

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

VSO Case Number
230002985

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

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, {full legal name} _____ Michael McGinnis _____, 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:

This incident is domestic in nature due to the victim and defendant being brothers and them living together as a family unit in the same household.

On 02/14/2023 at approximately 2057 hours, Deputies were dispatched and responded to _____ Oak Hill, regarding a fight between brothers. The caller, _____ (V1) contacted the Sheriff's Office advising his brother,

2 Additional pages are attached.

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

_____ Additional pages are attached.

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

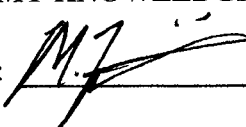
_____ Known protection orders are attached

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	<u>1</u>	Type	<u>9mm handgun</u>	Location	<u>District 3 South Evidence</u>
Quantity	<u>8</u>	Type	<u>9mm ammo</u>	Location	<u>District 3 South Evidence</u>
Quantity	<u>1</u>	Type	<u>9mm magazine</u>	Location	<u>District 3 South Evidence</u>
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: 02/15/2023 Signature of Affiant:  MCLINNIS # 8113

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 15th day of February, 2023, by _____


Signature of Attesting LEO Witness

Sara Peas # 941e9
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)

AFFIDAVIT CONTINUATION

FROM SECTION 1
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██████████ (D1) had pulled a gun and put it in his mouth. While Deputies were en route, ██████████ stated ██████████ had fled from the residence on foot with an unknown direction of travel.

Upon arrival, Deputies met with ██████████ who was extremely upset and fearful. ██████████ advised on the above date and approximate time, he and his brother ██████████ got into a verbal argument over living arrangements, and ██████████ wanting ██████████ to move out. ██████████ walked to his room to attempt to remove himself from the conflict, but was followed by ██████████ stated ██████████ then retrieved a gun from her person and pointed it at him, putting the barrel of the gun into his mouth, causing ██████████ to fall down on to his bed. ██████████ told ██████████ "Get the fuck out, or I will shoot you in the face". ██████████ described the gun as being a black in color 9mm handgun. ██████████ stated while being threatened, he was placed in a well founded fear that violence was imminent. Moments later, ██████████ exited out of ██████████ bedroom, at which point ██████████ began to audio record the further interactions between he and ██████████. ██████████ stated when he told ██████████ that he was calling law enforcement, ██████████ fled the residence on foot and was last seen traveling southwest into a nearby wooded lot. ██████████ explained he was not sure if ██████████ still had the gun on him when he left the residence or not. ██████████ completed a sworn written statement, detailing his involvement and that he wished to press charges.

Deputies checked ██████████ for any obvious signs of injury, but did not locate any. Digital photographs of ██████████ were obtained and later uploaded to the Digital Crime Scene Database.

Deputy McGinnis was able to review the audio recording captured on ██████████ telephone. In the recording, you can hear ██████████ plead with ██████████ as to why he threatened him with the firearm. ██████████ never denied threatening ██████████ and remained silent. ██████████ continued to plead with ██████████ as to why he threatened him. The audio last for approximately 2-3 minutes, which ends in silence which is when ██████████ fled the residence according to ██████████. A copy of this audio recording was recovered and placed onto a DVD, which was placed into a D3S Evidence Locker.

While on scene ██████████ called ██████████ on the telephone. The entirety of their conversation was heard by Deputy McGinnis and was also captured on Deputy McGinnis' activated BWC. ██████████ began asking ██████████ why he threatened him with the firearm. ██████████ replied stating "because I'm stupid and made a mistake". ██████████ attempted to gather information as to ██████████'s whereabouts, but all ██████████ would advise is that he was near Boston Whaler, Edgewater. ██████████ ended the telephone conversation by stating he was going to kill himself. Based upon the concerning suicidal statements made by ██████████ a PING was initiated.

AFFIDAVIT CONTINUATION

FROM SECTION 1
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AIR1 was able to get a visual on a male matching the description of [REDACTED]. The located male was hiding under a boat dock in the Fisherman's Cove Subdivision, which is just north of the aforementioned address. AIR1 directed Deputy Reinhardt, his K9 partner, and Deputy Bartzter to the location of the subject, at which point contact was made with the subject, who was identified as [REDACTED]. See Deputy Bartzter and Deputy Reinhardt's supplement for more information regarding their involvement. Once contact was made, [REDACTED] was detained in handcuff restraints. [REDACTED] began continuously stating that he had messed up and made a mistake.

[REDACTED] was read his Constitutional Rights from a department issued Advisement of Rights Card, to which [REDACTED] understood, waived, and agreed to speak with law enforcement about the incident. [REDACTED] stated he and [REDACTED] got into a verbal argument over their living arrangements. [REDACTED] stated while he was inside his room, [REDACTED] was loud and obnoxious, and acting like an "asshole". [REDACTED] stated this enraged him, which caused him to grab his firearm and stand in the doorway of [REDACTED] bedroom, pointing the firearm at [REDACTED]. [REDACTED] confessed to pointing the firearm at [REDACTED] and when asked he said he could have pointed it at him multiple times, but wasn't sure. [REDACTED] further advised that he might have even entered into [REDACTED] bedroom, but couldn't remember due to his emotional state. [REDACTED] stated he made a mistake and that he let his emotions get the best of him. [REDACTED] stated he fled because he knew he had just made a mistake. [REDACTED] told Deputies that prior to him fleeing the residence, he left the gun in his bedroom. [REDACTED] completed a VSO Consent to Search From, allowing Deputies to go into his bedroom to retrieve the firearm, which was found to be an Israeli Weapon Industries 9mm (serial# [REDACTED]) which was loaded with a bullet in the chamber. The gun was collected and placed into a D3S Evidence Locker as evidence.

Digital photographs of [REDACTED] were obtained and later uploaded to the Digital Crime Scene Database. At the conclusion of the investigation, Deputies determined probable cause existed to charge [REDACTED] with aggravated assault with a deadly weapon without intent to kill F.S.S 784.021 (1)(A). This determination was made based upon [REDACTED]'s statement, coupled with the audio recording, and [REDACTED]'s own admission. [REDACTED] completed a Marsy's Law Form, electing to keep his information private. A criminal history check for [REDACTED] revealed him to not be a convicted felon.