional statements as credible threats or pass them on to individual officers. I did not want him to take my threatening statements seriously, but only my feelings that I was out of control because I truly desired help for my feelings and intervention before I hurt someone. Once again, my mental illness was interpreted as crime (criminal threats). As a severely ill, disabled person undeserving of my society's condemnation, imprisonment, conviction and stigmatisation, I hereby invoke the protection of the ADA as a stabilising and equalising mechanism to restrain this court from any further misportrayal, misunderstanding, misconstruction or criminalisation of my person. I demand compassion and understanding from my society as represented by this court and a rejection of any legal theories posited with an ignorance of mental illness. I am willing to be punished only for actions I did take that were of a truly criminal nature and not influenced in any way by mental illness. Nothing I did does so warrant my two-year incarceration in the jail, without any treatment for my illness and I do hereby request immediate release until my cases can fully adjudicate. Furthermore, I do hereby request the court restrain itself from attempting to convict me of more than two misdemeanors or one (non-strike) felony. Furthermore, I do hereby request this court allow recommendation to Behavioral Court and strenuously advocate for a fair and immediate settlement with the County to my federal civil rights lawsuit for false arrest (proven), to avoid further contention between this defendant and his community.

b. Supporting cases, rules, or other authority: the Americans with Disabilities Act (authority cited),

the 4th Amend. to the U.S. Const. - right to be free from unreasonable arrest - (authority cited) the 10th Amend. to the U.S. Const. - rights not enumerated are reserved for the people - right to life, liberty and happiness - (authority cited)
See also: U.S. Vs. Hayes, 227 F. 3d 578 (2000) U.S. Court of appeals - 6th Circuit.

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 Dept. of Superior Court"):

b. Result _____ c. Date of decision: _____

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

e. Issues raised: (1) _____

(2) _____

(3) _____

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

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) N A

(2) _____

(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 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

To make my legal argument abundantly clear: Mentally disabled persons are uniquely and inherently susceptible to misunderstanding, inter-personal conflict, retaliation, false accusation, behavioral misinterpretation and misportrayal, false arrest, false and invidious prosecution, undue conviction and false imprisonment. In order for the Americans with Disabilities act to be meaningfully applied and interpreted in the case of the mentally disabled, it must be construed as a means for the mentally disabled to invoke the protection of government against false, invidious or retaliatory accusation and arrest and review to pre-empt these actions before they are merely legitimized and further compounded by the criminal process. The mentally ill have a right to live full and meaningful lives and not simply become fodder for the justice system simply because someone becomes angry at them and calls police and misportrays their behavior or the totality of circumstances (i.e. minimizing their own provocation of the mentally ill or misrepresenting events). once in court, and without fair and proper review these innocent (or even mostly innocent) people can be easily the victims of undue conviction and even a Judge or Jury may not understand what has happened to them. IF the ADA makes law my right to consideration to protect the sanctity of my life then I hereby invoke it.

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. MC-275

13. a. (1) Name of court: Shasta County Superior Court

(2) Nature of proceeding (for example, "habeas corpus petition"): Habeas Petitions

(3) Issues raised: (a) Failure to recognise my disability.

(b) _____

(4) Result (Attach order or explain why unavailable): denied

(5) Date of decision: unk

b. (1) Name of court: _____

(2) Nature of proceeding: _____

(3) Issues raised: (a) _____

(b) _____

(4) Result (Attach order or explain why unavailable): _____

(5) Date of decision: _____

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:

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.)

16. Are you presently represented by counsel? Yes. No. If yes, state the attorney's name and address, if known:

John Carelli : 530-229-4778

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

Habeas

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: June 27th, 2017

Robert A. Gibbs
(SIGNATURE OF PETITIONER)

↑
National
P.T.S.D. recognition
day.