

5. Additional Information

Yes a. Other acts or threats of domestic violence as described:

On FRIDAY, 2003 AND DURING RELATIONSHIP at OUR HOME

On Friday was trying to get a hold of a substance abuse counselor in the phone book. I went to pick up the phone and use it. He told me to take my cell phone and go outside and use it. I told him that I didn't want to go outside that I was going to use the house phone. He said fine and through the cordless phone across the room and broke it. Then he took the phone in the bedroom and ripped it out of the wall. There was a lot of cussing involved. In 2003 he knocked the shit out of me. I called the police and he went to jail. He has knocked a dent in the wall from throwing me into the wall. A lot of these things he doesn't remember because he blacks out from the alcohol. He kicked my children out of the house on a Sunday about 2 1/2 or 3 months ago. I came home from my job and he was sitting in the driveway with a bottle of Vodka. He told my kids to get the fuck out of the house and when I came home one of my children was at the neighbor's house. But my fourteen year old was corner at the subdivision, which is Spirit Lake Road. This all has been going on since a year after I met him.

Yes b. This or other acts of domestic violence have been previously reported to {person or agency}:

POLK COUNTY SHERIFF AND HAINES CITY PD

____ c. Respondent owns, has, and/or is known to have guns or other weapons. Describe weapon(s):

No d. Respondent has a drug problem.

Yes e. Respondent has an alcohol problem.

Yes f. Respondent has a history of mental health problems. If checked, answer the following, if known.

Has Respondent ever been the subject of a Baker Act Proceeding? () Yes (X) No

Is Respondent supposed to take medication for mental health problems? (X) Yes () No

If yes, is Respondent currently taking his/her medication? (X) Yes () No

SECTION IV. TEMPORARY EXCLUSIVE USE AND POSSESSION OF HOME

(Complete this section only if you want the Court to grant you temporary exclusive use and possession of the home that you share with the Respondent.)

1. Petitioner claims the following about the home that Petitioner and Respondent share or that Petitioner left because of domestic violence

X a. Petitioner needs the exclusive use and possession of the home that the parties share at:

4027 OAK PRESERVE DR

WINTER HAVEN, FL 33880

X b. Petitioner cannot get another safe place to live because:

X **THAT IS THE ONLY HOME I HAVE TO LIVE WITH MY CHILDREN AND I HAVE NO MONEY TO GET ANOTHER PLACE**

____ c. If kept out of the home, Respondent has the money to get other housing or may live without money at:

FAMILY AND FRIENDS

2. The home is:

X a. owned or rented by Petitioner and Respondent jointly.

- b. solely owned or rented by Petitioner.
- c. solely owned or rented by Respondent.

SECTION V. TEMPORARY CUSTODY OF MINOR CHILD(REN) (Complete this section only if you are seeking temporary custody of any minor child. You must be the natural parent, adoptive parent, or guardian by court order of the minor child(ren). If you are asking the court to determine issues of temporary custody with regards to a minor child, you must also complete and file a Uniform Child Custody Jurisdiction Act (UCCJA) Affidavit, Florida Supreme Court Approved Family Law Form 12.902(d).

Note: If the paternity of the minor child(ren) listed below has not been established through either marriage or court order, the Court may deny temporary custody, visitation, and/or support.

- 1. Petitioner is the natural parent, adoptive parent, or guardian by court order of the minor child(ren) whose names(s) and age(s) is (are) listed below.

2. The minor child(ren) whom Petitioner is seeking temporary custody of:

- a. saw the domestic violence described in this petition happen
- b. were at the place where the domestic violence happened but did not see it.
- c. were not there when the domestic violence happened this time but have seen previous acts of domestic violence by Respondent.
- d. have not witnessed domestic violence by Respondent.

- 3. Name any other minor child(ren) who were there when the domestic violence happened. Include child(ren)'s, age, sex, and Parent's Names

4. Visitation

- a. Petitioner requests that the Court order reasonable visitation by Respondent with the minor child(ren), as follows:

- b. Petitioner requests that the Court order supervised exchange of the minor child(ren) or exchange through a responsible person designated by the Court. The following person is suggested as a responsible person for purposes of such exchange. Explain:

- c. Petitioner requests that the Court limit visitation by Respondent with the minor child(ren). Explain:

- d. Petitioner requests that the Court prohibit visitation by Respondent with the minor child(ren) because Petitioner genuinely fears that Respondent imminently will abuse, remove, or hide the minor child(ren) from Petitioner. Explain:

SECTION VI. TEMPORARY SUPPORT (Complete this section only if you are seeking financial support from the Respondent. You must also complete and file a Family Law Financial Affidavit, Florida Family Law Rules of Procedure Form 12.902(b) or (c), and Notice of Social Security Number Florida Supreme Court Approved Family Law Form 12.902(j), if you are seeking child support. A Child Support Guidelines Worksheet, Florida Family Law rules of Procedure Form 12.902(e), must be filed with the court at or prior to a hearing to establish or modify child support.)

- N/A 1. Petitioner claims a need for the money he or she is asking the Court to make Respondent pay, and that Respondent has the ability to pay that money.
- N/A 2. Petitioner requests that the Court order Respondent to pay the following temporary alimony to Petitioner. (Petitioner must be married to Respondent to ask for temporary alimony.) Temporary Alimony Requested in the amount of \$0 .
- N/A 3. Petitioner requests that the Court order Respondent to pay the following temporary child support to Petitioner. (The respondent must be the natural parent, adoptive parent, or guardian by court order of the minor child(ren) for the court to order the respondent to pay child support.) Temporary child support is requested in the amount in the amount of \$0 .

SECTION VII. INJUNCTION (This section summarizes what you are asking the Court to include in the injunction. This section must be completed.)

1. Petitioner asks the Court to enter a TEMPORARY INJUNCTION for protection against domestic violence that will be in place from now until the scheduled hearing in this matter.
2. Petitioner asks the Court to enter, after a hearing has been held on this petition, a final judgment on injunction prohibiting Respondent from committing any acts of domestic violence against Petitioner and:
 - a. prohibiting Respondent from going to or within 500 feet of any place the petitioner lives;
 - b. prohibiting Respondent from going to or within 500 feet of the Petitioner's place(s) of employment or school; the address of Petitioner's place(s) of employment or school is: _____
 - c. prohibiting Respondent from contacting Petitioner by mail, by telephone, through another person, or in any other manner;
 - d. prohibiting Respondent from knowingly and intentionally going to or within 100 feet of Petitioner's motor vehicle
 - e. prohibiting Respondent from defacing or destroying Petitioner's personal property.
 - f. prohibiting Respondent from going to or within 500 feet of the following place(s) Petitioner or Petitioner's minor child(ren) must go often {include address}: _____
- Yes g. granting Petitioner temporary exclusive use and possession of the home Petitioner and Respondent share;
 - Yes 1. transfer of possession of the home with assistance from law enforcement.
 2. allow (X) Respondent () Petitioner one time visit with law enforcement to obtain personal items.

3. prohibiting (X) Respondent () Petitioner from removing or destroying furnishings or fixtures.

N/A h. granting Petitioner temporary exclusive custody of the parties' minor child(ren);

N/A i. establishing visitation rights with the parties' minor child(ren);

No j. granting temporary alimony for Petitioner;

N/A k. granting temporary child support for the minor child(ren);

Yes l. ordering Respondent to participate in treatment, intervention, and/or counseling services

No m. referring Petitioner to a certified domestic violence center; and any other terms the Court deems necessary for the protection of Petitioner and/or Petitioner's child(ren), including injunctions or directives to law enforcement agencies, as provided in section 741.30, Florida Statutes.

n. Other relief sought:

I UNDERSTAND THAT BY FILING THIS PETITION, I AM ASKING THE COURT TO HOLD A HEARING ON THE PETITION, THAT BOTH RESPONDENT AND I WILL BE NOTIFIED OF THE HEARING, AND THAT I MUST APPEAR AT THE HEARING.

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION, AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECITON 837.02, FLORIDA STATUTES.

LMS
(initials)

Dated: 8/23/2005

Lisa Melay-Smith
Signature of Petitioner

STATE OF FLORIDA COUNTY OF POLK

Sworn to or affirmed and signed before me on 8/23/2005 by LISA A MELAY-SMITH

by [Signature]
JULIE DUFFEY, DEPUTY CLERK

Personally known

Produced identification

Type of identification produced

NO TO LOOK AN OATH FDL

Case No. Case No: 53-2005DR-007833-00
RESPONDENT INFORMATION SHEET

POLK County Sheriff's Office
455 N. BROADWAY AVE.
BARTOW FL 33830-3998
Phone: (863) 533-0444

DATE: 8/23/2005

NAME OF RESPONDENT: SMITH, KERRY A

HOME ADDRESS: 4027 OAK PRESERVE DR WINTER HAVEN FL 33880

PHONE NUMBER: (863) 293-9495

JAIL STATUS:

PLACE OF EMPLOYMENT: R & L CARRIERS

ADDRESS: LAKELAND FL

PHONE NUMBER: 863-984-4811 HOURS WORKED:

DOB: 2/16/1965

AGE: 40

HGT: 5'7

WGT: 250

BUILD: STOCKY

RACE: White

SEX: M

EYES: BROWN

HAIR: BROWN/G

PHYSICAL DEFECTS/IDENTIFYING MARKS:

DRIVER'S LICENSE/STATE ISSUED: S530501650560

ALIAS OR NICKNAME USED:

NAMES/ADDRESSES OF PARENTS/CLOSE FRIENDS:

PHONE NUMBER:

AUTOMOBILES OR TYPES OF TRANSPORTATION RESPONDENT MAY DRIVE (YEAR, MAKE, TAG NUMBER, COLOR):

F150 OR TRAILBLAZER tan / grey

LIST ANYTHING YOU THINK MAY HELP LOCATE RESPONDENT: usually home early morning by 7:30 pm

DIRECTION TO RESPONDENT'S HOUSE, IF NOT CLEARLY MARKED:

TO MY KNOWLEDGE, THE RESPONDENT OWNS/HAS ACCESS TO THE FOLLOWING WEAPONS:

none

DOES HE/SHE THREATEN TO HARM ANYONE WITH WEAPONS AND WHO? NO

NAME OF PETITIONER: LISA A MIHAY-SMITH

DOB: 8/4/1966

RACE/SEX: White / F

PETITIONER'S ADDRESS: 4027 OAK PRESERVE DR
WINTER HAVEN FL 33880

PHONE NUMBER: (863) 421-4654

WORK PHONE:

IF PHONE CONFIDENTIAL, GIVE ALTERNATE PHONE #:

ATTACH A PHOTOGRAPH, IF POSSIBLE.


LISA A MIHAY-SMITH

POLK COUNTY SHERIFF'S OFFICE
POLK COUNTY CLERK

8 23 AM 10:13

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

Ref No: 05-DR-007833
UCN: 532005DR007833000000

LISA A. MIHAY-SMITH,
Petitioner

v.

KERRY A. SMITH
Respondent.

MOTION TO MODIFY OR DISSOLVE TEMPORARY INJUNCTION

COMES NOW, Respondent, KERRY A. SMITH, by and through the undersigned counsel, pursuant to Rule 12.610(6), Fla. Fam.L.R.P., and requests this Honorable Court to enter an order dissolving the permanent injunction issued in the above-styled case, and as grounds therefore would state:

1. The original order referenced above was entered on September 1, 2005;
2. Since entry of the original Order, there has been a substantial change in circumstance:
 - a. Petitioner is resides outside the territorial boundaries of the State of Florida, and has done so for many years;
 - b. Petitioner and Respondent have had no contact of any type since entry of the original Order in this matter;
 - c. Respondent has encountered difficulty in re-entering the United States based on the original Order;
 - d. Respondent is unable to exercise his Second Amendment Right to bear arms as a

result of the Order for Surrender of Firearms entered by this Honorable Court on November 10, 2005.

3. I am the party against whom this temporary injunction has been granted, and under Rule 1.610, Fla. R. Civ. P. and Rule 12.610 Fla. Fam. L. R. P., I request that a hearing be held after the filing of this motion.

WHEREFORE, Respondent respectfully request this Honorable Court grant Motion to Dissolve Injunction.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was, and a true copy of the same was provided by electronic mail (where e-mail addresses are known) to all counsel of record via email, which constitutes service under the Florida Rule of Judicial Administration 2.516 and via the U.S. Postal Service where e-mail addresses are unknown, this 19th day of June 2017.

Lisa A. Mihay, Petitioner
18 Camden Kn.
Dallas, GA 30157-8741
LAIHAY1@GMAIL.COM

Respectfully submitted,
Christopher M. Sierra, P.A.

/S/

Christopher M. Sierra, Esq.
Florida Bar # 0977446
SPN 02345615
695 Central Avenue, Suite 271
St. Petersburg, FL 33701
727/490-2020, x. 7034
727/499-4799 (Fax)
chris@sierralawfirm.com
legalassist@sierralawfirm.com
Counsel for Respondent

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

Ref No: 05-DR-007833
UCN: 532005DR007833000000

LISA A. MIHAY-SMITH,
Petitioner

v.

KERRY A. SMITH
Respondent.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a hearing will be held in the above styled case as set forth
below:

DATE: Thursday, July 20, 2017
TIME: 1:30 P.M.
JUDGE: Honorable Ellen S. Masters
PLACE: Red Elevators
Courtroom 6-B
255 N. Broadway Ave.
Bartow, FL 33830

MATTER(S) TO BE HEARD:

- RESPONDENT'S MOTION TO DISSOLVE INJUNCTION.

PLEASE BE GOVERNED ACCORDINGLY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was, and a true copy of the same was provided by
electronic mail (where e-mail addresses are known) to all counsel of record via email, which