

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA

VSO Case Number
VP230021998

IN RE: PETITION FOR RISK PROTECTION ORDER
AGAINST {Name of Respondent} _____

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, {full legal name} GERALD CUSIMANO, 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:

This incident is domestic-related due to the victim and defendant being married for approximately 20 years and residing together as a couple, at the residence.

5 Additional pages are attached.

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

_____ provided a sworn verbal statement advising on November 11, 2023, she and _____ had gotten into a verbal argument that escalated into a physical altercation. _____ stated during the course of the argument, _____ walked to his gun safe to retrieve his Smith and Wesson revolver, and then re-approached _____ while pointing his revolver at her head. _____ continued yelling at _____ while pointing his revolver at her head.

0 Additional pages are attached.

AFFIDAVIT CONTINUATION

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On November 14, 2023, at approximately 0834 hours, Deputy Cusimano responded to [REDACTED] [REDACTED] New Smyrna Beach, in reference to a report of a domestic disturbance.

While responding to the domestic disturbance, Deputy Cusimano contacted [REDACTED] [REDACTED] (R1) via telephone. [REDACTED] provided a verbal statement advising the following: Prior to 0759 hours on November 14, 2023, [REDACTED]'s wife, who is a mutual friend of [REDACTED] and

[REDACTED] received a phone call from another mutual friend, who was later identified as [REDACTED] (O1). [REDACTED]'s wife answered the phone call on speaker in the presence of [REDACTED] informed [REDACTED] that she received a phone call from [REDACTED] stating that [REDACTED] was at the residence with her and had been beating her again. [REDACTED] had his wife call [REDACTED] on speakerphone to see if [REDACTED] was okay and find out more details. While [REDACTED] was speaking to [REDACTED] on the phone, [REDACTED] stated [REDACTED] came back home to their residence on Saturday, November 11, 2023, after staying with his parents for a while. [REDACTED] stated she and [REDACTED] had been arguing about getting divorced and [REDACTED] had been beating [REDACTED] while staying at their residence. [REDACTED] stated at one point during their arguments on Saturday, [REDACTED] had brandished a revolver and pointed it at [REDACTED]'s head, which put [REDACTED] in even more fear of [REDACTED]. Deputy Cusimano asked [REDACTED] if [REDACTED] was currently inside the residence with [REDACTED] and [REDACTED] stated he was. [REDACTED] also stated [REDACTED] sounded very "drunk" while speaking to him on the phone and that [REDACTED] and [REDACTED] have an extensive history of alcohol abuse.

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Deputy Cusimano told _____ he would call him back as he was going to attempt to make contact with _____ at the residence, due to the nature of the allegations. While Deputy Cusimano was approaching the front gate to the property, Deputy Cusimano heard a loud, single gun shot, which appeared to have come from the front of the residence. Deputy Cusimano updated Central Dispatch with this information and began to approach the residence. After Deputy Cusimano cleared a makeshift shed and shop building on the northwest corner of the property, Deputy Cusimano approached the front of the residence with his department issued handgun drawn. Deputy Cusimano took cover behind a tree located between the shop building and the residence and observed _____ sitting in a chair on the front porch of the residence, with his hands on his lap. Deputy Cusimano identified himself as a Sheriff's Deputy and gave loud verbal commands to _____ to put his hands in the air and walk towards Deputy Cusimano. _____ complied with Deputy Cusimano's verbal commands and was ultimately ordered to lay down in the front yard on his stomach, until additional deputies arrived on scene. Sergeant Mather and Sergeant Webster arrived on scene shortly after, Sergeant Mather secured _____ with handcuffs. Deputy Cusimano and Sergeant Mather approached the front of the residence while Sergeant Webster stayed with _____. While approaching the front of the residence, Deputy Cusimano observed a large silver revolver sitting on a side table, directly next to where _____ was sitting on the front porch.

Deputy Cusimano and Sergeant Mather gave loud verbal announcements at the front door of the residence, identifying themselves as Sheriff's Deputies, and called out for _____. Deputy Cusimano heard _____ respond, at which point _____ stated she was upstairs. Deputy Cusimano cleared the interior of the residence for any outstanding subjects and ultimately made contact with _____ inside the upstairs master bedroom. _____ was lying in her bed and was crying. Deputy Cusimano asked _____ what happened, but _____ was very emotional and had slurred speech. _____ eventually showed Deputy Cusimano bruises on her right forearm and wrist stating _____ had caused them. _____ continued crying and did not provide any more information to the Deputies at this time. Sergeant Mather requested Central Dispatch to see if a female Officer was available to come and attempt speaking with _____. Deputy Cusimano asked _____ if she would like paramedics to respond and evaluate her injuries to which _____ declined.

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Deputy Cusimano returned to where [REDACTED] was located in the front yard and read [REDACTED] his Miranda Rights, utilizing a department issued Miranda card. [REDACTED] stated he understood his Miranda Rights and that with the rights in mind he still wished to speak to Deputy Cusimano. Deputy Cusimano asked [REDACTED] what had happened, and [REDACTED] kept stating "It's her parents" referring to [REDACTED] s parents. [REDACTED] kept repeating this statement and would only give vague answers to questions and had notably slurred speech. [REDACTED] stated he and [REDACTED] had recently been arguing about divorcing one another and that [REDACTED] was staying with his parents temporarily in Port Orange. [REDACTED] came back to the house to stay with [REDACTED] on Saturday, November 11, 2023, and had been arguing back and forth with [REDACTED] since then. Deputy Cusimano escorted [REDACTED] to his patrol vehicle to sit [REDACTED] down inside of it, out of the rain and continue interviewing [REDACTED]. [REDACTED] stated last night, November 13, 2023, he told [REDACTED] he wanted a divorce, at which point [REDACTED] allegedly punched him on his right cheek with a closed fist. Deputy Cusimano examined [REDACTED] s face for any signs of injuries, bruising, and redness, which yielded negative results. Deputy Cusimano asked [REDACTED] what happened after he was punched in the face and [REDACTED] stated "nothing". [REDACTED] walked away from [REDACTED] and began to drink "Vodka" until he fell asleep on the couch in the living room. Deputy Cusimano asked [REDACTED] how [REDACTED] got the bruises on her arms and wrists, to which [REDACTED] replied, "Because she's a bitch". [REDACTED] denied putting his hand on [REDACTED] and was less than cooperative with providing more details about the argument.

Deputy Cusimano asked [REDACTED] why he was sitting on the front porch of the residence with his revolver. [REDACTED] stated he was "pissed" and shot a single round from the revolver into the front lawn out of anger. [REDACTED] stated he did not point the firearm at anybody, and his intent was not to harm anyone with the firearm. Deputy Cusimano asked [REDACTED] if he typically retrieves a firearm when he is upset, and [REDACTED] replied asking Deputy Cusimano what does he do when he is upset.

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It should be noted that while Deputy Cusimano was speaking with _____ a strong odor of alcohol kept emanating from _____'s mouth and the odor got stronger the more _____ spoke. While walking _____ to Deputy Cusimano's patrol vehicle, _____ was stumbling and needed assistance balancing by Deputy Cusimano and Sergeant Webster. _____'s eyes were also glassy and bloodshot. _____ had a very large range of emotions while in contact with Deputy Cusimano, which varied from crying hysterically to randomly laughing to himself. Based on the totality of the circumstances along with _____'s statements, it was evident to Deputy Cusimano that _____ was under the influence of alcohol, based on Deputy Cusimano's training and experience. _____ also admitted that he had been taking anti-depressant medications while consuming alcohol.

While completing this report, Deputy Cusimano asked _____ why he pointed his revolver at _____ on Saturday, November 11, 2023. _____ stated _____ pushed _____ to his "breaking point" after _____ allegedly punched him in the face during an argument. _____ kept bringing up her parents during the argument, which further agitated _____. _____ stated he retrieved his revolver from his gun safe, approached _____ again, pointed the revolver at her face, and stated he was tired of _____ hitting him.

Deputy Cusimano was provided 6 digital photographs documenting _____'s injuries, which consisted of extensive bruises on her right wrist, forearm, and biceps. _____ also had a very large bruise on her left tricep near her elbow. Deputy Cusimano uploaded the digital photographs to Digital Crime Scene.

_____ did not wish to provide a sworn written statement to deputies on scene. _____ did state verbally to deputies that she was in fear of _____ when he pointed the revolver at her face during their argument on Saturday, November 11, 2023. _____ also stated _____ was responsible for the bruises on her arms and wrists, due to _____ hitting and grabbing her against her will. Sergeant Mather asked _____ if she swore and affirmed that her verbal statements were true, to which _____ replied she did.

_____ completed a Marsy's Law form requesting that her information not be made public.

Deputy Becker collected the revolver and submitted it into evidence. Deputy Becker completed a supplement report for his involvement.

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Based on the totality of the circumstances, Deputy Cusimano established probable cause for the following charges.

-F.S.S. 784.03 (1a2) – Battery causing bodily harm, due to [REDACTED] hitting and grabbing [REDACTED] against her will on her wrists and arms causing extensive bruising.

-F.S.S. 784.021 (1a) – Aggravated assault with a deadly weapon, without intent to kill, due to [REDACTED] pointing his revolver at [REDACTED]'s face against her will causing [REDACTED] to be in fear of imminent harm and injury.

-F.S.S. 790.151 – Use of a firearm while under the influence of alcohol.

Due to [REDACTED] and [REDACTED] being married for approximately 20 years and residing together as a couple, this incident meets the criteria for domestic violence.

Deputy Cusimano requested for Central Dispatch to conduct a criminal history check on [REDACTED]. The results of the criminal history check resulted in [REDACTED] not having any prior domestic violence arrests and/or felony convictions.

[REDACTED] was placed under arrest and transported to the Volusia County Branch Jail without incident.

3. Affiant is 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:

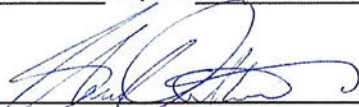
Quantity	Type	Location
<u>1</u>	<u>S&W Revolver</u>	<u>VSO Evidence</u>
Quantity	Type	Location
Quantity	Type	Location
Quantity	Type	Location
Quantity	Type	Location
Quantity	Type	Location

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: 11/14/2023 Signature of Affiant: 

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 14 day of November, 2023, by Deputy Gerald Cucimano
Affiant's name


Signature of Attesting LEO Witness

DEPUTY SHEA RUTAW
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)