

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 20th 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

Filing # 58077313 E-Filed 06/20/2017 03:40:55 PM

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

Ref No: 05-DR-007833
UCN: 2005DR0078330000

LISA A. MIHAY-SMITH
Petitioner

KERRY A. SMITH
Respondent

AMENDED MOTION TO MODIFY OR
DISSOLVE FINAL PERMANENT INJUNCTION

COMES NOW Respondent, KERRY A. SMITH, by and through the undersigned counsel,
pursuant to Rule 12.610(c), Fla. Prob. & C.J., and requests the Honorable Court to enter an order
dissolving the Final Permanent Injunction issued in the above-captioned case, and its grounds therefore
would be:

1. The original order of final judgment was entered on September 1, 2005.
2. Since entry of the original Order, there has been a substantial change in circumstance:
 - a. Petitioner is residing outside the 12 judicial circuits 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 of this case.

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

MIHAY-SMITH, LISA A

PETITIONER,

VS

SMITH, KERRY A

RESPONDENT .

Case No: 53-2005DR-007833-0000-00

Section No.: 0001

05 AUG 23 PM 12: 01
FILED
CIRCUIT COURT CHILDREN
POLK COUNTY CLERK

TEMPORARY INJUNCTION FOR PROTECTION AGAINST
DOMESTIC VIOLENCE WITHOUT CHILDREN

The Petition for Injunction for Protection Against Domestic Violence under section 741.30, Florida Statutes, and other papers filed in this Court have been reviewed. The Court has jurisdiction of the parties and the subject matter under the laws of Florida.

It is intended that this protection order meet the requirements of 18 U.S.C. § 2265 and therefore intended that it be accorded full faith and credit by the court of another state or Indian tribe and enforced as if it were the order of the enforcing state or of the Indian tribe.

NOTICE OF HEARING

Because this Temporary Injunction for Protection Against Domestic Violence has been issued without prior notice to Respondent, Petitioner and Respondent are instructed that they are scheduled to appear and testify at a hearing regarding this

matter on 9/ 1/2005 at 8:45 AM

when the Court will consider whether the Court should issue a Final Judgment of Injunction for Protection Against Domestic Violence, which would remain in effect until modified or dissolved by the Court, and whether other things should be ordered, including, for example, such matters as support.

The hearing will before The Honorable Judith J. Flanders at Courtroom 6B, 6th floor (use red elevators) of the POLK COUNTY COURTHOUSE, BARTOW, Florida. If Petitioner and/or Respondent do not appear, this temporary injunction may be continued in force, extended, dismissed, and/or additional orders may be granted, including the imposition of court costs.

All witnesses and evidence, if any, must be presented at this time. In cases where temporary support issues have been alleged in the pleadings, each party is ordered to bring his or her financial affidavit (Florida Family Law Rules of Procedure Form 12.902(b) or (c)), tax return, pay stubs, and other evidence of financial

NOTICE: Because this is a civil case, there is no requirement that these proceedings be transcribed at public expense.

YOU ARE ADVISED THAT IN THIS COURT:

- a A court reporter is provided by the court.
- b Electronic audio tape recording only is provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.
- c No electronic audio tape recording or court reporting services are provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.

A RECORD, WHICH INCLUDES A TRANSCRIPT, MAY BE REQUIRED TO SUPPORT AN APPEAL. THE PARTY SEEKING THE APPEAL IS RESPONSIBLE FOR HAVING THE TRANSCRIPT PREPARED BY A COURT REPORTER. THE TRANSCRIPT MUST BE FILED WITH THE REVIEWING COURT OR THE APPEAL MAY BE DENIED.

If you are a person with a disability who needs any accomodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact COURT ADMINISTRATOR'S OFFICE, 255 N. BROADWAY, BARTOW, FL 33831, (941) 534-4690, within 2 working days of your receipt of this temporary injunction. If you are hearing or voice impaired, call TDD 1-800-

FINDINGS

The statements made under oath by Petitioner make it appear that section 741.30, Florida Statutes, applies to the parties. It also appears that Petitioner is a victim of domestic violence by Respondent, and/or Petitioner has reasonable cause to believe he/she is in imminent danger of becoming a victim of domestic violence by Respondent, and that there is an immediate and present danger of domestic violence to Petitioner or persons

TEMPORARY INJUNCTION AND TERMS

This injunction shall be effective until the hearing set above and in no event for longer than 15 days, unless extended by court order. This injunction is valid and enforceable in all counties of the State of Florida. The terms of this injunction may not be changed by either party alone or by both parties together. Only the Court may modify the terms of this injunction. Either party may ask the Court to change or end this injunction.

Any violation of this injunction, whether or not at the invitation of Petitioner or anyone else, may subject Respondent to civil or indirect criminal contempt proceedings, including the imposition of a fine or imprisonment. Certain willful violations of the terms of this injunction, such as: refusing to vacate the dwelling that the parties share; going to Petitioner's residence, place of employment, school, or other place prohibited in this injunction; telephoning, contacting or communicating with Petitioner if prohibited by this injunction; or committing an act of domestic violence against Petitioner constitutes a misdemeanor of the first degree punishable by up to one year in jail, as provided by sections 775.082 and 775.083, Florida Statutes. In addition, it is a federal criminal felony offense, punishable by up to life imprisonment, depending on the nature of the violation, to cross state lines or enter Indian country for the purpose

ORDERED and ADJUDGED:

1. **Violence Prohibited.** Respondent shall not commit, or cause any other person to commit, any acts of domestic violence against Petitioner. Domestic violence includes: assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnaping, false imprisonment, or any other criminal offense resulting in physical injury or death to Petitioner or any of Petitioner's family or household members. Respondent shall not commit any other violation of the injunction through an intentional unlawful threat, word or act to do violence to the Petitioner.
2. **No Contact.** Respondent shall have no contact with Petitioner unless otherwise provided in this section, or unless paragraph 14 below provides for contact connected with the temporary custody of an visitation with minor child(ren).

a. Unless otherwise provided herein, respondent shall have no contact with Petitioner. Respondent shall not directly or indirectly contact Petitioner in person, by mail, e-mail, fax, telephone, through another person, or in any other manner. Further, Respondent shall not contact or have any third party contact anyone connected with Petitioner's employment or school to inquire about Petitioner or to send any messages to Petitioner. Contact at legal proceedings or through legal counsel constitutes an exception. Unless otherwise provided hereing, RESPONDENT SHALL NOT GO TO, IN, OR WITHIN 500 FEET OF:

Petitioner's current residence [REDACTED] where ever Petitioner
[REDACTED] may move
or any residence to which Petitioner may move; Petitioner's current or any subsequent place of employment

or place where Petitioner attends school;

; or the following other places (if requested by Petitioner) where Petitioner or Petitioner's minor child(ren) go often:

Respondent may not knowingly come within 100 feet of Petitioner's automobile at any time.

_____ b. Other provisions regarding contact:

3. **Firearms.**

SWR a. Respondent shall not use or possess a firearm or ammunition.

SWR b. Respondent shall surrender any firearms and ammunition in the Respondent's possession to the local law enforcement agency with jurisdiction until further order of the Court.

SWR c. Other directives relating to firearms and ammunition:

NOTE: RESPONDENT IS ADVISED THAT, IF A PERMANENT INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE IS ISSUED FOLLOWING A HEARING REGARDING THIS MATTER, IN MOST CASES IT WILL BE A VIOLATION OF §790.233, FLORIDA STATUTES, AND A FIRST DEGREE MISDEMEANOR, FOR RESPONDENT TO HAVE IN HIS OR HER CARE, CUSTODY, POSSESSION OR CONTROL ANY FIREARM OR AMMUNITION. ADDITIONALLY, IT WILL BE A FEDERAL CRIMINAL FELONY OFFENSE TO SHIP OR TRANSPORT IN INTERSTATE OR FOREIGN COMMERCE, OR POSSESS IN OR AFFECTING COMMERCE, ANY FIREARM OR AMMUNITION; OR TO RECEIVE ANY FIREARM OR AMMUNITION WHICH HAS BEEN SHIPPED OR TRANSPORTED IN INTERSTATE OR FOREIGN COMMERCE WHILE SUBJECT TO SUCH AN INJUNCTION. 18 U.S.C. §922(g)(8).

4. **Mailing Address.** Respondent shall notify the Clerk of the Court of any change in his or her mailing address within ten (10) days of the change. All further papers (excluding the final injunction, if entered without Respondent's being present at the hearing, and pleadings requiring personal service) shall be served by mail to respondent's last known address. Such service by mail shall be complete upon mailing. Rule 12.080, Fla.Fam.L.R.P., section 741.30, Florida Statutes.

5. N/A Additional order necessary to protect Petitioner from domestic violence:

TEMPORARY EXCLUSIVE USE AND POSSESSION OF HOME

6. N/A **Possession of the Home.** The _____ shall have temporary

exclusive use and possession of the dwelling located at:

4027 OAK PRESERVE DR WINTER HAVEN, FL 33880

7. N/A **Transfer of Possession of the Home.** A law enforcement officer with jurisdiction over the home shall accompany the _____ to the home, and shall place the _____ in possession of the home.

8. N/A **Personal Items.** (X) _____, in the presence of a law enforcement officer, may return to the premises described above (X) on _____, at _____ a.m./p.m., or (X) at a time arranged with the law enforcement department with jurisdiction over the home, for the purpose of obtaining his or her clothing and items of personal health and hygiene and tools of the trade. A law enforcement officer with jurisdiction over the home from which these items are to be retrieved shall accompany (X) _____

to the home and stand by to insure that he/she vacates the premises with only his/her personal clothing, toiletries, tools of the trade, and any items listed in paragraph 10 below. The law enforcement agency shall not be responsible for storing or transporting any property.

IF THE RESPONDENT IS NOT AWARDED POSSESSION OF THE HOME AND GOES TO THE HOME WITHOUT A LAW ENFORCEMENT OFFICER, IT IS A VIOLATION OF THIS INJUNCTION.

9. N/A (X) _____ shall not damage or remove any furnishings or fixtures from he parties' former shared premises.

10. N/A Other:

Temporary support, if requested by Petitioner in the Petition for Injunction for Protection Against Domestic Violence, will be addressed by the Court after notice to Respondent and hearing on the matter.

TEMPORARY CUSTODY OF MINOR CHILD(REN)

11. N/A **Jurisdiction.** Jurisdiction to determine custody of any minor child(ren) listed in paragraph 12 below is proper under the Uniform Child Custody Jurisdiction Act (UCCJA).
12. N/A **Temporary Custody of Minor Child(ren).** () Petitioner () Respondent shall have temporary custody of the parties' minor child(ren) listed below:

When requested by the custodial parent, law enforcement officers shall use any and all reasonable and necessary force to physically deliver the minor child(ren) listed above to custodial parent. The noncustodial parent shall not take the child(ren) from the custody of custodial parent or any child care provider or other person entrusted by the custodial parent with the care of the child(ren).

N/A Neither party shall remove the minor child(ren) from the State of Florida, which is the jurisdiction of this Court, prior to the hearing on this temporary injunction. Violation of this custody order may constitute a felony of the third degree under sections 787.03 and 787.04, Florida Statutes.

13. **Contact with Minor Child(ren).** Unless otherwise provided in paragraph 14 below, the noncustodial parent shall have NO CONTACT with the parties' minor child(ren) until further order of the Court.
14. N/A **Other Additional Provisions Relating to the Minor Child(ren).**

OTHER SPECIAL PROVISIONS

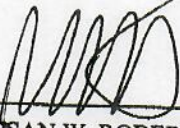
(This section to be used for inclusion of local provisions approved by the chief judge as provided in Florida Family Law Rule 12.610.)

DIRECTIONS TO LAW ENFORCEMENT OFFICER IN ENFORCING THIS INJUNCTION

(Provisions in this injunction that do not include a line for the judge to either initial or write N/A are considered mandatory provisions and should be interpreted to be part of this injunction.)

1. The Sheriff of Polk County, or any other authorized law enforcement officer, is ordered to serve this temporary injunction upon Respondent as soon as possible after its issuance.
2. **This injunction is valid in all counties of the State of Florida.** Violation of this injunction should be reported to the appropriate law enforcement agency. Law enforcement officers of the jurisdiction in which a violation of this injunction occurs shall enforce the provisions of this injunction and are authorized to arrest without warrant pursuant to section 901.15, Florida Statutes, for any violation of its provisions which constitutes a criminal act under section 741.31, Florida Statutes.
3. **THIS INJUNCTION IS ENFORCEABLE IN ALL COUNTIES OF FLORIDA AND LAW ENFORCEMENT OFFICERS MAY EFFECT ARRESTS PURSUANT TO SECTION 901.15(6), FLORIDA STATUTES.** The arresting agent shall notify the State Attorney's Office immediately after arrest.
4. **Reporting alleged violations.** If Respondent violates the terms of this injunction and there has not been an arrest, Petitioner may contact the Clerk of the Circuit Court of the county in which the violation occurred and complete an affidavit in support of the violation, or Petitioner may contact the Clerk's Domestic Violence office for assistance in filing an action for indirect civil contempt or indirect criminal contempt. Upon receiving such a report, the State Attorney is hereby appointed to prosecute such violations by indirect criminal contempt proceedings, or the State Attorney may decide to file a criminal charge, if warranted by the evidence.

ORDERED on 8/23/2005



SUSAN W. ROBERTS, CIRCUIT JUDGE

COPIES TO:

Sheriff of Polk County

Petitioner (or his or her attorney): _____ by U.S. Mail by hand delivery ~~in open court~~

Respondent: forwarded to sheriff for service

_____ State Attorney's Office

_____ Other:

I CERTIFY the foregoing is a true copy of the original as it appears on file in the office of the Clerk of the Circuit Court of Polk County, Florida, and that I have furnished copies of this order on the date of entry as indicated above.

RICHARD M. WEISS
CLERK OF THE CIRCUIT COURT



By: _____

A handwritten signature in black ink, appearing to read "Julie Duffey", is written over a horizontal line. The signature is fluid and cursive.

JULIE DUFFEY, DEPUTY CLERK

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

Mihay-Smith, Lisa A. Case Number: 2005DR-7833
Petitioner

vs.

Section Number: 05

Smith, Kerry A.
Respondent.

ORDER EXTENDING TEMPORARY INJUNCTION FOR PROTECTION
AND NOTICE OF HEARING

THIS CAUSE having come before the court upon the petitioner's petition for injunction for protection previously entered herein, and the court finding that good cause exists to extend the temporary injunction entered on 8/23/05, and the court being otherwise fully advised in the premises, it is therefore

ORDERED AND ADJUDGED that the injunction for protection previously entered herein is temporarily extended and shall remain in effect until 11/17/05.

On the 10 day of November, 2005 at 1:30 am/pm, the undersigned will conduct a () hearing () status conference on the petition for injunction for protection at the Polk County Courthouse, 255 North Broadway, Bartow, Florida. If, after having been served the petition for injunction, the ex parte temporary injunction, and the order and notice, the respondent fails to appear at the noticed hearing, the temporary injunction shall remain in full force and effect until such time as the petitioner obtains service of a final order of injunction for protection upon the respondent, the temporary injunction is denied, or this case is dismissed.

ORDERED this 1 day of September, 2005.

Judith J. Flinders
Circuit Judge

In accordance with the American with Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact the individual or agency sending the notice at the Office of the Court Administrator, telephone (863) 534-4690 no later than seven days prior to the proceeding. If hearing impaired (TDD) 1-800-955-8771 or voice (v) 1-800-955-8770 via Florida Relay Service.

COPIES TO:

PCSO
Petitioner by hand delivery in open court _____ by U.S. Mail
Respondent _____ by hand delivery in open court by forwarding to Sheriff for service upon respondent
Other: Fairrell Esq. X
Evans Esq. X

I CERTIFY that a true copy of the foregoing document has been furnished to the parties as indicated above this 1 day of September, 2005.



CLERK OF THE CIRCUIT COURT

By: Skonika Alice
Deputy Clerk

CIRCUIT COURT CALLOWAY
POLK COUNTY CLERK

05 SEP - 1 AM 10:44

FILED

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

Smith, Kerry A.
Petitioner

Case Number: 2005DR-7778

2005 DR - 7833

vs.

Section Number: 05

Smith, Lisa A.
Respondent.

AMENDMENT TO TEMPORARY () FINAL INJUNCTION FOR PROTECTION

Upon due consideration it is ordered and adjudged that the Injunction for Protection, entered 8/22/05, is amended as follows:

8/23/05

Lisa A McKay-Smith is given temporary use and possession of the marital home located at 4027 Oak Park Lane, Winter Haven, FL 33880 beginning at 5 p.m. Monday September 5, 2005. The husband, Kerry A Smith, is directed to leave the new keys for the marital home at the residence.

FILED
05 SEP - 1 AM 10:44
CIRCUIT COURT ONLINE
POLK COUNTY CLERK

All provisions in the Injunction for Protection, dated 8/22/05 8/23/05 that are not in conflict with this order remain in full force and effect.

ORDERED this 1st day of September, 2005.

Judith J. Flander
Circuit Judge

COPIES TO:
PCSO
Petitioner by hand delivery in open court ___ by U.S. Mail
Respondent by hand delivery in open court ___ by forwarding to Sheriff for service upon respondent
PCSO: ___
Other: Evans Esq. X
Farrell Esq. X