

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

VSO Case Number
230010571

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

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, *{full legal name}* _____ Joseph Borbely _____, in my position as *{job title}* _____ Deputy Sheriff _____ with the *{name of law enforcement officer/agency}* _____ Volusia Sheriff 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:

BWC RECORDING
VICTIM HAS INVOKED MARSY'S LAW
On 06/02/2023 at approximately 0431 hours, Deputies were dispatched to _____
_____ Deltona in reference to a shooting.
(SEE CONTINUE PAGES)

_____ 1 _____ Additional pages are attached.

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

N/A

_____ Additional pages are attached.

AFFIDAVIT CONTINUATION

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While en route, Central Communications advised the reporting person, ██████████ (D1), was in a verbal argument with a known male, later identified as ██████████ (V1). ██████████ told VSO Communications he had a pistol and shot into the ground. ██████████ advised the pistol is inside the home and he was outside waiting for law enforcement to arrive. Central Communications advised ██████████ called in advising he had left the residence southbound on Jewel Ave. ██████████ stated the shooter was ██████████.

Upon arrival, Deputies contacted ██████████ near the intersection of Jewel Ave and Coventry St., who stated the following:

At approximately 0330 hours he asked ██████████ for money after he had completed work for him. ██████████ stated ██████████ gave him money and he asked him to leave the residence. ██████████ stated he returned to the residence after he forgot his hair clippers. ██████████ stated ██████████ came outside and threw his clippers on the ground. ██████████ stated an argument started and when he was leaving, ██████████ fired his gun. ██████████ got into his car and left the residence and proceeded to call ██████████.

██████████ completed a sworn written statement wishing to pursue criminal charges.

While ██████████ was being contacted, Deputies contacted ██████████ outside the residence. ██████████ was secured into handcuffs and while doing so spontaneously stated he was fine and had fired into the ground to protect himself. ██████████ advised there was no physical altercation and his father, ██████████ (O4) was inside the home. ██████████ said again he fired into the ground to protect himself. ██████████ expressed animosity with ██████████ having stayed at the house.

Deputies contacted ██████████ who was not injured. ██████████ was asleep during the incident and did not hear it occur.

██████████ was read his Miranda Warnings via an agency issued card which he indicated he understood. Post Miranda ██████████ stated he was in a verbal argument with his roommate, ██████████. ██████████ stated he owed ██████████ money for fixing his car and paid him back. ██████████ stated the argument escalated which resulted in him firing a single shot from a handgun, later identified as a Ruger LCP bearing serial number: ██████████. ██████████ stated he had fired his father's gun outside of the residence into the ground near the garage. ██████████ demonstrated he fired the gun from his left hand at a forty five degree angle. (SEE NEXT PAGE)

AFFIDAVIT CONTINUATION

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████████ stated when he fired the gun, ██████████ was at the end of the driveway. ██████████ stated ██████████ called him a "bitch" and other profanities.

Deputies located the shell casing which was a .380 cartridge in the front yard, adjacent to the garage. Deputies contacted ██████████'s friend, ██████████ (O1) who stated the following:

His friend, ██████████ had picked him up to hangout at ██████████'s residence. While ██████████ was at the residence, an argument between ██████████ and ██████████ started. ██████████ did not intervene and after ██████████ had left the house, he had returned for his belongings. ██████████ stated he was inside when he had heard ██████████ shoot at the ground. ██████████ was notified by ██████████ of him having shot his gun.

Deputies contacted neighbors across the street at ██████████ ██████████ (O2) and ██████████ (O3), who advised the following:

████████ stated he was woken up by his wife, ██████████ after she had told him someone shot a gun. ██████████ looked outside his window and saw ██████████ and ██████████ identified as the guy in the BMW screaming at each other. ██████████ went outside and asked ██████████ what was going on when ██████████ disclosed he had shot at the ground. ██████████ saw ██████████ pacing back and forth before entering his car and leaving.

████████ stated she had woken up to the sound of a gun shot. ██████████ heard the neighbors yelling and she notified her husband ██████████.

████████ and ██████████ completed sworn written statements detailing their involvement.

Deputies obtained digital photographs of the shell casing. Deputies obtained the Ruger which was later submitted as evidence. Deputies observed the firearm was still loaded with six additional cartridges collected. Deputy Borbely submitted the physical items into District Four's Evidence locker as evidence.

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Based on statements and physical evidence, Deputy Borbely determined _____'s claim of self defense was unsubstantiated because _____ was retrieving property from _____ when he resided at the residence. By _____ firing his father's gun into the ground, it created a well founded fear of imminent violence for _____. Deputy Borbely determined probable cause existed to charge _____ with aggravated assault. _____ was placed under arrest and transported to the Volusia County Branch Jail without incident.

A criminal history check on _____ yielded no results.

It should be noted, _____ is a student at the Richard Milburn Academy located at 1200 Deltona Blvd, Deltona. Director Quann was notified and SRD Sgt. Sturup were sent a copy of this report for their review.

_____ has elected to invoke Marsy's Law.

A RPO was filed with the assistance of dayshift Deputies.

Case Status: Arrest/Adult

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

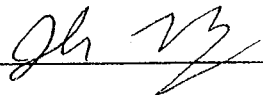
0 Known protection orders are attached

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:

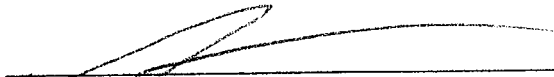
Quantity	<u>1</u>	Type	<u>.380 Ruger</u>	Location	<u>VSO EVIDENCE</u>
Quantity	<u>1</u>	Type	<u>Magaine</u>	Location	<u>VSO EVIDENCE</u>
Quantity	<u>6</u>	Type	<u>Ammunition</u>	Location	<u>VSO EVIDENCE</u>
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____

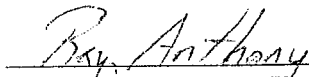
0 Additional pages are attached.

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: 06/02/2023 Signature of Affiant: 

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 02 day of June, 2023, by Joseph Borbely
Affiant's name


Signature of Attesting LEO Witness


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)