

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} HOWARD D. KENNEDY

VSO Case Number
VP240023008

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, {full legal name} Randy Garcia, 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} [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:

On October 22, 2024, at approximately 1944 hours, law enforcement was dispatched to [REDACTED] Port Orange in reference to a shooting. According to notes entered by Volusia Sheriff's Office Dispatchers, a male fired a handgun inside the residence and pushed a female.

Upon arrival, Deputy Garcia contacted [REDACTED] (V1) and [REDACTED] (cont.)

2 Additional pages are attached.

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

[REDACTED] completed a statement which detailed the following events: [REDACTED] came home intoxicated. [REDACTED] was attempting to get [REDACTED] into bed so he can get some rest. While trying to get him into bed, [REDACTED] stated he became hostile and started to curse at her. [REDACTED] fell down and, when [REDACTED] tried to help him get back up, he shoved her, then produced a firearm. [REDACTED] alleged that [REDACTED] fired a shot (cont.)

1 Additional pages are attached.

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_____ (W1) in front of _____ (V1) was visibly upset at the situation, and would spontaneously utter without coercion or questioning, "He would never shoot me." _____ (V1) completed a sworn, written statement with the following account: _____ (V1) husband, _____ (D1), arrived home from working at _____'s residence intoxicated. _____ (V1) and _____ were trying to get _____ (D1) to go to bed, when he became 'ugly'. _____ walked away when _____ (D1) fell off the bed and onto the nightstand. As _____ (V1) tried to help him up, _____ (D1) pushed _____ (V1) away. _____ (D1) then grabbed the 'black gun' and shot it at the wall, then pointed it at _____ (V1) head. _____ (V1) clarified that _____ (D1) was not trying to kill her, and that he would never hurt her. _____ (V1) elected to pursue criminal charges and completed a Marsy's Law Form, indicating her wishes to keep her information private.

_____ did not appear physically injured as a result of the incident.

_____ completed a sworn, written statement with the following account: _____ dropped _____ (D1) off at his residence after they were working on plumbing at _____'s residence. _____ and _____ (V1) were trying to get _____ (D1) into the master bedroom to go to bed. After trying three times to get him in bed, _____ began to walk away to walk his dog. _____ (V1) approached _____ and told him that _____ (D1) tried to shoot her. _____ (V1) contacted law enforcement. _____ did not see the firearm raised at _____ (V1).

Law enforcement approached and apprehended _____ (D1) in front of his residence.

_____ (V1) provided law enforcement consent to enter the residence to collect and review the evidence.

Deputy Garcia entered the master bedroom and located one shell casing for a .380 auto round underneath the bed. Deputy Garcia photographed the shell casing and collected it for evidence. Law enforcement that apprehended _____ (D1) found the firearm in the garage nearby. The firearm — a black Kel-Tec P-3AT .380 with a factory engraved serial number of _____ — was loaded with a six round magazine that contained five unfired .380 rounds and one unfired .380 round in the chamber of the handgun. Deputy Garcia photographed and collected the rounds and the firearm from the scene. Deputies were unable to locate the point of impact for the fired round. _____ (D1) refused to provide the direction he fired in, and _____ (V1) was (cont.)

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unable to pinpoint the actual direction.

[REDACTED] (D1) was advised of his Miranda Warnings from an Agency-Issued Miranda Warnings card by Deputy Delarosa. [REDACTED] (D1) acknowledged and waived his rights to speak to law enforcement. When asked by Deputy Garcia, [REDACTED] (D1) admitted he fired a shot, but he denied the shooting taking place inside the residence. [REDACTED] (D1) stated he was shooting at an animal outside of his residence. [REDACTED] (D1) did not offer an explanation to the spent shell casing underneath his bed.

Deputy Garcia determined based on the description of the weapon provided to dispatchers, the spontaneous utterances provided by [REDACTED] (V1), the statements provided by [REDACTED] (V1) and [REDACTED] the spent shell casing found underneath the bed, and the pungent odor of an alcoholic beverage coming from [REDACTED] (D1) that [REDACTED] (D1) was the primary aggressor in the incident between himself and [REDACTED] (V1). Due to [REDACTED] (D1) wantonly discharging a live firearm within the residence in an attempt to threaten [REDACTED] (V1), Deputy Garcia determined probable cause exists to charge [REDACTED] (D1) with Shooting Within a Residence, Aggravated Assault with a Deadly Weapon w/o Intent to Kill, Use of a Firearm Under the Influence of Alcohol, and Battery.

Due to the [REDACTED]s being married, this incident is one of domestic violence.

[REDACTED] (V1) was given a victim's rights brochure and completed a victim's notification card.

Deputies will be completing a risk protection order against [REDACTED] (D1).

[REDACTED] (V1) sister, [REDACTED] arrived on scene and agreed to take custody of the firearms and ammunition. [REDACTED] advised she will take them to her residence at [REDACTED] Port Orange.

Case Status: Arrest/Adult

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inside the residence, before pointing the firearm at her head and demanding she leave. [REDACTED]
[REDACTED] was visibly shaken when speaking to deputies. [REDACTED] wished to pursue
charges against [REDACTED] for the incident.

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QTY - TYPE - LOCATION

349	- .22 Rounds -	[REDACTED] Port Orange
7	- .32 Auto -	[REDACTED] Port Orange
28	- 30-06 Rounds -	[REDACTED] Port Orange
2	- .223 Rounds -	[REDACTED] Port Orange
19	- .40cal -	[REDACTED] Port Orange
12	- 12ga Shells -	[REDACTED] Port Orange
17	- .380 Rounds -	[REDACTED] Port Orange
32	- .357 Rounds -	[REDACTED] Port Orange
5	- .52 Rounds -	[REDACTED] Port Orange

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	9	Type	Rifle	Location	Port Orange
Quantity	1	Type	Revolver	Location	Port Orange
Quantity	2	Type	Shotgun	Location	Port Orange
Quantity	9	Type	20ga Shells	Location	Port Orange
Quantity	4	Type	6ga Shells	Location	Port Orange
Quantity	201	Type	.38 Special	Location	Port Orange

1 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: 10/23/2024 Signature of Affiant: [Signature]

Sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 23 day of October, 2024, by Deputy Randy Garcia
Affiant's name

[Signature]
Signature of Attesting LEO Witness

Deputy Justin Delarosa
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)