

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
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6 H A B E A S C O R P U S  
7 L E G A L A R G U M E N T  
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11 FROM THE OUTSET, THIS PETITIONER HAS MAINTAINED, AND STILL MAINTAINS HIS  
12 INNOCENSE IN MOST, IF NOT ALL CHARGES BROUGHT AGAINST HIM BY THE SHASTA  
13 COUNTY DISTRICT ATTORNEY. CLEAR FROM THE COURT'S OWN EXHIBITS, THIS  
14 PETITIONER IS FACTUALLY INNOCENT OF MAKING CRIMINAL THREATS TO DEPUTY CHRIS  
15 EDWARDS, SARGEANT JOSE GONZALES AND DEPUTY BRIAN JACKSON. PLEASE SEE THIS  
16 PETITIONER'S EXHIBIT ONE. AS THE COURT CAN SEE, THERE WERE NO THREATS TO  
17 THESE "VICTIMS" IN THE TRANSCRIBED TELEPHONE CONVERSATION WITH DEP.  
18 ATTORNEY GENERAL JOHN FESER, AS ALLEGED BY THE PROSECUTION. FURTHERMORE,  
19 THIS PETITIONER RESPECTFULLY SUBMITS THAT IN THE DOMESTIC VIOLENCE  
20 ALLEGATIONS, IT WAS ONLY BY WAY OF A DELIBERATE FAILURE TO INVESTIGATE AND  
21 SHERIFFS' DEPUTY BIAS THAT DID LEAD TO THESE CHARGES INSTEAD OF  
22 SELF-DEFENSE OR MUTUAL COMBAT FINDINGS. FURTHERMORE, THIS PETITIONER  
23 RESPECTFULLY SUBMITS THAT HE IS INNOCENT OF CHILD ENDANGERMENT AND THAT IT  
24 WAS ONLY BECAUSE LAY WITNESSES WERE ALLOWED TO MAKE ALLEGATIONS THAT  
25 THEY WERE NOT QUALIFIED TO CHARACTERIZE AS RECKLESS TO ANY LEGAL  
26 CERTAINTY. DRIVING BEHAVIOR WITNESSED BY A TRAFFIC EXPERT (SUCH AS A  
27 HIGHWAY PATROL-MAN) CAN BE CHARACTERIZED AND OPINIONS ISSUE WITH SOME  
28 BASIS IN FACT, THAT CANNOT NECESSARILY BE MADE BY NON-EXPERTS. SOME STATES  
ACTUALLY HAVE STATUTES THAT INSURE THAT NO-ONE IS HELD FOR TRAFFIC  
VIOLATIONS THAT DO NOT HAVE SOME AUTHORITY TO DETERMINE THE EXACT  
BEHAVIOR AND THE LEVEL OF ANY RISK POSED TO OTHER MOTORISTS. THIS  
PETITIONER DOES RESPECTFULLY SUBMIT, THAT HE HAS ADDMITTED TO CROSSING A  
DOUBLE YELLOW LINE AND THAT THIS IS A VIOLATION OF TRAFFIC LAW. FURTHERMORE,  
THIS PETITIONER DOES ADMIT THAT HIS SUDDEN MANEUVER TO PASS TWO SLOW-..

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9 ..MOVING CARS DID STARTLE AND ANGER THE OTHER MOTORISTS. HOWEVER, THE  
10 COMPLAINT MADE BY THE MOTORISTS WAS MADE IN ANGER AND SURPRISE AND WAS  
11 COMPLETELY A MATTER OF THEIR LAY OPINION. NONE OF THE COMPLAINING  
12 MOTORISTS HAD MY POINT OF VIEW OR WAS AWARE OF MY STATE OF MIND. FOR  
13 INSTANCE, MOTORISTS CLAIM THAT I "PASSED ON BLIND CORNERS" DID NOT TAKE INTO  
14 ACCOUNT WHETHER OR NOT I COULD SEE WHEN I PASSED. IN FACT, I PASSED COMING  
15 OUT OF A BLIND CORNER, WHERE I COULD SEE FOR HUNDREDS OF YARDS IN FRONT OF  
16 ME. MOTORISTS ALSO CLAIMED I WAS "WEAVING IN AND OUT OF TRAFFIC". THIS  
17 OBSERVATION WAS NOT WHOLLY ACCURATE. IN FACT, I PASSED TWO CARS AND  
18 RE-ENTERED THE LANE AFTER THE TWO CARS. THE ENTIRE MANEUVER, ALTHOUGH  
19 ILLEGAL, WAS OTHERWISE SAFE. WHETHER I STARTLED THE OTHER MOTORISTS AND  
20 THEY BECAME ANGRY SHOULD NOT MEAN THAT THEIR LAY OBSERVATIONS SHOULD BE  
21 ADOPTED BY AN OFFICER WHO DID NOT SEE THE ACTUAL BEHAVIOR. THAT OFFICER  
22 SHOULD NOT HAVE BEEN ALLOWED TO TESTIFY AT ALL ABOUT DRIVING BEHAVIOR HE  
23 DID NOT SEE. THERE SHOULD HAVE BEEN A CLEAR, DEMONSTRABLE LEGAL THEORY OF  
24 WHY THE ALLEGED BEHAVIOR MADE A VIOLATION OF RECKLESS DRIVING AND ANOTHER  
25 LEGAL THEORY TO JUSTIFY CHILD ENDANGERMENT. NO OFFICER, DISTRICT ATTORNEY  
26 OR LAWYER, EVER GAVE ANY JUSTIFICATION FOR NOT CHARGING ME WITH TRAFFIC  
27 VIOLATIONS INSTEAD OF BOTH RECKLESS DRIVING AND CHILD ENDANGERMENT. THIS  
28 PETIONER WOULD ARGUE THAT, AS MY INFANT DAUGHTER WAS IN A SAFETY SEAT AND  
PROPERLY STRAPPED IN, THAT THE DANGER POSED TO HER BY MY DRIVING WAS NO  
MORE THAN MYSELF OR MY PASSENGERS, OR ANY OTHER MOTORIST WHO OPERATES A  
VEHICLE ON STATE HIGHWAYS. BOTH OF MY ADULT PASSENGERS WERE INVOLVED IN  
THE DECISION TO PASS ILLEGALLY AND NEITHER EXPRESSED ANY CONCERN  
WHATSOEVER. PLEASE SEE INTERVIEW BETWEEN CHERI DUBUQUE AND DEPUTY  
DISTRICT ATTORNEY CRAIG OMURA (EXHIBIT D). REGARDLESS OF WHAT  
DETERMINATIONS CAN BE MADE FROM MOTORISTS COMPLAINTS, THIS PETITIONER...

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9 ...WOULD ARGUE THAT DEFENSE ATTORNEYS AND INVESTIGATORS SHOULD HAVE TRIED  
10 TO RE-CONSTRUCT THIS INCIDENT IN ORDER TO CLARIFY THE ACTUAL DRIVING  
11 BEHAVIOR. IF A FEW ANGRY MOTORISTS CAN MAKE SOME LAY ALLEGATIONS AND THE "  
12 INVESTIGATING" OFFICER IS JUST GOING TO SIGN OFF ON IT AND EVEN ADD SOME  
13 EXPERT OPINION TO DRIVING HE DID NOT SEE, IF TRAFFIC VIOLATIONS CAN BECOME "  
14 RECKLESS DRIVING" AND SOMEHOW THIS ALLEGATION PROVES CHILD ENDANGERMENT  
15 SIMPLY BECAUSE MY DAUGHTER WAS IN THE CAR, THEN RE-CONSTRUCTING THE  
16 INCIDENT BY IDENTIFYING THE PORTION OF HIGHWAY WHERE IT TOOK PLACE AND  
17 SPEAKING TO WITNESSES IN A TIMELY MANNER SHOULD HAVE BEEN PARAMOUNT TO  
18 THE DEFENSE TEAM. FURTHERMORE, THIS PETIONER WOULD RESPECTFULLY SUBMIT  
19 THAT IT WAS IN-APPROPRIATE AND UN-PROFESSIONAL BEHAVIOR THAT LED UP TO THE  
20 ANGRY TEXT SENT TO PAROLE AGENT CROFOOT. MR. CROFOOT WAS EXTREMELY  
21 ANTAGONISTIC TOWARDS THIS PETITIONERS FAMILY AND I SUFFER FROM EXTREME  
22 EMOTIONAL AND PSYCHIATRIC DIS-ORDERS. MR. CROFOOT MADE MY GIRLFRIEND AND  
23 DAUGHTER LIVE IN A TRAILER THAT BELONGED TO MY GIRLFRIENDS FATHER. CROFOOT  
24 DID NOT CARE AT ALL THAT MY GIRLFRIEND HAD BEEN RAPED THERE BY HER FATHER,  
25 OR THAT THE TRAILER WAS THOROUGHLY UN-LIVEABLE. THERE WERE HUNDREDS OF  
26 HYPODERMIC NEEDLES THROUGHOUT THE TRAILER AND BOXES STACKED TO THE  
27 CEILING WITH HEAVY CAR PARTS AND GLASS. THERE WERE CHEMICALS, MEDICATIONS,  
28 KNIVES, AND OTHER DANGEROUS OBJECTS ALL OVER THE HOUSE. I SPENT THE NEXT  
TWO MONTHS HELPING MY GIRLFRIEND MAKE DUMP RUNS AND CLEAR THE TRASH AND  
DANGEROUS OBJECTS OUT SO THAT OUR INFANT DAUGHTER WOULD BE SAFE THERE.  
I MADE COMPLAINTS AGAINST CROFOOT THAT WERE COMPLETELY IGNORED BY HIS  
SUPERVISOR BRENDA WILDING. MR. CROFOOT WAS CONSTANTLY TRYING TO  
CONVINCE MY GIRLFRIEND THAT I WAS NO GOOD AND SHE SHOULD LEAVE ME. IN FACT,  
WE WERE TRYING VERY HARD TO STAY TOGETHER AND RAISE OUR CHILD. MR.  
CROFOOT CREATED A WHOLLY ADVERSARIAL RELATIONSHIP WITH ME AND WHEN...

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10 ..MY GIRLFRIEND WAS RELEASED FROM PAROLE, AGENT CROFOOT INSTRUCTED HER TO  
11 LIE TO ME. NATURALLY, MY NEW FAMILY WAS LOOKING FORWARD TO NOT HAVING TO  
12 DEAL WITH PAROLE ANYMORE AND MY GIRLFRIEND HAD TOLD ME SHE WAS GETTING  
13 OFF. MY GIRLFRIEND WAS SUPPOSED TO BE NOTIFIED FOR WEEKS LEADING UP TO THE  
14 TEXT AND SHE WAS ACTUALLY NOTIFIED OFFICIALLY THE DAY BEFORE THE TEXT. IF  
15 CROFOOT HAD NOT INSTRUCTED HER TO LIE, I WOULD HAVE KNOWN THIS FACT AND  
16 THERE WOULD HAVE BEEN NO NEED TO BE ANGRY AT CROFOOT ANYMORE. IT WAS  
17 THESE FACTS, AS WELL AS MY PSYCHOLOGICAL PROBLEMS WHICH DID LEAD TO THIS  
18 TEXT AND NOT ANY KIND OF CRIMINAL INTENT. I BELIEVE I SHOULD BE ENTITLED UNDER  
19 THE LAW, TO A DEFENSE OF MISTAKE OF FACT (FOR BEING UNAWARE THAT CHERI WAS  
20 RELEASED FROM PAROLE), A DEFENSE OF DIMINISHED ACTUALITY (FOR HAVING  
21 DEMONSTRABLE PSYCHOLOGICAL PROBLEMS DURING THIS TIME) AND A DEFENSE OF  
22 UN-CLEAN HANDS OR ENTRAPMENT (FOR CROFOOT'S IN-APPROPRIATE ATTITUDE AND  
23 HIS ENDANGERMENT OF MY DAUGHTER AS WELL AS HIS DIRECT ORDER TO CHERI TO  
24 LIE TO ME ABOUT THE FACT THAT SHE WAS RELEASED FROM PAROLE). ATTORNEYS  
25 MADE NO EFFORT TO SPEAK TO NUMEROUS WITNESSES ABOUT THIS TIME PERIOD AND  
26 THE FACTS I HAVE ALLEGED. THERE WERE OTHERS WHO KNEW ABOUT MY COMPLAINTS  
27 ABOUT CROFOOT, THE DANGEROUSNESS OF THE TRAILER CROFOOT MADE MY INFANT  
28 DAUGHTER LIVE IN AND MY SINCERE EFFORTS TO NURTURE AND PROVIDE FOR MY  
FAMILY DESPITE OF INCESSANT INTERFERENCE FROM PAROLE AGENT CROFOOT. THIS  
PETITIONER RESPECTFULLY SUBMITS THAT HE IS INNOCENT OF "DISSUADING A  
WITNESS BY USE OF VIOLENCE OR THREAT". THE LETTER I SENT TO CROFOOT  
CONTAINS NO THREAT OF VIOLENCE, NOR DOES IT TRY TO CONVINCCE CROFOOT NOT TO  
TESTIFY ABOUT ME IN COURT. IT SEEKS ONLY TO CLARIFY MY FEELINGS TO CROFOOT  
AND TO ATTEMPT TO GIVE HIM AN OPPORTUNITY TO TREAT ME MORE FAIRLY. THE FACT  
THAT HE IMMEDIATELY TOOK THE LETTER TO PROSECUTORS AND THEY CHARGED ME..

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6 HABEAS CORPUS  
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10 ... THAT SHOWS THEIR GENERAL ATTITUDE AND BIAS TOWARDS ME. THIS WAS NOT THE  
11 FIRST TIME, THAT PROSECUTORS BASED CHARGES AGAINST ME ON DOCUMENTS THAT  
12 CONTAINED NO VIOLATION OF LAW. THEY SIMPLY DID NOT CARE IF I HAD ACTUALLY  
13 THREATENED ANYONE OR NOT, THEY HAD ALREADY DECIDED THAT I WAS "  
14 THREATENING" AND THEREFORE ANYTHING THAT CAME OUT OF MY MOUTH COULD BE  
15 ARGUED TO BE A THREAT. FURTHERMORE, IT IS HIGHLY INDICATIVE OF MY CASES, THAT  
16 I WAS CHARGED FOR RESISTING EXECUTIVE OFFICERS, FOR BEING ASSAULTED BY JAIL  
17 DEPUTY WEBB. THE PROSECUTION WAS WELL AWARE OF MY SIDE OF THE STORY AS  
18 WELL AS THE FACT THAT I ALREADY HAD NUMEROUS DECLARATIONS SIGNED BY  
19 WITNESSES THAT CLEARLY CONTRADICT THE DEPUTY'S VERSION OF EVENTS. AND THAT  
20 IS IF YOU DO NOT ALREADY DISCOUNT THE OFFICIAL INCIDENT REPORTS MADE BY  
21 DEPUTEES THAT REPORTED THAT I HAD ASSAULTED WEBBS' ELBOW WITH MY FACE.  
22 THE PROSECUTOR DID NOT FILE THESE CHARGES FOR SEVEN MONTHS BECAUSE SHE  
23 DIDN'T WANT TO FILE THEM UNTIL IT BECAME CLEAR THAT I WAS NOT AGREEING TO A  
24 PLEA ON ANY OF THE OTHER CHARGES. ALL OF THIS IS INDICATIVE OF THE  
25 PROSECUTORS FAILING TO REMAIN NEUTRAL AND UN-BIASED AND INSTEAD TREATING  
26 MY CASES AS SPECIAL AND ENDEAVORING TO CONVICT ME AT ANY COST, REGARDLESS  
27 OF THE QUALITY OF THEIR CHARGES. "A PROSECUTOR WHO USES DECEPTIVE OR  
28 REPREHENSIBLE METHODS TO PERSUADE THE TRIAL COURT COMMITS MIS-CONDUCT  
EVEN WHEN THOSE ACTIONS DO NOT RESULT IN A FUNDAMENTALLY UN-FAIR TRIAL"  
PEOPLE VS. KATZENBERGER, 2009 WL 3539833, CAL. APP. 3RD DIST. 2009. "  
PROSECUTORS ARE HELD TO HIGHER STANDARDS THAN IMPOSED ON OTHER  
ATTORNEYS" PEOPLE VS. HILL, 17 CAL. 4TH 800, 72 CAL. RPTR. 2D. 656, 952 P. 2D. 672 1998  
"WITH REGARD TO PROSECUTORIAL MIS-CONDUCT, THE ULTIMATE QUESTION TO BE  
DECIDED IS WHETHER IT IS REASONABLY PROBABLE THAT A RESULT MORE FAVORABLE  
TO THE DEFENDANT WOULD HAVE OCCURRED HAD THE PROSECUTOR REFRAINED  
FROM THE CONDUCT" THIS PETITIONER RESPECTFULLY SUBMITS THAT A MUCH MORE..

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10 ...FAVORABLE OUTCOME WOULD HAVE BEEN HIGHLY LIKELY IF NOT FOR THE  
11 PROSECUTORS CONDUCT AND CONFIRMATION BIAS. " THE SHEER NUMBER OF  
12 INCIDENTS OF PROSECUTORIAL MIS-CONDUCT AND OTHER LEGAL ERRORS RAISED THE  
13 STRONG POSSIBILITY THAT THE AGGREGATE PREJUDICIAL EFFECT OF THOSE ERRORS  
14 WAS GREATER THAN THE PREJUDICE OF EACH ERROR, STANDING ALONE." -PEOPLE VS.  
15 HILL. THIS PETITIONER RESPECTFULLY SUBMITS THAT IT WAS THE PROSECUTORS  
16 CHOSEN STRATEGY OF SCORCHED EARTH ALLEGATIONS THAT WERE LIKEWISE  
17 PROSECUTORIAL ERROR OR MIS-CONDUCT. BY SHOCKING PEOPLE WITH MY OVER THE  
18 TOP THREATS OF GENERAL DESTRUCTION, SHE WAS RELIEVING HERSELF OF THE  
19 RESPONSIBILITY TO PROVE THE ALLEGATIONS THEMSELVES OR THE INTENT BEHIND  
20 THE WORDS I USED. THIS WORKED TO GREAT EFFECT AT MY SECOND SET OF  
21 PRELIMINARY HEARINGS. NO-ONE, NOT EVEN THE COURT RECOGNIZED THAT THE  
22 RECORDED EVIDENCE CONTAINED NOT ONE SINGLE CRIMINAL THREAT. " A  
23 PRESUMPTION OF INTENT IS UNCONSTITUTIONAL, BECAUSE IT RELIEVES THE  
24 PROSECUTION OF ITS' BURDEN TO PROVE ALL ELEMENTS OF THE ALLEGED  
25 OFFENSE" -FRANCIS VS. FRANKLIN (1985) 471 U.S. 307, 105 S. CT. 1965, 1972, 85 L. ED.  
26 2D. 344, 354. THIS PETITIONER RESPECTFULLY SUBMITS THAT PROSECUTORS USED MY  
27 VIOLENT COMMENTS DELIBERATELY TO INFLAME AND RELIEVE THEM OF THEIR  
28 OBLIGATIONS TO PROVE EACH ELEMENT OF THE OFFENSES. "A PROSECUTOR MUST  
REFRAIN FROM MAKING INFLAMMATORY STATEMENTS" -PEOPLE VS. VIENNE, 142 CAL.  
APP. 2D. 172, 297 P.2D.1027 (3RD. DIST. 1956). "UNDER CALIFORNIA LAW, A PROSECUTOR  
COMMITS REVERSIBLE MIS-CONDUCT IF HE OR SHE MAKES USE OF DECEPTIVE OR  
REPREHENSIBLE METHODS WHEN ATTEMPTING TO PERSUADE EITHER THE JURY OR  
THE TRIAL COURT AND IT IS REASONABLY PROBABLE THAT WITHOUT SUCH MIS-  
CONDUCT, AN OUTCOME MORE FAVORABLE TO THE DEFENDANT WOULD HAVE  
RESULTED". - PEOPLE VS. DYKES, 46 CAL. 4TH 731, 95 CAL. RPTR. 3D. 78, 209 P.3D 1  
(2009)...

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9 T H E R E C A N B E N O D O U B T , T H A T I F T H E P R O S E C U T I O N H A D N O T D E L I B E R A T E L Y  
10 I G N O R E D T H E F A C T T H A T T H E R E W E R E N O T H R E A T S , A S A L L E G E D , I N T H E R E C O R D E D  
11 P O R T I O N O F T H E C O N V E R S A T I O N , T H A T A N O U T C O M E M O R E F A V O R A B L E T O T H E  
12 D E F E N D A N T W O U L D H A V E O C C U R R E D . T H R E E O F T H E S I X " S T R I K E " F E L O N Y C H A R G E S  
13 W O U L D H A V E B E E N R E M O V E D A N D A L L O W E D T H E D E F E N S E T O F O C U S O N T H E O T H E R  
14 C H A R G E S . T H E R E C A N B E N O D O U B T , T H A T T H E P R O S E C U T I O N F E L T E N T I R E L Y  
15 C O M F O R T A B L E P R E S E N T I N G V E R Y A N G R Y A N D V I O L E N T S E N T I M E N T S A S " E V I D E N C E "  
16 O F T H E A L L E G E D C R I M E O F C R I M I N A L T H R E A T S , B E C A U S E I T W A S S H O C K I N G A N D D I D  
17 N O T P O R T R A Y M E I N A F A V O R A B L E L I G H T . I H A V E N O D O U B T T H A T T H E Y B E C A M E  
18 A W A R E , A T S O M E P O I N T , T H A T T H E Y H A D O V E R - C H A R G E D M E , B U T M A D E A C O N S C I O U S  
19 D E C I S I O N T O J U S T P L O W A H E A D A N D H O P E T H A T N O - O N E W O U L D N O T I C E .  
20 P R O S E C U T O R S E V E N M A D E O U T R A G E O U S A L L E G A T I O N S A G A I N S T M E I N J U D G E S  
21 C H A M B E R S , M A D E S T A T E M E N T S T H E Y K N E W W E R E U N T R U E , I N A D E L I B E R A T E A T T E M P T  
22 T O P E R S U A D E T H E C O U R T T O D E N Y M O T I O N S A N D B A I L . T H E S E M O T I O N S W E R E T H E N  
23 L A R G E L Y D E N I E D B A S E D U P O N T H E S E M I S - S T A T E M E N T S . P R O S E C U T O R S A L S O  
24 W I T H E L D E V I D E N C E I N T H E I R P O S E S S I O N F O R M O N T H S A N D Y E A R S , I N C L U D I N G T H E  
25 R E C O R D I N G T H A T W A S B E I N G U S E D T O J U S T I F Y F I V E C O U N T S O F C R I M I N A L T H R E A T S .  
26 " W I L L F U L S U P P R E S S I O N O F E V I D E N C E B Y T H E G O V E R N M E N T C O N S T I T U T E S A D E N I A L  
27 O F A F A I R T R I A L A N D D U E P R O C E S S " - P E O P L E V S . N O I S E Y ( 1 9 6 8 ) 2 6 5 C A L . A P P . 2 D . 5 4 3 ,  
28 5 4 9 - 5 5 0 { 7 1 C A L . R P T R . 3 3 9 } . T H I S C A S E L A W A L S O A P P L I E S T O S A R G E A N T G O N Z A L E S  
D E L I B E R A T E R E F U S A L T O I N V E S T I G A T E I N T H E D O M E S T I C C A S E . C R O F O O T S C O N D U C T  
M E T T H E S T A N D A R D F O R E N T R A P M E N T A S I T " C O N S T I T U T E D C O N D U C T L I K E L Y T O  
C A U S E A N O R M A L L Y L A W - A B I D I N G P E R S O N T O C O M M I T T H E O F F E N S E " - P E O P L E V S .  
S M I T H , 3 1 C A L . 4 T H 1 2 0 7 , 8 0 P . 3 D . 6 6 2 , 7 C A L . R P T R . 3 D . 5 5 9 ( 2 0 0 3 ) . F A I L U R E B Y T H E  
P R O S E C U T O R S A N D P O L I C E T O P R O P E R L Y I N V E S T I G A T E I N A N E U T R A L W A Y T H E  
A L L E G E D O F F E N S E S R O S E T O T H E L E V E L O F D E L I B E R A T E I N D I F F E R E N C E T O T H E C I V I L  
R I G H T S O F T H I S D E F E N D A N T , D I D I N F A C T P R E J U D I C E T H I S D E F E N D A N T A N D D I D L E A D  
T O U N F A V O R A B L E A N D U N C O N S T I T U T I O N A L R U L I N G S B Y T H E C O U R T .

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11 THIS PETITIONER DOES RESPECTFULLY SUBMIT THAT THE FAILURE OF  
12 ATTORNEYS COTTA AND NORTHAM TO FIELD AFFIRMATIVE DEFENSES AT ALL FOUR OF  
13 THIS DEFENDANTS PRELIMINARY HEARINGS WAS A DENIAL OF DUE PROCESS. THIS  
14 PETITIONER DOES RESPECTFULLY SUBMIT THAT FAILURE BY ATTORNEY COTTA TO  
15 PRE-INTERVIEW, CALL AS WITNESSES AND/OR CERTIFY TO THE COURT THAT  
16 WITNESSES CHERI A. DUBUQUE AND WITNESS EDWARD MCGUINNESS WERE ESSENTIAL  
17 WITNESSES AT THIS DEFENDANTS PRELIMINARY WAS DENIAL OF DUE PROCESS AND  
18 INEFFECTIVE ASSISTANCE OF COUNSEL. THIS PETITIONER DOES RESPECTFULLY  
19 SUBMIT THAT ATTORNEY NORTHAMS ACTIONS TO ESSENTIALLY AMBUSH THIS  
20 DEFENDANT INTO HIS PRELIMINARY, WITHOUT PREPARING AN AFFIRMATIVE DEFENSE  
21 WAS DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. THIS  
22 PETITIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY NORTHAMS' FAILURE TO  
23 OBTAIN AND REVIEW WITH HIS CLIENT THE RECORDING USED AS "EVIDENCE" BY THE  
24 PROSECUTION, OR A TRANSCRIPT THEREOF, WAS DENIAL OF DUE PROCESS AND  
25 INEFFECTIVE ASSISTANCE OF COUNSEL. THIS PETITIONER DOES RESPECTFULLY  
26 SUBMIT THAT ATTORNEY NORTHAMS' FAILURE TO OBJECT TO THE RECORDING AS  
27 "PRIVELEGED AND CONFIDENTIAL" AND PROTECTED BY ATTORNEY-CLIENT PRIVELEGE,  
28 WAS DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. THIS  
PETITIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY NORTHAMS' FAILURE TO  
PRE-INTERVIEW AND CALL AS WITNESS JOHN M. FESER TO TESTIFY AT MY SECOND  
PRELIMINARY WAS DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE. THIS  
PETITIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY COTTAS' ALLOWING TWO  
CASES TO BE HEARD IN THE SAME PRELIMINARY DID PREJUDICE THIS DEFENDANT AND  
WAS A DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL.



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9 " THE PRELIMINARY EXAMINATION IS NOT MERELY A PRE-TRIAL HEARING" - JONES V.  
10 SUPERIOR COURT, (1971) 4 CAL. 3D 660, 668. " IT IS A PROCEEDING DESIGNED TO WEED  
11 OUT GROUNDLESS OR UNSUPPORTED CHARGES." - (Ibid.) " WHERE THE EVIDENCE AT  
12 THE PRELIMINARY HEARING FAILS TO ESTABLISH SUFFICIENT CAUSE FOR A HOLDING  
13 ORDER, THAT CHARGE MUST BE DISMISSED." - CALIF. PENAL CODE 995. " THE  
14 DEFENDANT IS PREJUDICED BY PROSECUTORIAL OVER-REACHING BECAUSE OF THE  
15 BURDEN OF STANDING TRIAL ON THE GREATER CHARGE, THE TACTICAL ADVANTAGE  
16 CONFERRED UPON THE PROSECUTOR IN RESPECT TO PLEA BARGAINING...AND THE  
17 VARIOUS COLLATERAL EFFECTS OF THE MORE SERIOUS ACCUSATION ITSELF." PEOPLE  
18 V. SUPERIOR COURT (MENDELLA), (1983) 33 CAL.3D 754, 760. " A DEFENDANT CANNOT BE  
19 HELD ON EITHER A FELONY OR A MISDEMEANOR CHARGED IN THE SAME COMPLAINT  
20 UNLESS THE FELONY AND MISDEMEANOR HAVE EACH BEEN SUPPORTED BY A SHOWING  
21 OF PROBABLE CAUSE AT THE PRELIMINARY HEARING." - GRIFFITH V. SUPERIOR COURT,  
22 196 CAL. APP. 4TH 943, 126 CAL. RPTR. 3RD 848 (2ND DISTRICT 2011). THIS PETITIONER  
23 DOES RESPECTFULLY SUBMIT THAT ATTORNEY COTTA'S PREPARATION OF ONLY TEN  
24 MINUTES FOR THIS DEFENDANTS FIRST TWO PRELIMINARY HEARINGS, DESPITE THIS  
25 PETITIONERS REQUEST THAT HE PREPARE AND FIELD AN AFFIRMATIVE DEFENSE WAS A  
26 DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. "BARE  
27 OPPORTUNITY TO CROSS-EXAMINE IS NOT SUFFICIENT. TRUE, FIVE MINUTES WERE ALL  
28 THE ATTORNEY SOUGHT. THE VERY INADEQUACY OF HIS REQUEST TESTIFIED TO THE  
SEEMING SIMPLICITY AND HIDDEN COMPLEXITY OF THE COURTROOM CHOICE HE WAS  
ABOUT TO MAKE. THUS, THE DEFENDANT WAS DEPRIVED OF AN OPPORTUNITY TO  
IMPEACH THE WITNESS, A VIOLATION OF THE RIGHT TO CONFRONTATION." PEOPLE V.  
GIBBS (1967), 225 C.A. 2D 739, 63 C.R.471. "DEFENSE HAS A RIGHT TO PRESENT  
EXCULPATORY EVIDENCE BY CALLING WITNESSES AT THE PRELIMINARY HEARING ."  
-( CALIF. PENAL CODE 866). " PRECLUSION OF SUCH TESTIMONY IS A DENIAL OF A  
SUBSTANTIAL RIGHT." - PEOPLE V. ERWIN, 20 CAL. APP. 4TH 1542, 25 CAL. RPTR. 2D 348  
(2ND DIST. 1993).

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6 HABEAS CORPUS  
7 LEGAL ARGUMENT  
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9 THIS PETITIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY COTTAS' FAILURE  
10 AND/OR REFUSAL TO PRE-INTERVIEW AND CALL AS WITNESSES CHERI A. DUBUQUE,  
11 EDWARD MCGUINNESS, MITCH CROFOOT, KEN COCKERIL AND OTHERS, INCLUDING  
12 DECLARANT WITNESSES TO THIS PETITIONERS FIRST TWO PRELIMINARIES, WAS A  
13 DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. THIS  
14 PETITIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY COTTAS' FAILURE TO  
15 ADEQUATELY PREPARE AND FIELD AN AFFIRMATIVE DEFENSE AT THIS PETITIONERS  
16 FIRST TWO PRELIMINARY HEARINGS WAS A DENIAL OF DUE PROCESS AND INEFFECTIVE  
17 ASSISTANCE OF COUNSEL. THIS PETITIONER RESPECTFULLY SUBMITS THAT ATTORNEY  
18 COTTAS' FAILURE TO INVESTIGATE THIS PETITIONERS PSYCHIATRIC HISTORY AND  
19 RECORDS IN ORDER TO FIELD A DEFENSE OF PSYCHIATRIC DISTURBANCE AT THE TIME  
20 OF THE ALLEGED CRIMINAL THREAT TO PAROLE AGENT MITCH CROFOOT, WAS A DENIAL  
21 OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. "THE DEFENSE HAS A  
22 RIGHT TO HAVE AN EXPERT TESTIFY TO THE DEFENDANTS PSYCHOLOGICAL DIAGNOSIS  
23 OR MENTAL CONDITION AND HOW IT AFFECTED HIM AT THE TIME OF THE CRIME, THE  
24 EMOTIONAL AND CONDUCT PROBLEMS THIS MAY CAUSE THE DEFENDANT; THE  
25 DEFENDANTS UPBRINGING AND TRAUMATIC EXPERIENCES AS A CHILD AND/OR  
26 ADOLESCENT; THE CONNECTION BETWEEN THE DEFENDANT'S DIAGNOSIS, HIS MENTAL  
27 STATE AND BEHAVIOR, AND EXPLAIN HIS BASIS FOR HIS OPINIONS, INCLUDING  
28 DEFENDANT'S STATEMENTS DESCRIBING HIS OR HER PERCEPTION OF THE EVENT."  
-PEOPLE V. CORTES, 192 CAL. APP. 4TH 873, 910, 121 CAL. RPTR. 3D 605 (6TH DIST. 2011).  
-PEOPLE V. BORDELON, 162 CAL. APP. 4TH 1311, 1324, 77 CAL. RPTR. 3D 14 (1ST DIST.  
2008). "A DEFENSE PSYCHIATRIST MAY OFFER AN OPINION THAT THE DEFENDANT'S  
CHARACTER IS SUCH THAT HE WAS NOT DISPOSED TO COMMIT THE CHARGED  
OFFENSES." - EVID. CODE SECTION 1102 (A), PEOPLE V. STOLT, 49 CAL. 3D 1136, 265 CAL.  
RPTR. 111, 783 P. 2D 698 (1989). "THE EXPERT MAY TESTIFY ABOUT THE DEFENDANT'S  
MENTAL CONDITION FROM WHICH THE JURY MAY INFER THE DEFENDANT LACKED THE  
REQUIRED MENTAL STATE." -PEOPLE V. CORTES (ANNOTATED ABOVE).

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

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9 "IT (IS) PERMISSABLE FOR THE EXPERT TO OPINE THAT THE DEFENDANT, BECAUSE OF  
10 HIS HISTORY OF PSYCHOLOGICAL TRAUMA, TENDED TO OVER-REACT TO STRESS AND  
11 APPREHENSION. IT (IS) ALSO PERMITTABLE FOR HIM TO TESTIFY THAT THIS CONDITION  
12 COULD RESULT IN THE DEFENDANT ACTING IMPULSIVELY UNDER CERTAIN PARTICULAR  
13 CIRCUMSTANCES." (PLEASE SEE THIS PETITIONERS EXHIBIT G -PSYCHOLOGICAL  
14 REPORTS) - PEOPLE V. NUNN, 50 CAL. APP. 4TH 1357, 58 CAL. RPTR. 2D 294 (4TH DIST.  
15 1996). "THE CONSTITUTIONAL RIGHT OF AN INDIGENT DEFENDANT TO COUNSEL  
16 INCLUDES COURT-ORDERED DEFENSE SERVICES AT PUBLIC EXPENSE, SUCH AS A  
17 PSYCHIATRIST TO PROPERLY PREPARE A DEFENSE." - AKE V. OKLAHOMA, 470 U.S. 68,  
18 105 S. CT. 1087, 84 L. ED. 2D 53 (1985). THIS PETITIONER DOES REPECTFULLY SUBMIT  
19 THAT ATTORNEY COTTAS' FAILURE TO ADVISE THIS PETITIONER OF HIS RIGHT TO  
20 INTERVIEW AND CALL DECLARANT WITNESSES TO HIS FIRST TWO PRELIMINARY  
21 HEARINGS WAS A DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE. "THE  
22 IMPROPER RESTRICTION OR DENIAL OF THE RIGHT TO CROSS-EXAMINATION DENIES  
23 THE DEFENDANT A SUBSTANTIAL RIGHT AND MAY RESULT IN A DISMISSAL." - PEOPLE V.  
24 KONOW, 32 CAL. 4TH 995, 1024-1025, 12 CAL. RPTR. 3D 301, 88 P. 3D 36 (2004). THIS  
25 PETITIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY COTTAS' FAILURE TO FIELD  
26 AN AFFIRMATIVE DEFENSE AND CALL EXCULPATORY WITNESSES AND/ OR TO CERTIFY  
27 TO THE COURT THAT THESE WITNESSES WERE GERMAINE, ESSENTIAL AND CRITICAL TO  
28 THIS PETITIONER'S DEFENSE AT HIS PRELIMINARY HEARING WAS A DENIAL OF DUE  
PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. "DEFENSE HAS A RIGHT TO PRE-  
SENT EXCULPATORY EVIDENCE BY CALLING WITNESSES AT THE PRELIMINARY HEARING  
(CAL. PENAL CODE 866). PRECLUSION OF SUCH TESTIMONY IS DENIAL OF A  
SUBSTANTIAL RIGHT." - PEOPLE V. ERWIN, 20 CAL. APP. 4TH 1542, 25 CAL. RPTR. 2D 348  
(2ND DIST. 1993). THIS PETITIONER RESPECTFULLY SUBMITS THAT ATTORNEY COTTAS'  
FAILURE TO INVESTIGATE FOR AND FIELD EVIDENCE OF MIS-CONDUCT BY PAROLE  
AGENT CROFOOT AND THE SUBSEQUENT MISTAKE OF FACT THIS PETITIONER DID...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6 HABEAS CORPUS  
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9 ...OPERATE UNDER WAS A DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF  
10 COUNSEL. "WHEN A PERSON COMMITS AN ACT BASED UPON A MISTAKE OF FACT, GUILT  
11 OR INNOCENSE IS DETERMINED AS IF THE FACT WERE AS THE DEFENDANT PERCEIVED  
12 THEM." PEOPLE V. BEARDSLEY, 53 CAL. 3D 68, 53 CAL. 3D 1179, 279 CAL. RPTR. 276, 806 P.  
13 2D 1311 (1991). THIS PETITIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY  
14 COTTAS' FAILURE TO INVESTIGATE FOR EVIDENCE OF THE DEFENSE OF NECESSITY AND  
15 TO FIELD THAT DEFENSE AT THIS PETITIONERS' FIRST TWO PRELIMINARY HEARINGS  
16 WAS A DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. "  
17 CONDUCT WHICH WOULD OTHERWISE BE AN OFFENSE IS JUSTIFIABLE BY REASON OF  
18 NECESSITY IF THE ACCUSED WAS WITHOUT BLAME IN OCCASIONING OR DEVELOPING  
19 THE SITUATION AND REASONABLY BELIEVED SUCH CONDUCT WAS NECESSARY TO  
20 AVOID A PUBLIC OR PRIVATE INJURY GREATER THAN THE INJURY WHICH MAY RESULT  
21 FROM HIS OWN CONDUCT." CITY OF CHICAGO V. MAYER, 56 ILL. 2D 366, 308 N.E. 2D 601  
22 (1974). " THE DEFENSE OF NECESSITY GENERALLY RECOGNIZES THAT THE HARM OR  
23 EVIL SOUGHT TO BE AVOIDED IS GREATER THAN THAT SOUGHT TO BE PREVENTED BY  
24 THE LAW DEFINING THE OFFENSE CHARGED." - PEOPLE V. TRUJEQUE, 61 CAL. 4TH 227,  
25 188 CAL. RPTR. 3D 1, 349 P. 3D 103 (2015). THIS PETIONER DOES RESPECTFULLY SUBMIT  
26 THAT ATTORNEY COTTAS' FAILURE TO DOCUMENT HIS INTERVIEW WITH MATERIAL  
27 WITNESS EDWARD MCGUINNESS DEPRIVED THIS PETITIONER OF EXCULPATORY  
28 EVIDENCE AND WAS A DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF  
COUNSEL. THIS PETIONER DOES RESPECTFULLY SUBMIT THAT ATTORNEY COTTAS'  
FAILURE TO INVESTIGATE AND FIELD A DEFENSE OF ENTRAPMENT AT THIS  
PETITIONER'S FIRST TWO PRELIMINARY HEARINGS WAS A DENIAL OF DUE PROCESS AND  
INEFFECTIVE ASSISTANCE OF COUNSEL. "IF THE ACTIONS OF THE LAW ENFORCEMENT  
OFFICER (READ PAROLE AGENT CROFOOT) WOULD GENERATE IN A NORMALLY  
LAW-ABIDING CITIZEN A MOTIVE FOR THE CRIME OTHER THAN THE ORDINARY GENERAL  
INTENT, ENTRAPMENT WILL BE ESTABLISHED." - PEOPLE V. BARRAZA, 23 CAL 3D 675, 153  
CAL. RPTR. 459, 591 P. 2D 947 (1979).

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5  
6

7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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10 THIS PETITIONER RESPECTFULLY SUBMITS THAT ALL ATTORNEYS CONTINUED FAILURE  
11 AND/OR REFUSAL TO CHALLENGE THE COURT AND PROSECUTIONS MIS-STATEMENTS  
12 OF LAW AND PRESUMPTION OF INTENT WITH REGARDS TO THE P.C. 422 ALLEGATIONS  
13 WAS DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. "SECTION  
14 422 IS NOT VIOLATED BY MERE ANGRY UTTERANCES OR BY RANTING SOLILIQUIES,  
15 HOWEVER VIOLENT." - PEOPLE V. TEAL, SUPRA, 61 CAL. APP. 4TH AT P. 281, 71 CAL.  
16 RPTR. 2D. 644. "ONE MAY, IN PRIVATE, CURSE ONES' ENEMIES, PUMMEL PILLOWS AND  
17 SHOUT REVENGE FOR REAL OR IMAGINED WRONGS, SAFE FROM SECTION 422  
18 SANCTION." - (Ibid.). "SECTION 422 WAS NOT INTENDED TO PUNISH EMOTIONAL  
19 OUTBURSTS." - IN RE RICKY T. , (2001) 87 CAL. APP. 4TH 1132, 1141, 105 CAL. RPTR. 2D.  
20 165. THIS PETITIONER RESPECTFULLY SUBMITS THAT ATTORNEYS AND COURTS  
21 FAILURE TO INVESTIGATE AND PROVIDE SUFFICIENT FACTS TO JUSTIFY A HOLDING  
22 ORDER IN THE 422 CASES (INCLUDING THE ELEMENT OF INTENT) AT THIS PETITIONERS  
23 PRELIMINARY HEARINGS RELIEVED THE PROSECUTOR OF HER DUTY UNDER THE LAW  
24 TO PROVE SUFFICIENT EVIDENCE OF "EVERY ELEMENT OF THE CRIME", AND WAS A  
25 DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL. "PROSECUTORS  
26 MAY NOT PROVE AN OFFENSE BY RELYING ON A DEFENDANTS WORDS." - MENENDEZ V.  
27 SUPERIOR COURT, SUPRA, 3 CAL. 4TH AT P. 451, 11 CAL. RPTR. 2D. 92, 834 P. 2D. 786.  
28 "WHERE THE PERSON FANTACIZES ABOUT KILLING IN PRIVATE, THAT IS NOT AN  
OFFENSE UNDER SECTION 422." - U.S. V. ALKHABAZ (6TH CIR. 1997) 104 F. 3D 1492, 1496.  
"IT MUST BE SHOWN THAT THE DEFENDANT INTENDED FOR THE THREATENING  
REMARKS TO BE COMMUNICATED TO THE VICTIM." - PEOPLE V. FELIX (2001), 92 CAL. APP.  
4TH 905, 112 CAL. RPTR. 2D 311, 01 CAL. DAILY OP. SERV. 8691. "PROSECUTION MAY NOT  
FILL AN EVIDENTIARY GAP WITH SPECULATION." - PEOPLE V. GODWIN (1996), 50 CAL.  
APP. 4TH 1562-1573, 58 CAL. RPTR. 2D 545. THIS PETITIONER RESPECTFULLY SUBMITS...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

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10 ...THAT THE PROSECUTIONS OBLIGATION TO PROVIDE EVIDENCE OF ALL ELEMENTS OF  
11 AN ALLEGED OFFENSE MUST APPLY TO PRELIMINARY HEARINGS AS WELL. IN MY CASE,  
12 NO EVIDENCE WHATSOEVER WAS OFFERED THAT MY COMMENTS, MADE  
13 CONFIDENTIALLY DURING A PRIVATE TELEPHONE CONVERSATION AND MADE TO AN  
14 ATTORNEY REGARDING LEGAL MATTERS, WERE EVER INTENDED TO BE RELAYED TO  
15 OTHERS OR THE VICTIMS THEMSELVES. FURTHERMORE, I BELIEVE IT IS DIRECT  
16 EVIDENCE OF THE BIAS OF PROSECUTING ATTORNEYS AND POLICE, THAT THEY NEVER  
17 INVESTIGATED FOR ANY EVIDENCE THAT I INTENDED MY REMARKS TO BE ANYTHING  
18 OTHER THAN PRIVATE AND CONFIDENTIAL. NONE OF THE DECLARANT WITNESSES EVER  
19 REPORTED THAT I INTENDED THUSLY, NOR IS THERE ANY EVIDENCE OF THIS IN THE  
20 TRANSCRIPTION OF THE RECORDING. THE COURT SHOULD HAVE DEMANDED EVIDENCE  
21 ON THIS ISSUE AND ALLOWED THE PROSECUTION TO PRESENT EVIDENCE.  
22 PRESUMPTION OF INTENT IS UNCONSTITUTIONAL, ESPECIALLY WHERE IT IS  
23 DELIBERATELY USED BY A PROSECUTOR TO RELIEVE THEMSELVES OF THEIR  
24 OBLIGATION TO PROVE "ALL ELEMENTS OF AN OFFENSE." THIS PETITIONER ALSO  
25 RESPECTFULLY SUBMITS THAT DEFENSE ATTORNEYS SHOULD HAVE DEMANDED  
26 EVIDENCE OF INTENT OR MADE THE PROSECUTOR ADMIT SHE HAD NONE. TO FAIL IN  
27 SUCH A WHOLESAL MANNER TO SUBJECT THE PROSECUTORS CASE TO RIGOROUS  
28 ADVERSARIAL TESTING WAS A DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE.  
"A DEFENSE IS ANY SET OF IDENTIFIABLE CONDITIONS OR CIRCUMSTANCES THAT MAY  
PREVENT CONVICTION FOR ANY OFFENSE." -AM. JUR. 2D CRIMINAL LAW SECTION 176.  
"A MERE ENUMERATION OF SPECIFIC DEFENSES APPROPRIATE TO PARTICULAR CRIMES  
DOES NOT EXCLUDE GENERAL DEFENSES RELATING TO THE UNITY OF ACT AND INTENT  
AND TO PERSONS CAPABLE OF COMMITTING CRIMES, WHERE THE ENUMERATED  
DEFENSES IN NO WAY CONFLICT WITH SUCH GENERAL DEFENSES." - PEOPLE V. VOGEL,  
46 CAL. 2D 798, 299 P. 2D 850 (1956). "WHERE A DEFENDANTS CLAIM NEGATES AN  
ESSENTIAL ELEMENT OF THE CRIME CHARGED RATHER THAN INTRODUCE NEW...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

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7 H A B E A S C O R P U S  
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10 ...MATTER, THE STATE MAY NOT CONSTITUTIONALLY PLACE THE BURDEN OF  
11 PERSUASION OF THAT ISSUE UPON THE DEFENDANT." - PEOPLE V. NOBLE, 100 CAL. APP.  
12 4TH 184, 121 CAL. RPTR. 2D 918 (2ND DIST. 2002). " A DEFENDANT IS NOT PRECLUDED  
13 FROM OFFERING AS A DEFENSE, THE ABSENCE OF A MENTAL STATE THAT IS AN  
14 ELEMENT OF A CHARGED OFFENSE OR PRESENTING EVIDENCE IN SUPPORT OF THAT  
15 DEFENSE." - PEOPLE V. HERRERA, 247 CAL. APP. 4TH 467, 202 CAL RPTR. 3D 187 (2ND  
16 DIST. 2016). THIS PETITIONER RESPECTFULLY SUBMITS, THAT THE PROSECUTION HAD  
17 AN OBLIGATION UNDER PENAL CODE 422 TO DEMONSTRATE SPECIFIC THREATS TO  
18 SPECIFIC VICTIMS. PENAL CODE 422 STATES: "ANY PERSON WHO WILLFULLY  
19 THREATENS TO COMMIT A CRIME WHICH WILL RESULT IN DEATH OR GREAT BODILY  
20 INJURY (EMPHASIS: TO ANOTHER PERSON), WITH THE SPECIFIC INTENT THAT THE  
21 STATEMENT, MADE VERBALLY, IN WRITING OR BY MEANS OF AN ELECTRONIC  
22 COMMUNICATION DEVICE, IS TO BE TAKEN AS A THREAT, EVEN IF THERE IS NO INTENT  
23 OF ACTUALLY CARRYING IT OUT, WHICH ON ITS' FACE AND UNDER THE CIRCUMSTANCES  
24 IN WHICH IT IS MADE, IS SO UNEQUIVOCAL, UNCONDITIONAL, IMMEDIATE AND SPECIFIC  
25 AS TO (EMPHASIS: CONVEY TO THE PERSON THREATENED), A GRAVITY OF PURPOSE  
26 AND AN IMMEDIATE PROSPECT OF EXECUTION OF THE THREAT AND THEREBY CAUSES  
27 (EMPHASIS: THAT PERSON) REASONABLY TO BE IN SUSTAINED FEAR FEAR FOR HIS OR  
28 HER OWN SAFETY OR FOR HIS OR HERS IMMEDIATE FAMILIES SAFETY, SHALL BE  
PUNISHED BY IMPRISONMENT IN THE COUNTY JAIL, NOT TO EXCEED ON YEAR, OR BY  
IMPRISONMENT IN THE STATE PRISON." THIS PETITONER RESPECTFULLY SUBMITS THAT  
PROSECUTORS HAD AN OBLIGATION TO TIE SPECIFIC WORDS TO SPECIFIC PERSONS,  
AS CLEARLY DEFINED IN THE STATUTE, THAT WORDS WERE REQUIRED TO BE OF DEATH  
OR GREAT BODILY HARM, AS SPECIFIED IN THE STATUTE, AND THAT PROSECUTORS  
SHOULD HAVE BEEN REQUIRED BY THE COURT TO PRESENT EVIDENCE OF ALL OF  
THESE ELEMENTS AT THIS DEFENDANTS PRELIMINARY HEARING.

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

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7 H A B E A S C O R P U S  
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10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 T H I S P E T I T I O N E R R E S P E C T F U L L Y S U B M I T S T H A T F A I L U R E A N D / O R R E F U S A L B Y A L L  
13 T E N O F T H I S D E F E N D A N T S A T T O R N E Y ' S T O I N V E S T I G A T E T H I S P E T I T I O N E R S '  
14 P S Y C H I A T R I C H I S T O R Y A N D T H E N E X U S B E T W E E N T H I S P E T I T I O N E R S ' P S Y C H I A T R I C  
15 H I S T O R Y A N D H I S A L L E G E D C R I M I N A L A C T S , A N D T O E V A L U A T E T H I S I N F O R M A T I O N F O R  
16 I T S ' V A L U E A S D E F E N S E E V I D E N C E W A S I N E F F E C T I V E A S S I S T A N C E A N D D E N I A L O F D U E  
17 P R O C E S S . " C O U N S E L H A S A D U T Y T O M A K E R E A S O N A B L E I N V E S T I G A T I O N S O R T O M A K E  
18 A R E A S O N A B L E D E C I S I O N T H A T M A K E S P A R T I C U L A R I N V E S T I G A T I O N S U N N E C E S S A R Y . "  
19 - S T R I C K L A N D V . W A S H I N G T O N , 4 6 6 U . S . , 1 0 4 S . C T . 2 0 5 2 , 8 0 L . E D . 2 D 6 7 4 ( 1 9 8 4 ) . " A N  
20 A T T O R N E Y S F A I L U R E T O I N V E S T I G A T E M A Y A M O U N T T O C O N S T I T U T I O N A L L Y D E F I C I E N T  
21 P E R F O R M A N C E . " - B L O O M V . C A L D E R O N , 1 3 2 F . 3 D 1 2 6 7 ( 9 T H C I R C U I T 1 9 9 7 ) . " C O U N S E L  
22 W A S C O N S T I T U T I O N A L L Y I N E F F E C T I V E D U E T O F A I L U R E T O O B T A I N P S Y C H I A T R I C  
23 E V I D E N C E I N A T I M E L Y F A S H I O N A N D P R E P A R E A K E Y P S Y C H I A T R I C E X P E R T . " ( I b i d . )  
24 " A P O S S I B L E C O N F L I C T B E T W E E N A D I M I N I S H E D C A P A C I T Y ( R E A D A C T U A L I T Y ) D E F E N S E  
25 A N D ( A N O T H E R D E F E N S E ) , W O U L D N O T E X C U S E C O U N S E L S ' F A I L U R E T O I N V E S T I G A T E  
26 T H E P O T E N T I A L S T R E N G T H S O F ( T H E D I M I N I S H E D C A P A C I T Y / A C T U A L I T Y )  
27 D E F E N S E . " - P E O P L E V . M O Z I N G O , 3 4 C A L . 3 D 9 2 6 , 1 9 6 C A L . R P T R , 2 1 2 , 6 7 1 P . 2 D 3 6 3 ( C A L .  
28 1 9 8 3 ) . " C O U N S E L S ' I N A C T I O N M E A N T T H A T H E C O U L D N O T H A V E M A D E I N F O R M E D  
T A C T I C A L A N D S T R A T E G I C D E C I S I O N S A N D T H E R E B Y D E P R I V E D T H E D E F E N D A N T O F A  
P O T E N T I A L L Y M E R I T O T R I O U S D E F E N S E O R M I T I G A T I N G C I R C U M S T A N C E . " - ( I b i d . )  
" C O U N S E L ( W A S ) P R E J U D I C I A L L Y I N E F F E C T I V E F O R F A I L I N G T O C O N D U C T A  
R E A S O N A B L E I N V E S T I G A T I O N O F G U I L T A N D P E N A L T Y P H A S E M E N T A L D E F E N S E S .  
C O U N S E L M A D E N O I N V E S T I G A T I O N I N T O H I S C L I E N T S P S Y C H I A T R I C H I S T O R Y , D E S P I T E  
A B U N D A N T S I G N S I N T H E R E C O R D T H A T ( T H E D E F E N D A N T ) S U F F E R E D F R O M M E N T A L  
I L L N E S S . " - S E I D E L V . M E R K L E , 1 4 6 F . 3 D 7 5 0 ( 9 T H C I R C U I T 1 9 9 8 ) . " W E C O N C L U D E T H A T . . .



1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 HABEAS CORPUS  
8 LEGAL ARGUMENT  
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10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ... COUNSELS INACTION CANNOT BE VIEWED AS "STRATEGIC" WHERE HE FAILED TO  
13 CONDUCT EVEN THE MINIMAL INVESTIGATION THAT WOULD HAVE ENABLED HIM TO  
14 COME TO AN INFORMED DECISION." - (Ibid.). " THE FACT, THAT THERE ARE "WORSE  
15 ATTORNEY'S IN THE WORLD", DOES NOT CHANGE A BAD ATTORNEYS' LACK OF  
16 DILIGENCE INTO A TACTICAL CHOICE." -TURNER V. DUNCAN, 158 F. 3D 449 (9TH CIRCUIT  
17 1998). " A FINAL JUDGMENT MAY BE SET ASIDE BY A COURT IF IT HAS BEEN ESTABLISHED  
18 THAT EXTRINSIC FACTORS HAVE PREVENTED ONE PARTY TO THE LITIGATION FROM  
19 PRESENTING HIS OR HER CASE." - HOVERSTON V. SUPERIOR COURT, 74 CAL. APP. 4TH  
20 636 (2ND DISTRICT 1999). THIS PETITIONER DOES RESPECTFULLY SUBMIT THAT  
21 PERFORMANCE OF ALL COUNSELS' (EXCEPT MR. TED SOMERS) WAS "NOT WITHIN THE  
22 RANGE OF COMPETENCE DEMANDED OF ATTORNEY'S IN CRIMINAL CASES." - MCMANN V.  
23 RICHARDSON, 397 U.S. 759, 771 (1970). UNDER STRICKLAND V. WASHINGTON ANALYSIS, A  
24 DEFENDANT NEED ONLY SHOW (1) THAT COUNSELS REPRESENTATION FELL BELOW AN  
25 OBJECTIVE STANDARD OF REASONABLENESS AND (2) THERE IS A REASONABLE  
26 PROBABILITY THAT, BUT FOR COUNSELS' UNPROFESSIONAL ERRORS, THE RESULT OF  
27 THE PROCEEDING WOULD HAVE BEEN DIFFERENT. THIS PETITIONER DOES HEREBY  
28 RESPECTFULLY SUBMIT THAT THERE IS ABUNDANT EVIDENCE IN THE RECORD ITSELF  
THAT ATTORNEYS' PERFORMANCE FELL WELL BELOW THE STANDARD SET FORTH IN  
STRICKLAND AND THAT THIS DEFENDANT WAS IN FACT PREJUDICED BY HIS LAWYERS'  
INEFFECTIVE ASSISTANCE. "A COURT MAY REVERSE A CONVICTION WHERE COUNSEL  
FAILS TO SUBJECT THE PROSECUTIONS CASE TO MEANINGFUL, ADVERSARIAL TESTING."  
-UNITED STATES V. CRONIC, 466 U.S. 648 (1984). "A COURT MAY REVERSE A ...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5  
6

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9

10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...CONVICTION WHERE THE DEFENDANT WAS DENIED EFFECTIVE ASSISTANCE AT A  
13 CRITICAL STAGE (READ: PRELIMINARY, INVESTIGATION, MOTIONS, HABEAS CORPUS,  
14 CHANGE OF PLEA)." - HAMILTON V. ALABAMA, 368 U.S. 52, 54 (1961). THIS PETITIONER  
15 DOES RESPECTFULLY SUBMIT THAT THE COURTS AND/OR PROSECUTIONS OWN BIASES,  
16 TACTICS, REPRESENTATIONS AND ERRORS DID CAUSE A CONDITION WHICH SEVERELY  
17 HAMPERED DEFENSE COUNSELS' ABILITY TO ADEQUATELY REPRESENT THIS  
18 DEFENDANT AND INTIMIDATED DEFENSE COUNSELS, RENDERING THEM INEFFECTIVE,  
19 INDEPENDANTLY OF THEIR OWN FAILURES OR INACTIONS. "A COURT MAY REVERSE A  
20 DEFENDANTS CONVICTION IN CASES WHERE COUNSEL IS CALLED UPON TO RENDER  
21 ASSISTANCE UNDER CIRCUMSTANCES WHERE COMPETENT COUNSEL VERY LIKELY  
22 COULD NOT. THE DEFENDANT NEED NOT SHOW THAT THE PROCEEDINGS WERE  
23 AFFECTED. " -UNITED STATES V. CRONIC, 466 U.S. 648 (1984). "THE LAW ONLY  
24 AUTHORIZES A CONVICTION WHERE GUILT IS SHOWN." -HARRIS V. STATE, 76 TEX. CR. R.  
25 126, 131, 172 S.W. 975, 977 (1915). "A COURT MAY REVERSE A DEFENDANTS CONVICTION,  
26 UNDER CERTAIN CONDITIONS, WITHOUT AN ANALYSIS OF COUNSELS' PERFORMANCE."  
27 UNITED STATES V. CRONIC, 466 U.S. 648 (1984). THIS PETITIONER DOES RESPECTFULLY  
28 SUBMIT THAT HIS CONVERSATION WITH DEPUTY ATTORNEY GENERAL JOHN M. FESER  
WAS A CONFIDENTIAL CONVERSATION AND AS SUCH HIS RECORDING AND  
DISSEMINATION OF THE CONTENTS OF THAT CALL WAS PROHIBITED BY LAW. "  
CONFIDENTIAL COMMUNICATIONS INCLUDE ANY COMMUNICATION CARRIED ON IS SUCH  
CIRCUMSTANCES AS MAY REASONABLY INDICATE THAT ANY PARTY TO SUCH A  
COMMUNICATION DESIRES IT TO BE CONFINED TO THE PARTIES THERETO....

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

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7 HABEAS CORPUS  
8 LEGAL ARGUMENT  
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12 ...-CALIFORNIA PENAL CODE 632 (C). SEE: PEOPLE V. GIBBONS (1989) 215 C.A. 3D 1204,  
13 1208, 263 C.R. 905. "INTENTIONAL RECORDING OF CONFIDENTIAL TELEPHONE  
14 CONVERSATION WITHOUT THE CONSENT OF ALL PARTIES TO SUCH COMMUNICATION IS  
15 ILLEGAL, AND TAPE RECORDING THUS OBTAINED IS INADMISSABLE IN A JUDICIAL  
16 PROCEEDING." -PEOPLE V. PARRA, 165 CAL. APP. 3D 874, 212 CAL. RPTR. 53 (1ST  
17 DISTRICT 1985). "RECORDING OF CONFIDENTIAL CONVERSATIONS WITHOUT THE  
18 CONSENT OF ALL PARTIES IS UNLAWFUL." - CALIF. PENAL CODE 632.7 (A). " A  
19 CONVERSATION IS CONFIDENTIAL UNDER PENAL CODE 632 WHERE A PARTY TO THE  
20 CONVERSATION HAS A REASONABLE EXPECTATION THAT THE CONVERSATION IS NOT  
21 BEING OVERHEARD OR RECORDED." - FLANAGAN V. FLANAGAN (2002), 27 C. 4TH 766. 714,  
22 117 C.R. 2D 574, 41 P. 3D 575. THIS PETITIONER DOES RESPECTFULLY SUBMIT THAT EVEN  
23 IF THE RECORDING OF HIS CONVERSATION WITH FESER WAS LEGAL, ITS'  
24 DISSEMINATION TO OTHERS WAS SPECIFICALLY PROHIBITED. "EVEN ASSUMING THE  
25 INITIAL RECORDING WAS LEGAL, PENAL CODE 631 (A) CARRIES OUT THE LEGISLATIVE  
26 PURPOSE OF PROHIBITING THE INDEPENDANT ACT OF DICLOSURE OF THE  
27 INTERCEPTED COMMUNICATION." - CALIF. PENAL CODE 631 (A). THIS PETITIONER DOES  
28 RESPECTFULLY SUBMIT THAT HIS CONFIDENTIAL CONVERSATION WITH DEP. ATTORNEY  
GENERAL FESER WAS A PRIVELEGED CONVERSATION AND THIS PETITIONER RELIED  
UPON ATTORNEY-CLIENT PRIVELEGE. IN ADDITION TO RELYING UPON ATTORNEY CLIENT  
PRIVELEGE AS A LITIGANT WHO WAS SPEAKING TO AN OPPOSING ATTORNEY, THIS  
PETITONER RESPECTFULLY SUBMITS THAT HE ALSO RELIED UPON HIS OWN ATT...

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1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 ...ORNEY-CLIENT PRIVELEGE AS I WAS ACTING AS MY OWN ATTORNEY IN THE  
13 LITIGATION BEING DISCUSSED. " TO PROTECT THE SANCTITY OF THE ATTORNEY CLIENT  
14 PRIVELEGE, AND TO DISCOURAGE UNPROFESSIONAL MISCONDUCT, AN ATTORNEY HAS  
15 AN ETHICAL OBLIGATION TO PROTECT AN OPPONENTS PRIVELEGED AND CONFIDENTIAL  
16 INFORMATION, AND THOSE OF THIRD PARTIES, WHEN THE ATTORNEY RECIEVED THE  
17 INFORMATION WITHOUT A WAIVER FROM THE HOLDER OF THE PRIVELEGE. " DP PHAM  
18 L.L.C. V. CHEADLE, 246 CAL. APP. 4TH 653 (4TH DISTRICT DIV. 3 2012). " A LAWYER WHO  
19 TAPE RECORDS A PRIVATE CONVERSATION ENGAGES IN CONDUCT INVOLVING  
20 DISHONESTY, FRAUD OR DECEIT, IN VIOLATION OF THE AMERICAN BAR ASSOCIATIONS  
21 CODE OF PROFESSIONAL RESPONSIBILITY." - AM. BAR ASOC. CODE OF PROF.  
22 RESPONSIBILITY DR 1-102 (A) (4) AND AM. BAR ASSOC. FORMAL OPINION 337. "OBJECTIVE  
23 OF THE ATTORNEY-CLIENT PRIVELEGE IS TO ASSURE THAT THE CLIENT HAS  
24 OPPORTUNITY FOR FULL DISCLOSURE TO THE ATTORNEY, UNFETTERED BY FEAR THAT  
25 OTHERS WILL INFORMED." - GLADE V. SUPERIOR COURT, 76 CAL. APP. 3D 738 (3RD  
26 DISTRICT 1978). " THE PRIVELEGE IS NOT TO BE WHITTLED AWAY BY MEANS OF  
27 SPECIOUS ARGUMENT THAT IT HAS BEEN WAIVED AND LEAST OF ALL SHOULD THE  
28 COURTS SEIZE UPON SLIGHT AND EQUIVOCAL CIRCUMSTANCES AS A TECHNICAL  
REASON FOR DESTROYING THE PRIVELEGE." - CATALINA ISLAND YACHT CLUB V.  
SUPERIOR COURT (2015 4TH DISTRICT DIV. 3) 242 CAL. APP. 4TH 653. " IT APPLIES  
REGARDLESS OF THE FORUM IN WHICH PRIVELEGE IS ASSERTED AND EVEN WHEN  
CONTACT WITH THE OPPOSING PARTY IS AUTHORISED, SUCH AS DURING TRIAL OR  
DISCOVERY PROCEEDINGS." - TRIPLE A MACHINE SHOP INC. V. STATE OF CALIF...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

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7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 ..ORNIA, 213 CAL. APP. 3D 131 (1ST DIST. 19890. " ALTHOUGH EXERCISE OF  
13 ATTORNAY-CLIENT PRIVELEGE MAY OCCASIONALLY RESULT IN THE SUPPRESSION OF  
14 RELEVANT EVIDENCE, THESE CONCERNS ARE OUTWEIGHED BY THE IMPORTANCE OF  
15 PRESERVING CONFIDENTIALITY IN THE ATTORNEY-CLIENT RELATIONSHIP." - COUNTY OF  
16 LOS ANGELES BOARD OF SUPERVISORS V. SUPERIOR COURT OF LOS ANGELES COUNTY  
17 (2015) 2ND DIST. DIV. 3, 235 CAL APP. 4TH 1154. " ATTORNEY-CLIENT PRIVELEGE  
18 EXTENDS TO COMMUNICATIONS WHICH ARE INTENDED TO BE CONFIDENTIAL, IF THEY  
19 ARE MADE TO ATTORNEY'S, TO FAMILY MEMBERS, BUSINESS ASSOCIATES, OR AGENTS  
20 OF A PARTY OR HIS ATTORNEY'S ON MATTERS OF JOINT CONCERN, WHEN DISCLOSURE  
21 IS REASONABLY NECESSARY TO FURTHER THE INTERESTS OF THE LITIGANT." - COOKE  
22 V. SUPERIOR COURT (2ND DIST. 1978) 83 CAL. APP. 3D 582. THIS PETITIONER DOES  
23 RESPECTFULLY SUBMIT THAT HIS EXPRESSIONS OF DEEP RESENTMENT AND FEAR OF  
24 LAW ENFORCEMENT AND ESPECIALLY HIS HOMICIDAL FEELINGS WERE BOTH GERMAINE  
25 TO DISCUSSED LITIGATION AND THIS PETITIONERS DISCLOSURE OF THOSE FEELINGS  
26 WAS REASONABLY NECESSARY TO FURTHER THE INTERESTS OF THIS LITIGANT. THIS  
27 PETITIONER DOES RESPECTFULLY SUBMIT THAT IT WAS SPECIFICALLY BECAUSE OF  
28 THE SERIOUS AND CONTENTIOUS NATURE OF THE LITIGATION DISCUSSED THAT HIS  
FEELINGS, SHARED CANDIDLY AND HONESTLY WITH THE DEP. ATTORNEY GENERAL  
WERE OF A NATURE THAT SHOULD BE ESPECIALLY AND CRITICALLY PROTECTED BY THE  
ATTORNEY-CLIENT PRIVELEGE. FURTHERMORE, THIS PETITIONER WOULD POINT OUT  
THAT IT WAS DEP. ATTORNEY GENERAL FESER WHO INITIATED THESE CONVERS...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 HABEAS CORPUS  
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12 ...ATIONS AND ENCOURAGED THIS LITIGANT TO TALK ABOUT HIS ON-GOING  
13 PSYCHIATRIC DIFFICULTIES AND RAW, EMOTIONAL FEELINGS. IF DEP. ATTORNEY  
14 GENERAL FESER WAS ALARMED, SURPRISED OR OTHERWISE SHOCKED BY THIS  
15 PETITIONERS' HOMICIDAL THOUGHTS, IT WAS IN NO WAY THIS PETITIONERS' FAULT FOR  
16 DISCLOSING THOSE THOUGHTS AS THEY WERE VERY REAL, VERY GERMAINE AND WERE  
17 DISCLOSED IN A CONTEMPERANEOUS WAY, WITHOUT FILTER, BECAUSE THIS  
18 PETITIONER BELIEVED THAT MR. FESER WAS A SYMPHATHETIC EAR AND DID NOT  
19 BELIEVE FESER WOULD OR EVEN COULD MAKE THOSE PERSONAL FEELINGS PUBLIC.  
20 THIS PETITIONER RESPECTFULLY SUBMITS THAT IF FESER BECAME ALARMED AND  
21 FEARFUL FOR OTHER PEOPLES' SAFETY AND DECIDED TO RECORD THE  
22 CONVERSATION, IT FOLLOWS THAT HIS ONLY REASON FOR INITIATING THE RECORDING  
23 WAS TO SOMEHOW AID LAW ENFORCEMENT. IF SO, THIS PETITIONER DOES  
24 RESPECTFULLY SUBMIT THAT THIS DECISION SHOULD TRIGGER FOURTH AND FIFTH  
25 AMENDMENT TO THE UNITED STATES CONSTITUTION PROTECTIONS. A CITIZEN OF THE  
26 UNITED STATES, THROUGH THE PROTECTIONS AFFORDED BY THE U.S. CONSTITUTION,  
27 HAS A REASONABLE EXPECTATION OF PRIVACY UNDER THE FOURTH AMENDMENT, AS  
28 WELL AS A RIGHT TO NOT SELF-INCRIMINATE UNDER THE FIFTH AMENDMENT. - U.S.C.A.  
FOURTH AMENDMENT TO THE U.S. CONSTITUTION, U.S.C.A. FIFTH AMENDMENT TO THE  
U.S. CONSTITUTION. "WHETHER THE PRIVATE INDIVIDUAL INTENDED TO ASSIST LAW  
ENFORCEMENT SHOULD BE CONSIDERED IN DETERMINING WHETHER A SEARCH  
CONDUCTED BY A PRIVATE PERSON CONSTITUTES A GOVERNMENT SEARCH  
TRIGGERING FOURTH AMENDMENT PROTECTIONS." -PEOPLE V. WILKINSON...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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12 ..163 CAL. APP. 4TH 1554, 78 CAL. RPTR. 3D 501 (3RD DIST. 2008). " IF A PRIVATE PERSON,  
13 ACTS JOINTLY WITH OR AS AN AGENT OF POLICE, THE ILLEGALLY SEIZED EVIDENCE IS  
14 INADMISSABLE." - PEOPLE V. TARANTINO (1955) 45 C. 2D 590, 595, 290 P. 2D 505. "  
15 GOVERNMENTS ACTIVITIES IN ELECTRONICALLY LISTENING TO AND RECORDING OF A  
16 PARTIES WORDS VIOLATED THE PRIVACY UPON WHICH HE JUSTIFIABLY RELIED WHILE  
17 USING THE TELEPHONE AND THUS CONSTITUTED A SEARCH AND SEIZURE UNDER THE  
18 FOURTH AMENDMENT, REQUIRING A SEARCH WARRANT." - KATZ V. UNITED STATES, 389  
19 U.S. 347, 88 S. CT. 507, 19 L. ED. 2D 576 (1967). IF THE SEIZED EVIDENCE MUST BE FOUND  
20 INADMISSABLE UNDER FEDERAL LAW, THIS PETITIONER DOES RESPECTFULLY SUBMIT  
21 THAT NO CALIFORNIA LAW CAN SUPERCEDE. "STATE LAW CANNOT BE LESS PROTECTIVE  
22 OF PRIVACY THAN FEDERAL LAW." - PEOPLE V. OTTO, 2 CAL. 4TH 1088, 1089, 9 CAL. RPTR.  
23 2D 596, 831 P. 2D 1178 (1992). THIS PETITIONER DOES RESPECTFULLY SUBMIT THAT MR.  
24 FESER'S TRANSFER OF THE RECORDING VIOLATED STATE LAW. " EVEN ASSUMING THAT  
25 THE INITIAL INTERCEPTION WAS LEGAL, CALIF. PENAL CODE 631 (A) CARRIES OUT THE  
26 LEGISLATIVE PURPOSE OF PROHIBITING THE INDEPENDANT ACT OF DISCLOSURE OF  
27 THE INTERCEPTED COMMUNICATION." - CALIF. PENAL CODE 631 (A). " NO PRIVELEGED  
28 COMMUNICATION, SUCH AS AN ATTORNEY-CLIENT CONVERSATION, LOSES ITS'  
PRIVELEGED CHARACTER BY BEING INTERCEPTED. WHEN A LAW ENFORCEMENT  
OFFICER, WHILE ENGAGED IN INTERCEPTING TELEPHONE CONVERSATIONS  
OVERHEARS A PRIVELEGED CONVERSATION, THE OFFICER MUST IMMEDIATELY CEASE  
THE INTERCEPTION." - CLIF. PENAL CODE 629.80. THIS PETITIONER RESPECFULLY...

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1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 ...S U B M I T T H A T S H E R I F F ' S D E P A R T M E N T D I S C L O S U R E T O T H E P R E S S O F T H E C O N T E N T S  
13 O F H I S C A L L , W I T H D I R E C T Q U O T A T I O N , P R E - E M P T E D T H E C O U R T S ' L A W F U L  
14 J U R I S D I C T I O N T O D E T E R M I N E W H E T H E R T H E C O N T E N T S O F T H E C A L L W E R E  
15 P R I V E L E G E D A N D C O N F I D E N T I A L A N D T H A T T H E C O U R T S ' A S S U M P T I O N W I T H O U T  
16 H E A R I N G , T H A T T H E W O R D S W E R E N O T P R O T E C T E D , D E P R I V E D T H I S D E F E N D A N T O F A N  
17 O P P O R T U N I T Y T O I N V O K E T H E P R I V E L E G E , R E G A R D L E S S O F A N Y D E C I S I O N T H E C O U R T  
18 M A Y H A V E M A D E , A C O N D I T I O N W H I C H D E P R I V E D T H I S D E F E N D A N T O F D U E P R O C E S S .  
19 F U R T H E R M O R E , T H I S P E T I T I O N E R D O E S R E S P E C T F U L L Y S U B M I T , T H A T A T T O R N E Y ' S  
20 F A I L U R E T O C H A L L E N G E T H I S E V I D E N C E A S I N A D M I S S A B L E , E I T H E R B Y W A Y O F M O T I O N  
21 O R A T T H I S D E F E N D A N T S ' P R E L I M I N A R Y H E A R I N G W A S I N E F F E C T I V E A S S I S T A N C E . " C O U R T C A N N O T O R D E R D I S C L O S U R E O F C O M M U N I C A T I O N B E T W E E N A T T O R N E Y A N D  
22 C L I E N T W I T H O U T S U F F I C I E N T P R O O F O F E X C E P T I O N T O P R I V E L E G E . " - S H A N N O N V .  
23 S U P E R I O R C O U R T , 5 T H D I S T . C A L . ( 1 9 9 0 ) . 2 1 7 C A L . A P P . 3 D 9 8 6 . " A T T O R N E Y C L I E N T  
24 P R I V E L E G E I S A L E G I S L A T I V E C R E A T I O N W H I C H T H E C O U R T ' S H A V E N O P O W E R T O  
25 E X P A N D O R L I M I T B Y I M P L Y I N G E X C E P T I O N S . " - M C D E R M O T T , W I L L A N D E M O R Y L . L . P .  
26 V . S U P E R I O R C O U R T ( 2 0 1 7 4 T H D I S T . D I V . 3 ) 1 0 C A L . A P P . 5 T H 1 0 8 3 . " T H E  
27 A T T O R N E Y - C L I E N T P R I V E L E G E D E S E R V E S A P A R T I C U L A R L Y H I G H D E G R E E O F  
28 P R O T E C T I O N , S I N C E I T I S A L E G I S L A T I V E L Y C R E A T E D P R I V E L E G E , P R O T E C T I N G  
I M P O R T A N T P U B L I C P O L I C Y I N T E R E S T S , P A R T I C U L A R L Y T H E C O N F I D E N T I A L  
R E L A T I O N S H I P O F A T T O R N E Y A N D C L I E N T A N D T H E I R F R E E D O M T O D I S C U S S M A T T E R S  
I N C O N F I D E N C E . " - P E O P L E E X . R E L . L O C K Y E R V . S U P E R I O R C O U R T ( 4 T H D I S T . D I V . 1 ...



1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5  
6

7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
9

10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 ... 2004) 122 CAL. APP. 4TH 1060. "FAILURE TO ADVISE IN RE MOTION TO SUPPRESS  
13 EVIDENCE IS INEFFECTIVE ASSISTANCE OF COUNSEL." -U.S. V. MCTIERNAN (9TH CIR.  
14 2008) 546 F. 3D 1160, 1168. " FAILURE TO OBJECT TO INADMISSABLE EVIDENCE IS  
15 INEFFECTIVE ASSISTANCE OF COUNSEL." - PEOPLE V. STRATTON, 205 CAL. APP. 3D 87,  
16 252, CAL. RPTR. 157 (1ST DIST. 1988). " FAILURE TO MOVE TO SUPPRESS INADMISSABLE  
17 EVIDENCE IS INEFFECTIVE ASSISTANCE OF COUNSEL." - PEOPLE V. LEDESMA, 43 CAL. 3D  
18 171, 216, 218, 233 CAL. RPTR. 404, 729 P. 2D 839 (1988). " PREJUDICE IS ASSUMED WHERE  
19 COUNSEL ENTIRELY FAILS TO SUBJECT THE PROSECUTORS CASE TO MEANINGFUL  
20 ADVERSARIAL TESTING." - BELL V. CONE (2002) 535 U.S. 685, 697, 122 S. CT. 1843, 1851.  
21 " FAILURE TO OBJECT TO TAPE RECORDINGS AND TRANSCRIPTS OF CONVERSATION AS  
22 INADMISSABLE HEARSAY WAS INEFFECTIVE ASSISTANCE OF COUNSEL." - PEOPLE V.  
23 PEREZ (1978) 83 C.A. 3D 718, 734, 148 C.R. 90. THIS PETITIONER DOES RESPECTFULLY  
24 SUBMIT THAT SHERIFF'S INVESTIGATORS FAILURE TO ADEQUATELY INVESTIGATE  
25 BEFORE THE ARREST OF THIS DEFENDANT THE ALLEGED THREATS FOR ACTUAL  
26 VERBAGE USED, CONTEXT AND SURROUNDING CIRCUMSTANCES, DID LEAD TO A FALSE  
27 ARREST FOR VIOLATION OF PENAL CODE 422. THIS PETITIONER DOES RESPECTFULLY  
28 SUBMIT THAT INVESTIGATORS SIMPLY ARRESTED BASED UPON THE CLAIMS BY  
REPORTING WITNESSES THAT THIS DEFENDANT HAD "MADE THREATS AGAINST  
DEPUTES", WITHOUT ANY FURTHER INVESTIGATION WHICH WOULD HAVE SHOWN  
THAT, DESPITE MAKING GENERAL THREATENING REMARKS, LACKED EVIDENCE OF  
SPECIFICITY, AS REQUIRED BY THE STATUTE AND EVIDENCE THAT THIS DEFNDANT...

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1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 HABEAS CORPUS  
8 LEGAL ARGUMENT  
9

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12 ...DID CONVEY OR SEEK TO HAVE CONVEYED ANY PERCEIVED THREATS ON TO ALLEGED  
13 VICTIMS. FURTHERMORE, INVESTIGATORS FAILED TO RECOGNIZE THE PRIVELEGED AND  
14 CONFIDENTIAL NATURE OF THE CONVERSATION IN QUESTION AND FAILED TO  
15 CONTEXTUALIZE THE CONVERSATION. THIS FAILURE TO INVESTIGATE CREATED A  
16 CONDITION THAT WAS A CRITICAL DENIAL OF THE DUE PROCESS RIGHTS OF THIS  
17 DEFENDANT. "WILLFUL FAILURE BY INVESTIGATING OFFICERS TO OBTAIN EVIDENCE  
18 THAT WOULD CLEAR A DEFENDANT WOULD AMOUNT TO A DENIAL OF DUE PROCESS OF  
19 LAW." - PEOPLE V. NOISEY (1968), 265 CAL. APP. 2D 543, 549-550, 71 CAL. RPTR. 339. THIS  
20 PETITIONER DOES RESPECTFULLY SUBMIT THAT INVESTIGATORS GROSSLY  
21 OVER-SIMPLIFIED THE 422 P.C. STATUTE IN RE THEIR "INVESTIGATION", FAILING TO  
22 INVESTIGATE FOR ALL ELEMENTS NEEDED TO MAKE A VIOLATION, TO INCLUDE;  
23 SPECIFICITY, INTENT, CONVEYANCE, VERBAGE, CONTEXT ETC. THIS FAILURE DID LEAD  
24 TO THIS DEFENDANT BEING OVER-CHARGED AND DID GREATLY COMPOUND AND  
25 OVER-COMPLICATE THE ENSUING PROCESS TO THE POINT THAT IT DID FRUSTRATE  
26 DEFENSE COUNSELS' EFFORTS TO BUILD A DEFENSE, A VIOLATION OF THIS  
27 DEFENDANTS RIGHT TO DUE PROCESS AND EFFECTIVE ASSISTANCE OF COUNSEL.  
28 FURTHERMORE, THIS PETITIONER RESPECTFULLY SUBMITS THAT BY FAILING TO  
REVIEW THE CASE FOR ALL ELEMENTS OF THE ALLEGED CRIME, PROSECUTORS  
COMMITTED PROSECUTORIAL ERROR AND WERE DELIBERATELY INDIFFERENT TO THIS  
DEFENDANTS CONSTITUTIONALLY PROTECTED RIGHTS. THIS PETITIONER DOES  
RESPECTFULLY SUBMIT THAT COUNSELS' FAILURE TO CHALLENGE THESE DEFECTS, BY  
MOTION AND AT THIS DEFENDANTS SECOND SET OF PRELIMINARY HEARING WAS...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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12 ...INEFFECTIVE ASSISTANCE OF COUNSEL. THIS PETITIONER DOES RESPECTFULLY  
13 SUBMIT, THAT FAILURE BY TEN COUNSEL'S TO INVESTIGATE AND PREPARE THIS CASE  
14 TO TRIAL, FOR THREE YEARS AND FOUR MONTHS, DID DENY THIS DEFENDANT OF HIS  
15 RIGHT TO A SPEEDY TRIAL AS GUARANTEED BY FEDERAL AND STATE CONSTITUTIONS.  
16 "STATE BEARS THE ULTIMATE RESPONSIBILITY FOR DELAY CAUSED BY THE  
17 NEGLIGENCE OF PUBLIC DEFENDERS." - VERMONT V. BRILLON, 129 S. CT. 1283 (2009).  
18 "DEFENDANT CANNOT BE DEPRIVED OF SPEEDY TRIAL RIGHTS BECAUSE DEFENSE  
19 COUSEL IS LAZY, INDIFFERENT OR INCOMPETENT." - PEOPLE V. FLOYD, 1 CAL. 3D 694, 83  
20 CAL. RPTR. 608, 464 P. 2D 64 (1970). "INSOFAR AS IT REDUCES THE RISK OF EXCESSIVE  
21 DELAY BETWEEN ACCUSATION AND TRIAL, THE SPEEDY TRIAL GUARANTEE HELPS  
22 PROTECT AGAINST (EMPHASIS: OPPRESSIVE PRE- TRIAL INCARCERATION), (EMPHASIS:  
23 ANXIETY AND CONCERN), AND (EMPHASIS: IMPAIRMENTS OF THE ABILITY TO DEFEND  
24 AGAINST THE CHARGE)." - CRAFT V. SUPERIOR COURT, 140 CAL. APP. 4TH 1533, 44 CAL.  
25 RPTR. 3D 912 (4TH DISTRICT 2006). SEE ALSO: PEOPLE V. VIRAY, 134 CAL. APP. 4TH 1186,  
26 36 CAL. RPTR. 3D 693 (6TH DISTRICT 2005). "UNDER AN ANALYSIS PURSUANT TO THE  
27 SPEEDY TRIAL RIGHT, PREJUDICE IS PRESUMED ONCE THE STATUTORY PERIOD HAS  
28 PASSED." - GALLENKAMP V SUPERIOR COURT, 221 CAL. APP. 3D 1, 270 CAL.RPTR. 346  
(5TH DIST. 1990). " STATUTORY SPEEDY TRIAL RIGHT MAY BE VIOLATED BY FAILURE TO  
PROVIDE ENOUGH PUBLIC DEFENDERS OR APPOINTED COUNSEL, SO THAT AN INDIGENT  
DEFENDANT MUST CHOOSE BETWEEN THE RIGHT TO SPEEDY TRIAL AND THE RIGHT TO  
COMPETENT COUNSEL." - BARSAMYAN V. APPELATE DIV. OF THE SUPERIOR COURT...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

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7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 ..O F L O S A N G E L E S C O U N T Y , 4 4 C A L 4 T H 9 6 0 , 8 1 C A L . R P T R . 3 D 2 6 5 , 1 8 9 P . 3 D 2 7 1 ( 2 0 0 8 ) .  
13 " E V E N I F T H E D E L A Y I S M E R E L Y T H E R E S U L T O F A D M I N I S T R A T I V E M A L F E A S A N C E O R  
14 S I M P L E N E G L I G E N C E O N T H E P A R T O F T H E S T A T E O R I T S ' O F F I C E R S , I T I S C L E A R T H A T  
15 T H E R E M U S T , N O N E T H E L E S S , B E A D I S M I S S A L . " - B A R K E R V . W I N G O , 4 0 7 U . S . 5 1 4 , 9 2 S .  
16 C T . 2 1 8 2 , 3 3 L . E D . 2 D 1 0 1 ( 1 9 7 2 ) . " U N D E R T H E F E D E R A L C O N S T I T U T I O N , A D E L A Y T H A T I S  
17 U N C O M M O N L Y L O N G T R I G G E R S A P R E S U M P T I O N O F P R E J U D I C E , W I T H T H E  
18 P R E S U M P T I O N I N T E N S I F Y I N G A S T H E L E N G T H O F T H E D E L A Y I N C R E A S E S . " - D O G G E T T V .  
19 U N I T E D S T A T E S , 5 0 5 U . S . 6 4 7 , 1 1 2 S . C T . 2 6 8 6 , 1 2 0 L . E D . 2 D 5 2 0 ( 1 9 9 2 ) . T H I S P E T I T I O N E R  
20 R E S P E C T F U L L Y I N F O R M S T H E C O U R T T H A T H E D I D , I N F A C T , R A I S E M O S T O R A L L O F  
21 T H E S E I S S U E S , I N C L U D I N G S P E E D Y T R I A L , I N E F F E C T I V E A S S I S T A N C E O F C O U N S E L ,  
22 P R O S E C U T O R I A L E R R O R A N D D E N I A L O F D U E P R O C E S S , B O T H V E R B A L L Y I N C O U R T  
23 A N D B Y W A Y O F H A B E A S C O R P U S A T T H E S U P E R I O R C O U R T L E V E L . T H I S P E T I T I O N E R  
24 A L S O R E Q U E S T E D O F C O U N S E L T H A T T H E Y F I L E F O R M A L M O T I O N S O N T H E S E  
25 G R O U N D S . W H I L E C O U N S E L S C O N S I S T E N T L Y A G R E E D T H A T T H E S E R I G H T S W E R E  
26 B E I N G V I O L A T E D , T H E Y A L S O C O N S I S T E N T L Y F A I L E D T O F I L E T H E S E M O T I O N S ( P L E A S E  
27 S E E C O M M E N T S B Y A T T O R N E Y T E D S O M E R S A T T H I S D E F E N D A N T S M A R S D E N H E A R I N G -  
28 E X H I B I T O ) . T H I S P E T I T I O N E R S ' H A B E A S C O R P U S W E R E I N I T I A L L Y I G N O R E D B Y T H E  
C O U R T . L A T E R , S O M E O F T H E P E T I T I O N S W E R E O R D E R E D T O S H O W C A U S E B T J U D G E  
D A N F L Y N N , B U T W E R E T H E N I L L E G A L L Y A N D I M P R O P E R L Y D I S M I S S E D B Y H A B E A S  
C O U N S E L K A T H R Y N B A R T O N , A G A I N S T T H I S D E F E N D A N T S ' O B J E C T I O N I N C O U R T .

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5  
6

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8 L E G A L A R G U M E N T  
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10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 S O M E O F T H E I S S U E S O R D E R E D T O S H O W C A U S E I N C L U D E D T H E I N E F F E C T I V E N E S S  
13 O F C O U N S E L , M Y M E N T A L S T A T E A N D A B I L I T Y T O W O R K W I T H C O U N S E L A N D T H E  
14 A S S A U L T O N M Y P E R S O N B Y J A I L D E P U T E E S . M Y S E C O N D A S S I G N E D H A B E A S C O U N S E L  
15 V I R T U A L L Y A B A N D O N E D M Y P E T I T I O N S A G A I N S T M Y S T R E N U O U S O B J E C T I O N B E C A U S E  
16 S H E W A S B E I N G P R E S S U R E D T O D O S O B Y T H E C O U N T Y A T T O R N E Y . T H E A T T O R N E Y ,  
17 K A T H R Y N B A R T O N C A M E T O S E E M E I N T H E J A I L A N D T O L D M E S H E H A D " M A D E A D E A L "  
18 W I T H T H E C O U N T Y A T T O R N E Y T O D I S M I S S T H E P E T I T I O N S . W H E N I A S K E D M S . B A R T O N  
19 W H A T T H E C O U N T Y A T T O R N E Y W A S O F F E R I N G , S H E S A I D " N O T H I N G . T H A T ' S T H E D E A L .  
20 W E ' V E A G R E E D T O S I M P L Y D I S M I S S T H E M . " I T O L D H E R T H E P E T I T I O N S W E R E O R D E R E D  
21 T O S H O W C A U S E A N D T H A T I W A S N O W E N T I T L E D U N D E R T H E L A W T O A H E A R I N G O N  
22 T H E I S S U E S . I T O L D H E R I D I D N O T C O N S E N T T O T H I S " D E A L " A N D W A N T E D M Y  
23 H E A R I N G S . T H E N E X T D A Y , I W A S C A L L E D T O C O U R T A N D M S . B A R T O N T O L D A V I S I T I N G  
24 J U D G E T H A T S H E H A D C O M E T O A N " A G R E E M E N T W I T H T H E C O U N T Y A T T O R N E Y " A N D  
25 W A S M O V I N G T O D I S M I S S . I I M M E D I A T E L Y O B J E C T E D A N D W A S T O L D B Y T H E J U D G E  
26 T H A T I C O U L D N ' T O B J E C T . T H E J U D G E T H E N D I S M I S S E D T H E P E T I T I O N S W I T H O U T  
27 F U R T H E R H E A R I N G . T H I S P E T I T I O N E R R E S P E C T F U L L Y S U B M I T S T H A T T H I S A C T I O N B Y  
28 C O U N S E L W A S I N E F F E C T I V E A S S I S T A N C E A N D D E N I A L O F D U E P R O C E S S .  
F U R T H E R M O R E , T H I S P E T I T I O N E R R E S P E C T F U L L Y S U B M I T S T H A T T H I S A C T I O N B Y  
C O U N S E L W A S A T T O R N E Y M I S - C O N D U C T . A N O T H E R A S P E C T O F T H E C A S E T H A T T H I S  
P E T I T I O N E R W O U L D L I K E T O I N F O R M T H E C O U R T O F I S T H E D E N I A L O F D U E P R O C E S S  
A T T H I S D E F E N D A N T S S E C O N D S E T O F P R E L I M I N A R I E S . D E S P I T E T H I S D E F E N D A N T S  
M U L T I P L E M A R S D E N M O T I O N S A G A I N S T A T T O R N E Y S H O N N O R T H A M , A N D M Y . . . .

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
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10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...REPEATED AND VOCIFEROUS COMPLAINTS TO JUDGE DAN FLYNN (SEE MARSDEN  
13 HEARING TRANSCRIPTS-EXHIBIT C) OF ATTORNEY NORTHAMS REFUSAL TO  
14 INVESTIGATE AND FIELD AN AFFIRMATIVE DEFENSE AT MY PRELIMINARIES, ATTORNEY  
15 NORTHAM SIMPLY AND DELIBERATELY WAIVED MY PRESENCE AT A SETTING  
16 CONFERENCE ONE WEEK BEFORE THE PRELIMINARY. I BELIEVE HE DID THIS TO  
17 FORESTALL MY ABILITY TO ASK FOR A MARSDEN HEARING AND TO RELIEVE HIMSELF OF  
18 HIS OBLIGATION TO PREPARE FOR THE HEARING. MR. NORTHAM WAS WELL AWARE, AS  
19 WAS JUDGE FLYNN, THAT I WAS INVOKING MY RIGHT TO PRE-INTERVIEW AND  
20 SUBPOENA WITNESSES, INCLUDING DEPUTY ATTORNEY GENERAL JOHN M. FESER,  
21 DEPUTY ATTORNEY GENERAL ALBERTO GONSALEZ, ATTORNEY GARY BRICKWOOD,  
22 CHERI A. DUBUQUE, CANDY HOOVER, ROBERT WILLIS, KEN COCKERIL ET. AL. MR.  
23 NORTHAM, AS WELL AS JUDGE FLYNN, WERE WELL AWARE THAT THIS DEFENDANT WAS  
24 REQUESTING, AND HAD NUMEROUS GROUNDS FOR A "PITCHESS" MOTION AGAINST  
25 SHERIFF'S DEPUTEES BRIAN JACKSON, CHRIS EDWARDS, JOSE GONZALEZ, ET. AL.  
26 ATTORNEY NORTHAM, AS WELL AS JUDGE FLYNN WERE WELL AWARE THAT THIS  
27 DEFENDANT WAS INVOKING HIS RIGHT TO SUBPOENA COURT RECORDS AND OTHER  
28 DOCUMENTS PRIOR TO HIS PRELIMINARY. ATTORNEY NORTHAM WAS WELL AWARE  
THAT THIS DEFENDANT WAS REQUESTING DISCOVERY (INCLUDING A TRANSCRIPT OF  
THIS DEFENDANTS CONVERSATION WITH ATTY. GEN. FESER). ATTORNEY NORTHAM WAS  
WELL AWARE THAT THIS DEFENDANT WANTED ARRESTING OFFICERS PRE-INTERVIEWED  
TO SHOW MYRIAD MISTAKES THEY HAD MADE IN THEIR "INVESTIGATION". ATTORNEY...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
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8 L E G A L A R G U M E N T  
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10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...NORTHAM WAIVED MY PRESENCE (I HAD INSTRUCTED HIM NEVER TO DO THIS) AT THE  
13 SETTING CONFERENCE AND SET MY PRELIMINARY FOR ONE WEEK LATER. HE THEN  
14 CAME TO THE JAIL AND INFORMED ME OF WHAT HE HAD DONE. I TOLD HIM I WANTED AN  
15 IMMEDIATE MARSDEN HEARING AND HE SAID THAT THE JUDGE "WOULD NEVER GO FOR  
16 IT, THE HEARINGS' BEEN SET." BECAUSE I BELIEVED HIM, THAT THE JUDGE WOULD BE  
17 RELUCTANT TO CANCEL THE HEARING ONCE IT WAS SET AND WITNESSES FOR THE  
18 PROSECUTION WERE BEING NOTIFIED, I BECAME IMMEDIATELY AND SEVERELY  
19 DISTURBED EMOTIONALLY. I SPENT THE NEXT WEEK MORBIDLY DISTURBED AND  
20 SUICIDAL, BANGING MY HEAD ON THE CELL WALL AND REFUSING TO EAT. I ENDED UP IN  
21 THE SAFETY CELL. ON THE DAY OF MY PRELIMINARY, JAIL DEPUTEES CAME TO THE  
22 SAFETY CELL WHERE I WAS ON SUICIDE WATCH AND ROUGHLY HANDCUFFED ME INTO A  
23 WHEEL CHAIR, WEARING ONLY A SMALL SAFETY SMOCK. I ENDED UP WITH BRUISES ALL  
24 OVER MY LEGS AND WRISTS. WHEELED NAKED, DISTURBED AND HANDCUFFED TO A  
25 WHEEL CHAIR INTO COURT, I BEGAN SCREAMING AT THE TOP OF MY LUNGS. I  
26 SCREAMED "ROUGH JUSTICE PROMOTES INJUSTICE" OVER AND OVER AGAIN. CAMERAS  
27 FROM THE LOCAL NEWSPAPER FILMED ME IN MY INDIGNANT AND DISTURBED STATE  
28 AND THIS VIDEO WOULD BE POSTED BY THE NEWSPAPER ONLINE AND RECEIVE OVER  
22, 000 VIEWS. I SCREAMED THAT THE JUDGE WAS A DESPICABLE, UNCONSCIONABLE  
TYRANT AND SPIT IN THE DIRECTION OF MY ATTORNEY. THE LAST THING I SCREAMED  
BEFORE I WAS WHEELED OUT OF THE COURTROOM BY DEPUTEES WAS THAT I HAD A  
RIGHT TO AN AFFIRMATIVE DEFENSE AT MY PRELIMINARY AND THE RIGHT TO  
EFFECTIVE ASSISTANCE OF COUNSEL. I BELIEVE, GIVEN THE CIRCUMSTANCES...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
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10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...THAT THE JUDGE SHOULD HAVE RECOGNIZED THIS AS AN OBJECTION BY THE  
13 DEFENDANT. UNFORTUNATELY, HE DID NOT. THE JUDGE HAD TOLD THE  
14 TRANSCRIPTIONIST TO STOP TYPING BECAUSE OF MY OUTBURST, SO MY OBJECTION  
15 DOES NOT SHOW UP IN THE FOUR CORNERS OF THE RECORD, BUT IS CLEARLY HEARD  
16 ON THE VIDEOTAPE TAKEN BY THE NEWSPAPER AND CAN STILL BE VIEWED ONLINE. I  
17 WAS WHEELED OUT INTO A FOYER AND DEPUTES MADE FUN OF ME AND DEGRADED  
18 ME IN THE HALLWAY AS MY ATTORNEY AND THE COURT SIMPLY CONTINUED WITH MY  
19 PRELIMINARY (AMBUSH) WITHOUT ME. LATER, READING A TRANSCRIPT OF MY "  
20 PRELIMINARY" I SAW THAT ATTORNEY NORTHAM MADE NO OBJECTIONS TO THE  
21 PROSECUTIONS CASE, FIELDING NO AFFIRMATIVE DEFENSE, ASKED NO CRITICAL OR  
22 PROBING QUESTIONS AND IN FACT STIPULATED TO MOST OR ALL OF THE  
23 PROSECUTIONS CASE. WHEN I LATER CONFRONTED NORTHAM AND ACCUSED HIM OF  
24 DELIBERATELY AMBUSHING ME, HE LAUGHED AND SAID "YEAH, I GUESS I DID AMBUSH  
25 YOU." HE THEN WENT ON TO DENY THIS STATEMENT TO JUDGE FLYNN IN LATER  
26 MARSDEN HEARINGS. THIS PETITIONER RESPECTFULLY SUBMITS THAT ATTORNEY  
27 NORTHAM'S ACTIONS IN RE THIS PETITIONER'S SECOND SET OF PRELIMINARIES WAS  
28 INEFFECTIVE ASSISTANCE, GROSS ATTORNEY MISCONDUCT AND DENIED THIS  
DEFENDANT OF BASIC, NECESSARY AND CRITICAL RIGHTS AT A CRITICAL STAGE OF  
THIS DEFENDANT'S CASE, WAS AN ABYSMAL DENIAL OF DUE PROCESS, DID ERODE ALL  
TRUST THIS DEFENDANT MAY HAVE HAD REMAINING IN HIS LAWYER AND DEGRADED  
AND AFFRONTED THIS DEFENDANT'S BASIC HUMAN DIGNITY. FURTHERMORE...



1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5  
6

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10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 ...THIS PETITIONER RESPECTFULLY SUBMITS THAT THIS DEFENDANT WAS CLEARLY IN A  
13 DISTURBED, PSYCHIATRIC STATE AT THIS PRELIMINARY AND SHOULD HAVE NEVER  
14 BEEN REMOVED FROM A SUICIDE SAFETY CELL, MUCH LESS PARADED NAKED BEFORE  
15 THE WORLD AND VIDEOTAPED IN SUCH AN INDIGNANT AND INDECENT MANNER. "   
16 JUSTICE, IF IT CAN BE MEASURED, MUST BE MEASURED BY THE EXPERIENCE THE  
17 ORDINARY PERSON HAS WITH THE COURTS" - MAYER V. CHICAGO, 404 U.S. 189, 92 S. CT.  
18 410, L. ED. 2D 372 (1971). " DISINTERESTED ZEAL FOR THE PUBLIC GOOD DOES NOT  
19 ASSURE EITHER WISDOM OR RIGHT IN THE METHODS IT PURSUES." - HALEY V. OHIO,  
20 (1948) 332 U.S. 596, 605, 68 S. CT. 302, 303, 92 L. ED. 224. " WHEN CONDUCT ON THE PART  
21 OF THE AUTHORITIES IS SO OUTRAGEOUS AS TO INTERFERE WITH THE ACCUSED  
22 RIGHTS OF DUE PROCESS, LAW PROCEEDINGS ARE RENDERED IMPROPER." - ROCHIN V.  
23 CALIFORNIA (1952) 342 U.S. 165, 172 725. 205-209 96 L. ED. 183. " A COURT MAY DISMISS A  
24 CASE FOR STATE ACTION THAT PREVENTS A DEFENDANT FROM PRESENTING A  
25 DEFENSE." - PEOPLE V. BORUNDA, 11 CAL 3D 523, 527, 113 CAL. RPTR. 825, 522 P. 2D 1  
26 (1974). A COURT MAY DISMISS " FOR VIOLATION OF A DEFENDANTS CONSTITUTIONAL  
27 RIGHTS" - PEOPLE V. MORROW, 87 CAL. APP. 3D SUPPL. 18, 151 CAL. RPTR. 281 (1978).  
" FAILURE TO MARSHALL AVAILABLE EVIDENCE WAS DEEMED TO HAVE DEPRIVED THE  
DEFENDANT OF A FAIR TRIAL." - PEOPLE V. RODRIGUEZ, (1977) 73 C.A. 3D 1023, 1031, 141  
C.R. 118. " DEFENSE COUNSELS' FAILURE TO INTERVIEW POTENTIALLY FAVORABLE  
EYEWITNESS CONSTITUTES INEFFECTIVE ASSISTANCE OF COUNSEL." - PEOPLE V. BESS  
(1984) 153 C.A. 3D 1053, 1060, 1062, 200 C.R. 773. " WHAT CANNOT BE FORGOTTEN, IN  
CASES OF THIS SORT, IS THAT PATIENTS SUCH AS HAYES OFTEN SUFFER FROM  
SERIOUS MENTAL OR EMOTIONAL DISORDERS." -U.S. V. HAYES, (6TH CIRCUIT 2002)...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5  
6

7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
9

10 I N A N D F O R T H E U N I T E D S T A T E S D I S T R I C T C O U R T O F C A L I F O R N I A , E A S T E R N D I S T R I C T .  
11

12 ...227 F. 3D 578, 54 FED. R. EVID. SERV. 954, 2000 FED. APP. 0302P. THIS PETITIONER  
13 RESPECTFULLY SUBMITS THAT U.S. V. HAYES IS FULLY ANALOGOUS TO THIS  
14 DEFENDANT'S CASE. IN BOTH, THE DEFENDANT WAS ACCUSED OF MAKING CRIMINAL  
15 THREATS. IN BOTH, DEFENDANT'S PSYCHIATRIC HISTORY WAS SEVERE DEPRESSION  
16 WITH PSYCHOTIC FEATURES. IN BOTH, DEFENDANT WAS CONVICTED AND DISALLOWED  
17 FROM MAKING A PSYCHIATRIC DEFENSE (PLEASE SEE THIS PETITIONER'S EXHIBIT E).  
18 THIS PETITIONER RESPECTFULLY SUBMITS THAT, IN HIS CASE, THERE WAS A TOTAL  
19 SUPPRESSION OF THIS DEFENSE OR EVEN ANY MEANINGFUL INVESTIGATION INTO IT.  
20 THIS PETITIONER ALSO RESPECTFULLY SUBMITS THAT HIS CASE DIRECTLY PARALLELS  
21 THE PEOPLE V. MOZINGO AND SEIDEL V. MERKLE CASES. MY COUNSELS' (ESPECIALLY  
22 NORTHAM AND CARRELI) WERE "PREJUDICIALLY INEFFECTIVE FOR FAILING TO  
23 CONDUCT A REASONABLE INVESTIGATION OF GUILT AND PENALTY PHASE MENTAL  
24 DEFENSES. COUNSEL MADE NO INVESTIGATION INTO HIS CLIENTS PSYCHIATRIC  
25 HISTORY DESPITE ABUNDANT SIGNS IN THE RECORD THAT (THE DEFENDANT)  
26 SUFFERED FROM MENTAL ILLNESS" - SEIDEL V. MERKLE, 146 F. 3D 750 (9TH CIRCUIT  
27 1998). " COUNSELS' INACTION MEANT THAT HE COULD NOT HAVE MADE AN INFORMED  
28 TACTICAL AND STRATEGIC DECISIONS AND THEREBY DEPRIVED THE DEFENDANT OF A  
POTENTIALLY MERITORIOUS DEFENSE OR MITIGATING CIRCUMSTANCE." PEOPLE V.  
MOZINGO, 34 CAL. 3D 926, 196 CAL. RPTR. 212, 671 P. 3D 363 (CAL. 1983). THIS  
PETITIONER'S PSYCHIATRIC HISTORY INCLUDES NUMEROUS EMERGENCY PSYCHIATRIC  
PLACEMENTS FOR DEPRESSION, BI-POLAR, SUICIDE IDEATION, PSYCHOTIC EPISODES  
AND VIOLENT, EMOTIONAL OUTBURSTS BEGINNING AT AGE NINE AND HAS INCLUDED  
IN-PATIENT PLACEMENTS AT WILLOW VIEW PSYCHIATRIC FACILITY IN STAR, OKLAH..

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
9

10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...CENTRAL OKLAHOMA JUVENILE TREATMENT CENTER IN TECUMSEH, OKLAHOMA,  
13 MODESTO PSYCHIATRIC CENTER IN MODESTO, CALIFORNIA, SONORA DESERT HOSPITAL  
14 IN TUCSON, ARIZONA, RAMSEY CANYON TREATMENT CENTER IN SIERRA VISTA, ARIZONA,  
15 VISION QUEST OF ARIZONA IN EL FRIDA, ARIZONA, HUMBOLDT COUNTY MENTAL HEALTH  
16 IN EUREKA, CALIFORNIA, METROPOLITAN STATE HOSPITAL IN NORWALK CALIFORNIA AS  
17 WELL AS OTHERS. WHILE INCARCERATED AT THE SHASTA COUNTY JAIL, THIS  
18 PETITIONER WAS ORDERED TO BE PLACED IN A SUICIDE CELL FOR HIS OWN  
19 PROTECTION OVER ONE DOZEN TIMES. ALL OF THIS PETITIONERS' COMPETENCY (CALIF.  
20 PENAL CODE 1368) DOCTORS NOTED HISTORY OF AND CONTEMPERANEOUS SIGNS OF  
21 MENTAL ILLNESS IN THE PETITIONER AND WERE MOSTLY UNIFORM IN THEIR DIAGNOSIS  
22 THAT THE PETITIONER SHOWS EVIDENCE OF SEVERE DEPRESSION, P.T.S.D., BI- POLAR,  
23 PSYCHOTIC FEATURES, SCHIZOID, SUICIDE IDEATION, HOMICIDAL THOUGHTS, SEVERE  
24 ANXIETY AND IMPULSIVE AND REACTIVE BEHAVIORS. NOT ONLY DID ATTORNEYS' FOR  
25 THIS DEFENDANT FAIL TO INVESTIGATE FOR THIS EVIDENCE, DESPITE BEING  
26 REPEATEDLY REQUESTED BY THIS DEFENDANT THAT THEY DO SO, BUT NONE  
27 SUBPOENA'D ANY RECORDS OF THE ABOVE HOSPITALIZATIONS OR EVEN PRESENTED  
28 EVIDENCE OF THIS PETITIONERS' HISTORY AS MITIGATING CIRCUMSTANCE, THEREBY  
DEPRIVING THIS PETITIONER NOT ONLY OF THE DEFENSE, BUT HIS RIGHT TO PRESENT  
MITIGATION AS WELL. ALL OF THIS PETITIONERS' ATTORNEYS WERE AWARE BOTH OF  
THE MENTAL HISTORY OF THIS DEFENDANT, BUT ALSO WERE MADE AWARE BY THIS  
DEFENDANT OF THE LAW IN REGARDS TO THESE DEFENSES AND THE STRIKING  
PARALLELS BETWEEN DOCTORS' OBSERVATIONS AND THE BEHAVIOR REPEAT...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
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10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...EDLY ATTRIBUTED TO THIS DEFENDANT. NOT ONCE, IN THE ENTIRE PROSECUTION OF  
13 THIS DEFENDANT DID ANY ATTORNEY OFFER THIS PETITIONER'S LIFE-LONG AND  
14 DEBILITATING MENTAL ILLNESSES IN MITIGATION. THIS INCLUDES THIS PETITIONER'S  
15 CHANGE OF PLEA PROCEEDINGS AND SENTENCING. THIS PETITIONER DOES  
16 RESPECTFULLY SUBMIT THAT PROSECUTIONS ACTIONS IN CHARGING, PROSECUTING  
17 AND NEGOTIATING PLEA OFFERS WERE CONTINUOUSLY MOTIVATED AS MUCH BY  
18 RETALIATION AS ANY LEGITIMATE PROSECUTORIAL FUNCTION. THIS PETITIONER DOES  
19 RESPECTFULLY SUBMIT, THAT PROSECUTORS RECALCITRANT AND OVER-ZEALOUS  
20 TACTICS, STATEMENTS, MIS-REPRESENTATIONS AND ERRORS DID CAUSE  
21 INNUMERABLE PREJUDICES TO THIS DEFENDANTS ABILITY TO AVAIL HIMSELF TO DUE  
22 PROCESS AND DENIED THIS DEFENDANT OF CRITICAL RIGHTS SUCH AS BAIL,  
23 DISCOVERY, CONFRONTATION OF WITNESSES, PREPARATION FOR TRIAL AND EFFECTIVE  
24 COUNSEL. THIS PETITIONER DOES RESPECTFULLY SUBMIT THAT THE COURTS' REFUSAL  
25 OR INABILITY TO RECOGNISE THE DANGERS POSED TO THIS DEFENDANT AND TO  
26 REMEDY THESE CONDITIONS WAS INARGUABLY A FAILURE TO PROTECT AND INSURE  
27 FAIR PROCEEDINGS. THIS DEFENDANT DOES RESPECTFULLY RESERVE ANY RIGHTS HE  
28 MAY HAVE TO FURTHER ELUCIDATE, EXPOUND UPON OR OFFER NEW OR CLARIFYING  
EVIDENCE TO THIS HONORABLE COURT. AS A NON-ATTORNEY, THIS PETITION HAS BEEN  
EXCEEDINGLY DIFFICULT FOR THIS PETITIONER TO UNDERTAKE AND AS THIS  
PETITIONER IS WELL AWARE OF FILING DEADLINES AND WISHES TO FILE THIS PETITION  
IN A TIMELY MANNER, THIS PETITIONER DOES HEREBY NOTICE THE COURT THAT THE  
ISSUES RAISED IN THIS PETITION ARE MOST, BUT NOT ALL OF THE VIOLATIONS OF...

1  
2 ROBERT A. GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 H A B E A S C O R P U S  
8 L E G A L A R G U M E N T  
9

10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...THIS PETITIONERS' CONSTITUTIONAL RIGHTS. THIS PETITIONER DOES RESPECTFULLY  
13 INFORM THIS COURT THAT THE TOLL UPON THIS DEFENDANT TO HIS ALREADY FAILING  
14 MENTAL HEALTH CANNOT BE MEASURED. THE DISTRUST OF AUTHORITY AND DAILY  
15 ANGER, OUTRAGE, PAIN AND SUFFERING OF THIS DEFENDANT BECAUSE OF HIS  
16 TREATMENT BY THE SHASTA COUNTY COURT CANNOT BE MEASURED. THE ABSOLUTE  
17 AND ALL-CONSUMING RESOLVE OF THIS DEFENDANT TO HAVE JUSTICE IN THESE CASES  
18 CANNOT BE MEASURED OR EXPRESSED IN WORDS. THE GREAT PHILOSOPHER PLATO IS  
19 CREDITED WITH SAYING THAT JUSTICE IS THE DOING AND THE HAVING OF WHAT IS  
20 ONES' OWN. THE SHASTA COURTS' DEPRIVED ME OF WHAT WAS MINE, FROM THE  
21 ABILITY TO LIVE IN MY HOME, TO KNOW AND PROTECT MY DAUGHTER, TO SEEK SANITY  
22 AND PEACE, TO WORK AND OWN AND ENJOY MY LAND, TO FEEL SAFE AND FREE AND TO  
23 PURSUE HAPPINESS. THIS CASE CANNOT STAND. IT WAS NOT THE PASSION-LESS  
24 DISPENSATION OF JUSTICE, BUT THE TEARING DOWN OF A HUMAN BEING BECAUSE A  
25 COMMUNITY DID NOT VALUE HIS FEELINGS, HIS DIFFERENTNESS, HIS UNIQUE-NESS. MY  
26 DEAR AND HONORABLE LORDS, THIS CASE CANNOT STAND!!! MY VERY RIGHT TO BE  
27 HEARD WAS CALLOUSLY DENIED ME. MY HUMAN RIGHT TO BE UNDERSTOOD WITHIN  
28 THE CONTEXT OF MY LIFE, TO HAVE EMOTIONS, TO PROTECT MY FAMILY AND WHAT  
WAS MINE WAS UNCONSCIONABLY STRIPPED AND MY HUMANITY WAS LAID BARE AND  
RAW. I MAY NOT HAVE KNOWN HOW TO PROTECT MYSELF OR HOW TO PROVE MY  
INNOCENSE, BUT IT WAS NOT MY OBLIGATION TO PROVE MY INNOCENSE, IT WAS THE  
COURTS OBLIGATION TO PROVE MY GUILT. I MAY HAVE OVER-REACTED TO THINGS OR  
BEEN LESS THAN DILIGENT IN CENSORING MY OWN SPEECH, BUT THIS SOCIETY ...

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1  
2 ROBERT A, GIBBS  
3 P.O. BOX 881  
4 FOWLER, CA. 93625  
5

6  
7 HABEAS CORPUS  
8 LEGAL ARGUMENT  
9

10 IN AND FOR THE UNITED STATES DISTRICT COURT OF CALIFORNIA, EASTERN DISTRICT.  
11

12 ...SHOULD NEVER SEEK TO CRIMINALIZE ITS' CITIZENS FOR ATTEMPTING TO DEFEND  
13 THEMSELVES OR FOR HAVING FEELINGS THAT ARE TOO POWERFUL FOR THEM TO  
14 CONTROL. PLATO ALSO SAID THAT JUSTICE IS THE EFFECTIVE HARMONY OF THE WHOLE.  
15 DOES THE WHOLE NOT INCLUDE ME? DO PEOPLE LIKE ME NOT CONTRIBUTE ANYTHING,  
16 DESPITE OUR FAILINGS OR DEFECTS, TO SOCIETY? HOW DO WE JUDGE A MAN IN A  
17 VACCUUM, BY ONLY OUR VALUES AND NONE OF HIS, THROUGH OUR EYES AND NEVER  
18 BY SEEING WHAT HE SEES? MY LORDS, I BEG YOU, FROM THE BOTTOM OF MY SOUL,  
19 WITH EVERYTHING I AM OR HAVE EVER BEEN OR WILL EVER BE; PLEASE TELL ME I AM  
20 NOT WRONG. PLEASE TELL ME THAT MY WEAKNESSES AND MY FOIBLES AND MY VERY  
21 WAY OF SEEING AND INTERACTING WITH THE WORLD, WHILE MAYBE DIFFERENT FROM  
22 YOURS OR ANOTHERS, DOES NOT MAKE ME A CRIMINAL. RESPECTFULLY, R.G.  
23

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