

IN THE CIRCUIT COURT OF THE Seventh JUDICIAL CIRCUIT,
IN AND FOR Volusia COUNTY, FLORIDA

VSO Case Number
20-20592

IN RE: PETITION FOR RISK PROTECTION ORDER

AGAINST *{Name of Respondent}* ██████████

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF Volusia

I, *{full legal name}* Nicholas Ryan Maletto, in my position as *{job title}* Deputy Sheriff with the *{name of law enforcement officer/agency}* Volusia Sheriff's Office, swear and affirm that the following facts are true and correct.

1. *{Name of Respondent}* ██████████ poses a significant danger of causing personal injury to himself/herself or others by having a firearm or any ammunition in his/her custody or control or by purchasing, possessing or receiving a firearm or any ammunition. The following specific statements, actions, or facts give rise to a reasonable fear of significant dangerous acts by the respondent:

On November 10th, 2020 at approximately 1342 hours, Deputy Maletto responded to ██████████ ██████████ Debarry in reference to a disturbance. Upon arrival, Deputy Maletto made contact with ██████████ (V1). She advised, at approximately 1330 hours, she was asleep in her bedroom when her ex-boyfriend, ██████████ (D1), arrived at the residence. ██████████ advised, she and ██████████ were together up until approximately 1 week ago,

2 Additional pages are attached.

2. *{Name of Witness}* _____ provided the following information based on his/her personal knowledge:

0 Additional pages are attached.

AFFIDAVIT CONTINUATION

FROM SECTION 1 _____
PAGE 1 _____ OF 2 _____

and their relationship was characterized by an expectation of affection. ██████ made entry to the residence utilizing a spare key which was kept under a small speaker on the back porch. A verbal argument ensued between ██████ and ██████ over alleged infidelity. A male, later identified as ██████ (W1), heard the verbal argument, and came out of the bedroom. ██████ then pulled out a small black semi-automatic handgun from his pocket, and began waving it around. ██████ indicated that his actions put her in fear for her life. ██████ then shoved ██████ down onto the bed. ██████ then attempted to utilize her cell phone to contact law enforcement; however, ██████ knocked her phone out of her hand to prevent her from summoning assistance. During this altercation, ██████ left the residence on foot. ██████ indicated that she tried several times to get away from ██████ but he did not allow her to leave. ██████ was able to retrieve her phone, and contact law enforcement. At this point, ██████ left the residence in his vehicle. ██████ completed a sworn written statement, and does not wish to pursue charges. She was provided with a Marsy's Law form. Deputies then made contact with ██████ when he returned to the residence. He and ██████ were in the front bedroom of the residence when ██████ arrived on scene. ██████ began banging on the doors and windows of the residence. ██████ and ██████ ignored ██████ banging on the door. They then heard ██████'s voice inside the residence, and ██████ went to confront him. ██████ heard ██████ saying "don't touch me." ██████ then attempted to intervene in the argument. ██████ then pulled a small black handgun from his pocket and brandished it in the air. ██████ then left the residence on foot. ██████ refused to complete a sworn written statement. Deputies located ██████ in Orange City, and detained him. ██████ was advised of the Miranda Warnings, and agreed to speak with deputies. He advised, that he went to ██████'s mother's residence in order to "surprise" ██████. ██████ knocked on the front door, windows, and back door with no answer. ██████ then utilized a hidden spare key on the back porch to make entry through the back door. ██████ was advised of the key's location by ██████'s mother several months ago. ██████ then indicated, that he noticed male clothing on ██████'s bed, and investigated further. ██████ then saw a male in the residence, and claimed he thought the male was an intruder. ██████ then drew his firearm. ██████ then came out, and a verbal argument ensued. ██████ insisted that there was no physical altercation. ██████ insists that he and ██████ are still together, and they had a date tonight which is why he thought it was ok to enter ██████'s residence. ██████ and ██████ both advised, ██████ and ██████ split up approximately one week ago. The break up was on bad terms due to ██████ holding ██████'s vehicle at his repair shop, and not returning it to ██████ after they split up. Deputy Maletto was shown the back porch by ██████. Deputy Maletto observed a key still in the back doorknob. ██████ indicated that it was the spare key. She directed Deputy Maletto to a small shelf in the enclosed porch. On the shelf, ██████ pointed out a small speaker which the spare key was hidden under, and advised it was several feet from where it ordinarily is. Deputy Maletto processed the speaker and exterior door for latent fingerprints, and ██████. Deputy Maletto also collected the spare key for processing. The prints and key were submitted to the District 6 evidence locker for processing. Deputy Maletto then made phone contact with ██████'s mother, Jennifer Morris (O1), who is owner of ██████. She advised, that she gave ██████ the location of the key several months ago, but, after ██████ and ██████ separated and the conflict over ██████'s car, ██████ was not welcome at her residence. Morris indicated, she wished to pursue charges for burglary against ██████ and would complete a sworn statement when she returned home from work.

AFFIDAVIT CONTINUATION

FROM SECTION 1 _____
PAGE 2 _____ OF 2 _____

Deputies obtained a voluntary consent to search form from ██████████ for his truck. Inside the truck, Deputies located a black Ruger LCP consistent with the description of the firearm given by ██████████ and ██████████. The firearm was collected and submitted to the District 6 evidence locker. Based on the totality of the circumstances, Deputy Maletto determined probable cause exists to charge ██████████ with burglary with a battery, aggravated assault, false imprisonment, and witness tampering. In addition, based on the nature of ██████████ and ██████████'s relationship the dating violence statute applies. ██████████ was placed under arrest, and transported to VCBJ without incident. Deputy Maletto completed a risk protection order on ██████████

3. Affiant ___ is X is not aware of any existing protection order governing the respondent under any applicable statute.

0 Known protection orders are attached

4. The quantities, types, and locations of all firearms and ammunition the petitioner believes to be in the respondent's current ownership, possession, custody or control are as follows:

| | | |
|-----------------------|-----------------------|--|
| Quantity <u>1</u> | Type <u>Ruger LCP</u> | Location <u>VSO Evidence</u> |
| Quantity <u>1 Box</u> | Type <u>.380 ammo</u> | Location <u>1771 E 1ST ST, Orange City</u> |
| Quantity _____ | Type _____ | Location _____ |
| Quantity _____ | Type _____ | Location _____ |
| Quantity _____ | Type _____ | Location _____ |
| Quantity _____ | Type _____ | Location _____ |

0 Additional pages are attached.

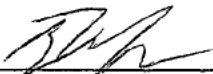
AFFIANT HEREBY CERTIFIES UNDER PENALTY OF PERJURY THAT THE STATEMENTS AND FACTS IN THIS AFFIDAVIT AND IN ANY ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Dated: 11/10/2020

Signature of Affiant: 

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization,

this 10 day of November, 2020, by D/S N. Maletto
Affiant's name


Signature of Attesting LEO Witness

DEP. T. HACHENBERGER #8186
Print name of Attesting LEO Witness

OR

Signature of Notary Public

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known or Produced Identification

(Type of Identification Produced)