

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

VSO Case Number 22-19356

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

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, *{full legal name}* _____ Deputy Cunningham _____, in my position as *{job title}* _____ Deputy Sheriff _____ with the *{name of law enforcement officer/agency}* _____ Volusia Sheriffs 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 continuation page. (Pages 2-5)

_____ 4 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.

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BWC RECORDING

MARSY'S LAW INVOKED

On October 9, 2022 at approximately 1254 hours, Deputy Custer arrived in the area of _____ and _____ Orange City, FL. in reference to a report of a shooting. Upon arrival Deputy Custer made contact with _____ (V1), who advised the following:

_____ advised on 10/09/2022 at approximately 1245 hours, he was in his front yard (at _____) when he observed his neighbor, later identified as _____ (S1), across the street from him at his property (at _____). _____ stated _____ began yelling at him and his _____ son, _____ (V2), "Fuck you and your son" and flipped him the bird (extending his arm towards _____ holding up his middle finger). _____ advised _____ then told him to "meet me in the street", to which _____ agreed to do and began approaching _____ walking eastbound on the northern side of 1st Street. _____ stated while he was still staying in the street, _____ began walking down the driveway (to what _____ believed was in order to meet him in the street) either behind or between some vehicles in _____ driveway. _____ advised when _____ appeared from behind a _____ Jeep at the end of the driveway, _____ observed _____ point a silver in color handgun at him and discharge the weapon. _____ stated he was approximately 20 yards from _____ at this point and was in fear for his life, as he believed _____ was attempting to kill him given the firearm was pointed directly at him. _____ advised he immediately fled from _____, picked up his son (who was approximately 10 yards behind him closer to the middle of the intersection of 1st Street and Deland Avenue) and ran back to his residence (westbound on _____).

_____ stated upon getting back to his yard, he discovered his neighbor, _____ (O2) was already on the phone with _____, so he gave his wife _____ (W1) their son _____ while he entered his residence to retrieve his firearm. _____ advised upon retrieving his firearm, he exited his front door and walked to the eastern edge of his property (without entering the roadway) and stood there, as he believed _____ may try to come over. _____ stated he remained standing there at his properties edge for approximately 20-30 seconds during which he never said anything towards _____ pointed/raised his firearm, or made any threats towards _____ _____ advised he ultimately took the advice of _____ and his neighbors to return to his residence, given law enforcement had already been contacted. _____ completed a sworn written statement and advised

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he did wish to pursue criminal charges on _____ for himself and on behalf of _____

Deputy Custer then made contact with _____'s wife, _____ (W1), who advised the following:

_____ advised on 10/09/2022 at approximately 1245 hours, she was inside her residence (_____ Deland Avenue) when _____ entered and told her _____ needed help. _____ stated she exited her residence and observed _____ and _____ were engaged in a verbal argument standing in the street (1st Street). _____ advised while approaching _____ in the intersection, she yelled to _____ "What's your problem?" when she suddenly saw a burst of smoke and a loud bang. _____ stated it was at this time she ran back to her residence. _____ completed a sworn written statement to detail the incident further.

Deputy Custer made contact with _____, who advised the following:

_____ advised on 10/09/2022 at approximately 1245 hours, she was in the front of her property _____ when she heard _____ and _____ in a verbal argument. _____ stated during the argument, she heard a loud bang and saw _____ run around westbound down _____ yelling, "He just shot at me, he has a gun, call 9-1-1", at which point she did contact law enforcement. _____ completed a sworn written statement to detail the incident further.

Deputy Custer then made contact with _____'s husband, _____ (O1), who advised the following:

_____ advised on 10/09/2022 at approximately 1245 hours, he too was outside in his front yard during the verbal altercation between _____ and _____. _____ stated shortly after the argument began, he heard a loud bang, which he recognized as a gunshot come from _____ residence. _____ advised he walked over towards _____ residence and observed _____ running away. _____ additionally noted he was able to see a firearm in _____'s hand while he (_____) was walking back inside his residence. _____ completed a sworn written statement to detail the incident further, and noted he did have surveillance cameras affixed to the front of his residence which may have captured the incident.

Deputy Custer reviewed the surveillance video provided by _____ affixed to the northeast

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corner of his residence pointing southwest towards the intersection of _____ and _____
_____ Deputy Custer observed _____ walking towards _____ residence on _____ when he
was blocked by a large patch of vegetation in the front southwest corner of _____ property.
Approximately 5 seconds after _____ becomes obstructed from the view of the camera, a loud
bang is heard. _____ is then seen running away from _____ residence, westbound on _____
back towards his own residence. Deputy Custer noted while the footage itself did have audio
capabilities, most of it was drowned out by a small engine running in the background (_____'s
children riding a go-kart), but the loud "bang" is still able to be heard. Sergeant Huffman was
able to capture the video on his BWC (held to the monitor) and a physical copy (USB) was later
collected by Detective Demarco.

While Deputy Custer was collecting written statements from the victims/witnesses, District VI
deputies and officers from Orange City Police Department, had _____ residence surrounded
while preparing to make contact with _____. During this time _____ wife, _____
(O3) emerged from the front door of the residence (to take out the trash) and was ordered back
towards the deputies in the front of the residence. Sergeant Huffman made verbal contact with
her there, where she advised the following:

_____ advised on 10/09/2022 at approximately 1240 hours, she was inside her residence when
she heard male voices arguing out front. _____ stated she exited her residence and heard _____
yell, "come on faggot, lets go", speaking to _____. _____ stated she began recording the
incident on her cell phone, which started with _____ fleeing the area. _____ advised she heard
_____ yelling obscenities, but could not recall what exact words she used. _____ stated _____ was
acting erratic, and returned shortly thereafter holding a firearm, so she and _____ went back
inside their residence in fear.

When questioned if _____ was ever seen holding a firearm, _____ noted she was on the other
side of the vehicle parked in the driveway and did not see him with one. _____ additionally
noted the loud bang heard by other people in the area was likely a generator nearby at a house
under construction, but she personally did not heard any noise.

Sergeant Huffman reviewed the cell phone video provided by _____ where he observe _____
running away while _____ yells something to the effect of, "why would you shoot with my kid out
here". Shortly thereafter, _____ is seen again returning with what appears to be a firearm in his
hand standing on his property across _____

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Sergeant Huffman again captured the video on his agency issued BWC (approximately 1 minute and 17 seconds in length).

Numerous attempts were made to contact [REDACTED] who was inside his residence (PA announcements, phone calls, etc.) which were all initially met with negative results (no answer). [REDACTED] finally emerged from the residence at approximately 1600 hours. [REDACTED] was secured and advised of his constitutional right via Deputy Custer agency issued Miranda Warning Card. [REDACTED] advised he did not wish to speak to Deputy Custer at this time.

Based on the verbal/written statements obtained on scene, being coupled with the surveillance/cell phone videos observed being consistent with the account provided by [REDACTED] Deputy Custer determined [REDACTED] intentionally threatened [REDACTED] and [REDACTED] by shooting at them with a firearm, which created a well-founded fear which violence/death was imminent. Deputy Custer placed [REDACTED] under arrest and upon completion of the arrest affidavit, was transported to the Volusia County Branch Jail without incident.

Given the presence of a juvenile on scene during the incident, a completed copy of this report was provided to DCF (via fax) and Juvenile Director Carla Quann (via email) for further review.

A Risk Protection Order was later completed for [REDACTED].

It should be noted, upon [REDACTED] arrest, [REDACTED] refused consent to search the residence and on-call CID was contacted to obtain a search warrant for the residence to retrieve the firearm. Deputy Custer turned the scene over to detectives upon their arrival with no additional involvement.

Case Status: Arrest / Adult

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>Revolver</u>	Location	<u>[REDACTED]</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: 10/09/2022 Signature of Affiant: Dep. Cunningham

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 09 day of October, 2022, by Dep. Cunningham
Affiant's name

[Signature]
Signature of Attesting LEO Witness

D/F Custer
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)