

**WEST COAST
INVESTIGATIVE SERVICES**

IN ASSOCIATION WITH SHASTA COUNTY CONFLICT PUBLIC DEFENDERS

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Declaration of Donald R. Luster

To whom it may concern:

I, Donald R. Luster, am a licensed private investigator in the State of California. For twenty-four years I have worked primarily with the Shasta County Conflict Public Defenders representing indigent defendants. In addition to my cases with the public defenders I also receive and accept direct appointments by the Superior Court assisting indigent defendants with investigative services. Prior to becoming an indigent defense investigator I was a police officer with the City of Anderson. I retired after nineteen years at the rank of Sergeant.

One of my cases assigned to me through the conflict public defender group was the case of the People v. Robert Alan Gibbs. I was the assigned investigator for almost the entire three and one - half years Mr. Gibbs was incarcerated in the Shasta County Jail and his case(s) proceeded through the courts.

On many occasions, during the above stated period of time, I met individually with Mr. Gibbs or with his appointed counsel present. I have discussed with Mr. Gibbs and his counsel on many occasions what Mr. Gibbs' defensible issues were and what needed to be done to prepare those defenses.

During Mr. Gibbs lengthy pre-trial incarceration he spent most of his time exhaustively researching the laws of California as they applied to his case and he repeatedly discussed what he had learned with his counsel, and myself.

Mr. Gibbs was unwavering in his position that the charges against him were excessive and politically motivated because his alleged victims were all state and local law enforcement officers that he was accused of making threats to.

During the course of Mr. Gibbs incarceration I personally attended several of his court hearings and met with his numerous assigned counsel to discuss case issues. It became increasingly apparent to me, as time passed, that the courts and the District Attorney were indeed treating Mr. Gibbs as if he were a **'political prisoner'**.

Mr. Gibbs has a well documented mental history. He has a bi-polar disorder that causes him to have vocal and emotional outbursts that he has difficulty controlling when he is faced with stressful situations that he perceives as threatening or unfair.

As Mr. Gibbs was passed off from one appointed counsel to another it was additionally apparent to me that none of the attorneys representing Mr. Gibbs were willing to put forth the effort to build a meaningful defense and proceed his case to trial.

None of the attorneys representing Mr. Gibbs sought out the medical experts that would be needed at trial. I was informed by one counsel that the cost to seek out and retain such experts for this case would be too great. It is

my opinion that cost considerations should never have been a factor in his representation and was inappropriate conduct by his appointed counsel.

I was present when Mr. Gibbs' last appointed counsel told Gibbs that the district attorney was wanting to settle the case. Counsel suggested that the District Attorney was considering a **'one strike'** deal with a **'credit of time served'**. Mr. Gibbs was additionally told that the judge was also in agreement to the terms of the settlement offer. Mr. Gibbs at the time said that he would agree to the terms to get out of custody so that he could pursue his case on appeal.

When Mr. Gibbs returned to court, to enter a plea and resolve his case, he was informed that the District Attorney's offer to settle required him to plead to two strikes, not one as he was led to believe would be offered. I was present during this hearing and clearly heard the judge attempt to talk Mr. Gibbs into taking this plea by telling him that he had been in custody for a long time, and wouldn't he "like to be free to go home". I felt that the court was holding Mr. Gibbs' freedom over his head as a 'carrot' to induce him into taking the plea. It was clearly apparent that the judge was frustrated and wanted to settle the **'Gibbs Case'**, but it was also apparent that Gibbs accepting the offered plea deal was not in his best interest. As a result of the court's attempt to coerce a plea Mr. Gibbs rejected the D.A's offer and his case was continued.

After a few days of reflection Mr. Gibbs informed myself and his counsel that he was going to accept the D.A's offer so that he could go home to continue to fight this case through the appeals court. And to pursue his pending family law case involving his daughter, that he has not seen since his incarceration.

On the day of his sentencing Judge Beatty was, in my opinion, very giddy at the prospect that the Gibbs case was finally concluding. The judge once again explained to Mr. Gibbs that he was doing the right thing for himself, and she commented that he should be overwhelmed by the thought of being able to go home today. This was, in fact a very strong inducement for Mr. Gibbs to enter a plea.

In conclusion I must add that Mr. Gibbs' last appointed counsel, Ryan Birss, failed the same as previous counsel before him in preparing the case for trial. Mr. Birss inherited this case after it had been pending for years and it was apparent to me that he was doing very little to prepare the case even before the **'credit for time served'** offer was conveyed by the District Attorney's Office. Mr. Gibbs could also see that his counsel was not preparing his case for trial, and there would, in all likelihood, be further delay. His (Gibbs) witnessing of one counsel after another failing to effectively prepare his case for trial, is, in my opinion, the main reason why Mr. Gibbs entered a plea.

It was clear to see that the ineffective assistance of his counsel, the comments made to him by the court, and the District Attorney all played heavily in coercing a plea.

Signed under penalty of perjury under the laws of the State of California,


Don R. Luster

this 21th day of October 2019