

**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 230023345
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**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'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:

See attached pages
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3 Additional pages are attached.

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

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\_\_\_\_\_ Additional pages are attached.

**AFFIDAVIT CONTINUATION**

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\*\*\*\*BWC Recording\*\*\*\*  
\*\*\*\*MARSY'S Law Invoked\*\*\*\*

On 12/5/2023 at 1505 hours, Deputies responded to \_\_\_\_\_ Deltona, in reference to \_\_\_\_\_ (V1) reporting that her boyfriend, \_\_\_\_\_ (D1) was threatening to commit suicide with a handgun.

According to information provided via 911, \_\_\_\_\_ was inside the house at \_\_\_\_\_ and \_\_\_\_\_ fled to a neighbor's house at \_\_\_\_\_. Initial responding Deputies established a perimeter at the \_\_\_\_\_ house and attempted to contact \_\_\_\_\_.

Deputy Lowery responded to \_\_\_\_\_ to meet with \_\_\_\_\_. This house is located directly behind \_\_\_\_\_ with their backyards back up to each other, separated by a 6-foot privacy fence. \_\_\_\_\_ provided the following verbal statement: On 12/4/2023 at approximately 1900 hours, \_\_\_\_\_ and \_\_\_\_\_ began arguing over infidelity issues within their relationship. While on the back porch smoking cigarettes \_\_\_\_\_ became angry and accused \_\_\_\_\_ of texting \_\_\_\_\_ with whom she had an affair with earlier this year. \_\_\_\_\_ then took \_\_\_\_\_'s phone and smashed it on the ground on the back porch. It should be noted that \_\_\_\_\_ and \_\_\_\_\_ have been living together as a family unit for eight years and purchased the home at \_\_\_\_\_ approximately three years ago. The arguing continued throughout the night until \_\_\_\_\_ fell asleep around 0300 hours. \_\_\_\_\_ awoke around 0800 hours and observed \_\_\_\_\_ sitting in his recliner with his black handgun on his lap. \_\_\_\_\_ woke \_\_\_\_\_ up and asked him why his firearm was on his lap. \_\_\_\_\_ responded by telling \_\_\_\_\_ that he wanted to kill himself and then placed the barrel of the gun in his mouth. This frightened \_\_\_\_\_ and she attempted to leave. \_\_\_\_\_ then pointed the gun at \_\_\_\_\_ and told her she couldn't leave, and he did not want to hurt her. \_\_\_\_\_ interpreted this as if she didn't stay there \_\_\_\_\_ would shoot and kill her. This continued throughout the day. \_\_\_\_\_ would threaten to kill himself by telling \_\_\_\_\_ that he wanted to kill himself and then placing the barrel of the handgun in his mouth. \_\_\_\_\_ would say that he wanted \_\_\_\_\_ to be there and watch him die. \_\_\_\_\_ pleaded with \_\_\_\_\_ and he insisted that he was going to commit suicide. At one point \_\_\_\_\_ again tried to leave the house fearing for her safety. \_\_\_\_\_ then told \_\_\_\_\_ to go get his handcuffs and that he was going to cuff her and put a sock in her mouth so she couldn't scream for help. \_\_\_\_\_ further stated that he would leave his phone in a place where she could call for help with her nose.

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At approximately 1425 hours, as [REDACTED] laid back on the bed, [REDACTED] ran out the front door and down [REDACTED] came out with his gun in his hand and pleaded for [REDACTED] to come back. [REDACTED] promised that if she came back, he would give her the gun. [REDACTED] returned to the end of the driveway while [REDACTED] stood at the front door of the house, still holding his gun. [REDACTED] pleaded with [REDACTED] for about ten minutes and then [REDACTED] said he was going to kill himself and then went into the house, closing the front door behind him. [REDACTED] then went to [REDACTED] and asked for help. [REDACTED] does not know the residents but the family that she does know at [REDACTED] were not home. [REDACTED] then called [REDACTED] to report the incident.

Deputy Lowery observed [REDACTED] extremely distraught and concerned for [REDACTED] well being. [REDACTED] did provide Deputy Lowery with information about the layout of the home, animals at the house and the type of weapons contained therewithin. This information was instrumental in assisting Deputies in contacting [REDACTED] and eventually led to him surrendering peacefully by walking out the front door unarmed with his hands in the air at approximately 1544 hours. Deputy Lowery advised [REDACTED] of his constitutional rights via his agency issued Miranda Rights Warning Card, which [REDACTED] advised that he understood. [REDACTED] agreed to speak with Deputy Lowery but denied that he was attempting suicide. [REDACTED] then stated that he wanted a lawyer present. The resident at [REDACTED] (W1), did hear a lot of arguing and screaming throughout the night that began at approximately 1830 hours. [REDACTED] provided a sworn written statement.

After considering the statements provided and physical evidence located inside the home Deputy Lowery concluded that probable cause existed that [REDACTED] committed aggravated assault with a firearm (domestic violence) by intentionally and unlawfully threatening by word or act to do violence to the person of [REDACTED] by pointing a firearm at [REDACTED] and threatening to shoot her, which created a well founded fear in [REDACTED] coupled with an apparent ability to do so, by shooting [REDACTED] with a firearm and while doing so [REDACTED] actually possessed a firearm, the firearm being a deadly weapon.

Additionally, Deputy Lowery determined that probable cause exists that [REDACTED] did commit false imprisonment by forcibly, by threat, imprison or restrain [REDACTED] against her will and without lawful authority, contrary to Florida Statutes by threatening to shoot and or kill her if she left the home while [REDACTED] was in actual possession of a firearm and did so by pointing the firearm at [REDACTED] when she would attempt to leave for approximately six and one half hours.

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\_\_\_\_\_ subsequently signed a consent search form authorizing Deputies to retrieve the aforementioned firearm from inside the home. Deputy Borbely located the firearm inside the home and placed it into evidence at District 4. Deputy Borbely completed an RPO. See Deputy Borbely's supplement for additional information.

\_\_\_\_\_ was transported to 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:

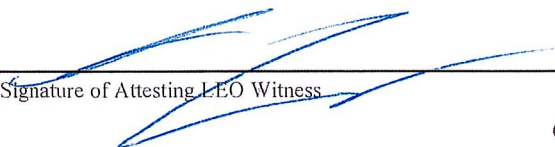
Quantity	<u>1</u>	Type	<u>Handgun</u>	Location	<u>VSO Evidence</u>
Quantity	<u>24</u>	Type	<u>9mm cartridges</u>	Location	<u>VSO Evidence</u>
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____
Quantity	_____	Type	_____	Location	_____

\_\_\_\_\_ 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: 12/05/2023 Signature of Affiant: 

Sworn to (or affirmed) and subscribed before me by means of  physical presence or  online notarization, this 5 day of December, 2023, by J. Borbely  
Affiant's name

  
Signature of Attesting LEO Witness

S. Ortiz 9525  
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)