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April 5, 2016

The Honorable Daniel E. Flynn
Shasta County Superior Court

In the matter of the People vs. Robert Alan Gibbs, Defendant
Court Case Nos. 13-04757; 14-06355; 14-04854; 15-05736; 15-05464
A CPC Section 1368/1370 et seq Psychological Evaluation

Dear Judge Flynn:

Pursuant to an appointment by the court, I recently completed a psychological examination on Mr. Robert Alan Gibbs for the purpose of addressing issues relating to this man's current levels of intellectual/mental, social, and general psychological functioning; particularly as knowledge of and database in these things may assist me in determining whether or not Mr. Gibbs is competent to stand trial.

The CPC Section 1368/1370 et seq Competency Test is two-pronged and involves the questions of whether or not Mr. Gibbs is aware of and understands the nature and consequences of the proceedings currently pending against him, and whether or not he is capable of assisting his attorney in a rational manner during the conduct of Mr. Gibbs' defense.

This assessment of Mr. Gibbs began with my thorough examination of the relatively large packet of information that had been forwarded to me by the Clerk of the Criminal Division of the Shasta County Superior Court. I next met with Mr. Gibbs in interview room 1 of the Shasta County Jail on the morning and into the afternoon of April 5, 2016. This meeting lasted 2 hours and 45 minutes, and during that time I conducted structured clinical interview followed the administration of an abbreviated form of the Verbal Part of Wechsler Adult Intelligence Scale-Revised. I also took the opportunity to speak with mental health professional Mary Barnes, as well as the jail's correctional sergeant. I was told that Mr. Gibbs was being housed in the Administrative Segregation Unit of

the jail and mostly for his own protection. However Mr. Gibbs, according to the sergeant, was not a deportment problem and never showed any aggressive types of behavior toward inmates or jail staff. Mrs. Barnes informed me that Mr. Gibbs showed no interest in or motivation toward working with mental health staff in terms of receiving psychoactive medications.

Having learned that Mr. Gibbs refused to come down to see Dr. Carlson, who was originally appointed to the case, I was not sure what to expect in terms of him cooperating or not cooperating with me. Mr. Gibbs did come down to see me, a single officer, non-restraint escort. He was dressed in typical jail attire and he appeared to be in relatively good physical health. There were no observable outstanding physical characteristics. Mr. Gibbs is a 44 year old Caucasian male who is slightly taller than average in height, medium to slender build, and appearing to be his stated age.

Upon introducing myself to Mr. Gibbs he immediately made a comment that I was not Dr. Carlson, and he was curious as to why Dr. Carlson did not come to see him instead of me. I explained the situation to him and he seemed to fully understand and appreciate that explanation. At that time and toward the end of the lengthy interview process Mr. Gibbs also commented how he heard good things about me, and was in hopes that I would be able and willing to objectively and empathetically listen to what he had to say. At that point in time he also commented that he believed he was competent to stand trial.

During the entire time Mr. Gibbs and I were together he was very respectful, and always friendly and cooperative. He was an open and spontaneous interviewee, more than task-oriented, but at times difficult to keep adequately focused and on track. He had a lot to say and seemed pressured and hurried to make sure that none of what he had to say was left out. It was important for him to receive acknowledgement from me, throughout the interview, that I was listening to him and sensitive to the history he was providing me. In this regard I found Mr. Gibbs to be a decent informant and historian; and someone who possessed good levels of personal and psychological insight, and a good to excellent capacity to articulate his thoughts and feelings. At times however, the information he was providing came in the form of a deluge which often necessitated my interrupting him, or having to work hard keeping him from wandering from thought to thought.

Mr. Gibbs' eye contact was good and his affect was intense, but was otherwise stable and appropriate. He seemed to have no difficulty maintaining an evenly modulated emotional tone and mood. He was alert and oriented to person, time, and place. Ego strength appeared to be adequately intact and reality testing was

functional. There were no gross signs of tendencies on his part toward either the perceptual or cognitive distorting of reality. Thinking was for the most part adequately clear, lucid, and linear; and Mr. Gibbs' expressive and receptive language skills were good. Other than Mr. Gibbs appearing hypomanic, and with mild elements of pressured speech and racing thoughts, there were no oddities or peculiarities in his communicational and relationship style or demeanor. There were no signs of any organic brain syndrome or neurocognitive impairments. There were also no significant signs or symptoms suggesting the presence of an acute or chronic psychotic disorder by way of poverty of content, confused or disoriented thinking, fragmented or disorganized thinking, looseness in associations or cognitive slippage. On the other hand, I did observe circumstantial and occasional elements of tangential thinking, logical deficit, and grandiosity. Mr. Gibbs told me that he has in the past been diagnosed as suffering from Bipolar Disorder, Manic Type, and has on one or two occasions been prescribed the mood stabilizer Lithium. The symptoms that I observed in Mr. Gibbs on the morning and into the afternoon of April 5, 2016, were generally quite consistent with that particular DSM V diagnosis.

Mr. Gibbs was observed to be fully ambulatory and mobile while moving about interview room 1 and its adjacent jail corridor. There were no indications that he is experiencing any limitations or impairments in at least his gross motoric control, coordination, balance, or dexterity. Short and long-term memory functions were intact. Freedom from distractibility from outside sources or stimuli was good. At the same time there was always that rather hypo-manic behavior, or what some might describe or interpret as being the product of an Adult Attention Deficit Hyperactivity Disorder. There were no indications Mr. Gibbs is unable to control motoric impulses. I observed nothing to suggest any hearing or vision problems; nor were there any indications that Mr. Gibbs is suffering from disturbances in his auditory-language processing abilities.

I did not want to push my luck in terms of trying to administer to Mr. Gibbs the Wechsler Memory Scale-Revised. I was not even sure about attempting the WAIS-R, but when Mr. Gibbs started talking to me about his very high intelligence quotient I quickly utilized that opening to offer him the chance to prove it. He accepted and therefore I was able to administer to him an abbreviated form of the Verbal Part of the Wechsler Adult Intelligence Scale-Revised. Results on this test were essentially consistent with what he told me, and that is his innate verbal intelligence is at least Superior, and his functional verbal intellectual problem solving abilities fall well within the Superior range. He definitely presents as being someone very comfortable with his own mental faculties. Overall, I found that Mr. Gibbs' basic planning, anticipatory, input

integration, and organizational skills are adequately intact, but probably often very immature.

Overall intellectual test results and mental status did not reveal Mr. Gibbs to be someone who is experiencing any significant right or left hemisphere brain damage, neurological dysfunction, or learning disabilities. He displayed good word knowledge and vocabulary skills and a better than average ability to extend range of ideas and thinking. Conceptual thinking, general reasoning and logical thinking, and even capacity to manipulate higher abstractions is better than average as well. Overall then Mr. Gibbs, especially as I interacted with him, is able to engage others in verbal problem solving activities requiring college levels of analytical and critical thinking. I did not assess him as being prone toward becoming frustrated, uncomfortable, or disconcerted when having to deal with a variety of novel and complex cognitive matters.

Jumping around a great deal, Mr. Gibbs eventually provided me decent childhood-family and adult life histories. He was born in Hayward, the East Bay Area, California, on March 9, 1972. Family system was intact until he was 6 years of age at which time his father, after having had an extramarital affair, left his mother. There was, according to Mr. Gibbs, a very contentious custody battle, father eventually backing down or bowing out of the fight, leaving mother with full custody and the ability to relocate from California to central Oklahoma. Mr. Gibbs went on to state that he has no full biological siblings, but has three older half-sisters, and one older half-brother, some of them many years older than him, from both his mother and father.

Asked about his parents' occupations, Mr. Gibbs told me that his father worked for years for PG&E; while his mother, an artist-type personality, earned money selling her oil paintings and the jewelry that she made.

Mr. Gibbs used the term "parenting fatigue" when trying to explain why his mother, when he was only 11 years of age, placed him at some kind of pediatric psychiatric facility where he would spend the next 10 months of his life. Mr. Gibbs went on to describe how his mother apparently ran out of emotional and/or physical energy after raising a few other children and to the point where she no longer wanted any responsibility over Mr. Gibbs' life. He also informed me, when I questioned him about it, that she may have done everything she could, at least for a while, to keep Mr. Gibbs out of his father's care and custody. Apparently for years she held on to bitter feelings about her husband leaving her.

Instead of going back to his mother's care, or being brought out to his father's home on the west coast, Mr. Gibbs entered the Central Oklahoma Juvenile

Treatment Center when he left the psychiatric hospital. He remained there for a little over a year, up to about age 13-and-a-half, until his father finally got custody of him. His father was residing in Stockton, California at the time.

Shortly after Mr. Gibbs arrived at his father's home and started school he was expelled for bringing a knife or attempting to bring a knife on campus. As a result of that his father "kicked me out of the house"; and this might partially have been due to the fact that Mr. Gibbs' stepmother may not have wanted him in the home. He went on to tell me that he ended up on the streets, he was then arrested, and he spent six months at some kind of juvenile camp facility. From there, after exiting that facility, he spent some time at a group home in Sacramento before being kicked out, and was next sent to Vision Quest in Arizona. At age 16 he left Vision Quest, he returned to his father's home, and his father quickly put him on a plane and sent him to Tucson, Arizona. After that Mr. Gibbs was on his own.

At age 17 and while still in Tucson, Mr. Gibbs was arrested for selling LSD, and was sentenced to 5 years in an Arizona state prison. Mr. Gibbs went on to tell me that he was placed in a supermax prison, and served 4 years and 3 months of his time. While at that prison he earned his GED as well as an Associate of Arts Degree in Business.

Mr. Gibbs was probably able to survive as well as he did because of his high intelligence. I suspect that his perceptual-organizational and mechanical intelligence and skills are also in or around the Superior range. Over the next several years after leaving prison he worked in a number of different areas of construction and landscaping, and eventually moving from Arizona to Humboldt County with his live-in girlfriend of seven years. She had a college degree, I believe from the University of Arizona, and later went on to earn a Master's Degree in the Fine Arts. However she ended up leaving Mr. Gibbs when he got into some legal-criminal difficulties in Humboldt County, ended up in jail, and then following a CPC Section 1368/1370 et seq Psychological Evaluation, was sent to Metropolitan State Hospital.

Mr. Gibbs told me that he last worked as a fry cook for Big Foot Burger in Willow Creek. However since 2006, since leaving Metropolitan State, he has been on SSI. Over the past 10 years or so he has managed to utilize his limited income, profits that he has made from buying and reselling properties in Humboldt County, and about \$70,000 he was left by his father after his father died, toward the purchase of 166 acres in western Shasta County.

Along with his too frequent run-ins with different state criminal justice systems, Mr. Gibbs does have a rather significant history in terms of mental health

problems and needs. All indications are that at times he can seriously decompensate; perhaps even exhibiting psychotic symptom sequelae. He has had a couple of 5150s, his stay at Metro, and has been prescribed a number of different psychotic agents including the Lithium and the antipsychotic drug Zyprexa. Fortunately, at least according to Mr. Gibbs, he has no significant drug abuse history. The only drug Mr. Gibbs admitted to using, and chronically so, has been marijuana; other than trying LSD on two or three occasions.

Mr. Gibbs has never been married, but has had two significant heterosexual others, live-in relationships, including that seven year girlfriend who accompanied him from Arizona to California. More recently, he got involved with and began living with a parolee who had spent several years in the California state prison system, and for what Mr. Gibbs described as being an accomplice in a kidnapping and child sexual abuse matter. Theirs was a rather unstable and contentious relationship, eventually terminating, but not until it produced Mr. Gibbs' only child, a little girl.

I found Mr. Gibbs more than willing to talk about his multiple cases, though he generally presented himself as being more the victim than the perpetrator in terms of some of these charges. He told me about the reckless driving incident on highway 299, and how it was charged as a felony child endangerment because his little girl was in the car at the time. He described in detail to me the nature of his relationship with his recent cohabitant, and how an argument or fight between them resulted in two felony domestic violence charges, i.e. battery on a cohabitant, and a false imprisonment charge.

Mr. Gibbs went on to provide me with a lengthy story about how he was assaulted on his property by several Fish and Game Officers back in 2013; and as a result of that how he has been involved in an ongoing lawsuit against these officers and their department. He has been working with one particular attorney who works for the Department of Justice, and on his last phone call with this attorney he was told that the attorney's superiors wanted to get a judge to drop the case. This is what, according to Mr. Gibbs, triggered his tirade where he made multiple criminal threats. He described how he felt invalidated,

* * disempowered, further violated, which then triggered his serious emotional outburst or rant. * * Mr. Gibbs at that time in the interview talked more about his childhood, his early-onset and chronic PTSD, feelings of having been abandoned by both of his parents, and subsequently placed in different local and state systems that ended up abusing him even more. He insisted that all the threats he made over the phone were not at all serious, but rather intended to try to get that particular attorney to understand what he was feeling and going through. * *

Mr. Gibbs also spent a little bit of time talking to me about the property he has been developing, conflicts he has had with Caltrans, and the variety of charges brought against him by the state for the alleged damage he may have caused to the environment, and in particular a streambed that runs through his property. He stated how this too contributed to his experiencing feelings of having no control over his life, feelings that one or another system has been working against him; still more factors leading to the criminal threats he made.

Mr. Gibbs is aware that he has a number of different felonies and misdemeanors pending against him. When describing what a plea bargain is, he told me that the district attorney's office and his attorney are very close in terms of making a deal; that he has been offered 3 to 6 years prison time, leaving the final decision up to the court; while he has a 21 year exposure if he goes to court and is found guilty on all charges. He added that he is hoping he can end up in mental health court, where he would now be motivated to participate in some kind of therapy and psychoactive medication program.

Mr. Gibbs definitely knows the difference between a felony and a misdemeanor. He also knows the four different pleas a defendant can enter, telling me, "guilty, not guilty, no contest, and not guilty by reason of insanity." Mr. Gibbs told me that his attorney is Shaun Northam, and that in the past few years he has had a number of different attorney's from the Shasta County Public Defender's Office representing him. Asked about the role of an attorney, Mr. Gibbs responded, "He's an advocate...to defend me...to get me acquitted." The role of the DA is "to prosecute, to convict me." The jury, "They decide the facts, reach a verdict of guilty or not guilty." And the judge, "keeps it all fair...to sentence."

It is my opinion that criteria necessary for the first-prong of the CPC Section 1368/1370 et seq Competency Test have been met. Mr. Gibbs possesses very adequate knowledge about the multiple charges pending against him, and how serious some of these charges are, and what they could ultimately lead to in terms of sentencing to state prison. In this regard he possesses adequate appreciation for his status within the criminal justice system. Mr. Gibbs, especially by way of prior experiences in the criminal justice system, knows how the pending proceedings are going to work; and possesses very adequate knowledge about the roles of the significant others who will participate in those proceedings.

Mr. Gibbs and I talked quite a bit about his relationship with his current attorney, and his thoughts about having a Marsden Hearing in order to find another attorney. He talked about feeling that his attorney has not been proactive enough in his case; and discussed with me his own passive-aggressive behavior

when it came to his refusing to see Dr. Carlson, and refusing on two occasions to appear in court. This behavior was the result of frustration and anger, and not, he insisted, the byproduct of any mental illness.

* * It is important to note that not only did Mr. Gibbs talk about his status within what he considers to be an uncaring, uncompassionate, insensitive, and thoughtless county system; but he also was open in regards to admitting to his own failures, his immaturity, and his at times reckless and self-defeating lifestyle. Most of the time when Mr. Gibbs was interacting with me he did so as an intelligent middle aged man, possessing good encoding and decoding skills, and very functional social relationship skill and facility. At all times he engaged me in a thoughtful, self-protective, respectful, and friendly manner. He demonstrated good behavioral and emotional controls. Even as hypomanic as he was, bouncing from one issue to another at times, seemingly pressured to make sure I heard every word and every detail of what he had to say, there were never any times where I had experienced difficulty comprehending his messages. Nor did Mr. Gibbs ever exhibit any problem making sense of or understanding what I was saying to him. It was always just a matter of interrupting him or trying to get my own words in edgewise. * *

I never observed any significant psychotic symptom sequelae; nothing about Mr. Gibbs' mental illness or problems that seriously impaired his ability and willingness to communicate with me in an adequately effective and task-oriented manner. He may be unrealistic in his thinking about being mistreated, overly prosecuted to being somewhat persecuted in terms of several of the charges against him; and even a bit unrealistic in his hopes or optimism about getting a more favorable deal than one that has been so far offered, but not that much more than what many defendants experience or expect. Based upon the two-and-three-fourths hours of adequately productive conversation Mr. Gibbs and I had with one another, I am of the opinion that he would be able to work with his attorney in an adequately rational manner during the conduct of Mr. Gibbs' defense. Any problems that arise in this matter are likely to do so because Mr. Gibbs is an extremely emotional person, highly intelligent, but more emotionally than cognitively driven or dominated; and because real or not, he perceives his attorney as being too busy, too involved with other matters, and too indifferent to Mr. Gibbs' own plight. These definitely do not reach the level of being symptomatic of a psychosis, or being reason to once again place Mr. Gibbs at a state mental hospital. * *

It is this examiner's opinion that criteria necessary for both prongs of the CPC Section 1368/1370 et seq Competency Test have been met, and therefore Mr.

Page 9 - Robert Alan Gibbs, Defendant

Gibbs is competent to stand trial at this time. If the court has any further questions or need of input, please feel free to contact my office.

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