

Name Robert A. Gibbs

Address % Shasta County Jail

1655 West St.

Redding, CA. 96001

CDC or ID Number Shasta key # 510503

FILED

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NOV 07 2018

CLERK OF THE SUPERIOR COURT
BY: K. HAMBLY, DEPUTY CLERK

Superior Court of California, Shasta Co.
1500 Court St. Redding, CA. 96001
(Court)

<u>Robert A. Gibbs</u> Petitioner	vs.	<u>Shasta County Superior Court</u> Respondent
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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 convict 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.
- If you are filing this petition in the California Supreme Court, file the original and thirteen copies.
- 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 Rules 56.5 and 201(h)(1) of the California Rules of Court [as amended effective January 1, 1999]. Subsequent amendments to Rule 44(b) may change the number of copies to be furnished the Supreme Court and Court of Appeal.

This petition concerns:

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

Other (specify): Due Process ~ Ineffective assistance of Counsel

Your name: Robert A. Gibbs

Where are you incarcerated? Shasta County Jail ~ Redding, CA.

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").

pre-trial for 422 p.c. et. al.

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 et. al.

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:
To date, I have been represented by nine separate attorneys: melissa Fance, Corinne West, Richard Cotta, Rob hammonds, Joseph Abbott, Shari Northum, Adam Ryan, John Carelli, Teck Samers,

Currently represented by Bryan H. Buss: 1650 Oregon St. (Suite 10E) Redding, CA. 96001

What was the LAST plea you entered? (check one)

Not guilty Guilty Nolo Contendere Other: _____

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.) For three, Four and Five and one-half years I have been pending various Criminal Cases before the Superior Court of Shasta County CA. In that time, I have received only grossly ineffective assistance of ten assigned Counsel, been systematically denied meaningful investigation of exculpatory crimes, Systematically denied the meaningful preparation of a defense, Systematically denied meaningful Bail and Bail hearings, Systematically denied affirmative defense at all preliminary hearings, Systematically denied Constitutional and Statutory rights to a speedy trial, Systematically denied the right to Habeas Corpus hearing, Systematically denied the right to confront witnesses, Systematically denied the right to call witnesses on my behalf, Systematically denied the right to ancillary services, Systematically denied the right to meaningful pre-trial motions and pre-trial review, Systematically denied the right to discovery, Systematically denied the

a. Supporting facts: right to due process...

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.)

For three, Four and Five and one-half years, I have been pending trial in the following Shasta County Superior Court, Cases: #13M4757, #14F4854, #14F6355, #15F5464, #15F5736. Case #13M4757 is a case generated by Calif. Fish and Wildlife alleging diversion of a state waterway, unauthorized use of a road and placing a pollutant where it can pass into a state waterway. All of these alleged violations occurred on private property I own, were discovered pursuant to an illegal unreasonable warrantless search and the search is subject to a federal civil rights action (42 U.S.C. 1983) in the United States District Court of California, Eastern Dist. (Case # 2:13-CV-02631-KJM-DMC). Furthermore, Fish and Wildlife agents made no effort to properly investigate or measure and document distances of alleged pollutant from waterway, ownership or legal easement agreement for the use of the road and small creek (a thrice removed private tributary to another private tributary) was not a "state waterway" for purposes of the statute(s) applied. Neither was a one-inch poly pipe gravity feed of creek water to service my cabin and primary residence of "substantial diversion" of the waterway as required by statute. No pollutants ever entered into the waterway and were immediately abated. I have documented proof of a legal easement agreement entitling my use of the roadway. In five and one-half years, despite the representation of ten assigned defense counsel, I have been denied any pre-trial challenges or motions to dismiss or amend the states case or evidence. In that time, counsel have been provided documented proofs and notice of the legal issues and have simply failed to act. I assert that my trial on these charges, after five and one-half years, would be a violation of due process, both because of Fish and Wildlife's original failure to properly investigate and because witness recollection after such a prolonged period would be markedly degraded. Furthermore, I have been denied any investigation by defense counsel and no meaningful investigation could possibly occur after such a passage of time. Likewise, no pre-trial motions can be made, unless unsupported by proofs or documentation(s) that a defense investigation that had been made in a timely manner could have supplied. As a myriad of my due process rights have been systematically denied in this case, the only constitutional remedy would be complete dismissal with prejudice. Counsel's failure to prepare or present any defense necessarily implicates constitutional and statutory speedy trial violations.

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.)

- 4th Amendment to the United States Constitution (unreasonable search),
- 6th Amendment to the United States Constitution (right to effective counsel, right to investigation)
- 14th Amendment to the United States Constitution (Due process)
- People v. Belton, 6 Cal. California Constitution, Penal Code 801, 800, 801, Verdict v. Britton, 129 S. Ct. 1485, 8 Cal. Rptr. 3d 1063 (2000)
- "Presumption of Prejudice" ~ Dongett v. U.S., 505 U.S. 617, 112 S.Ct. 112
- "Dimming of memories" ~ People v. Conrad, 5 Ct. 2686, 120 L. Ed. 2d 580 (1972)
- "Fading memories" ~ People v. Hill, 37 Cal. 3d 491, 209 Cal. Rptr. 323, 691 P.2d 989
- "Loss of material evidence" ~ People v. Lowe, 40 Cal. 4th 937 56 Cal. Rptr. 3d 209, 154 P.3d 358 (2007) (1984)
- "Balancing Test" ~ Barker v. Wingo, 407 U.S. 514, 72 S.Ct. 2182, 33 L. Ed. 2d 101 (1972)

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In Case # 14F4854, I am accused of making a criminal threat, in violation of California Penal Code 2422. In that case, which is now over four years old, I am accused of sending a threatening text message to my girlfriend's parole agent. For this entire time, assigned counsels and investigators have been notified repeatedly of my affirmative defense to this charge. I have repeatedly informed counsels that the text in question did not make a criminal threat, was not intended as a criminal threat, was conditional and equivocal in nature, and did not meet statutory requirement of an "immediate and specific threat with a certainty of purpose and immediate prospect of execution." Assigned

Counsels have been informed that I have a very long and well-documented history of mental illness and am recognized as gravely disabled by the federal government for mental illness with numerous psychiatric hospitalizations and diagnosis of Bipolar P.T.S.D., severe depression, mood disorder with psychotic features, Schizoid, Borderline personality disorder, anxiety and agitation etc. Additionally, at the time of the alleged offense I was suffering from undiagnosed and untreated post-partum psychosis. My official Federal psychiatric diagnosis includes a finding of Post-Traumatic Stress Disorder ~ Reactive to Authorities. This diagnosis is specifically given to people who, because of previous violent or psychologically damaging encounters with police or other authority figures, become psychologically reactive to real or perceived threatening stimuli. This disorder is characterized by a persistent, underlying and severe fear and loathing of Authority Figures, persecutory delusions and a marked over-reaction to perceived threats from authority figures. I have suffered from this disorder since my youth where I was physically and sexually abused by authorities in the juvenile justice system. This condition was severely worsened in 2013 when Fitch and Wild-life agents burst into my yard, pointing automatic weapons at me and failing to properly identify themselves. I was only aware that I was being forced to ground at rifle-point and believed I was being murdered by unknown subjects. This incident caused a psychotic break which led to severe P.T.S.D. symptoms of vivid, violent nightmares, insomnia, loss of appetite, depression and severe agitation. Additionally, after the death of both of my estranged parents in 2011-2012 and the birth of my daughter in early 2014, I began to suffer from post-partum depression psychosis. My girlfriend's parole conditions were severe and her agent was authoritarian and confrontational and was not aware of any of my psychiatric conditions. The agent pulled guns on us several times, stole property and made threats. Complaints to his superiors went ignored. Agent illegally removed my infant daughter from my home at gun-point and continuously interfered in my family's affairs. Agent made my daughter and girlfriend live in her father's trailer which was completely unfit for an infant, with thousands of hypodermic needles, boxes full of heavy glass and metal car parts to the ceiling in every room, vermin and insect infestation and narcotic medications all over, while my girlfriend and infant daughter lived in this trailer (where my girlfriend's father had sexually abused her) the trailer was burglarized several times while my girlfriend and daughter slept in the front room. By this time both myself and my girlfriend were suffering from parole fatigue and she was very near the termination of her parole. We waited patiently for nearly two months for final word that she was discharged from parole. When she was finally told her agent ordered her not to tell me. That night I was very upset and did not sleep at all. The next morning, I sent the text in defense of my family and complaining of the agent's behavior. For over four years, assigned counsels have failed to investigate any of these facts or properly interview witnesses, failed to field an affirmative defense at my preliminary hearing, failed to marshal evidence of my psychiatric history, failed to engage a psychiatric expert witness, failed to seek subpoena or pitches motion to uncover complaints of similar behavior by the parole agent, failed to prepare a defense or to move to dismiss for violations of due process / speedy trial.

- b. Supporting cases, rules, or other authority:
- | | |
|--|---|
| 6th Amendment to the United States Constitution (right to effective assistance of counsel, right to investigation, expert witness) | |
| 14th Amendment to the United States Constitution (Due process right to confront witnesses, right to call witnesses, affirmative defense) | |
| California Constitution, California Penal Code | |
| Right to psychiatrist | |
| AKA V. Oklahoma, 105th S.Ct. (1965) | Jennings V. Woodford, (9th Cir: 2002) 250 F.3d 1006, 1015-1020 Failure to investigate |
| Bell V. Cone (2002) 535 U.S. 685, 697, 122 S.Ct. 1843, 1851 Ineffective Assistance | 715 V. Cronin (1984) 466 U.S. 648, 659-660, 104 S.Ct. 2039, 2047 Presumption of prejudice |
| In re Branch (1969) 70 C.2d 200, 210, 74 CR 238, 245 Ineffective Assistance | Thomas V. Chappell (9th Cir: 2012) 678 F.3d 1086, 1106 Failure to investigate |
| Riley V. Payne (9th Cir: 2003) 352 F.3d 4313, 1318-1321 Failure to investigate | Luna V. Cambra (9th Cir: 2002) 306 F.3d 954, 966 Ineffective assistance |

In Case # 14F6355 I am accused of reckless driving and child endangerment. This case, which is now over four years old, is based upon an incident on State Highway 299 West where I admittedly tail-gated and passed two other drivers over a double yellow line. One of the drivers essentially road-raged me by calling 911. When I was pulled over fifteen miles later by Highway patrol, the two drivers I passed, as well as the driver behind me, stopped to give the officer a statement. The

a. Supporting facts: and reported that I had tail-gated, passed on blind corners and passed over double yellow lines. No effort was made by the officer to ascertain the number of cars I had allegedly passed illegally or how many times I had allegedly passed on a "Blind Corner". No effort was made by the officer to determine the part of the road involved; the distance or duration of the alleged driving behavior, my speed or the speed of the other drivers. The officer did not memorialize the specific statements of the other two drivers, only saying they "re-iterated" the statement of the first driver. At my preliminary I testified and admitted to tailgating and passing two cars (in one maneuver) over a double-yellow line. I reported that all drivers were driving at or below the speed limit, that I had in fact passed coming out of a blind corner where I had forward vision of any on-coming traffic for several hundred yards. The road at that point was very wide and flat and straight with ample shoulder. Road and driving conditions were clear and dry with very light traffic. When interviewed by the officer, he only asked me if I passed on a double yellow line. I told him very respectfully that I should not make any statement. I was released without any citation whatsoever. Four months later I received the charge of reckless driving in the mail as well as a charge of child endangerment simply because my daughter was in the vehicle. I have no doubt in my mind whatsoever that the severity of the charges were retaliatory because I had refused to admit to the officer that I had crossed a double yellow line. I had two witnesses who both gave statements that all I did was tail-gate and make one perfectly safe (albeit illegal) passing maneuver. One of these witness statements was taken down by a previous lawyer who failed to document the interview or give me a copy. This witness (Edward M. Guinness) has in the proceeding four years moved out of the state and his whereabouts are unknown. In the proceeding four years, despite the assignment of ten attorneys, not one single attorney has made any attempt whatsoever to marshal proofs of my and my witnesses version of events of the five witnesses to the incident, only the original complaining witness has ever been contacted by my ten defense teams and even that interview was not conducted properly. The witness was not asked critical questions that could have elicited exculpatory evidence. In four years, despite the assignment of ten attorneys, not one single attorney has ever identified the stretch of roadway or obtained

(continued)

b. Supporting cases, rules, or other authority:

"Passing when a curve in the Highway obstructs

the view of on-coming vehicles" ~ Vehicle Code 21750 (w)

"Following too closely (tail-gating)" ~ Vehicle Code 21703

"Passing or crossing over a double yellow line" ~ Vehicle Code 21750

photographs, maps, mile-marker indicus or other documentation which would allow for a visual aid reconstruction of road conditions and the relation of vehicles to each other and sections of road-way. In Four years, despite assignment of no less than ten Shasta County attorneys, not one single attorney has sought the opinion of any kind of independent expert witness (i.e. professional driver, retired Highway patrolman etc.) to offer an opinion on the actual risk of harm posed to other drivers by my alleged driving behavior. In Four years, despite the assignment of no

a. Supporting facts:

less than ten Shasta County attorneys, not one single attorney has filed any motion whatsoever to effectuate my 6th Amendment right to a thorough, competent and timely investigation of facts. After such a lengthy delay in investigation, I do not believe that any investigation now could possibly be accurate and that I should be entitled to a dismissal for a systematic denial of due process. At bare minimum, I should be entitled to the appointment of a competent state public defender to audit the cases to make a determination of how prejudiced these cases have become from the ineffective assistance of counsel and to make recommendations to the superior court. In addition to the constitutional violations above, neither of the preliminary hearings in the above two cases were constitutional. Despite my vociferous objections, a new attorney was assigned five minutes before the start of these preliminaries and did not prepare any defense whatsoever, a violation of my right to affirmative defense and effective assistance of counsel. I was also unlawfully denied my right to call a critical witness, my right to investigation before the hearings, my right to discovery of a critical witnesses statement in the possession of the district attorneys office, my right to confront declarant witnesses, my right to suppress illegal evidence and my right to represent myself. All of these denials of rights are well memorialized within the four corners of the hearing (and mardden hearing) transcripts. Not one of my ten assigned counsels, in ~~four~~ years has made the appropriate P.C. 995a motion to set aside the information. In these cases despite my repeated requests that they do so. Not one of my ten assigned counsels, in four years, have even honored my request for copies of all the transcripts so I can demonstrate to them what has occurred in these cases. Furthermore, the passage of time has greatly eroded my

(cont.)

"a defendant cannot be forced to choose between speedy trial and competent counsel." ~ Barsamyan v. App. Div. of L.A. Superior Court, 44 Cal. 4th 960, 81 Cal. Rptr. 3d 265, 189 P.3d 271 (2008)

"an information must be set aside if defense counsel rendered ineffective assistance at the preliminary hearing" ~ People v. Coleman, 46 Cal. 3d 749, 773, 251 Cal. Rptr. 83, 759 P.2d 1260 (1988)

b. Supporting cases, rules, or other authority:

"an affirmative demonstration of prejudice is not necessary to prove a denial of a defendant's Federal, Constitutional right to speedy trial." ~ Moore v. Arizona, 414 U.S. 25, 945 Ct. 188, 38 LEd. 2d 165 (1973)

"in criminal proceedings, the essence of a speedy trial or a due process claim based on delay is that the passage of time has frustrated the defendant's ability to defend the allegations against him." ~ People v. Sanders, Cal. App. 2nd Dist. 2012, 2012 WL 540583

"defendant cannot be deprived of speedy trial because defense counsel is lazy, indifferent or incompetent." ~ People v. Floyd, 1 Cal. 3d 694, 83 Cal. Rptr. 608, 464 P.2d 64 (1970)

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ability to defend against the charges against me. Specifically, the passage of time has led to the loss of several crucial independent witnesses like Edward M^s Guinness, who lived with me during 2014-2015 and John and Sherry Morelli, who were neighbors in Weaverville. The reason that these independent witnesses are so crucial now is because my primary witness to all of these events (Cheri Dubuque) has become impeachable over the last two years. After giving several written and highly exculpatory statements on my behalf, Ms. Dubuque has become re-married and

in order to manipulate the family court has now given several contradictory statements. She has also been caught lying and with-holding physical evidence by my investigator Donald R. Luster. I can provide for the court copies of her earlier statements and I am sure the court would agree that they are voluntary, seem highly credible and detailed and are very exculpatory. However, given Ms. Dubuque's behavior over the last two years and her recent dishonesty, I do not know what her testimony would be if put on the stand now and I have every reason to believe she would attempt to sabotage my defense. With some of the independent witnesses I have lost, I might have attempted Ms. Dubuque's attempt to torpedo my defense, but how I would be completely dependant on a witness who has lied so many times and has such an axe to grind that to put her on the stand at all would be a huge risk to the defense. Three years ago upon my arrest, I had a handful of very credible people who would have been a small but potent defense. Because of counsel's continuous failure to contact people and investigate my defense has all but eroded away. I would also point out to the court that my defense and version of events in all these cases has never wavered or changed in three four and five years. There are many, many letters in the possession of the District Attorney and defense counsels that consistently and repeatedly make the same claims. Any of my ten attorneys would attest that my defense has not changed since the very beginning. I have had the same investigator (Donald R. Luster) for nearly the entire time. He recently testified in family court that I have been completely consistent in my statements (over many, many hours of interviews with him) for at least three years. Another prejudice my case has suffered is that much of my defense hinges upon a defense of psychiatric disturbance and I have repeatedly requested a forensic psychiatric examination to provide corroboration of this defense. As this request has been denied for four years, I no longer believe the results would be accurate. Not only do I believe that prosecution witnesses memories have faded, but my own as well. I am mentally and emotionally drained and exhausted and just want to forget everything. I have sat in a cell for three years and seldom thought of anything except this case. When everyone else goes home for the day, I am thinking about my case. I even dream about my case.

"Prejudice is presumed once the statutory period has passed." ~ Moore v. Arizona, 414 U.S. 25, 94 S.Ct. 188, 38 L.Ed. 2d 183

"Even if the delay is merely the result of administrative malfeasance or simple negligence on the part of the state or its officers, it is clear, there must nonetheless must be a dismissal." ~ Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed. 2d 101

"Prejudice may be shown by loss of a material witness, material change in the in the testimony of an independent eye witness or fading memories caused by the lapse in time." ~ People v. Lowe, 40 Cal. 4th 937, 56 Cal. Rptr. 3d 209, 154 P.3d 358 (2007)

"Potential prejudice to an accused defense as a result of pre-trial delay is not the only factor in determining whether a defendant has been denied his speedy trial rights. Courts will also consider whether an inordinate delay seriously interfered with the defendant's liberty; whether he was free on bail; whether the delay disrupted his employment, drained his resources, curtailed his associations or created anxiety in the defendant." ~ Moore v. Arizona, 414 U.S. 25, 94 S.Ct. 188, 38 L.Ed. 2d 183

~ Justice Delayed is Justice Denied. ~

⑥

In Case 15F5464, I am charged with Felony domestic battery and False imprisonment. During an argument with my ex-girlfriend (Cheri Dubuque), she grabbed my chest and twisted violently, causing two large, deep bruises on my chest. In order to get her off of me, I grabbed one of her shoulders and pushed her to the ground. She suffered bruising to her shoulder and a scraped elbow. I then went inside my cabin to calm down. Within a few minutes a helicopter was circling the cabin. Cheri had gone off and called 9-1-1 and claimed I had attacked her. When the Sheriff's showed up, she shoved

- a. Supporting facts: them her shoulder and said I attacked her for no reason and physically blocked her from leaving. None of that was true. I had taken her keys and told her to calm down and think about what she was doing but I told her I was out, keeping them or preventing her from leaving, I just wanted her to calm down and think about the family. I just didn't want her to leave mad. I then went into my cabin to calm down myself. I do not even know from where she called 9-1-1. I never blocked her physically in any way. Cheri has changed her story several times since then. For the first three years I was in jail, she maintained that she had never touched me at all and she refused to admit having my cell phone which had a picture of my bruised chest on it. Only after my court case in Family Court, three years later did she admit to having the cell phone. I once again asked my Investigator Donald R. Luster to follow up and see if he could get the phone back from her. Only when threatened with subpoena did she finally admit that she had the phone and gave it to Mr. Luster. Because there was now after three years, physical evidence that I had been injured in our fight, she changed her story yet again and said the bruises were from her "puzzing me off of her." Again, to be abundantly clear, a licensed investigator and ex-policeman, from the Anderson, CA. police department, a man with impeccable local reputation who is well known to the Superior Court, is a direct witness that Cheri has changed her story several times and has deliberately and willfully withheld crucial exculpatory physical evidence in the case for three years. He is also a credible, direct witness that I have not one time in three years ever changed my story. These facts are crucial because in this case it is my word against Cheri's and whenever I acted in self-defense as I have claimed for three years, or even if the conflict was a mutual combat, I am still not guilty of Felony battery. Likewise, there has never been any evidence of false imprisonment except for Cheri's statement. A statement which has now been thoroughly impeached. Cheri Dubuque's credibility, which was never good, has now been completely destroyed by her own statements. Cheri Dubuque is a serious violent felon who was convicted of two counts of 288(b) p.c. in LA. County case # PA049140 (Conv. Date: 2-5-2005). In that case, Cheri lied to a ten-year old boy's mother in order to facilitate kidnapping the boy. She and her husband went on to furnish drugs and alcohol to the boy and sexually molest him in several states.

"Moral turpitude is a willingness to do evil" ~ People v. Dowangpanya, 184 Cal. App. 4th 606 2010 WL 1857280 (3rd Dist. 2010)

"a person who does not understand the responsibility to tell the truth when testifying can be disqualified as a witness" ~ Rules of Evidence § 701.

- b. Supporting cases, rules, or other authority: A lie can travel half-way around the world before the truth can even get its boots on. ~ Mark Twain
The truth has a certain ring to it ~ Ernest Hemingway

"the policy against countenancing perjury is strong; allowing false testimony to go unchallenged, impairs the integrity of the fact-finding objective of a trial." ~ People v. Pokovich, 39 Cal. 4th 1240, 48 Cal. Rptr. 3d 158, 141 P.3d 267 (2006)

In case # 5736 I am charged with Five Counts of Criminal threats, However, I am demonstrably not guilty of these charges. The charges stem from a Confidential Conversation with the opposing lawyer in my federal lawsuit (see page one). This confidential communication is protected by attorney-client privilege was a provoked, emotional outburst, with political hyperbole, and there is no evidence of a criminal threat other than the characterization of my statements as threats by the attorney. Neither is there any evidence that I expected or wanted the attorney to pass on any perceived threats to the alleged "victims";

a. Supporting facts: Additionally, there is substantial evidence of psychiatric emergency, defence of necessity defense of misadventure. I am also alleging that 422 p.c. is discriminatory against people with emotional disorders and the mentally ill and is therefore unconstitutional, that I have received no meaningful pre-trial investigation or defense preparation and is therefore a violation of my due process rights. Furthermore, I have recently been charged with two counts of resisting executive officers and two counts of dissuading a witness. These cases are completely meritless and are obviously motivated by a deputy district attorney that is maliciously attempting to retaliate against my refusal to accept a plea and she is attempting to register her very weak, vindictively-motivated charges with more meritless charges. The common denominator of each and every one of these is a scurrilous and reckless willingness by this prosecutor to rely on quantity rather than quality of charges and I should be entitled to relief.

"the supreme court has held that there is a presumption of vindictiveness when a prosecutor increases charges after a defendant has exercised a procedural or constitutional right." ~ U.S. v. Goodwin, 457 U.S. 368, 102 S.Ct. 2485, 73 L.Ed. 2d 74 (1982)

"under the federal constitution, a prosecutors behavior deprives a defendant of his rights when it comprises a pattern of conduct so egregious that it infects the trial with such unfairness as to make the conviction a denial of due process" ~ People v. Foster, 50 Cal. 4th 1301, 117 Cal. Rptr. 3d 658, 242 P.3d 105 (2010)

"the injury to the defendant is nonetheless an injury, when committed inadvertently rather than intentionally." ~ People v. Hill 17 Cal. 4th 800, 822, 72 Cal. Rptr. 2d 656, 952 P.2d 673 (1998)

"sheer number of instances of prosecutorial misconduct and other legal errors raised the strong probability that the aggregate prejudicial effect of those errors was greater than the sum of the prejudice of each error standing alone" ~ People v. Gordon, 50 Cal. 3d 1223, 270 Cal. Rptr. 451, 792 P.2d 851 (1990)

"the prosecutor must not act in a manner that circumvents, and thus dilutes the protection afforded by the right to counsel" ~ Morrow v. Superior Court, 30 Cal. App. 4th 1252, 36 Cal. Rptr. 2d 210

b. Supporting cases, rules, or other authority: 14th Amend. To the U.S. Const. ~ Authority Cited ~ "A prosecutors obligation to govern impartially is as compelling as its obligation to govern at all and whose interest therefore, in a criminal prosecution is not that it shall win its case, but that justice shall be done, (his) two-fold aim is that guilty shall not escape nor innocence suffer." ~ Berger v. U.S., 295 U.S. 78, 55 S.Ct. 629, 633, 79 L.Ed. 1314, 1321

"Nothing in all the world is more dangerous than sincere ignorance and conscientious stupidity" ~ Martin Luther King Jr.

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: N/A

c. Date of decision: _____

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

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:

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) _____

(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:

N/A

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:

No Administrative Remedies

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.

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

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

(3) Issues raised: (a) Ineffective Assist.

(b) _____

(4) Result (Attach order or explain why unavailable): Denial of writ with copy

(5) Date of decision: 8.0.16

b. (1) Name of court: Shasta Sup.

(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.

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

N/A

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.)

Ineffective Assist.

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

Ryan H. Birss
1650 Oregon St., Suite 108
Redding, CA 96001

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

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

undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that 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.

10/30/2018

Robert A. Gibbs

(SIGNATURE OF PETITIONER)