

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

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

VSO Case Number
210008719

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, {full legal name} Michael Morgan, 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:

[REDACTED] (D1) was in an argument with his wife [REDACTED] (V1) at their residence. During the argument, [REDACTED] consumed a large amount of alcohol and displayed a black S&W M&P Shield pistol, and pointed it at himself, and locked himself in their bedroom. [REDACTED] then contacted 911 out of fear [REDACTED] would hurt himself, her, or one of their two kids [REDACTED] and [REDACTED]

0 Additional pages are attached.

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

[REDACTED] (V1) advised that she and [REDACTED] were in an argument when she refused to shower with him. [REDACTED] went into their bedroom to separate from [REDACTED] however he followed her in there and continued the altercation. [REDACTED] then went outside for 10 minutes, when she came back in [REDACTED] was in the kitchen holding a bottle of alcohol, and then brandished the pistol from their gun safe.

0 Additional pages are attached.

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Marsy's Law Invoked
BWC RECORDING

On 05-12-2021, at approximately 0006 hours, Deputy Barry was dispatched to [REDACTED], Deland, in response to a suicidal person.

Prior to Deputies arrival, central dispatch made responding Deputies aware the reporting party, [REDACTED] (V1), said her husband, [REDACTED] (D1), locked himself within their bedroom with a firearm. Central dispatch informed [REDACTED] and [REDACTED] shared children, [REDACTED] (O1) and [REDACTED] (O2), were still within the residence asleep in their bedroom. [REDACTED] advised central dispatch [REDACTED] opened the bedroom door and told [REDACTED] to put a shirt on then closed the door, [REDACTED] noted she observed [REDACTED] holding a firearm within his hand. Due to [REDACTED] making suicidal statements and being in possession of a firearm, Deputy Barry requested central dispatch to communicate with [REDACTED] to remove herself and the children out of the residence. After being instructed to leave the residence, [REDACTED] informed central dispatch [REDACTED] told the children to get back into bed and go to sleep. As [REDACTED] confronted [REDACTED] about putting the children back into their beds, [REDACTED] advised central dispatch [REDACTED] was still in possession of the firearm.

Deputy Morgan was the first Deputy on scene and parked near the intersection of West Lake Road and 2nd Avenue, Deland. Deputy Barry communicated to Deputy Morgan to make contact with [REDACTED] out of the residence and bring her out of harms way. Soon after, Deputy Barry arrived on scene and exited his marked Volusia Sheriff's Office patrol vehicle. Moments later, Deputy Barry could hear Deputy Morgan instructing someone to put a gun down. Deputy Barry quickly responded to Deputy Morgan, who was standing in the front yard of the residence next to the driveway on the south side of the residence. Deputy Barry noticed a male [REDACTED] was holding a gun in his right hand and holding it to his head. Deputy Barry notified central dispatch and made them aware of Deputies on scene having [REDACTED] at gun point. Deputy Morgan began verbal dialogue with [REDACTED] in an attempt to convince him to put the firearm down and allow Deputies to assist him during his mental health crisis. During the dialogue, [REDACTED] was moving the firearm from the right side of his head and underneath his chin while stating his intentions to inflict self harm with a firearm. Despite Deputies efforts, Deputies were unable to gain verbal dialogue with [REDACTED] while still holding the firearm to his head, [REDACTED] walked into the front door of the residence and informed Deputies he wanted to put his dogs into a room within the residence so they do not get out. Deputies continued to speak with [REDACTED] and throughout the time in contact with him were providing him verbal commands to put the firearm down. [REDACTED] refused and mentioned he wanted to ensure his kids were asleep within their bedrooms, Deputies were able to keep [REDACTED] near the front door of the residence and while additional resources were responding to the scene, Deputies began planning the use of less lethal options. While Deputies were communicating with [REDACTED] at the front door of the residence, [REDACTED] was demanding Deputy Barry come into the residence without a firearm and speak with him. Deputy Barry began explaining he cannot enter the residence without [REDACTED] putting the gun down and moving away from it for officer safety, which [REDACTED] refused. Deputies on scene made several attempts to gain [REDACTED] trust and get him to put down the firearm; however, they were unsuccessful.

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As Deputies continued to communicate with ██████████ at the front door of the residence, Deputy Barry approached ██████████ and began questioning possible ways of removing the children (██████████ and ██████████) from the residence without ██████████ knowing. ██████████ explained the children's bedroom window should be secure and the children know not to open the bedroom window. When asked, ██████████ declined the children having any means of communication to request the children to open the window and be brought to safety and away from ██████████ as he actively held a firearm to his head while making suicidal statements. Deputy Hart attempted to gain the children's attention from the exterior of the residence; however, he was met with negative results.

Deputies were eventually able to gain compliance with ██████████ which he agreed to remove the magazine from the firearm and remove any bullets that were potentially in the chamber of the firearm. ██████████ separated the magazine from the firearm and placed both on the ground, subsequently, Deputy Morgan utilized his agency issued tazer on ██████████. Please see Deputy Morgan's supplement for further information. ██████████ was taken into custody by Law Enforcement on scene and awaited the response of Volusia County Fire Services to remove the taser prongs from his body.

Deputy Barry obtained digital photographs of the location where the magazine, gun and bullet that was in the chamber of the firearm were located in front of the residence. Deputy Barry later uploaded the photographs into the digital crime scene database. Deputy James assisted Deputy Barry by obtaining digital photographs of ██████████ which Deputy Barry later uploaded to the digital crime scene database.

Deputy Barry made contact with ██████████ who explained she and ██████████ were involved in a verbal altercation prior to contacting Law Enforcement. ██████████ agreed to take a shower with ██████████ however, when she did not go to shower with him, ██████████ called her a "fucking liar" which continued a verbal altercation amongst themselves. ██████████ attempted to explain she was tired and wanted to play video games for a while until she went to bed. Since the verbal altercation continued, ██████████ went to their bedroom to separate from ██████████ despite her attempt to get away from him, ██████████ followed her into the bedroom and continued to try and talk with her. ██████████ mentioned she still did not wish to speak with ██████████ which caused yet another argument between themselves. ██████████ then went outside to separate further from ██████████ and after approximately ten minutes she went back inside to lay in her bed.

Once in bed, ██████████ began messaging ██████████ which she said was not helping their situation so after a while she stopped responding. ██████████ recalled hearing ██████████ crying in the kitchen and hearing things falling or being knocked over. When she got out of bed to check on what ██████████ was doing in the kitchen, she found ██████████ lying on the floor, crying and holding a bottle of alcohol. ██████████ was yelling at ██████████ to leave him alone and further telling her to get away, due to his request, ██████████ began walking toward the bathroom. As she began walking, ██████████ got up and rushed past ██████████ ██████████ said she realized ██████████ was going to the gun safe, located within their bedroom. Once she realized ██████████ intentions, ██████████ began begging ██████████ to stop which he refused to do so. ██████████ said her cell phone was on the bed within their bedroom at the time of ██████████ obtaining the firearm.

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█████████ picked up her cell phone to contact Law Enforcement, when ██████████ grabbed the cell phone from her hand and threw it away to prevent her from contacting Law Enforcement. ██████████ believed ██████████ did this to get some time to gain access into the safe.

Due to ██████████ continued to approach the gun safe, ██████████ attempted to grab ahold of him to prevent him from accessing the gun safe. ██████████ brushed ██████████ off of him and continued until he was able to obtain a firearm. Once ██████████ was in possession of the firearm, ██████████ grabbed her cell phone and left the bedroom. Once she left the bedroom, ██████████ closed the bedroom door and locked it. ██████████ was able to contact Law Enforcement and make them aware of the incident.

While in contact with the central dispatch communicator, ██████████ said she was instructed to get the children and herself out of the residence. ██████████ recalled entering her children's bedroom and waking them up and walking them towards the front door to comply with Deputies request. As ██████████ was attempting to do so, ██████████ exited the bedroom, while holding both of his hands in the air to show he did not have a firearm in his hands and demanded both children to go back to bed and told ██████████ no one was allowed to leave. Due to ██████████ already having possession of a firearm, and ██████████ not knowing where the firearm was, she feared ██████████ would escalate the situation and follow through with his statements of killing himself with a firearm if she left with the kids and did not bring the children back to their beds as he previously demanded. After placing both children back into their bedrooms, ██████████ went back into the living room, soon after ██████████ exited the bedroom while holding a firearm. ██████████ advised she noticed the firearm in ██████████ hand and ran outside, where she met Deputy Morgan approaching the residence. ██████████ informed once Deputy Morgan asked where ██████████ was, ██████████ exited the residence, it was at this time additional Deputies were arriving onscene and began deescalating the situation.

█████████ completed a sworn written statement detailing the incident, which she noted ██████████ has autism and suffers from mental illness. ██████████ further noted she did not wish to pursue criminal charges against ██████████

█████████ was provided with a domestic rights victim's informational rights pamphlet with the assigned case number.

Deputies discussed the risk protection order and what it entails, which ██████████ agreed ██████████ should not have access to a firearm. ██████████ advised she will arrange giving the firearms within the house to her mother. Deputy Morgan later completed a risk protection order which was sent to the legal advisor.

When Deputy Barry recovered the firearm ██████████ was in possession of, Deputy Barry found a Smith & Wesson M&P Shield (S/N: HUZ5189), one magazine and seven 9mm rounds. Deputy Barry later placed the firearm, magazine and rounds into the District Two evidence locker as evidence.

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Based upon the documented information, Deputy Barry determined probable cause for arrest on [REDACTED] for false imprisonment and tampering with a witness. [REDACTED] was advised he was under arrest and later transported to the Volusia County Branch Jail without incident, Deputy Barry made staff aware of [REDACTED] suicide attempt with a firearm and further made staff aware a taser was used prior to being arrested.

Deputy Barry requested a criminal history check on [REDACTED] via teletype, which Deputy Barry noticed [REDACTED] had a prior arrest for an assault while serving in the military in 2016.

Due to a juvenile being present at the time of the incident, Deputy Barry faxed a copy of this report to the Department of Children and Families.

Case Status: Arrest/Adult.

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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>s&w m&p shield</u>	Location <u>VSO Evidence</u>
Quantity <u>1</u>	Type <u>magazine</u>	Location <u>VSO Evidence</u>
Quantity <u>7</u>	Type <u>9mm ammunition</u>	Location <u>VSO Evidence</u>
Quantity <u>2</u>	Type <u>unknown rifles</u>	Location <u>[REDACTED] Deland</u>
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: 05/12/2021 Signature of Affiant: [Signature] 9209

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 12th day of May, 2021, by Deputy M. Morgan
Affiant's name

[Signature] #8993
Signature of Attesting LEO Witness

Deputy K. Barry #8993
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)