

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

VSO Case Number
23-6594

IN RE: PETITION FOR RISK PROTECTION ORDER
AGAINST *{Name of Respondent}* [REDACTED]

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, *{full legal name}* JOHN LOWERY, 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}* [REDACTED] 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 4/6/2023 at 0932 hours, Deputies were dispatched to [REDACTED] Orange City, following a report of an incident involving [REDACTED] who allegedly discharged a firearm in the vicinity of [REDACTED] while she was performing a bird survey. Upon conducting an investigation, it was determined that [REDACTED] was stationed along the powerline easement that runs east and west to the south of [REDACTED] Orange City, when she encountered [REDACTED]

2 Additional pages are attached.

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

_____ Additional pages are attached.

AFFIDAVIT CONTINUATION

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██████████ reported that ██████████ approached her from behind her vehicle and startled her, inquiring if it belonged to her. She identified herself as an employee of BioTech, stating that she was conducting a scrub jay survey. ██████████ continued to approach ██████████ causing her to back away to avoid a collision, despite having enough room to walk around her. ██████████ observed ██████████ jog east along the power lines, while she continued checking the station located near her car.

Approximately 15 minutes later, ██████████ heard a gunshot while exiting the thick brush, causing her to become startled. ██████████ ducked down in place and waited for a few minutes, but did not hear any further gunshots. She then proceeded out of the brush and was confronted by ██████████ who was approximately 15 feet away and holding a handgun in his right hand. ██████████ fired three rounds while shouting at ██████████ to leave his property.

In response, ██████████ raised her hands and begged ██████████ not to shoot her. She fled the area, running in the opposite direction and hearing three more shots being fired by ██████████. ██████████ proceeded west, away from her car, as ██████████ was blocking her route. She feared for her life when ██████████ confronted her and began discharging his firearm. ██████████ exited to ██████████ by running through ██████████'s property and sought help from a resident at ██████████, where she called her father, who subsequently arrived and reported the incident to the authorities. ██████████ provided a sworn written statement, invoking Marsy's Law to ensure her information remained confidential.

Upon locating ██████████ deputies challenged him to put his hands up and conducted a pat-down search for weapons, none of which were found. He was placed in handcuffs and advised that he was being detained for an investigation. ██████████ spontaneously stated that he fired a warning shot at a person on his property. He was then advised of his Constitutional Rights and agreed to speak with the deputies.

During questioning, ██████████ claimed to have fired a single shot into the ground, intending to scare off ██████████. ██████████ stated that he saw a machete in ██████████'s hand and believed she was conducting a bird survey. He confronted her at the easternmost boundary of his property and fired the shot, instructing ██████████ to leave his property, which she did. ██████████ asserted that the aforementioned firearm was present within his abode, specifically identifying it as a Springfield 45 caliber 1911 style handgun capable of containing up to seven rounds.

AFFIDAVIT CONTINUATION

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During a show-up conducted at the site, ██████████ positively identified ██████████ as the individual who discharged a firearm into the ground, causing her to fear for her life. Additionally, she directed deputies to the precise location where ██████████ was standing when he discharged the shots. ██████████ further pointed out the presence of a previously open gate that had since been closed and marked with a "no trespassing" sign, which was not present at the time she originally passed through the area. Deputies observed signs of disturbance on the embankment, suggesting that someone had approached the spot from which the spent casing would have ejected from ██████████'s firearm, but no spent casing was recovered.



The Criminal Investigations Division (CID) of the Volusia Sheriff's Office promptly responded to the incident and sought a warrant to search for the firearm. The warrant application was granted by Judge Blackburn, and during the ensuing search, a Springfield 45 caliber handgun was discovered, in conjunction with an outdoor marijuana grow operation. Subsequently, an amended search warrant was obtained from Judge Blackburn, which authorized law enforcement officials to seize the following items:

- Item #1 - Cannabis plant sample, located in the backyard garden.
- Item #2 - Twelve (12) cannabis plants with roots approximately 24" tall weighing 3878.2 grams (bag weight), located in backyard garden.
- Item #3 - Approximately 365.7 grams of raw cannabis, located on kitchen counter island.
- Item #4 - Approximately 96 grams of raw cannabis, located inside (2) glass jars and (1) clear plastic bag on kitchen table.
- Item #5 - Approximately 389.6 grams of raw cannabis clippings, located inside a white garbage bag and a clear plastic bag on kitchen table.
- Item #6 - Approximately 36.3 grams of raw cannabis buds, located inside cabinet above refrigerator.
- Item #7 - Miscellaneous drug paraphernalia: glass smoking pipes, located inside cabinet above refrigerator.
- Item #8 - Approximately 141.8 grams of raw cannabis, located on dining room table.
- Item #9 - Approximately 82.7 grams of cannabis in a vacuum seal bag, located in upstairs master bedroom nightstand.

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

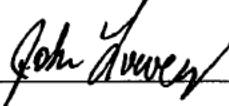
NONE Known protection orders are attached

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>Handgun</u>	Location	
Quantity	<u>1</u>	Type	<u>Bolt Action Rifle</u>	Location	
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____

N/A 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: 04/06/2023 Signature of Affiant: 

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 10 day of April, 2023, by Deputy John Lowery #9421
Affiant's name


Signature of Attesting LEO Witness

Sgt Charles Hillyard #7112
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)