

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

VSO Case Number
240025550

IN RE: PETITION FOR RISK PROTECTION ORDER

AGAINST {Name of Respondent} _____

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, {full legal name} SKY MURPHY, 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:

SEE ATTACHED PAGES.

3 Additional pages are attached.

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

SEE VSO REPORT

1 Additional pages are attached.

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BWC RECORDING

MARSY' S LAW INVOKED

On 11/27/2024 at approximately 2320 hours, Deputy Murphy responded to [REDACTED] Deltona in response to a report of a disturbance involving a firearm.

Upon arrival, Deputy Murphy spoke with [REDACTED] (V1), [REDACTED] who advised he was at the McDonalds waiting for his girlfriend [REDACTED] to get off her shift. [REDACTED] stated [REDACTED] was a customer who was upset about his order and began to insult his girlfriend who was attempting to satisfy [REDACTED] with a refund. [REDACTED] stated [REDACTED] began to insult [REDACTED] and he approached him to confront him. [REDACTED] stated that [REDACTED] said he had a firearm on him to which [REDACTED] said he wasn't worried about it. [REDACTED] then walked over to his truck and grabbed a black handgun from the driver's side door and held it up in the air. [REDACTED] stated [REDACTED] then put the gun in his pants before entering his truck and driving off. [REDACTED] advised [REDACTED] then pulled the handgun out for a second time, saying I have something for you and then left in his vehicle. [REDACTED] stated when [REDACTED] brandished the firearm it put him in fear for his life. [REDACTED] later completed a sworn written statement detailing the incident and stated he wished to pursue criminal charges against [REDACTED]

Deputy Murphy then spoke to [REDACTED] (W1), [REDACTED] advised her boyfriend [REDACTED] was in the parking lot of the McDonald's at the time when [REDACTED] became upset with her. [REDACTED] stated [REDACTED] was engaging in a verbal argument with [REDACTED] in an attempt to defend her as [REDACTED] was insulting her. [REDACTED] stated during the incident, she heard [REDACTED] yell "I have something for you" Before she looked outside the drive-through window and observed [REDACTED] holding a firearm in the air and pointing it to the sky. [REDACTED] also remembered hearing people yelling that he had a gun. [REDACTED] stated [REDACTED] then walked back to his grey [REDACTED] truck and left the parking lot. [REDACTED] later completed a sworn written statement detailing the incident.

Deputy Murphy then spoke with [REDACTED] (W2) who advised that at approximately 2250 Hours, a customer later identified as [REDACTED] (D1) arrived at the McDonald's to place an order. [REDACTED] stated there was a long wait when ordering food due to a high volume of customers. [REDACTED] stated [REDACTED] had become furious and began to cause a disturbance while he was parked in the waiting spot in the parking lot. [REDACTED] stated at one point she heard employees and customers say he had a gun and was holding it in the air. [REDACTED] was sworn to her verbal statement.

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Deputy Murphy then spoke with [REDACTED] (W3) who advised he was with [REDACTED] the entire time and saw [REDACTED] and [REDACTED] engage in a verbal altercation in the parking lot of McDonalds. [REDACTED] stated he never saw the firearm but heard [REDACTED] say to [REDACTED] that he had a firearm with him. [REDACTED] was later sworn to his verbal statement.

Deputy Murphy then contacted the store manager who sent Deputy Murphy a video of [REDACTED] at his vehicle. While observing the video, Deputy Murphy saw [REDACTED] go to his grey [REDACTED] Truck and retrieve an item from the driver's side of the vehicle. [REDACTED] was then seen holding the item in the air and then putting it into his waistband area before entering his vehicle. Deputy Murphy later uploaded the video on Axon.com.

Employees of McDonald' s stated [REDACTED] later called back to attempt to make a complaint. Deputies were later able to make contact with [REDACTED] via telephone due to his recent call to McDonald' s. [REDACTED] provided his name and address and stated he was recently there at the location mentioned above and began an altercation over his order. [REDACTED] provided his address was [REDACTED] Port Orange and agreed to meet Law Enforcement at his residence.

Deputy Garcia contacted [REDACTED] at [REDACTED] [REDACTED] was on his front porch drinking a beverage from a McDonald' s cup. A gray [REDACTED] pickup truck bearing Florida registration [REDACTED] was observed in the driveway parked closest to the road in front of other vehicles.

Deputy Garcia provided [REDACTED] a Volusia Sheriff' s Office Advice of Rights form, which listed [REDACTED] s Miranda rights. Deputy Garcia allowed [REDACTED] to read the form as it was read to him and explained. Deputy Garcia affirmed to [REDACTED] that the interview was not at all mandatory. [REDACTED] signed the Advice of Rights form, indicating his knowledge and understanding of his rights prior to being interviewed.

[REDACTED] provided the following account: [REDACTED] and his girlfriend arrived at the McDonald restaurant drive-thru earlier in the evening. [REDACTED] described a negative experience where his food was taking upwards of thirty minutes to be served to him. A McDonald employee walked out to [REDACTED] s vehicle and, after some words were exchanged, [REDACTED] became upset because the employee allegedly called him a racist. After the employee left [REDACTED] vehicle, a McDonald manager approached [REDACTED] vehicle with his order of food. [REDACTED] requested the corporate number for McDonald, the employees name, and the rest of his order - of which, drinks were still

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missing. The manager returned to the establishment, prompting _____ to approach the drive-thru window and request the same information. _____ alleges that at least three men begin threatening him in the drive-thru line. _____ returns to his vehicle as he exchanges words with the three men with the situation getting increasingly hostile. After _____ gets to his vehicle, he stated he heard a woman scream, "He's got a gun!" _____ admitted to putting his hands in the air but denying having anything in his hands at the time of the incident. _____ stated he was in fear of injury at the time but denied possessing or brandishing a firearm.

Deputy Garcia confirmed _____ was right-handed based on his signature of the Advice of Rights form, the cigarette he was smoking, and _____'s own statement that he was right-handed. When asked _____ confirmed he possesses a handgun that is normally concealed on the right-hand side of his back.

Based on statements provided by other deputies combined with _____'s statement, _____ was taken into custody. After being placed in custody, _____ admitted to having a firearm at the time of the incident, citing his fear of injury for placing the firearm in his waistband. _____ continued to deny ever brandishing the firearm in the air.

After confessing he was in possession of having a firearm during this incident, _____ surrendered the firearm to Deputy Murphy and was later submitted it into evidence. It should be noted the firearm was a black 9mm Berretta Px4 storm.

Based on the above statements and observations, Deputy Murphy found there to be probable cause to charge _____ with Aggravated Assault and was later transported to the VCBJ without further incident.

Case Status: Arrested/Adult.

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>HAND GUN</u> | Location | <u>VSO EVIDENCE</u> |
| Quantity | _____ | Type | _____ | Location | _____ |
| Quantity | _____ | Type | _____ | Location | _____ |
| Quantity | _____ | Type | _____ | Location | _____ |
| Quantity | _____ | Type | _____ | Location | _____ |
| Quantity | _____ | Type | _____ | Location | _____ |

2 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: 11/28/2024 Signature of Affiant:  9542

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 28TH day of November, 2024, by S.MURPHY

Affiant's name

 9306
Signature of Attesting LEO Witness

B. WESTFALL
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)