

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

WESLEY C. SMITH,

Petitioner,

v.

COMMONWEALTH OF VIRGINIA

Respondent.

Serve: Paul B. Ebert, Esquire

Commonwealth's Attorney

Judicial Center

9311 Lee Ave/200

Manassas, Virginia 20110

Chancery No. 53709

PETITION FOR EXPUNGEMENT OF PROTECTIVE ORDER RECORDS

COMES NOW the Petitioner Wesley C. Smith ("Petitioner"), by counsel, and petitions this Honorable Court for an order expunging all documents and records pertaining to the Preliminary Protective Order (the "PPO") entered September 19, 2002, and states as follows:

1. The full name of the Petitioner is Wesley C Smith, Date of Birth: May 26, 1965, Social Security # 369-90-9588.
2. On September 19, 2002, a Preliminary Protective Order was issued and served on the Petitioner, in the matter styled Cheri Smith, Petitioner v. Wesley Smith, Respondent, Case No. JA42997-01-00.
3. The agency that served the PPO was the Prince William County Police Department.
4. On October 1, 2002, Petitioner appeared before the Juvenile and Domestic Relations District Court of Prince William County for hearing on the PPO.

5. Upon hearing the evidence and arguments of the parties, the PPO was dismissed, and the matter was concluded.

6. A true and accurate copy of the PPO, Affidavit and Order of dismissal is attached hereto and made a part hereof as Exhibit A.

7. At no time did the Petitioner concede that he had committed acts of family abuse.

8. At no time did the Court find the Petitioner had committed acts of family abuse.

9. At no time did the parties stipulate that the facts are sufficient for a finding of family abuse, and delay entry of a ruling thereon, i.e. a "deferred finding."

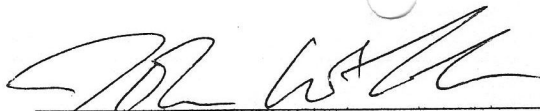
10. The continued existence and possible dissemination of the information relating to the PPO, the supporting Affidavit, documents pertaining to the service of the PPO and documents related to the dismissal thereof, have caused or may cause circumstances that constitute a manifest injustice to the Petitioner, i.e., the existence and dissemination of the aforesaid information will preclude his obtaining the necessary security clearance to effectuate finding employment in his chosen field.

11. Petitioner has no prior criminal record.

WHEREFORE, the Petitioner requests this Court, enter an order expunging all documents and records pertaining to the matter of Cheri Smith, Petitioner v. Wesley Smith, Respondent.

Case No. JA42997-01-00.

**Respectfully submitted,
WESLEY C. SMITH
by Counsel**



John C. Whitbeck, Jr., Esquire
Kazem, Whitbeck, Seck & Kazem, PLC
15-D Loudoun Street, SW
Leesburg, VA 20175
(703) 777-1795
(703) 777-9079 (Facsimile)
Counsel for Petitioner

EXHIBIT A

A42997-010X

COMMONWEALTH OF VIRGINIA
31ST JUDICIAL DISTRICT
JUVENILE AND DOMESTIC RELATIONS COURT

Cheri Smith
Petitioner

v.

Wesley C. Smith
Respondent

Spouse
Relationship

AFFIDAVIT FOR PRELIMINARY PROTECTIVE ORDER

I MAINTAIN THAT MY HEALTH AND/OR SAFETY IS/ARE AT RISK AND REQUEST THE COURT ISSUE AN EX-PARTE PRELIMINARY PROTECTIVE ORDER PURSUANT TO THE PROVISIONS OF SECTION 16.1-253.1 OF THE 1950 CODE OF VIRGINIA, AS AMENDED. I FURTHER MAINTAIN THAT THIS ORDER OF PROTECTION IS BEING SOUGHT WHERE EITHER OF THE ABOVE NAMED PARTIES HAS HIS OR HER PRINCIPAL RESIDENCE OR WHERE THE ABUSE OCCURRED. (16.1-243)

My husband and I were married on November 23, 1988 in Salt Lake City, Utah. There has been one child born from our marriage, Liam Smith, age five.

My husband has been physically and verbally abusive during our marriage.

The most recent incident of abuse occurred in June 2001 when he bruised my upper arm while forcing me out of our son's bedroom.

Wesley has been verbally abusive for the past six months and it has gradually escalated up to the present time. He has not responded to requests for mediation or to settle living arrangements through third parties. His stated purpose in the last four weeks has been to force me from our home and gain sole custody of our son by threats and force rather than mediation or legal mean. He has threatened on several occasions, to myself and to others, to take our son and leave the state. He has been unemployed for the last nine months and has only recently begun looking for a job. He has gotten increasingly agitated and angry and intense in his attacks. He has not touched me recently but because of his history of hitting, pushing and holding and his anger, I have been worried that he will hurt me or my son. This prompted me to get in touch with Turning Points.

On September 17, 2002, I left the house with my son because he was yelling and coming towards me. He later put my things in the driveway of our home. The police accompanied me back to the home to get some things for my son. He was angry and belligerent with the police. On September 18, 2002, I left my son with a friend and my husband called the police. The police advised me to file a protective order.

I need a protective order to protect my son and I from my husband's increasingly abusive behavior which he is using to try to force me from our home. He has been increasingly angry and has been directing his anger and aggression towards our son, who has Down Syndrome and has recently begun acting out at school as a result. My husband has a lock (with a key) on his bedroom door and has on several occasions taken our son in the room and locked the door so I did not have access to him.

THE STATEMENT ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

PETITIONER Cheri Smith

SWORN/AFFIRMED AND SIGNED BEFORE ME THIS 18th DAY OF September 2002

INTAKE OFF ICER [Signature] OBO SP Roque

COMMONWEALTH OF VIRGINIA

IN THE 31ST JUDICIAL DISTRICT JUVENILE AND DOMESTIC RELATIONS COURT
ORDER

CASE NUMBER: JA 042997-6

PETITIONER Cheri Smith

V.

RESPONDENT Wesley Smith

CHARGE (S)/MATTER (S):

Preliminary Protective Order/Protective Order

ATTORNEYS OF RECORD: for Vandy petitioner
for Bond respondent

OTHERS PRESENT:

This case came to be heard on the 1 day of October, 2002

THE COURT HEREBY ORDERS AND DECREES:

12 The Preliminary Protective Order is dismissed.

 The Protective Order is dismissed.

 The Preliminary Protective Order is removed from the docket

 The Protective Order is removed from the docket.

Date: 10/11/02

JUDGE: Mary Grace B.

CC: PWCPD
Manassas City PD
Manassas Park PD
OCJS

PRELIMINARY PROTECTIVE ORDER — FAMILY ABUSE
Commonwealth of Virginia Va. Code Ann. § 18.2-308.1

Cot

No.:

AH2997-0100

Hearing Date and Time:

A-14

31st Judicial District

Cheri Smith
PETITIONER

Wesley C. Smith, 11411 Huntsman Drive
v. Manassas, VA 20112
RESPONDENT

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
W	M	5	26	65	6	1	180	BRN	BRN

SSN

369-90-9588

It appearing that the above-named persons are within the jurisdiction of the Juvenile and Domestic Relations District Court, the Petitioner having alleged in the petition that he/she is or has been, within a reasonable period of time, subjected to abuse and, after an ex parte proceeding when the petition is supported by:

☒ an affidavit

☒ sworn testimony before the judge or intake officer

and it further appearing that the Petitioner is a family or household member of the Respondent and that good cause has been shown that:

☐ There is evidence sufficient to establish probable cause that family abuse, including forceful detention, resulting in physical injury to the Petitioner or placing the Petitioner in reasonable apprehension of serious bodily injury has recently occurred; or

☒ The health and safety of the Petitioner or a household member of the Petitioner is in danger because of a finding that there is immediate and present danger of family abuse;

it is therefore ORDERED that

☒ the Respondent shall refrain from committing acts of family abuse.

☒ the Respondent shall grant the Petitioner possession of the premises occupied by the parties located at

11411 Huntsman Dr Manassas and the Respondent shall immediately leave and stay away from the residence; however, no such grant of possession shall affect title to any real or personal property.

☒ the Respondent shall grant the Petitioner temporary exclusive possession or use of a motor vehicle jointly owned by the parties or owned by the Petitioner alone, described as follows: 1998 Saturn SW2
Such grant shall not affect title to the vehicle.

☐ the Respondent shall provide suitable alternative housing for the ☐ Petitioner ☐ family or household members as follows:

☒ the Respondent shall have no further contact of any type with the Petitioner except as follows:

☒ no exceptions

☒ the Respondent shall refrain from having contact with
to protect their safety except as follows:

Liam Smith
no contact

9/20/02

☐ B.A. Ross

1341

09/20/02 1800

10101

B.A. Ross 09/20/02 1800

NO SERVICE

It is further ORDERED that a protective order hearing on the petition be held at this Court on

at 1:30 PM and that notice of this hearing be given to the Respondent who is the alleged abuser.

DATE

9/19/02

JUDGE

The terms "family abuse" and "family or household member" are defined on the reverse side of this order.

WARNING TO RESPONDENT: PURSUANT TO § 18.2-308.1:4, YOU SHALL NOT PURCHASE OR TRANSPORT ANY FIREARM WHILE THIS ORDER IS IN EFFECT. IF YOU HAVE A CONCEALED HANDGUN PERMIT, YOU MUST IMMEDIATELY SURRENDER THAT PERMIT TO THE COURT ISSUING THIS ORDER. IF YOU VIOLATE THE CONDITIONS OF THIS ORDER, YOU MAY BE SENTENCED TO JAIL AND/OR ORDERED TO PAY A FINE. THIS ORDER WILL BE ENTERED ON THE VIRGINIA CRIMINAL INFORMATION NETWORK. YOU MAY AT ANY TIME FILE A MOTION WITH THE COURT REQUESTING A HEARING TO DISSOLVE OR MODIFY THIS ORDER.

Hearing Date and Time: A-14

31st Judicial District

Juvenile and Domestic Relations District Court
Wesley C. Smith, 11411 Huntsman Drive

Cheri Smith

v. Manassas, VA 20112

PETITIONER

RESPONDENT

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
W	M	5	26	65	6	1	180	BRN	BRN

SSN

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☒ an affidavit☒ sworn testimony before the judge or intake officer

and it further appearing that the Petitioner is a family or household member of the Respondent and that good cause has been shown that:

☐ There is evidence sufficient to establish probable cause that family abuse, including forceful detention, resulting in physical injury to the Petitioner or placing the Petitioner in reasonable apprehension of serious bodily injury has recently occurred; or

☒ The health and safety of the Petitioner or a household member of the Petitioner is in danger because of a finding that there is immediate and present danger of family abuse;

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☒ the Respondent shall refrain from having contact with
to protect their safety except as follows:

Liam Smith
no exceptions

9/20/02

☐ B.A. Ross

1391

09/20/02 1800

10/01

B.A. Ross 09/20/02 1800

no service

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at 1:30 PM and that notice of this hearing be given to the Respondent who is the alleged abuser.

DATE

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