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SHASTA COUNTY SUPERIOR COURT  
REDDING BRANCH  
BY N. CARR

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cc: DA  
ATTY  
Prob

May 13, 2015

The Honorable Daniel E. Flynn  
Judge of the Superior Court  
County of Shasta  
1500 Court Street, Rm. 219  
Redding, CA 96001

Re: Robert Alan Gibbs  
Age: 42; Birth Date: 3/09/1972  
Court Nos.: 13-004854;  
14-006355

Dear Judge Flynn:

This letter reports on my findings and opinions from psychological evaluation of Mr. Robert Alan Gibbs in response to your order to examine this man pursuant to Section 1368 P.C. regarding his competence for trial.

In connection with my study, I reviewed the background information provided by the court:

State of California Department of Fish and Game arrest/investigation report regarding investigation of Robert Alan Gibbs for illegally altering a streambed on 3/08/13, citation no. AD1861358;

Anderson Police Department records regarding investigation of Robert Alan Gibbs for threatening Mitch Crofoot, the parole agent for Mr. Gibb's girlfriend Cheri Dubuque, on 7/21/14, report no. 14-10058 and supplements;

California Highway Patrol records regarding investigation of Mr. Gibbs for reckless driving with children in his vehicle on 7/22/14, CHP Narrative Report NCIC135;

The Criminal Complaints in the People vs. Robert Alan Gibbs in cases 13-0048757, 14-0004854, and 14-006355;

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The Minute Orders appointing Dr. Saunders and me to evaluate Mr. Gibbs on the issue of his competence for trial under 1368 P.C.

I saw Mr. Gibbs for evaluation at the office of the Shasta County Public Defender on 4/30/15, at which time I interviewed him, solicited a past and recent personal history, surveyed his mental status, and administered the following psychological test samples: Kincaannon Mini-Mult (a shortened form of the MMPI) and Competence for Trial Assessment Instrument (a survey of those variables most relevant to the issue of competence for trial).

OVERVIEW:

Robert Alan Gibbs is a 43 year old, married (common law), Caucasian male who is currently self-employed developing undeveloped rural properties. He has been living with his girlfriend Cheri Dubuque for about two years on property off 299 West on the way to Buckhorn Summit.

As detailed in the body of this report, Mr. Gibbs had a terrible childhood. His father is an alcoholic and his mother likely was mentally ill and certainly neglectful. He reported he was institutionalized from age 9 to 15. He said that at only 9 years old his mother had him committed to a boys ranch in Oklahoma, where he says he was sexually abused by older youth and a staff member. He then spent years in a state mental hospital. After his father retrieved him from the mental hospital, Mr. Gibbs was kicked out of school in the 7<sup>th</sup> grade after he brought a knife to school. He spent four years in prison in Oklahoma for selling illegal drugs. He spent many years working as a sporadically employed day laborer and carpenter, often homeless and living on the streets, before both his parents passed away and he inherited some money, which he has used to develop undeveloped rural properties, the first in Humboldt County and now in Shasta County.

The current charges against Mr. Gibbs are unusual: 13-00048757/DIVERT OR OBSTRUCT THE NATURAL FLOW OF A RIVER OR STREAM (M), PLACE/ETC POLLUTANT NEAR STATE WATERS (M), POLLUTING WATER (M), and TRESPASS BY DRIVING ON PROPERTY (M); 14-004854 CRIMINAL THREATS (F); 14-006355 RECKLESS DRIVING WITH DISREGARD FOR PUBLIC SAFETY (M), and CHILD ABUSE (F).

As detailed in the body of this report, I found Mr. Gibbs a different and difficult man. He initiated a 1368 evaluation by declaring himself incompetent. It took five separate telephone conversations with him, about an hour-and-a-half altogether, and two telephone conversations with his girlfriend Ms. Dubuque to handle what should be the simple transaction of making an appointment with him. Although he seems to be a fairly intelligent man, and clearly understands the charges against him, he really does not seem

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to understand how the criminal justice system works. He repeatedly told me he is incompetent because he wants a new attorney appointed for him and also wants to have the charges against him reduced from felonies to misdemeanors. At the same time that he seeks a finding of incompetence, he does not want to be forced in to psychiatric treatment nor committed to a trial competency program. Listening to others and incorporating new information into his decisions is clearly not his strong suit. I found him argumentative, unreasonable, and stubborn, so much so that I concluded that he is not competent for trial.

#### HISTORY/BACKGROUND:

I found it difficult to obtain a clear history for Mr. Gibbs, not because he was uncooperative, but because he tended to take off on tangents and pile on much extraneous and often irrelevant detail. Nonetheless, the salient features of his history, as reported by Mr. Gibbs without external corroboration, are as follows:

#### Family:

He is the son of Robert Warren Gibbs and Mary Ann Sutton, a divorced couple. He was born in Hayward, but said he grew up mostly in Oklahoma, Salinas, and Eureka, CA. He has three half-sisters, two by his mother and one by his father. His father worked for PG&E as a career. He is not sure what kind of work his mother did.

As described by Mr. Gibbs, his childhood and family life during his formative years was troubled and traumatic. He reported his parents divorced when he was around 6 years old and he stayed with his mother. He reported his father was a "heavy alcoholic." He suggested his mother might have been mentally ill.

Mr. Gibbs told me he was only 9 years old when his mother had him made a ward of the court and sent to the Oklahoma Boys Ranch, "a fundamentalist Christian program." He reported his mother sent him to the Boys Ranch "...because she wanted to be free to find a new husband." He told me that at the Boys Ranch he was sexually abused by older youth and one of the staff members. He was sent to the Central Oklahoma Juvenile Treatment Center for a year. He reported that from there, "I was in a mental hospital from age 10 to 15." At age 15 Mr. Gibbs' father obtained custody of him and he went to live with his father in Stockton. This did not go well. He reported that being bullied at school, he took a knife to school and was expelled. He said his father's attitude was basically, "You are on your own." adding, "My dad was an asshole." Somewhat Mr. Gibbs ended up in Arizona, where he was convicted for selling drugs. "I had two hits of acid on me. I went to prison because I wouldn't snitch on somebody." He is still bitter about this arrest, "They waited until I turned 18 and tried me as an adult." He said he served four years in prison on a five years sentence at Cimarron in Arizona.

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Mr. Gibbs reported he was estranged from both his parents and had not spoken with either for years before his parents both passed away several years ago. Mr. Gibbs said he is also estranged from two of his three half-siblings, "The only one I speak to is Karen, from my father's side."

#### Educational:

According to Mr. Gibbs, he never did very well in school, most of which was while he was in institutions. However, he said he did not repeat any grades nor attend any special education programs. As noted earlier, he was expelled from high school in the 9<sup>th</sup> grade and never returned to school. He noted he completed a high school equivalency by passing a GED while he was in prison. He described himself as "self-educated" in that he has not had any further formal education over the years.

#### Occupational:

Mr. Gibbs told me he worked as day laborer/carpenter for some 15 years. However, he was apparently unemployed, homeless and living on the streets for long periods of time until he was awarded social security disability benefits. I think this was about seven or eight years ago while he was in a state mental hospital in California.

Mr. Gibbs reported that after he inherited money from his parents he put that money into buying unimproved rural property, without roads or water, which he could develop and turn for a profit. He said his first venture into this area, in Humboldt County was unsuccessful because he was incarcerated in Humboldt County. He then bought an unimproved property in Western Shasta County, "166 acres in the woods east of Buckhorn Summit." He noted he built a cabin on the property. It looks like he and his girlfriend have been living there for about two years.

#### Marital/Relationships:

Mr. Gibbs has never legally married. He reported he lived with a woman in Humboldt County for some seven years before she broke up with him while he was incarcerated. He said he has been in a relationship with Cheri Dubuque for about two years. The couple have one child in common, toddler Forrest Gibbs (birthdate 1/27/14).

Mr. Gibbs reported Ms. Dubuque was on parole under the supervision of CDC Parole Agent Mitch Crofoot, but is now off parole.

As described, Mr. Gibbs and Ms. Dubuque have a stormy relationship. He cancelled his second appointment with me when the couple got into a fight that prompted neighbors to call the police. After a welfare check, the police reported the couple to Shasta County CPS. At this point CPS is monitoring the situation while the child remains at home.

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Medical:

Mr. Gibbs did not report any history for serious illness nor injury. He does not have a primary care physician. He does not take any medications at all.

Substance Abuse:

Mr. Gibbs denied any history for alcohol abuse, "I drink sparingly, maybe a beer once a month." However, he acknowledged a long history for using marijuana, "I have a 215 recommendation for anxiety and depression." He apparently smokes marijuana every day. He also acknowledged using LSD as a young man, but no other illegal drugs.

Conflict With the Law:

Mr. Gibbs' file did not contain a copy of his arrest record. I thought him somewhat evasive about his priors, "You would have to look at my rap sheet."

As noted earlier, Mr. Gibbs served four years in prison in Arizona, age 18 to 22, for selling a controlled substance.

In a complicated and difficult to follow account, Mr. Gibbs reported he was falsely accused of possession of a firearm by a felon in Humboldt County. He told me he served 291 days in county jail and was committed to a trial competency program at Napa (I think) before the case was ultimately dismissed. He said he has been out of the hospital for five or six years now.

The current charges pending against Mr. Gibbs were noted early in this report

Psychological/Psychiatric:

As reported earlier, Mr. Gibbs said he was in a mental hospital in Oklahoma from age 10 to 14/15. He did not report any history for outpatient psychiatric treatment, but as noted earlier said he was committed to a state mental hospital as incompetent for trial seven or eight years ago. He said he was diagnosed for a bipolar disorder at the hospital, but does not believe he is bipolar, "I have PTSD from abuse. ... I also have PTSD from Fish and Game putting a gun to my head."

As detailed later, Mr. Gibbs is actively seeking a finding of incompetence for trial. However, he does not want psychiatric treatment nor another commitment to a state mental hospital, although he said he would go if he had to go.

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MENTAL STATUS:

At 6 feet 3 inches and 195 pounds, Mr. Gibbs is a tall, slender, younger, early middle aged Caucasian male. He said he may have some Native American ancestry as well. He presented for the interview casually dressed, but adequately groomed. He had a full beard. I thought he looked his stated age. His attitude was cooperative although he was often argumentative.

During my interview with Mr. Gibbs, he was alert and adequately oriented for time, place, person, and affect. He did not appear particularly anxious. His thought processes were mostly orderly and organized without any indications for thought disorder or psychotic processes. He denied any history for hallucinations. He did not give voice to any clearly deluded thought.

Mr. Gibbs' overall mood appeared at least mildly depressed, but he demonstrated wide ranging and appropriate affect. ~~He demonstrated an appropriate "good."~~ He reported chronic disturbance of sleep. He acknowledged he often has suicidal ideation without any specific plan, noting "I always feel guilty about something. I don't know what."

Mr. Gibbs' general vocabulary, word use, report of history, and ability to grasp ideas and concepts suggested average to maybe high average mental abilities. He did not demonstrate any obvious defect of memory in an interview situation.

Overall, Mr. Gibbs related to me in an appropriate, task-oriented way, and was cooperative in attitude with respect to all phases of my study.

TEST RESULTS:

In order to try to obtain a better fix on Mr. Gibbs' mental health problems, I administered the Kircannon Mini-Mult. This is a shortened form of the Minnesota Multiphasic Personality Inventory, the most widely used objective measure of personality functioning and psychiatric status. Mr. Gibbs' responses to the Mini-Mult produced a valid profile with clinically significant elevations on scales 8 (Schizotypal), scale 2 (depression) and 4 (psychopathic deviate) all 3 standard deviations above the norm, scale 6 (paranoia) 2 standard deviations above the norm, and the balance of the clinical scales within normal limits of variation (Wechs extended code: 824; § 1 3-79/LF/K). As a shortened form of the MMPI, the Mini-Mult produces consistently higher elevations on the clinical scales (indicative of symptomatic disturbance in the various areas) than the full MMPI, (which has a great many more items), but pattern/configuration (indicative of diagnostic expression) is much more consistent between the two forms of the instrument. In this instance this is an 824-6/248-6 MMPI

\*  
 profile type. As might be expected, this is an unusual profile type from an unusual man. The majority of psychiatric patients with this profile type are diagnosed for a psychotic disorder, most often schizophrenia (about 58%), although a significant subset are diagnosed for anxiety and/or depressive disorders (about 33%). Symptoms typically include tension, anxiety, depression, and obsessional-rumination, orientation, and difficulty concentrating - all of which Mr. Gibbs reported and/or demonstrated. Men with similar profiles overreact to even minor problems. They fear emotional commitment, have problems making decisions, and are consciously guilt-ridden, which Mr. Gibbs also demonstrates. These individuals are also likely to be described by others as irritable, resentful, and high strung - which certainly fits my experience with Mr. Gibbs.

From a diagnostic perspective, it is difficult to determine if Mr. Gibbs does demonstrate a psychotic disorder or a severe anxiety/depressive - obsessive disorder. The most common approach to treatment is with anti-anxiety and antidepressant medications and antipsychotics with generally fair results.

**DSM V DIAGNOSTIC IMPRESSION:**

AXIS I Clinical Psychiatric Syndromes:

- \* 309.81 Post-Traumatic Stress Disorder, Chronic
- 205.20 Cannabis Use Disorder, Moderate

II Personality and Developmental Disorders:

- 301.9 Personality Disorder With Borderline, Narcissistic, and Obsessive-Compulsive Characteristics

III Physical Disorders:

- In reported good health with no known physical disorders or symptomatic complaints.

Medical diagnosis deferred to physician opinion.

IV Psychosocial Stressors:

- Conflict with the law and facing multiple felony and misdemeanor charges
- Marital/relationship discord

**DISCUSSION:**

I provided an Overview of Mr. Gibbs' history early in this report and details in the body of the report.

As reported in the Overview section, Mr. Gibbs is currently facing multiple felony and misdemeanor counts in three open cases.

At issue in this evaluation is Mr. Gibbs' competence for trial.

**Regarding psychiatric diagnosis:**

I have found it difficult to formulate a solid diagnosis for Mr. Gibbs. In order of confidence:

By his own admission Mr. Gibbs is a chronic user of Cannabis and likely dependent on this drug as a prerequisite to his sense of normal functioning.

I also think Mr. Gibbs meets diagnostic criteria for PTSD arising from the physical and sexual abuse he encountered during his formative years. There may also be an element of PTSD from his arrest by Fish and Game, where he says the officer put a gun to his head.

I think there is also evidence for character disorder with an odd mixture of narcissistic, borderline, paranoid, and obsessive-compulsive characteristics.

As noted earlier, Mr. Gibbs told me he was diagnosed for bipolar disorder when he was in a state mental hospital, but I did not find compelling evidence for this diagnosis.

Mr. Gibbs does not appear to be psychotic and demonstrating a schizophrenia spectrum disorder. However, I could be wrong about that.

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Regarding competence for trial:

Mr. Gibbs was aware of the charges against him, "The main thing in the 2013 case is diverting or obstructing the natural flow of the stream and polluting it...next there is sending a text to Cheri's parole agent and threatening him...reckless driving and child endangerment." As might be expected, Mr. Gibbs disputed the facts in all three cases, claiming he is innocent on the first two cases although he conceded he "passed a double yellow line and might be guilty of slightly reckless driving." He demonstrated a basic and I think adequate understanding of courtroom procedures and the roles of the principal officers of the court: defense counsel ("to represent his client to the best of his ability"), the prosecutor ("not to overcharge, not to be biased, to prosecute and try to convict"), and the judge ("to protect my rights, which Judge Flynn is not doing, make a decision if there is no jury"). He understands the role of a jury, "They listen to everything and make the ultimate decision."

It is on the second-prong of the legal test for competence -- Mr. Gibbs' ability to cooperate with his attorney in a rational way -- where Mr. Gibbs appears problematic. As noted, he disputes most of the charges against him. He told me, "On the Fish and Game case, I will plead not guilty. I own the property... The stream I diverted is a tributary of a tributary to a state waterway; and not a state waterway. I put in a one inch waterline on the creek, fed by gravity for my cabin. What's wrong with that? ... They ought to have to consider if you have a family and if you are not on probation. They are completely aggressive. Fish and Game put a gun to my head. I didn't know who they were. I have had a year-and-a-half of nightmares over this, loss of sleep and appetite." On the case involving threatening his girlfriend's parole officer, Mr. Gibbs told me, "I will plead not guilty. He elaborated, "I think the e-mail speaks on my behalf, exculpatory...My references to kill him were just part of the anger. I have a right as a family member to express myself. The guy was mean to Cheri."

On the reckless driving/child abuse case, Mr. Gibbs said, "I'm guilty of 204060, crossing a double yellow line. I'm not guilty of child endangerment...I will not plead guilty to child endangerment. I might plead guilty to slightly reckless driving." Mr. Gibbs was insistent, "I've been overcharged. I would be willing to make some kind of deal with these people, I just don't believe I should be in felony court."

In that connection, Mr. Gibbs is upset and angry with his attorney, Mr. Cotta for not having the charges against him reduced to misdemeanors or dismissed but that is not something Mr. Cotta or any defense attorney for that matter can do on their own. Mr. Gibbs seems to believe that raising the issue of incompetence will provide him a new attorney. He would not listen to reason on this score. I told him this is like having his refrigerator broken and trying to fix it by repairing the stove. Unfortunately, that comparison seemed lost on him. Also, although he wants a finding of incompetence, he does not want to submit to psychiatric treatment or to go to a trial competency program at a state mental hospital.

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Based on the preceding, I do not believe Mr. Gibbs could assist his defense counsel in realistically challenging prosecution witnesses. Based on my experience with the man, he could not testify on his own behalf in a rational way.

Trying to weigh all these considerations, I offer the following opinions:

1. Mr. Gibbs is presently able to understand the nature and purpose of the criminal proceedings being taken against him.
2. He comprehends his own status and condition as a criminal defendant in relation to the proceedings.
3. Mr. Gibbs is not presently capable of assisting defense counsel in conducting his defense in a rational way.
4. Mr. Gibbs is not capable of representing himself and conducting his own defense in a rational manner.
5. If Mr. Gibbs is determined to be incompetent to stand trial, treatment with psychotropic medications would be medically appropriate and might restore him to mental competence. The question is, what psychotropics? I think he would likely benefit from anti-anxiety and antidepressant medications. He might benefit as well from antipsychotic medications, although this is not entirely clear to me. In any event, in my opinion Mr. Gibbs is a) not presently able to make informed and rational decisions regarding his need for medications or the type b) He may be a danger to himself or others without psychiatric treatment, and c) most psychotropic medications have a potential for adverse side effects. I think it most likely it will take further diagnostic study and trials of medication to determine which will be the most beneficial to him.

Thank you for referring this interesting man and challenging man. If you have any questions or comments, do not hesitate to contact me.

Yours Sincerely,

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DLW/jp