

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

VSO Case Number
VP240008488

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

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, {full legal name} GERALD CUSIMANO, 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:

This incident is domestic-related due to the victim and defendant being married for approximately 20 years, residing together as a family, and having two children in common.

_____ Additional pages are attached.

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

_____ completed a sworn written statement advising she tried to tell _____ that she wanted to end their marriage. _____ became irate with _____ and a loud verbal argument ensued in the living room. _____ retrieved a camouflage pump-action shotgun from their son's bedroom, approached _____ and pointed the muzzle of the shotgun directly at _____'s face. _____ told _____ that if she wants to leave him then he might as well kill her and himself.

_____ Additional pages are attached.

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

VSO Case Number
VP240008488

AFFIDAVIT CONTINUATION

FROM SECTION 1
PAGE 1 OF 5

BWC RECORDING

DOMESTIC VIOLENCE

MARSY'S LAW

_____ (V1) and _____ (D1, who goes by _____) reside together as a married couple with two children in common. _____ and _____ have been married for approximately 20 years and have had ongoing marital issues over the past several months. At the time of this incident, _____ was confirmed to be on active felony probation for the following charges related to domestic violence: Battery, tampering with a witness, and violation of a no contact order.

On April 16, 2024, at approximately 1844 hours, deputies responded to _____ Oak Hill, in reference to a report of a domestic disturbance. _____ (R1) was at a neighboring property of the aforementioned residence and heard a female screaming help multiple times. _____ parked across from the driveway of the residence and observed _____ (D1), pulling _____ (V1), by her arm, escorting her back to their residence against her will. _____ told _____ multiple times not to do what he was doing and tried to reason with him. _____ told _____ everything was okay, meanwhile _____ was shaking her head no and was visibly distraught. _____ escorted _____ back to the residence where _____ observed _____ hand _____ a teal in color handgun and then leave the residence, by himself, in his _____ Ford Pickup bearing Florida registration plate _____.

Deputy Cusimano made contact with _____ (V1), near the intersection of _____ and _____ Oak Hill. Deputy Cusimano asked _____ if she would provide a sworn written statement and would like to press charges. _____ replied asking if she "had" to write a statement and was informed she did not have to, but it would contribute

AFFIDAVIT CONTINUATION

FROM SECTION 1
PAGE 2 OF 5

towards the case. _____ eventually decided to complete a sworn written statement advising the following: On April 16, 2024, at approximately 1830 hours, _____ attempted to have a conversation with _____ (D1) about their ongoing marital issues and her desire to end their marriage. _____ became very emotional and irate with _____ and began to have a loud verbal argument with her. _____ tried to leave the residence, but _____ would not let her leave. _____ kept _____'s cellphone and truck key from her so that she could not leave or call 911. While arguing in the living room, _____ retrieved a camouflage pump-action shotgun from the bedroom of _____ a minor, (W1). _____ walked back out into the living room and pointed the muzzle of the shotgun directly at _____'s face while stating that if she wants to leave him then he might as well kill her and himself. _____ was in fear of _____ possibly shooting her, due to _____ acting very erratic and pointing the shotgun directly at her face. _____ continued to "plead his case" with _____ while sitting down on the couch in the living room, with the shotgun resting on his lap. _____ began to cry and set the shotgun down, at which point _____ retrieved it and hid it from _____. _____ became irate again and retrieved _____'s Teal Ruger LCP handgun from her purse, on the porch of the residence, set the handgun next to him on the couch, and told _____ she should have killed him when she had a chance to retrieve her handgun. _____ was then able to quickly grab the handgun and run outside to the front yard of the residence. _____ removed the magazine from the handgun, at which point _____ grabbed the handgun out of _____'s hands and walked inside of the residence with it. _____ began to run to the end of the driveway screaming for help, at which point _____ became involved in the incident and witnessed _____ chase down _____ grab her by the arm, and pull her back towards the residence against her will. _____ handed the handgun back to _____ after this point and left the residence in his pickup truck. _____ stated _____ possibly had an unknown 22-caliber rifle inside of his pickup truck, but this was not able to be confirmed, due to _____ later leaving his pickup truck in Brevard County. The 22-caliber rifle was never referenced by _____ or witnessed by any of the parties during this incident.

AFFIDAVIT CONTINUATIONFROM SECTION 1PAGE 3 OF 5

[REDACTED] completed a Marsy's Law Form requesting for her information to not be made public. [REDACTED] was provided with a victim's rights and remedies pamphlet on scene and completed the domestic violence packet.

Deputy Cusimano asked [REDACTED] if [REDACTED] (WI), was ever threatened or battered by [REDACTED] stated [REDACTED] told [REDACTED] to go to his room and could not remember anything else. [REDACTED] did not want [REDACTED] to be interviewed, due to his age, and stated she could not remember if [REDACTED] witnessed the entire incident or not. It should be noted that while interacting with [REDACTED] on scene, [REDACTED] did not appear to be distressed from the incident and did not have any visible injuries to his person either. [REDACTED] did not have any visible injuries as a result of the incident and did not wish to be photographed on scene. [REDACTED] stated she was unsure whether she wanted to press charges or not regarding this incident.

After gathering witness statements from [REDACTED] and [REDACTED], [REDACTED] received a phone call from [REDACTED] from a mutual friend's cellphone. [REDACTED] told [REDACTED] that he was at [REDACTED] Scottsmore, FL. [REDACTED] asked [REDACTED] if law enforcement was looking for him and eventually asked to speak with Deputy Cusimano. [REDACTED] stated to Deputy Cusimano over the phone that he wanted to turn himself in to Volusia Sheriff's Deputies and was getting a ride back to the intersection of US-1 and County Line Road, Oak Hill. [REDACTED] eventually arrived at the intersection and turned himself into deputies on scene.

Deputy Cusimano queried [REDACTED] through NCIC/FCIC with Central Dispatch which yielded that [REDACTED] was on active felony probation for the following charges related to domestic violence: Battery, tampering with a witness, and violation of a no contact order. It should be noted that [REDACTED] was the victim in this case as well. Deputy Cusimano later confirmed [REDACTED]'s active probation status with Probation Officer R. Williams, which resulted in a separate arrest charge for [REDACTED]. See Case: VP240008497.

AFFIDAVIT CONTINUATION

FROM SECTION 1
PAGE 4 OF 5

[REDACTED] turned over her two firearms and ammunition that were involved in the incident to deputies on scene, which were later collected by Deputy Cusimano and submitted into evidence. The handgun was later identified as a Teal and silver, .380 caliber, Ruger LCP bearing serial number#: [REDACTED]. The handgun did not have a round in the chamber and the magazine, which was loaded with 6 bullets, was already removed from the handgun. The camouflage shotgun was later identified as a Camouflage Tristar NKC-MO, 20-gauge, pump-action shotgun bearing serial number#: [REDACTED]. The shotgun had a spent yellow shell casing in the chamber and did not have any additional shells in the tube. [REDACTED] turned over 12 yellow unspent, 20-gauge shotgun shells to deputies on scene which were also submitted into evidence. Deputy Cusimano queried both serial numbers through NCIC/FCIC with Central Dispatch, which yielded negative results for being stolen or being firearms of interest.

Based on the totality of the circumstances, Deputy Cusimano established probable cause for the following statutes:

-F.S.S. 784.03(2) - Battery, 2nd, or subsequent offense, due to [REDACTED] having a previous conviction for battery and grabbing [REDACTED] by the arm to forcefully pull her back to the residence.

-F.S.S. 784.021(1a) - Aggravated assault with a deadly weapon without intent to kill, due to [REDACTED] pointing the camouflage shotgun at [REDACTED]'s face resulting in her being in fear of imminent harm.

-F.S.S. 914.22(1a) - Obstructing justice by tampering with a witness, due to [REDACTED] intentionally withholding [REDACTED]'s cellphone and truck key from her so that she could not escape or call 911.

Due to [REDACTED] and [REDACTED] being married for approximately 20 years, residing together as a family, and having two children in common, this incident meets the criteria for domestic violence.

[REDACTED] was medically cleared at Advent Health, New Smyrna Beach, and later transported to the VCBJ without incident.

Digital photographs of [REDACTED] and the firearms were captured and submitted to digital evidence.

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

VSO Case Number
VP240008488

AFFIDAVIT CONTINUATION

FROM SECTION 1

PAGE 5 OF 5

Director Quann was notified of the incident and a copy of the report was forwarded to DCF.

Deputy Cusimano completed a petition for a risk protection order as a result of the incident.

Case Status: Cleared by arrest.

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>22-Caliber Rifle</u>	Location	<u>Unknown location.</u>
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: 04/17/2024 Signature of Affiant: 

Sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 17 day of April, 2024, by D/S G. Cusimano 9636
Affiant's name


Signature of Attesting LEO Witness

BEN RUIZ
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)