

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} \_\_\_\_\_

VSO Case Number  
220023636

AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I, {full legal name} \_\_\_\_\_ Kevin Barry \_\_\_\_\_, in my position as {job title} \_\_\_\_\_ Deputy \_\_\_\_\_ 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:

Marsy's Law Invoked  
BWC RECORDING  
On 12-14-2022, at approximately 0904 hours, Deputy Barry responded to East New York Avenue and South Kepler Road, Deland in reference to an aggravated assault.  
Upon arrival, Deputy Barry made contact with \_\_\_\_\_ (VI) who explained she

4 Additional pages are attached.

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

an unknown male (later identified as \_\_\_\_\_) on a red motorcycle wearing a red jacket and black helmet cut them off and moments later \_\_\_\_\_ noticed the unknown male reach into the lower left portion of his jacket and remove a black firearm and point the firearm at her from underneath his armpit. \_\_\_\_\_ noted she feared for her safety at this point and made her husband, \_\_\_\_\_ who was reclined in the front passenger seat, aware of the incident.

4 Additional pages are attached.

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\_\_\_\_\_ mentioned she continued traveling Northbound behind the motorcycle and when they approached the light at East New York Avenue and South Kepler, the male on the motorcycle got off of the motorcycle, approached the front of the vehicle and struck the hood and front windshield of the vehicle with his fists, subsequently causing the front windshield to crack. After striking the windshield, the male got on his motorcycle, ran the red light at the intersection and continued to travel Northbound. When describing the firearm, \_\_\_\_\_ advised it looked similar to Deputy Barry's duty pistol but could not expand further. \_\_\_\_\_ completed a sworn written statement detailing the incident, which she noted she wished to pursue criminal charges.

Deputy Barry further made contact with \_\_\_\_\_ who explained he and \_\_\_\_\_ were traveling Northbound on South Kepler Road when the road rage incident occurred. \_\_\_\_\_ mentioned he was reclined in the front passenger seat as \_\_\_\_\_ was driving the vehicle and did not see the firearm being pointed at them due to his reclined position in the vehicle and medical issues with his eyes; however, did hear \_\_\_\_\_ say the male on the motorcycle pointed a gun at them. \_\_\_\_\_ said he remained in the reclined position until they came to a stop at the red light at the above listed intersection and recalled the male approaching the vehicle, soon after striking the hood and front windshield with his fists, subsequently causing the front windshield to crack. \_\_\_\_\_ said after the male struck his vehicle, \_\_\_\_\_ exited the vehicle to confront the male, at which time he got back on his motorcycle, ran the red light and traveled Northbound through the intersection. \_\_\_\_\_ estimated the damage caused to his windshield to be approximately \$400.00 in value. \_\_\_\_\_ completed a sworn written statement detailing the incident, which he noted he wished to pursue criminal charges.

Deputy Barry additionally made contact with \_\_\_\_\_ (W1) who explained she was seated in her vehicle in front of \_\_\_\_\_ and \_\_\_\_\_ at the time of the altercation. \_\_\_\_\_ noticed through her rearview mirror a male on a red and white motorcycle get off the motorcycle, approach \_\_\_\_\_'s vehicle and started to hit his fists on the hood and front windshield with his fists. Once \_\_\_\_\_ exited the vehicle, the male returned to his motorcycle, ran the red light and continued Northbound through the intersection. \_\_\_\_\_ completed a sworn written statement detailing the incident.

Deputy Barry also made contact with \_\_\_\_\_ (W2) who explained she did not see the above documented altercation involving \_\_\_\_\_'s vehicle; however, she noticed a motorcycle traveling Northbound on Kepler at the location of the incident. \_\_\_\_\_ recalled seeing the motorcycle start driving on and off the road, along with cutting through traffic

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\_\_\_\_\_ followed the motorcycle, took a picture of the vehicle prior to the motorcycle traveling Westbound on East Minnesota Avenue. \_\_\_\_\_ returned to the location of the incident and provided Deputy Barry with the digital photograph she took of the motorcycle. While reviewing the photograph, Deputy Barry noticed the operator of the motorcycle was wearing a black helmet, which appeared to cover the entirety of the head, a red windbreaker style jacket, which was blue from the left to right shoulder and upper back, black long pants and the motorcycle to be red and white. Deputy Barry further noticed a black backpack secured to the motorcycle above the break light. The license plate was partially visible in the photograph, but despite Deputy Barry's efforts, he was unable to read the tag because of the distance of the motorcycle in the picture. A copy of the photograph provided by \_\_\_\_\_ and photographs of the damage caused to \_\_\_\_\_'s vehicle were later uploaded to the digital crime scene database.

Deputy Barry further made contact with \_\_\_\_\_ (W3) who explained he had been behind the motorcycle and \_\_\_\_\_'s vehicle since the round about of Orange Camp Road and Dr Martin Luther King Jr Beltway, Deland (approximately 2.76 miles according to Google Earth) until the location of the incident. \_\_\_\_\_ informed as the motorcycle exited the roundabout and started traveling Northbound, \_\_\_\_\_'s vehicle did the same, with \_\_\_\_\_ behind both the motorcycle and \_\_\_\_\_'s vehicle. \_\_\_\_\_ noticed \_\_\_\_\_'s vehicle travel into the Southbound lane and pass the motorcycle, which \_\_\_\_\_ noted the illegal passing as the roadway is a double solid yellow line and does indicate drivers can pass. \_\_\_\_\_ informed once \_\_\_\_\_'s vehicle passed the motorcycle, the motorcycle then passed \_\_\_\_\_'s vehicle and once the motorcycle and \_\_\_\_\_'s vehicle came to the intersection of Taylor Road and Dr Martin Luther King Jr Beltway, the motorcycle began driving on the grass Northbound toward the location of the incident, which \_\_\_\_\_'s vehicle followed. \_\_\_\_\_ said he did not see the operator of the motorcycle display a firearm at any point during the altercation; however, once the motorcycle and \_\_\_\_\_'s vehicle came to a stop at the location of the incident, the operator of the motorcycle approached \_\_\_\_\_'s vehicle and struck the hood and windshield of the vehicle. After striking the vehicle, the operator got back on his motorcycle and traveled Northbound through the intersection, running the red light. \_\_\_\_\_ did record the vehicle's driving Northbound on Kepler; however, Deputy Barry did not see anything of evidentiary value. \_\_\_\_\_ completed a sworn written statement detailing the incident.

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Deputy Barry requested the assistance of VC3 to identify the motorcycle license plate attached, \_\_\_\_\_ Deputy Barry was later made aware of the motorcycle being a red 2021 Honda CRF 250 cc motorcycle bearing Florida tag \_\_\_\_\_ being registered to \_\_\_\_\_ (S1). Upon further review, Deputy Barry noticed \_\_\_\_\_'s last listed address was \_\_\_\_\_ Debary. Deputy Barry was unable to make contact with \_\_\_\_\_ at the completion of this initial report.

On 12-15-2022, at approximately 0840 hours, Deputy Barry was traveling Eastbound within the 2000 block of East Minnesota Avenue, Deland, when he noticed \_\_\_\_\_'s motorcycle pass him traveling Westbound. Deputy Barry immediately noticed the operator of the motorcycle, later confirmed as \_\_\_\_\_ was wearing the same windbreaker as previously described, along with the same style helmet. Deputy Barry conducted a traffic stop on \_\_\_\_\_ at the RaceTrac (1286 East International Speedway Boulevard, Deland) upon making contact with \_\_\_\_\_ Deputy Barry immediately noticed a belt clip consistent with a holster for a firearm on \_\_\_\_\_'s front left of his waistband. Deputy Barry removed and secured the firearm from \_\_\_\_\_ returned to \_\_\_\_\_ and informed him of his constitutional rights, via a department issued Miranda Warning card, which \_\_\_\_\_ noted he understood and wished to speak with Deputy Barry.

Post Miranda \_\_\_\_\_ explained the road rage incident from the day prior started when \_\_\_\_\_'s vehicle cut him off on his motorcycle and started to break check him, which almost caused him to crash. \_\_\_\_\_ said he became irate from the road rage incident and confirmed he did smash the windshield of \_\_\_\_\_'s vehicle out of anger. \_\_\_\_\_ denied pointing or displaying a firearm during the altercation and further denied having his firearm on him at the time of the incident. \_\_\_\_\_ was placed under arrest and while conducting a search of his person, Deputy Barry located \_\_\_\_\_'s concealed weapons permit within his wallet.

It should be noted, Deputy Barry reviewed the firearm \_\_\_\_\_ had on his person, which Deputy Barry noticed was a Glock 19 9mm pistol with black finish (S/N: \_\_\_\_\_). The firearm was loaded and had a clear magazine containing sixteen 9mm hollow-point rounds stamped "Hornady Luger". The firearm recovered from \_\_\_\_\_'s person was the same brand, color and caliber as described the day prior from \_\_\_\_\_ who mentioned the firearm looked like Deputy Barry's service handgun. The firearm, magazine and seventeen rounds were later placed into the District Two evidence

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locker as evidence. Deputy Barry later generated a risk protection order reference the incident. Deputy Barry requested a criminal history check on \_\_\_\_\_ via teletype and noticed he had no similar related arrests.

Based upon the documented information, \_\_\_\_\_ was placed under arrest for aggravated assault with a deadly weapon and criminal mischief and transported to the Volusia County Branch Jail without incident. \_\_\_\_\_'s motorcycle was later turned over to his friend, \_\_\_\_\_ (O1) at his request.

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


\_\_\_\_\_ 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 _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____
Quantity _____	Type _____	Location _____

\_\_\_\_\_ 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: 12/15/2022 Signature of Affiant:  #8993

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 15 day of December, 2022, by Deputy Sheriff Kevin Barry  
Affiant's name

  
Signature of Attesting LEO Witness

Sergeant Huffman  
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)