

FAXED

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

Case number: 2022 11411 MHDL

Division : 01

**SEE PAGE
4
FOR PARTICULARS**

New Smyrna Beach
Police Department
Petitioner,

v,

Wendell Ray Dallarosa
Respondent

Also see two pages
CLERK OF THE CIRCUIT
SEVENTH JUDICIAL CIRCUIT
VOLUSIA COUNTY, FL
CC16
2023 MAY -5 PM 1:42

FILED

RESPONDENT MOTION TO COMPEL DISCOVERY

Now Comes, the respondent, by and through their undersigned legal representative, Pro Se respectfully request the Honorable Court for a motion to COMPEL DISCOVERY this case and hereby states and seeks relief from the Court by the following:

1. On September 4, 2022, an event occurred in the City of New Smyrna Beach at Outriggers Tiki Bar and Grill, 200 Boatyard Street, New Smyrna Beach, FL 32169 which is currently is dispute on the "event".
2. The court held a compliance hearing on September 21, 2022, where the respondent is "allegedly" in violation of the courts temporary Risk Protection Order of September 15th, 2022. The Court advised the respondent to get into compliance with the order, giving the respondent 24 hours to do so. The Court Granted final Risk Protection Order on September 21, 2022 at 4:16PM.
3. On September 22, 2022. The respondent went to the New Smyrna Beach Police department as He has been to that Police Department on five occasions. The respondent was cordial, and the records staff and records supervisor came out into the lobby with the respondent and advised the respondent they have "orders" from superior officers not to speak or engage with the respondent which would

allow the respondent to come into compliance as the court has ordered. The NSB Records staff was kind, courteous and understood the respondent was trying to come into compliance. The respondent stated he does not wish to get them in any situation to involve them being disciplined and the respondent was informed ALL officers were unavailable and ALL officers from the Chief down to every officer on duty were all in "training" and respondent was advised that absolutely no officers will speak to the respondent as if they do so they will be violating "command officers" and the Deputy City attorney Ms. Shey McCurdy orders and the staff could face discipline if they were to assist or speak with the respondent. The records supervisor went back into her office to call the Ms McCurdy to ask if they could notarize the respondent's signature on a document stating he is there at the NSB Police HQ. The supervisor advised that the records clerk is in fact a certified Notary, however, Ms McCurdy advised the supervisor to NOT notarize any documents for the respondent. (all this is captured on the lobby camera and a detailed timeline has been sent to the Courts Judicial Assistant, Diana Winfrey, of the chain of events for September 22, 2022. Ms Winfrey received said notice on September 23, 2022 at 12:03PM, Where at the NSB Police Department absolutely no one was to speak to or engage in conversation with the respondent. The respondent took detailed notes of date/time. The respondent called "911" from the lobby asking for an Officer to respond as there was an individual in the lobby of the NSB Police Department that has an active RPO and for an officer to respond to the station to resolve this conflict. Not being allowed service the respondent left the NSB Police Department.

4. Per the detailed timeline of September 22, 2022 the respondent left the NSB Police Department and arrived at City Hall where he was greeted by "Patsy" the receptionist. The respondent advised he would like to speak to the Deputy City Attorney Ms Shey McCurdy. The respondent was asked to be comfortable and to sit on the couch as she would be called down. While waiting 6 to 8 New Smyrna Beach Police Officers and a Sheriff's Deputy arrived. Again, this is all detailed in the email with Judicial Assistant Diana Winfrey. It will take council and legal aid hours, days, weeks to prepare motions to

compel discovery, review dozens of hours of body cameras. The Respondent tried everything possible to come into compliance and was met with resistance, council is respectfully requesting a continuance.

5. Additionally, On September 23, 2022 after the respondent had made several attempts to come into compliance with the court, sent emails, filed motions on his own as he had extreme difficulty with finding an attorney as the case showed "closed" and attorneys contacted did not wish to do an appeal with the 5th DCA. Respondent reached out to over a dozen attorneys, and all had conflicts with persons / cities / county involvement (conflicts).

6. The New Smyrna Police Department and Deputy City Attorney, worked in conjunction with the Volusia County Sheriffs Office and at approximately 1PM on September 23, 2022 the respondent was stopped by a VCSO Sheriffs Lieutenant with no body camera on as policy states only Sgts and below are required to wear body cameras. The respondent was very cooperative with the Lieutenant and was allowed to close his SUV door so respondents service dog and retired service dog did not exit the SUV. The respondent was detained for approximately 4 to 5 hours as 19 Law Enforcement Officers executed a Search Warrant on his residence. The respondent has complex physical medical conditions and after approximately 90 minutes of standing, sitting outside the residence the respondent was allowed inside the residence and allowed his medication and water. The search warrant was read to the respondent and he allowed law enforcement authorities free access and would show them how to open specific drawers, and areas. The search warrant in question was signed by Circuit Judge Sandra Upchurch of the 7th Judicial Circuit. As the court can now see this involves multiple agencies, multiple people, witnesses, depositions, cases, discovery, affidavits, the return of the search warrant and Probable Cause Affidavit and gets more complexed each day.

7. As the court is aware, Hurricane Ian has hit the state of Florida and multiple areas have been affected. The Respondent has multiple properties (well over 100) in Volusia County and is currently closing on six more parcels on Thursday October 13th, 2022. Closing was supposed to be October 3rd, 2022 however the natural disaster has shut the state and county government down so the transaction from August 2022 where multiple witnesses, cashiers checks, testimony will show that the respondent is in compliance with the honorable courts order. The court heard testimony from Ms Gwen Wakeman,

her home of nearly 50 years sustained over 30 inches of sewage water in the home in a matter of hours
 The respondent freely and voluntarily allowed Ms Wakeman, her 85-year-old mother and father
 (Dementia patient), her 82-year-old aunt and her Yorkie Dog and a Bird to his home. He has allowed the
 use of his garage for storage of what limited items could be salvaged and attempting to help them
 financially as well as through all the paperwork, while also attempting to schedule a mental health
 evaluation ordered by the court and on 3 occasions has been DENIED service for a mental assessment as
 the provider says he is NOT mentally ill and they do not have the resources at this time, due to the
 disaster, to provide the respondent with an evaluation. The respondent has given up his residence to
 allow displaced elderly fragile individuals and is working through his own medical emergencies (too
 graphic to send to the court).

X
 X

X
 X

8. (update as of May 1st, 2023). With several months passing the respondent has filed a
 Federal Lawsuit in the Middle District of Orlando (see attached). The respondent in this case has
never received full discovery and has been kept at "arms length" as not to receive any information
from the Volusia County Sheriff's office that conducted an extremely evasive, unlawful search of the
respondents residence by providing a false narrative of "probable cause" to Circuit Judge Upchurch to
grant approval to execute the search warrant. The respondent has reasonable suspicion to believe
this was done as a "fishing" expedition as to enter the residence where any weapon or ammunition
could be stored and were in fact in search for other items such as narcotics as the Sheriff of Volusia
County, Michael Chitwood, lives in the duplex behind the respondent (approximately 100 feet
away from the respondent) and has verbally labeled the respondent on social media as a rapist,
attempted murderer of a Port Orange Police Officer, stated respondent has been baker acted, etc. All
are far from the truth. The Constitutional Sheriff has overreached his authority and assist New
Smyrna Beach Police in execution of an unlawful probable cause affidavit to Judge Upchurch,
stretching the truth. In Fact, there is digital and audio evidence day(s) before execution that the
respondent had NO FIREARMS at his residence and offered a consent to search and Attorney Michael
Lambert testified in open court, being allowed to break attorney client privilege, that the respondent
had sold all his firearms to Mr. Darren Peters in August of 2022, Mr Peters being a gun manufacturer
and executive of the respondents estate / revocable trust and Mr Peters is recorded on digital audio
phone call by NSB Police prior to the search warrant being issued stating there are NO weapons in

X

X

possession of the respondent and he (Mr Peters) has obtained the weapons and he would not contribute to the criminal investigation, but made it clear, there were no weapons with the respondent. Ultimately, the warrant was still issued, and the residence shut down and "tossed" by ~20 law enforcement officers and no charges being filed.

9. With all said information attempted to be brought up in court, respondents efforts failed and ultimately respondent obtained retired Judge Mary Jane Henderson (Nettles) to represent him to have an emergency hearing where numerous errors were highlighted, and misconduct noted and the court ordered the immediate release of the respondent. The respondent has been patient, law abiding and awaiting for discovery to file additional civil rights violations, defamation suits, etc there are currently cases in the 7th Judicial Circuit, an open Federal Case (which emphasis taken that the Plaintiff (the respondent), is Required to Produce ALL DISCOVERY to the Federal Court and is delinquent in that action as the Volusia County Sheriffs Office refuses to provide and states contact the State Attorney or New Smyrna Beach Police. In turn, they advise the Sheriff is the repository of said discovery.

10. Therefore, the respondent prays the honorable court to compel the New Smyrna Police, City of New Smyrna Beach and the County of Volusia, Sheriff Michael Chitwood work together and provide the respondent with lawful discovery from over 6 months as well as assigned County Attorney Peter McGlashan to provide ANY and ALL Discovery that the respondent desperately needs for past, current federal, upcoming Circuit Court cases. (some attorneys are "pending" for the respondent as they wish to see clips from the body cameras, search warrant, affidavits, probable cause, etc) and the government, specifically the Volusia County Sheriff's Office, changes the case number, says no reports were done, says they are under a different case number, and not allowing them to be released. Then they advise they will release "some", but redact it and at a cost of over \$150.00 as it is "a public records request". This is false, it is DISCOVERY and NSB was forthcoming, although after the fact, they have produced free of charge and not redacted. The Volusia Sheriff is obstructing the judicial process of civil litigation and respondent has exhausted all means to obtain said lawful discovery and at this time prays for relief by the Court that had original jurisdiction of the case from NSB with assistance of the Sheriff, and information was used against the respondent and he has yet to receive it and feels now the only way to receive the discovery is via a court order that the




case originated from (this case), from this case, there already is open Federal Litigation and the respondent is in violation of providing the federal court as a plaintiff in said litigation, any and all discovery. (the respondent cannot produce what the Sheriff refuses to release and hides, as they simply refuse to comply and 6-7 months is gone on long enough, and requesting relief for said Discovery so that further litigation can move forward. (Realistically, this discovery should have been provided, PRIOR to any hearing, yet it still has not been released, this is not what our founding fathers had in mind).

11. Request the Honorable Court set a hearing, or compel the government (law enforcement agencies to work together (as they did in executing a search warrant, writing reports, surveilling me in parking lots, etc). they should have the ability to work together to compile a simple discovery request that is over 7 months old now and not budging, and I respectfully request relief.

**Redacted
By Volusia EXPOSED**

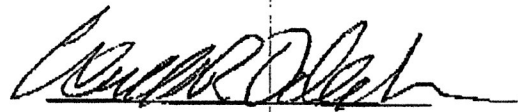
Respectfully Submitted,

 Wendell Ray Dallarosa

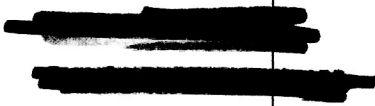


 Pro Se (obtaining discovery for multiple attorneys to clip and send pertinent information) for current, upcoming next week and future civil cases in the months to come


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been FAXED with the Clerk of the Court with a copy emailed faxed and emailed to the Petitioner, the City of New Smyrna Beach. this 5th day of May, 2023.



Wendell Ray Dallarosa, Pre Se



Attachment

From: [REDACTED]
Sent: Thursday, May 4, 2023 4:34 PM
To: 'Volusia Sheriff's Office Public Records Center'
Subject: RE: [Records Center] Public Records Request - General :: R026017-042423
Attachments: PRO SE.pdf

Lisa,

See attached (ONE of many documents of the case in question. It is also now spinning into federal court and in the upcoming weeks will be in 3-4 further Circuit Court Cases.

This information IS DISCOVERY, it was used against me and told I can not have it until 6 months later. I have waiting the 6 months, I need it / want it, it has exculpatory evidence in it and I want to find the whereabouts of a 2 terabit hard drive as well.

Please provide as DISCOVERY, any and all BWSs, Videos the evidence tech took as well as the 100s of digital photos he took. All are needed. UNREDACTED for a Federal Judge as I am required by Federal Law as a Plaintiff in a case to provide discovery. So I cannot provide this Discovery until you send to me UNREDACTED as discovery as it will be used in future case, and THIS current Case gets reopened in August / September for re evaluation.

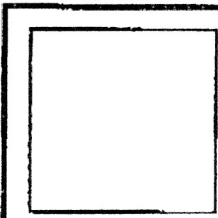
Respectfully,
Wendell Ray Dallarosa
PRO SE



From: Volusia Sheriff's Office Public Records Center <volusiasheriff@govqa.us>
Sent: Thursday, May 4, 2023 3:55 PM
To: [REDACTED]
Subject: [Records Center] Public Records Request - General :: R026017-042423

Attachments:
 22-18342 R.pdf
 [REDACTED] R.pdf
 [REDACTED] R.pdf

--- Please respond above this line ---



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

CASE NO.: 2022-11411-MHDL

NEW SMYRNA BEACH POLICE
DEPARTMENT,
Petitioner,

v.

WENDELL RAY DALLAROSA,
Respondent.

FILED
2022 OCT -6 PM 12:03
CLERK OF THE COURT
601 COURT VOLUSIA COUNTY
FLORIDA

ORDER TO SHOW CAUSE
Indirect Civil Contempt

TO: Wendell Ray Dallarosa

**Redacted By
VOLUSIA EXPOSED**

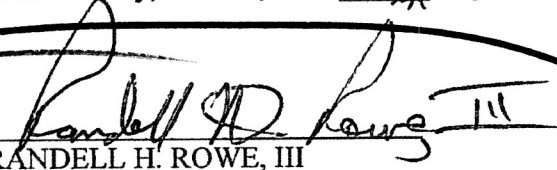
This matter came before the Court for review upon filing of the attached "Petitioner's Motion for an Order to Show Cause" regarding Respondent Wendell Dallarosa's alleged violation of the Final Risk Protection Order entered September 21, 2022, by refusing to surrender all firearms and ammunition in his custody, control, or possession. It is hereby

ORDERED that Wendell Dallarosa shall appear before this Court on **Tuesday, October 11, 2022, at 10:15 a.m.**, at the Volusia County Courthouse, 101 N. Alabama Avenue, Courtroom 4A, DeLand, Florida, and **SHOW CAUSE** why he should not be held in contempt of court, sentenced, and incarcerated for failing to surrender all firearms and ammunition pursuant to this Court's Temporary Risk Protection Order and Final Risk Protection Order.

FAILURE OF THE RESPONDENT TO APPEAR AS HEREBY COMMANDED WILL RESULT IN THE ISSUANCE OF A WRIT OF BODILY ATTACHMENT FOR HIS IMMEDIATE ARREST.

This Order to Show Cause is to be personally served by the Sheriff at no cost.

DONE AND ORDERED in DeLand, Volusia County, Florida, this 27th day of September, 2022.



RANDELL H. ROWE, III
CIRCUIT JUDGE

Complained
Against Judge Rowe

26 SEP 2020

To : JQC (pardon me, your online form does not work properly) See attached. I have much more to add. \

My Name is Wendell Ray Dallarosa I have been advised by several people to include attorneys to file A JQC (which I do not officially know what that that means, except a COMPLAINT on a Circuit Court Judge Randy Rowe)..

He KNOWS me, HE ASKED ME PERSONALLY AT Tiger Bay as a BOD Member (ME) to introduced him to Senator Tom Wright and United States Congressman Mike Waltz (my brother in in arms). I complied with his request . in 2020 as Judge Jamie Grosham had been selected by Ron DeSantis as a Supreme Court judge of Florida and Mr Rowe wanted to move up to the 5th district court of appeals. He asked me as a BOD member of Tiger Bay of Volusia county, fully knowing I was both personal friends of both Senator Tom WRIGHT (the EXECUTIVE of my TRUST, will, he had a full durable POA OF MY TRUST , Estate, will, health care etc.) I Can and WILL PROVIDE you NOTIRIZED copies from Attorney Mel Stack (40 years in practice), of this, I will / can Send you the Notarized copies. As SENATOR TOM WRIGHT as my Grantor o my Multi Million Dollar Estate.

As Well as Being EXTREMELY CLOSE TO United States Congressman Mike Waltz and Facilitating a Meeting / phone call for Judge ROWE.

HE WAS NOT SELECTED to the 5th district court. And has held this as MY FAULT, he clearly ON VIDEO that I am an ENEMY OF THE STATE , ruled me a Domestic Terrorist, Even though I have served the United States Govt FOR 39.5 years, (my entire adult life).

The VIDEO HAS to be watched ,,, I ASKED on no less than 10 times to allow me LEGAL COUNCIL, he DID NOT, HIS STATEMENT WAS,, "I WILL WALK YOU THRU THIS" I clearly stated SEVERAL TIMESS ON COURT VIDEOE that I NOW have, I want an attorney. I stated I have enough Knowledge about Legal proceeding as I have watched MATLOCK. It is ON VIDEO. I clearly cannot represent MYSELF, I ASKED Numerous times for RELIEF in the form of an Attorney. He DENIED EVERY MOTION I made, he allowed, Quadruple hearsay AS EVIDENCE. . this 15 min Hearing, lasting about FOUR HOURS as they walked me off a cliff.

Mr ROWE personally, KNOWS ME, it is Clear in the evidence presented my affiliation with the United States Govt. and Being recently with Former President Donald Trump, prior to the Search Warrant, I was AT MAR A LARGO, they also Conducted A Search Warrant At MY HOME, He has facilitated a Search warrant at MY home of record. He had / has prior knowledge of my affiliation with the United States Govt, Yet he allowed 4 hours of HEARSAY and allowed it as EVIDENCE, you have to watch the video to see, that I am unprepared, merely asking for a continuation and denied on MULTIPLE Occasions.

SEP 26, 2012 RR2

With all these FACTS, I have been advised to FILE A JQC, by lawyers with 30-50 years experience. Therefore, I ask you, watch the video on the conduct of this Judge, that denied EVERYTHING I offered as evidence, begged for RELIEF to have a Lawyer that KNOWS the PROCESS, as I have NO IDEA..

You have to watch the ENTIRE video to SEE how HE exactly SAID, I will WALK YOUTHRU this, and he WALKED ME RIGHT OFF A CLIFF and I begged to Continue with a Lawyer and he DENIED EACH MOTION.

I need assistance, as I am a "Whistle Blower" with FDLE, as well as cooperating with the local Daytona Beach FBI.

I could go on for hours, but the VIDEO SPEAKS volumes on the MIS CONDUCT of Judge Rowe. And I wish to complain on him.

Wendell Ray Dallarosa,

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██████████
██████████
██████████

Redacted
By
VOLUSIA EXPOSED

