

IN THE SUPREME COURT OF OHIO

State ex rel. Jamie Suwalski,)
) Case No. 2020-0755
 Relator-Appellee,)
) On Appeal from the Warren County Court
 vs.) of Appeals, Twelfth Appellate District
)
 Judge Robert W. Peeler,)
)
 Respondent-Appellant.)

BRIEF OF THE DOMESTIC VIOLENCE LEGAL EMPOWERMENT AND APPEALS PROJECT, AEQUITAS, THE LEGAL AID SOCIETY OF CLEVELAND, ADVOCATES FOR BASIC LEGAL EQUALITY, INC., AND LEGAL AID OF WESTERN OHIO, INC. AS *AMICI CURIAE* IN SUPPORT OF APPELLEE JAMIE SUWALSKI

Gregory J. Phillips (0077601)
Addisah Sherwood (0084399)
James J. Walsh, Jr. (0096660)
BENESCH, FRIEDLANDER, COPLAN
& ARONOFF LLP
200 Public Square, Suite 2300
Cleveland, OH 44114-2378
P: 216-363-4472
F: 216-363-4588
gphillips@beneschlaw.com
asherwood@beneschlaw.com
jwalsh@beneschlaw.com
**Counsel of Record for Amici Curiae*

Bruce A. Ericson
PILLSBURY WINTHROP SHAW PITTMAN LLP
Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111-5998
P: 415-983-1000
bruce.ericson@pillsburylaw.com

Julia E. Judish
Jeetander T. Dulani
Charrise L. Alexander
Alton L. Hare
Katherine T. Danial
1200 Seventeenth Street, NW
Washington, DC 20036
P: 202-663-8000
julia.judish@pillsburylaw.com

Counsel for Amici Curiae, The Domestic Violence Legal Empowerment and Appeals Project, et al.

Elizabeth A. Well (0087750)
OHIO CRIME VICTIM JUSTICE CENTER
3976 North Hampton Drive
Powell, Ohio 43065
P: 614-848-8500
F: 614-848-8501
ewell@ocvjc.org

Micaela Deming (0085802)
O/B/O OHIO DOMESTIC VIOLENCE NETWORK
PO Box 176
Bluffton, Ohio 45817
P: 614-742-7902
MDemingEsq@gmail.com

Counsel for Relator-Appellee, Jamie Suwalski

Christopher J. Pagan (0062751)
REPPER PAGAN LAW, LTD.
1501 First Avenue
Middletown, Ohio 45044
P: 513-424-1823
F: 513-424-3135
cpagan@repperpagan.com

Counsel for Intervenor-Appellant, Roy Ewing

Michael T. Gmoser (0002132)
BUTLER COUNTY PROSECUTOR
Michael Greer (0074352)
Assistant Prosecuting Attorney
315 High Street, 11th Floor
Hamilton, Ohio 45011
P: 513-887-3474
F: 513-887-3489
greerjm@butlercountyohio.org

Counsel for Respondent-Appellant, Judge Robert W. Peeler

TABLE OF CONTENTS

	<u>Page</u>
INTERESTS OF <i>AMICI CURIAE</i>	1
SUMMARY OF ARGUMENT	4
STATEMENT OF THE CASE AND STATEMENT OF FACTS.....	5
ARGUMENT	7
I. <i>PROPOSITION OF LAW I: NO STATUTE CONFERS AUTHORITY ON A STATE COURT OF COMMON PLEAS TO RELIEVE AN INDIVIDUAL OF A FEDERAL FIREARMS DISABILITY IMPOSED UNDER 18 U.S.C. 922(G)(9)</i>	7
A. Ewing Does Not Qualify for Any of the Statutory Exemptions to the Federal Firearms Ban.....	8
B. Ewing Is Not Entitled to Relief Under Ohio State Law.....	10
II. <i>PROPOSITION OF LAW II: FEDERAL LAW PREEMPTS A STATE COURT ORDER THAT CONFLICTS WITH THE FEDERAL FIREARMS DISABILITY IMPOSED UNDER 18 U.S.C. 922(G)(9)</i>	12
III. <i>PROPOSITION OF LAW III: COURT DETERMINATIONS ABOUT THE LIKELIHOOD OF RE-OFFENSE IN DOMESTIC VIOLENCE CASES SHOULD TAKE INTO ACCOUNT SOCIAL SCIENCE RESEARCH ON ABUSE PATTERNS</i> . 14	
A. Research Shows that Firearm Possession Increases the Severity and Potential Lethality of Domestic Abuse.	14
1. Domestic Violence Often Reflects the Abuser’s Desire to Exercise Power and Control Over the Victim, Which Can Be Exacerbated By the Abuser’s Possession of Guns.	15
2. Guns Significantly Increase the Risk of Domestic Violence Homicides ..	16
B. Far From Justifying a Decision to Let Ewing Have Back His Arsenal of Weapons, the Record Here Compels the Opposite Conclusion.....	19
CONCLUSION.....	22
PROOF OF SERVICE.....	24
APPENDIX.....	A-1

APPENDIX TABLE OF CONTENTS

Domestic Violence Temporary Protection Order Against Roy J. Ewing
(Jan. 15, 2017)..... Appx. A-2

Domestic Violence Civil Protection Order Against Roy J. Ewing
(Jan. 17, 2017)..... Appx. A-9

Clearcreek Township Division of Police Gun Property Listing for Roy J. Ewing
(Jan. 15, 2017)..... Appx. A-19

Final Judgment and Decree of Divorce Issued to Jamie Suwalski and Roy J. Ewing
(Jan. 10, 2018)..... Appx. A-20

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<u>Cases</u>	
<i>United States v. Bridges</i> , 696 F.3d 474 (6th Cir.2012)	10
<i>Caron v. U.S.</i> 524 U.S. 308, 118 S.Ct. 2007, 141 L.Ed.2d 303 (1998).....	11, 12
<i>United States v. Castleman</i> , 572 U.S. 157, 134 S.Ct. 1405, 188 L.Ed.2d 426 (2014).....	15
<i>State ex rel. Everhart v. McIntosh</i> , 115 Ohio St. 3d 195, 2007-Ohio-4798, 874 N.E.2d 516	5
<i>In re Ewing</i> , Warren C.P. 19 MS000287 (Apr. 19, 2019).....	7
<i>Ewing v. Ewing</i> , Warren C.P. No. 17DR39349 (Jan. 23, 2017)	6
<i>State v. Ewing</i> , 12th Dist. Warren Nos. CA2017-05-062, CA2017-05-063, 2018-Ohio-451	6
<i>Gade v. Nat’l Solid Wastes Mgmt. Assn.</i> , 505 U.S. 88, 112 S.Ct. 2374, 120 L.Ed.2d 73 (1992).....	13
<i>Johnson v. Levy</i> , 10th Dist. Franklin No. 18AP-775, 2019-Ohio-3492	5
<i>United States v. Khami</i> , 362 Fed. Appx. 501 (6th Cir.2010).....	14
<i>Logan v. United States</i> , 552 U.S. 23, 128 S.Ct. 475, 169 L.Ed.2d 432 (2007).....	9, 10
<i>United States v. Napier</i> , 233 F.3d 394 (6th Cir.2000)	13
<i>Planned Parenthood of Southeastern Penn. v. Casey</i> , 505 U.S. 833, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992).....	15
<i>Riegel v. Medtronic, Inc.</i> , 552 U.S. 312, 128 S.Ct. 999, 169 L.Ed.2d 892 (2008).....	13
<i>State ex rel. Suwalski v. Peeler</i> , 12th Dist. Warren No. CA2019-05-053, 2020-Ohio-3233	<i>passim</i>

<i>Talik v. Fed. Marine Terminals, Inc.</i> , 117 Ohio St. 3d 496, 2008-Ohio-937, 885 N.E.2d 204	14
<i>Torres v. Precision Indus.</i> , 938 F.3d 752 (6th Cir.2019)	12
<i>Voisine v. United States</i> , 579 U.S. ___, 136 S.Ct. 2272, 195 L.Ed.2d 736 (2016).....	1

Constitutional Provisions; Statutes

U.S. Constitution	
Article VI, cl. 2	12

United States Code	
18 U.S.C. 921(a)(20).....	11
18 U.S.C. 921(a)(33)(B)(ii)	8, 9, 10
18 U.S.C. 922(g)(1)	11
18 U.S.C. 922(g)(8)	13
18 U.S.C. 922(g)(9)	<i>passim</i>
18 U.S.C. 927	13

Ohio Revised Code	
R.C. 2919.27	6
R.C. 2919.25(a).....	7
R.C. 2923.14	<i>passim</i>
R.C. 2923.14(D)(3).....	10

Legislative Acts	
2011 Am.Sub. H.B. No. 54, Section 3.....	11

Other Authorities

Alex Roslin, POLICE WIFE—THE SECRET EPIDEMIC OF POLICE DOMESTIC VIOLENCE (2d ed. 2017).....	22
Alex Roslin, <i>The Secret Epidemic of Police Domestic Violence: How It Affects Us</i> <i>All</i> , FAMILY & INTIMATE PARTNER VIOLENCE QUARTERLY (Spring 2016)	21
Andrew R. Klein, <i>Practical Implications of Current Domestic Violence Research</i> , <i>Part II: Prosecution</i> , U.S. DOJ REPORT (2008).....	17, 20
April M. Zeoli, Rebecca Malinski, & Brandon Turchan, <i>Risks and targeted</i> <i>interventions: firearms in intimate partner violence</i> , 38 EPIDEMIOLOGY REV. 125 (2016).....	17
Arlene Weisz, Richard Tolman & Daniel Saunders, <i>Assessing the Risk of Severe</i> <i>Domestic Violence: The Importance of Survivors' Predictions</i> , 15 J. INTERPERSONAL VIOLENCE 75 (2000).....	18

Chelsea M. Spencer & Sandra M. Stith, <i>Risk Factors for Male Perpetration and Female Victimization of Intimate Partner Homicide: A Meta-Analysis</i> , 21 TRAUMA, VIOLENCE, & ABUSE 527 (2008).....	17
Connie J. A. Beck & Chitra Raghavan, <i>Intimate Partner Abuse Screening in Custody Mediation: The Importance of Assessing Coercive Control</i> , 48 FAMILY COURT REV. 555 (2010)	16, 18, 20
Deborah Tuerkheimer, <i>Recognizing and Remediating the Harm of Battering: A Call to Criminalize Domestic Violence</i> , 94 NORTHWESTERN J. OF CRIMINAL LAW & CRIMINOLOGY 959 (2003–04)	15
Evan Stark, COERCIVE CONTROL: HOW MEN ENTRAP WOMEN IN PERSONAL LIFE (2007).....	15
Gavin de Becker, THE GIFT OF FEAR: SURVIVAL SIGNALS THAT PROTECT US FROM VIOLENCE (1997)	18
Jacquelyn C. Campbell, et al., <i>Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study</i> , 93 AM. J. OF PUB. HEALTH 1089 (2003).....	17
Jacquelyn C. Campell, Nancy Glass, Phyllis W. Sharps, Kathryn Laughon, Tina Bloom, <i>Intimate partner homicide: Review and implications of research and policy</i> , 8 TRAUMA, VIOLENCE, & ABUSE 246 (July 2007)	20
Leonor Boulin Johnson, Michael Todd, and Ganga Subramanian, <i>Violence in Police Families: Work-Family Spillover</i> , 20 J. OF FAMILY VIOLENCE 3 (Feb. 2005).....	21
Leigh S. Goodmark, <i>Hands Up at Home: Militarized Masculinity and Police Officers Who Commit Intimate Partner Abuse</i> , 2015 BYU L. REV. 1183 (2016).....	22
Martha R. Mahoney, <i>Legal Images of Battered Women: Redefining the Issue of Separation</i> , 90 MICH. L. REV. 1 (1991)	15
Nancy Glass, Jacquelyn Campbell, Anna Wolf, and Carolyn Block, <i>Non-Fatal Strangulation Is an Important Risk Factor for the Homicide of Women</i> , 35 J. EMERGING MEDICINE 329 (Oct. 2008).....	21
Natalie Loder Clark, <i>Crime Begins at Home: Let’s Stop Punishing Victims and Perpetuating Violence</i> , 28 WM. & MARY L. REV. 263 (1987).....	15
Richard B. Felson, Jeffrey M. Ackerman, & Catherine Gallagher, <i>Police Intervention and the Repeat of Domestic Assault</i> , U.S. DOJ, NATL. INST. OF JUST. (2005).....	19
Susan B. Sorenson & Douglass J. Wiebe, <i>Weapons in the Lives of Battered Women</i> 94 AM. J. OF PUB. HEALTH 1412 (2004).....	16

INTERESTS OF *AMICI CURIAE*¹

The Domestic Violence Legal Empowerment and Appeals Project (“DV LEAP”), founded in 2003, is a non-profit organization committed to combating domestic violence through litigation, legislation, and policy initiatives. DV LEAP has extensive experience working with survivors of domestic violence, pursuing civil and criminal legal and policy reform efforts on their behalf, and filing *amicus curiae* and party briefs in state and federal appellate courts throughout the country. DV LEAP previously submitted an *amicus curiae* brief in the United States Supreme Court in the case *Voisine v. United States*, 579 U.S. ___, 136 S.Ct. 2272, 195 L.Ed.2d 736 (2016), in support of preserving the federal Gun Control Act’s protections for survivors of domestic violence against convicted abusers possessing firearms. As allowing state trial court judges to waive federal firearm prohibitions would undermine those important protections for domestic violence survivors, DV LEAP files this *amici curiae* brief for this court’s consideration.

AEquitas is a national organization that provides training, research assistance, and resources to prosecutors, law enforcement, advocates, and allied professionals who are called upon to respond to gender-based crimes of violence, including domestic violence, sexual violence, stalking, human trafficking, and related offenses. AEquitas is funded by the United States Department of Justice Office on Violence Against Women. The organization closely follows developments in the law concerning possession of firearms, particularly the federal firearms prohibitions for offenders convicted of misdemeanor crimes of domestic violence and individuals subject to domestic violence protective orders. AEquitas incorporates into its trainings and

¹ No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae* or their counsel made a monetary contribution to its preparation or submission.

resources for prosecutors and allied professionals the significant body of research indicating that a batterer's access to a firearm increases the risk of lethal violence against an intimate partner and the likelihood that the weapon will at some point be used to kill, injure, or threaten the victim.

The Legal Aid Society of Cleveland has the goal of securing justice and resolving fundamental problems for those who are low income and vulnerable. The Legal Aid Society of Cleveland assists clients in addressing important legal issues, including the right of its clients to be free from violence in their homes. Relating to its mission, the organization regularly files civil protection orders for its clients. Additionally, the organization files *amicus curiae* briefs in cases, such as this appeal, where outcomes may affect important rights or obligations of Ohioans, providing input to jurists and government officials who are addressing decisions of great public interest that affect the safety and security of victims of domestic violence, stalking, and dating violence. Accordingly, the Legal Aid Society of Cleveland joins this *amici curiae* brief to support the fundamental right of Ohio's citizens to be free from violence in their homes and in support of preserving the federal Gun Control Act's protections for survivors of domestic violence against convicted abusers.

Advocates for Basic Legal Equality, Inc. ("ABLE") and Legal Aid of Western Ohio, Inc. ("LAWO") are non-profit law firms in Ohio whose mission is to provide high-quality legal assistance in civil matters to help eligible low-income individuals and groups achieve self-reliance, equal justice and economic opportunity. ABLE and LAWO represent survivors of domestic violence, sexual assault, human trafficking, and stalking in 32 counties in northwest and west-central Ohio to obtain family safety and stability; safe, suitable, stable housing; and educational and employment opportunities, all of which are critical to achieving independence and self-reliance. LAWO and ABLE promote independence and stability for survivors of violence by

advocating for enforcement of laws intended to protect survivors, and for improved protections in law and policy aimed at ending violence and abuse of survivors with particular focus on race equity and gender equity.

SUMMARY OF ARGUMENT

Amici—two nationally recognized organizations providing advocacy and training and promoting reform of the criminal and civil law pertaining to domestic violence (DV LEAP and AEquitas) and three Ohio-based legal aid organizations—are gravely concerned about the devastating impact accepting the arguments of Intervenor-Appellant Roy Ewing would have on the safety of victims of domestic abuse. The result Ewing seeks would deeply erode the protections in 18 U.S.C. 922(g)(9) of the federal Gun Control Act, by opening a loophole that could permit many convicted batterers to possess firearms—even whole arsenals such as Ewing seeks here. Contrary to Ewing’s argument that there is a “debatable basis to conclude R.C. 2923.14 reaches a [domestic violence] offender,” Ewing Merit Br. at 11, *Amici* seek to make clear that:

1. No statute confers authority on a state Court of Common Pleas to relieve an individual of a federal firearms disability imposed under 18 U.S.C. 922(g)(9).
2. Federal law preempts a state court order that conflicts with the federal firearms disability imposed under that provision.
3. Judge Peeler’s order purporting to relieve Ewing of his federal firearms disability relied on dangerous, unsupported and unsupportable misconceptions about the risk of harm from abusers who possess firearms. In contrast to Judge Peeler’s assumptions, a court making a determination of the dangers of re-offense should consider research on domestic violence patterns. That research demonstrates that firearm possession increases the severity and potential lethality of domestic abuse, and neither the lack of a second offense during the period of probation or Ewing’s status as an ex-police officer suggest otherwise.

For all these reasons, the court should affirm the decision of the Court of Appeals.

STATEMENT OF THE CASE AND STATEMENT OF FACTS

In January 2017, Intervenor-Appellant Roy Ewing (“Ewing”) violently attacked his then-wife, Appellee Jamie Suwalski (“Suwalski”). He grabbed her by the throat, strangled her, and pulled out chunks of her hair. The attack was so severe that she was required to seek medical treatment. *See* Appellee’s Merit Brief at 1. As a result of this attack, on January 15, 2017, Ewing was charged with a violation of Ohio Revised Code Section 2919.25(A), domestic violence, a misdemeanor of the first degree. Stipulated Statement of Facts, ¶ 1. On the same date, Suwalski was also granted a Temporary Protection Order in case number 2017CRB000035 in the Warren County Municipal Court. *See Amici’s Appx.* (hereinafter, “Appx.”) A-1–A-8.²

On January 17, 2017, Suwalski was issued a Domestic Violence Civil Protection Order in the Warren County Court of Common Pleas in case number 17DV7660. Appx. A-9–A-18. In her petition for a civil protection order attached to the Domestic Violence Civil Protection Order, Suwalski, after describing what Ewing had done to her, specifically expressed her fear about Ewing’s firearms: “He also failed to disclose to the police that he was in possession [sic] of 14

² S.Ct.Prac.R. 16.05(B)(5)(c) provides that an appendix may include “all judgments, orders, and opinions rendered by any court or agency in the case, if relevant to the issues on appeal.” Because the case involves a series of related domestic, criminal, and special statutory proceedings, as well as an extraordinary writ action—from which this appeal lies—*Amici’s* Appendix is composed of orders and exhibits from earlier proceedings that are relevant to the issues on appeal. All of these orders and exhibits are public records, of which the Court may take judicial notice. *See State ex rel. Everhart v. McIntosh*, 115 Ohio St. 3d 195, 2007-Ohio-4798, 874 N.E.2d 516, ¶¶ 8, 10 (court can take judicial notice of judicial opinions and public records accessible from the internet); *Johnson v. Levy*, 10th Dist. Franklin No. 18AP-775, 2019-Ohio-3492, ¶ 5, fn. 1 (an appellate court may take judicial notice of municipal court proceedings).

guns. I am in fear of my safety.” Appx. A-16. She also specifically asked that Ewing be ordered to “turn over all weapons.” Appx. A-17.

Both protection orders prohibited Ewing from possessing firearms and required that Ewing’s weapons be turned over to law enforcement. Appx. A-2, A-4, A-7, A-12. Accordingly, the Clearcreek Township Division of Police seized an arsenal of 13 firearms from Ewing, including several rifles and shotguns, five revolvers (some semi-automatic) and an AR-15 assault rifle. Appx. A-18, *Police Gun Property Listing*. Although not reflected in the police inventory, later court documents (described below) confirm that Ewing also possessed other firearms-related gear, such as high-capacity magazines for a number of the semi-automatic pistols, and ammunition reloading supplies and equipment. Appx. A-25–A-26.

On January 18, 2017, Ewing was separately charged with a violation of R.C. 2919.27, violation of a protection order, also a misdemeanor of the first degree, after he violated the Temporary Protection Order Suwalski had obtained. Stipulated Statement of Facts ¶ 2.

On April 7, 2017, Ewing was convicted of these crimes by a jury in case numbers 2017CRB000035 and 2017CRB000039 in the Warren County Municipal Court. *Id.* ¶ 3. He was sentenced to 20 days in jail, with 10 days suspended, one year of non-reporting probation, and a fine. *Id.* ¶ 4. Ewing appealed these convictions; the Court of Appeals affirmed the convictions. 12th Dist. Warren Nos. CA2017-05-062, CA2017-05-063, 2018-Ohio-451.

Eight days after Ewing’s arrest, Suwalski (at that time known by the same surname as her husband) filed for divorce. *Ewing v. Ewing*, Warren C.P. No. 17DR39349 (Jan. 23, 2017). On May 3, 2017, Ewing filed a Motion to Release Firearms in the divorce proceeding, seeking to have his arsenal of firearms returned to him. Appx. A-19–A-23, *Final Judgment and Decree of Divorce*, and Joint Exhibit A thereto, describing guns and ammunition, A-25–A-26. On January 10, 2018, Ewing

and Suwalski were granted a final divorce. The divorce decree specified that Ewing’s “guns, magazines, holster and any other accessories (including ammo, gun parts, tools, etc.) being held by the Clearcreek Township Police Department shall be turned over” to Carol Ewing “forthwith.” Appx. A-21. Carol Ewing is Ewing’s former wife from an earlier marriage (he married Suwalski in December 2015). Appx. A-20.

On February 5, 2019, Ewing filed *Applicant’s Request for Relief from Firearms Disability* in the Warren Court of Common Pleas. Stipulated Statement of Facts ¶ 9. At the hearing in the matter, counsel for Ewing and counsel for the State of Ohio stipulated as to the applicability of R.C. 2923.14 to Ewing. *Id.* ¶ 10. Suwalski attended the hearing to advocate for her position that Ewing’s disability should not be removed; she did not stipulate that R.C. 2923.14 be applied to Ewing. *Id.* ¶ 11. On April 29, 2019, Respondent Judge Peeler granted Ewing’s motion in a written decision. *See In re Ewing*, Warren C.P. 19 MS000287 (Apr. 19, 2019), *Decision and Entry Granting Applicant’s Request for Relief from Firearms Disability* (hereinafter, “April 19, 2019 Order”). *See also* Stipulated Statement of Facts ¶ 13.

In May 2019, Suwalski filed her petition for a writ of prohibition in the Court of Appeals, Twelfth Appellate District, Case No. CA2019-05-053. The Court of Appeals, in a unanimous opinion, granted the writ, ruling that Judge Peeler lacked authority to lift Ewing’s federal firearms disability. *State ex rel. Suwalski v. Peeler*, 12th Dist. Warren No. CA2019-05-053, 2020-Ohio-3233. Ewing then appealed to this Court.

ARGUMENT

I. ***PROPOSITION OF LAW I: NO STATUTE CONFERS AUTHORITY ON A STATE COURT OF COMMON PLEAS TO RELIEVE AN INDIVIDUAL OF A FEDERAL FIREARMS DISABILITY IMPOSED UNDER 18 U.S.C. 922(G)(9).***

The Court of Appeals correctly held that Ewing is prohibited by *federal law* from acquiring, having, or using firearms. *Suwalski* at ¶ 20. “Ewing was convicted of domestic violence in

violation of R.C. 2919.25(a). There is no dispute that Ewing's misdemeanor domestic violence conviction qualifies as a 'misdemeanor crime of domestic violence' subject to a federal firearms disability imposed under 18 U.S.C. 922(g)(9)." *Id.* ¶ 3, fn. 1. Ewing cannot and does not dispute this holding in his Merit Brief. Ewing Merit Br. at 9-11. Nor does Ewing contest that he was convicted of a misdemeanor crime of domestic violence, the predicate for his federal firearms disability. *See id.* at 1.

A. Ewing Does Not Qualify for Any of the Statutory Exemptions to the Federal Firearms Ban

There are four ways under the federal Gun Control Act ("Gun Control Act"), in which Ewing's domestic violence conviction would not qualify as a misdemeanor crime of domestic violence. None applies here. The statute reads:

A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been [1] expunged or [2] set aside, or is an offense for which the person [3] has been pardoned or [4] has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

18 U.S.C. 921(a)(33)(B)(ii) (numbers in brackets added for clarity). Ewing's conviction has not been [1] expunged or [2] set aside, and he has not been [3] pardoned; none of those exemptions apply. *See Suwalski*, 2020-Ohio-3233, ¶ 19 ("According to the parties' joint stipulation of facts, Ewing's misdemeanor domestic violence conviction has not been expunged or set aside, nor has Ewing sought a pardon from the Governor.").

The remaining exemption under the Gun Control Act, exemption [4], also does not apply to Ewing. That exemption applies to a person who "has had civil rights restored (if the law of the applicable jurisdiction provides for loss of civil rights under such an offense)." 18 U.S.C. 921(a)(33)(B)(ii). As the Court of Appeals explained, the words "civil rights restored" in that

exemption “do not cover a person whose civil rights were never taken away.” *Suwalski*, 2020-Ohio-3233, ¶ 20 (quoting *United States v. Bridges*, 696 F.3d 474, 475 (6th Cir.2012)). Indeed, Judge Peeler agreed—noting in his appellate brief that Ewing “was never deprived on [sic] his civil rights.” Peeler Brief at 4.

Ewing does not claim that his conviction for domestic violence under Ohio state law resulted in any revocation of civil rights under Ohio state law. Because the State of Ohio took no action pursuant to Ohio law to limit Ewing’s ability to acquire, possess, or use firearms, there is nothing for the State to restore. *See Logan v. United States*, 552 U.S. 23, 36, 128 S.Ct. 475, 169 L.Ed.2d 432 (2007) (“Section 921(a)(33)(B)(ii) tracks 921(a)(20) in specifying expungement, set-aside, pardon, or restoration of rights as dispensations that can cancel lingering effects of a conviction. But the emphasized parenthetical qualification shows that the words ‘civil rights restored’ do not cover a person whose civil rights were never taken away.”). As such, the exemption does not apply to Ewing because he did not lose any civil rights under Ohio law. *See id.* at 37 (“[W]e hold that the words ‘civil rights restored’ do not cover the case of an offender who lost no civil rights.”).

As noted by the U.S. Supreme Court, “the words ‘civil rights restored’ appear in the company of the words ‘expunged,’ ‘set aside,’ and ‘pardoned.’” *Logan* at 31–32. Each of those terms “describes a measure by which the government relieves an offender of some or all of the consequences of his conviction.” *Id.* at 32. Ohio law did not impose any firearms restrictions on Ewing. Instead, Ewing is “a defendant who” retained his rights and was “simply left alone.” *Id.* He did not receive any “status-altering dispensation, no token of forgiveness from the government.” *Id.* And without such action, the exemption for “civil rights restored” cannot apply because there was no loss of civil rights under “the law of the applicable jurisdiction,” 18 U.S.C.

921(a)(33)(B)(ii)—in this case, Ohio. “Under the reasoning of *Logan*,” Ewing “does not qualify for an exception to the firearm restriction in 922(g)(9).” See *United States v. Bridges*, 696 F.3d 474, 475 (6th Cir.2012).

B. Ewing Is Not Entitled to Relief Under Ohio State Law

Just as the federal statute here does not relieve Ewing of his firearms disability, neither does the state statute at issue. Rather, the plain language of the Ohio statute, R.C. 2923.14(D)(3), says that an applicant in Ewing’s position cannot be granted relief under R.C. 2923.14 unless and until the applicant “is not otherwise prohibited by law from acquiring, having, or using firearms.” *Suwalski*, 2020-Ohio-3233, ¶ 21. Here, the Court of Appeals correctly ruled that Ewing could not be granted relief because he was and remains prohibited by federal law from acquiring, having, or using firearms under 18 U.S.C. 922(g)(9). By its very terms, a federal firearms disability under 18 U.S.C. 922(g)(9) constitutes a “prohibition of law.” R.C. 2923.14(D) permits relief from a weapons disability only “if all of the following apply:

(D) Upon hearing, the court may grant the applicant relief pursuant to this section, if all of the following apply:

(i) One of the following applies:

(a) If the disability is based upon an indictment, a conviction, or an adjudication, the applicant has been fully discharged from imprisonment, community control, post-release control, and parole, or, if the applicant is under indictment, has been released on bail or recognizance.

(b) If the disability is based upon a factor other than an indictment, a conviction, or an adjudication, that factor no longer is applicable to the applicant.

(ii) The applicant has led a law-abiding life since discharge or release and appears likely to continue to do so.

(iii) The applicant is not otherwise prohibited by law from acquiring, having, or using firearms.

As the Court of Appeals explained, the sole statement of the Ohio General Assembly’s intent indicated that R.C. 2923.14 only applies to a federal firearms disability under 18 U.S.C. 922(g)(1) — as opposed to 18 U.S.C. 922(g)(9), which is the source of Ewing’s federal firearms disability. *Suwalski*, 2020-Ohio-3233, ¶ 23. The uncodified language found in 2011 H.B. No. 54, Section 3 expressly states that the “relief from a weapons disability granted under section 2923.14 of the Revised Code” refers only to a federal firearms disability imposed under 18 U.S.C. 922(g)(1), “in correlation with the U.S. Supreme Court’s interpretation of 18 U.S.C. 921(a)(20) in *Caron v. U.S.* (1998), 524 U.S. 308.” *See Suwalski*, 2020-Ohio-3233, ¶ 22 (citing 2011 Am.Sub. H.B. No. 54, Section 3).

Caron never mentioned or addressed 18 U.S.C. 922(g)(9)’s prohibition on firearms possession by individuals convicted of crimes of domestic violence. *See Caron v. U.S.*, 524 U.S. 308, 118 S.Ct. 2007, 141 L.Ed.2d 303 (1998). *Caron* was not a domestic violence case. It does not address any aspect of 18 U.S.C. 922(g)(9)—a separate and more restrictive provision added to the Gun Control Act by Congress precisely because of the unique dangers of gun possession by those who commit domestic abuse. *See, infra*, Section III.

Rather, *Caron* focused entirely on whether the federal prohibition under 18 U.S.C. 922(g)(1) was applicable when a defendant’s right to own guns was partially but not totally restored under state law (there, Massachusetts law). *Caron* held that because the defendant was still prohibited from owning some guns, the possession of any guns still triggered the prohibition under 18 U.S.C. 922(g)(1). *Caron* at 316 (“As to the possession of weapons, however, the Federal Government has an interest in a single, national, protective policy, broader than required by state law.”). And so, while the Ohio General Assembly did express its intent that R.C. 2923.14 should apply to the federal firearms disability discussed in *Caron*, there is nothing in the General

Assembly’s statement to suggest that R.C. 2923.14 applies to 18 U.S.C. 922(g)(9)—the provision at issue here. If the Ohio General Assembly had intended the relief procedures under R.C. 2923.14 to cover the provision at issue in this case, 18 U.S.C. 922(g)(9), it could have done so. It did not.

Thus, there is no basis in any statute—federal or state—to support Judge Peeler’s order exempting Ewing from his federal firearms disability under 18 U.S.C. 922(g)(9).

II. PROPOSITION OF LAW II: FEDERAL LAW PREEMPTS A STATE COURT ORDER THAT CONFLICTS WITH THE FEDERAL FIREARMS DISABILITY IMPOSED UNDER 18 U.S.C. 922(G)(9).

The Court of Appeals correctly ruled Ewing could not be granted relief under the Ohio statute Judge Peeler relied on, R.C. 2923.14. Therefore, under the principle of constitutional avoidance, it properly did not address whether Judge Peeler’s order is preempted by federal law pursuant to the Supremacy Clause of the U.S. Constitution. *See Torres v. Precision Indus.*, 938 F.3d 752, 756 (6th Cir.2019) (holding that it was error to decide case on constitutional ground when it could have been resolved on non-constitutional grounds because “courts should not decide a question of preemption if they can resolve the case on non-constitutional grounds.”). Since the Court of Appeals correctly decided this case on non-constitutional grounds, the Court should affirm that decision without deciding the Constitutional preemption question.

Although this Court need and should not address the constitutional issue, Judge Peeler’s order was clearly preempted by federal law. The Supremacy Clause of the U.S. Constitution provides that “the Laws of the United States * * * shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of any State to the Contrary notwithstanding.” U.S. Constitution, Article VI, cl. 2. As the U.S. Supreme Court has held, under the Supremacy Clause, a federal law preempts state law if the federal law either (i) contains express preemptive language (“express preemption”), or (ii) the structure and purpose of the law reflect preemptive intent (“implied preemption”). *Gade v. Nat’l Solid Wastes Mgmt.*

Assn., 505 U.S. 88, 98, 112 S.Ct. 2374, 120 L.Ed.2d 73 (1992). Supremacy Clause preemption applies regardless of whether the conflicting state law is found in a state Constitution, arises from a state statute, or, as here, is a judicially created conflict. *See Riegel v. Medtronic, Inc.*, 552 U.S. 312, 323–24, 128 S.Ct. 999, 169 L.Ed.2d 892 (2008). Express preemption applies in this case: the Gun Control Act expressly states that the Act’s provisions operate to the exclusion of state law on the same subject if “there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.” 18 U.S.C. 927.

There is a direct conflict between Judge Peeler’s order and Section 922(g)(9) of the Gun Control Act. The two cannot be reconciled or consistently stand together. As discussed above, Section 922(g)(9) imposes a federal firearms disability upon a person who has been convicted of a misdemeanor crime of domestic violence, subject to four exemptions, none of which apply to Ewing. Nonetheless, Judge Peeler’s order purports to override Section 922(g)(9), ordering that Ewing “be restored to all civil firearm rights to the extent enjoyed by any citizen.” *See* April 29, 2019 Order at 3. It is not within a state judge’s power to create a new exemption Congress did not choose to create.

There is no way to reconcile Judge Peeler’s order purporting to nullify Ewing’s firearms disability with the Gun Control Act, which does not contain any exemption to Section 922(g)(9) applicable to Ewing. Therefore, Judge Peeler’s order is invalid under the Supremacy Clause, as “any state law that conflicts with federal law is ‘without effect.’” (Citations omitted.) *United States v. Napier*, 233 F.3d 394, 404 (6th Cir.2000) (rejecting, on Supremacy Clause grounds, argument that 18 U.S.C. 922(g)(8) violated defendant’s gun rights under Kentucky state constitution) (cited with approval in *United States v. Khami*, 362 Fed. Appx. 501, 507 (6th Cir.2010); *see also Talik v. Fed. Marine Terminals, Inc.*, 117 Ohio St. 3d 496, 2008-Ohio-937,

885 N.E.2d 204, ¶ 37 (holding that Ohio’s standard for bringing an intentional tort claim against an employer “acts as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress in enacting the [Longshore and Harbor Workers’ Compensation Act]” and therefore is preempted by the federal statute).

Judge Peeler’s attempt to create judicial law that directly conflicts with federal law is a textbook violation of the Supremacy Clause. On this ground too, the Court of Appeals’ decision can and should be affirmed.

III. PROPOSITION OF LAW III: COURT DETERMINATIONS ABOUT THE LIKELIHOOD OF RE-OFFENSE IN DOMESTIC VIOLENCE CASES SHOULD TAKE INTO ACCOUNT SOCIAL SCIENCE RESEARCH ON ABUSE PATTERNS.

Beyond lacking any legal basis under federal or Ohio statutes, and beyond running afoul of the Supremacy Clause, Judge Peeler’s decision to relieve Ewing of the prohibition against his possession of firearms relies on dangerous, unsupported and unsupportable misconceptions about the risk of harm from abusers who possess firearms. Contrary to Judge Peeler’s assumptions, research shows that firearm possession increases the severity and potential lethality of domestic abuse. Neither the lack of a second offense during Ewing’s period of probation nor Ewing’s status as an ex-police officer suggests otherwise.

A. Research Shows that Firearm Possession Increases the Severity and Potential Lethality of Domestic Abuse.

The Gun Control Act’s prohibition on convicted domestic abusers possessing firearms, enacted in 1997 as a direct response to the high numbers of gun-related domestic violence homicides, is critical to protecting victims from further abuse and heightened risk of lethal violence. As recognized by the U.S. Supreme Court, domestic violence is rarely a single incident, but is typified by an ongoing pattern of increasing abuse. *See United States v. Castleman*, 572 U.S. 157, 160, 134 S.Ct. 1405, 188 L.Ed.2d 426 (2014) (“Domestic violence often escalates in

severity over time, and the presence of a firearm increases the likelihood that it will escalate to homicide”) (citations omitted). Studies show that domestic violence often is repeated, and very often escalates. See e.g., Natalie Loder Clark, *Crime Begins at Home: Let’s Stop Punishing Victims and Perpetuating Violence*, 28 WM. & MARY L. REV. 263, 291 (1987). When guns are present, that escalation frequently results in the victim’s death.

1. *Domestic Violence Often Reflects the Abuser’s Desire to Exercise Power and Control Over the Victim, Which Can Be Exacerbated By the Abuser’s Possession of Guns.*

Leading researchers describe domestic battering as “a course of calculated, malevolent conduct, deployed almost exclusively by men to dominate individual women, by interweaving repeated physical abuse with three equally important tactics: intimidation, isolation and control.” Evan Stark, *COERCIVE CONTROL: HOW MEN ENTRAP WOMEN IN PERSONAL LIFE* 5 (2007).³ See also *Planned Parenthood of Southeastern Penn. v. Casey*, 505 U.S. 833, 889–93, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992) (“Wife-battering or abuse can take on many physical and psychological forms. The nature and scope of the battering can cover a broad range of actions and be gruesome and torturous”).

In most instances of domestic violence, the “batterer’s quest for control of the woman [lies] at the heart of the battering process.” Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 5 (1991). Indeed, an increasing body of research suggests that coercive control—i.e., controlling behaviors that do not include physical or

³ See also Deborah Tuerkheimer, *Recognizing and Remediating the Harm of Battering: A Call to Criminalize Domestic Violence*, 94 NORTHWESTERN J. OF CRIMINAL LAW & CRIMINOLOGY 959, 962–963 (2003–04) (“Outside the criminal law context, domestic violence is widely understood as an ongoing pattern of behavior defined by both physical and non-physical manifestations of power. This is a remarkably uncontroversial proposition. For women whose lives it describes, the oft-described ‘power and control’ dynamic is ubiquitous”).

sexual abuse—may be a more accurate measure of conflict, distress and danger to victims than is the presence of physical abuse. *See* Connie J. A. Beck & Chitra Raghavan, *Intimate Partner Abuse Screening in Custody Mediation: The Importance of Assessing Coercive Control*, 48 FAMILY COURT REV. 555, 556 (2010).

Guns are frequently used in furtherance of this control-driven battering process. In a survey of 417 women in 67 battered women’s shelters in California, for example, 65% of women who lived in homes with guns before seeking shelter reported that their abuser had used a gun to scare, threaten or harm them. Susan B. Sorenson & Douglass J. Wiebe, *Weapons in the Lives of Battered Women*. 94 AM. J. OF PUB. HEALTH 1412 (2004). Thus, the mere owning of or access to a weapon can be a component of the control and domination, further instilling the fear of imminent danger, in cases with a history of physical abuse—like this one—and even in cases without any history of physical abuse.

2. *Guns Significantly Increase the Risk of Domestic Violence Homicides*

Here, there was physical abuse and recidivism. During the hearing for Ewing’s request for relief from the firearm disability, Suwalski, through a statement presented by the State, recounted the details of the original abuse incident, stating that “in January 2017, [Ewing] grabbed her by the neck several times, leaving visible red marks around her neck, and pulled out large clumps of her hair.” *See* April 29, 2019 Order. It also is undisputed that Ewing violated the civil protection order against him just days after it was issued: he was convicted of that violation and his conviction was affirmed.

From the time of her original incident report forward, Suwalski has described her deep fear over Ewing’s ability to access his stockpile of guns, that she is “in fear of my safety,” and further stated that she remains “afraid of [Ewing], and that she suffers from nightmares and anxiety due to [Ewing’s] conduct”. Appx. A-16; April 19, 2019 Order (describing Suwalski’s testimony about

her continuing fear). Small wonder. The record establishes that Ewing owned an arsenal of 13 guns, including a Colt AR-15 assault rifle, Glock and Walther semi-automatic pistols, shotguns and other rifles, plus large capacity magazines, ammunition and ammo reloading equipment. Appx. A-19, A-26–A-27.

Far from being unwarranted, Suwalski’s concerns about Ewing’s arsenal are devastatingly well-founded, based on ample research about the role of guns in domestic violence incidents and homicides. Access to or prior use of a firearm by abusers to threaten or intimidate partners are the most robust risk factors associated with fatal outcomes in domestic violence incidents. Andrew R. Klein, *Practical Implications of Current Domestic Violence Research, Part II: Prosecution*, U.S. DOJ REPORT 35 (2008). Firearm availability is associated with a five times greater risk of homicide in the context of domestic violence. April M. Zeoli, Rebecca Malinski, & Brandon Turchan, *Risks and targeted interventions: firearms in intimate partner violence*, 38 EPIDEMIOLOGY REV. 125–39 (2016); see also Jacquelyn C. Campbell, et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AM. J. OF PUB. HEALTH 1089, 1089–1097 (2003). As one leading expert in domestic violence and criminal justice states, “[o]ne of the most crucial steps to prevent lethal violence is to disarm abusers and keep them disarmed * * * [pursuant to] 18 U.S.C. Sec. 922(g)(9).” Klein, *supra*, at 37. See also Chelsea M. Spencer & Sandra M. Stith, *Risk Factors for Male Perpetration and Female Victimization of Intimate Partner Homicide: A Meta-Analysis*, 21 TRAUMA, VIOLENCE, & ABUSE 527 (2008) (“The risk factor that increased the likelihood of IPH [intimate partner homicide] the highest was if the male perpetrator had direct access to guns.”).

Separation and divorce do not solve the problem. To the contrary, the risk that a domestic violence victim will be killed by her abuser increases after separation. See Beck & Raghavan,

supra, at 556 (“Women’s risk of homicide (femicide) increased for women who separated from their abusers after living together, particularly when the abuser was highly controlling”) (citing Jacquelyn C. Campbell, *et al.*, *Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study*, 93 AM. J. OF PUBLIC HEALTH 1089 (2003)). That risk becomes even greater when an abuser uses coercive control, which is likely the case with Ewing, based on Suwalski’s description of his violence and her fear of him. *See* Gavin de Becker, *THE GIFT OF FEAR: SURVIVAL SIGNALS THAT PROTECT US FROM VIOLENCE* 183 (1997) (cataloging, among other indicators of domestic violence homicide risk, acts of coercive control such as resolving conflict with intimidation, bullying and violence; breaking or striking things in anger, and a history of police encounters for behavioral offenses, such as threats, stalking, assault and battery).

Ignoring all of this, Judge Peeler’s order improperly and dangerously belittled Suwalski’s “trepidations regarding [Ewing’s] ability to possess firearms.” April 29, 2019 Order at 3. Studies have found that a domestic violence victim’s assessment of their own safety is often the most accurate. *See* Arlene Weisz, Richard Tolman & Daniel Saunders, *Assessing the Risk of Severe Domestic Violence: The Importance of Survivors’ Predictions*, 15 J. INTERPERSONAL VIOLENCE 75, 76 (2000). Suwalski expressed her fear, both at the hearing on Ewing’s application and in her petition for a civil protection order: “He also failed to disclose to the police that he was in possession [sic] of 14 guns. I am in fear of my safety.” Appx. A-16. In light of that testimony and the research establishing that a convicted abuser’s possession of firearms increases the abuser’s power to threaten, frighten, harm, or kill their victims, Judge Peeler’s order to relieve Ewing of the firearms disability placed Suwalski at an unacceptable risk of further harm or death.

B. Far From Justifying a Decision to Let Ewing Have Back His Arsenal of Weapons, the Record Here Compels the Opposite Conclusion.

Even if Judge Peeler had had the legal authority to grant Ewing’s application for permission to own firearms (which, as noted above, he did not), he lacked a sufficient factual basis to grant Ewing’s application. In issuing his order relieving Ewing of his firearms disability, Judge Peeler relied on several factors: Ewing’s lack of a subsequent arrest; Ewing’s use of strangulation and assault rather than a gun in the episode leading to his criminal conviction; and Ewing’s former career as a police officer. From these factors, Judge Peeler concluded that the risk of additional domestic violence was small and that therefore Ewing could be trusted with his arsenal of weapons. But none of these factors supports Judge Ewing’s conclusion. Properly understood, they show the opposite.

Lack of another arrest since Ewing’s two criminal convictions: Judge Peeler said that, at the time of the April 2019 ruling, Ewing “ha[d] led a law-abiding life since the 2017 convictions” and had not seen the victim of his abuse since their divorce was finalized, approximately a year before. *Suwalski*, 2020-Ohio-3233, ¶ 9. Judge Peeler therefore concluded that there was “no evidence that [Ewing] is a risk to [his victim] or any other person.” *Id.* Judge Peeler’s assessment, based on this short history during much of which Ewing was under probation, is dangerously unfounded for several reasons.

First, re-arrest is not a complete measure of recidivism, because so much ongoing abuse is either not reported or not subjected to arrest. See Richard B. Felson, Jeffrey M. Ackerman, & Catherine Gallagher, *Police Intervention and the Repeat of Domestic Assault*, U.S. DOJ, NATL. INST. OF JUST. 31 (2005) (finding that only half of subsequent assaults were reported to police).

Second, a comprehensive overview of empirical research on domestic violence and recidivism confirms that “a hard core of a third of abusers will re-abuse in the short run and more

will re-abuse in the longer run.” Klein, *supra*, at 26. For example, a Massachusetts study tracked male abusers arrested for intimate female victim abuse over a decade. *Id.* at 27. It found that 60% were re-arrested for a new domestic assault or had a protective order taken out against them, even though some went for three to four years between arrests. *Id.* Studies have also found abuse re-arrest or protection order violation rates of almost 60% over five and ten years. *Id.* These studies indicate that more often than not, “the typical abuser who makes it to the prosecutor’s office has a high likelihood of continuing to abuse the same or different victim.” *Id.*

Here, at the time of Ewing’s application to have his firearm disability removed, less than two years had elapsed since his convictions. During the first year of this period, Ewing was on probation and being monitored for good behavior. Thus, the lack of a documented re-offense in that period offers no real support for a finding as to Ewing’s rehabilitation.

Third, studies demonstrate that domestic violence survivors are at a much higher risk for harm **after** separating from an abusive spouse. See Beck & Raghavan, *supra*, at 556. Research further shows that these women are also at significantly higher risk of being killed. *Id.* Notably, a significant portion of those homicide victims were not physically assaulted before the fatal or near fatal incident. In the case of Suwalski, she had not only suffered a physical assault, but one of attempted strangulation, its own risk factor for domestic violence homicide, as discussed below. According to a leading expert on domestic violence lethality, prior domestic violence is the “number one risk factor for IPH [intimate partner homicide].” See Jacquelyn C. Campbell, Nancy Glass, Phyllis W. Sharps, Kathryn Laughon, Tina Bloom, *Intimate partner homicide: Review and implications of research and policy*, 8 TRAUMA, VIOLENCE, & ABUSE 246 (July 2007).

Use of strangulation and assault rather than a gun: Judge Peeler noted in his order that Ewing’s conviction was for strangling and assaulting Suwalski rather than using a gun against her.

But contrary to the inference Judge Peeler seems to draw, this does not eliminate or even significantly reduce the risk to her that Ewing could use his firearms to intimidate or kill her. Notably, among the factors predictive of repeat abuse and of lethality, a key factor is attempted choking and or strangulation. *See* Nancy Glass, Jacquelyn Campbell, Anna Wolf, and Carolyn Block, *Non-Fatal Strangulation Is an Important Risk Factor for the Homicide of Women*, 35 J. EMERGING MEDICINE 329 (Oct. 2008). Thus, Ewing’s use of strangulation and assault on this one occasion does nothing to establish that he is rehabilitated and no longer a risk or that he can safely be reunited with his arsenal of thirteen firearms. The data indicate otherwise.

Ewing’s former career as a police officer: Judge Peeler’s order noted Ewing’s testimony that “he is a retired detective in the City of Dayton.” April 19, 2019 Order at 1. But that fact cuts the other way. Domestic violence incidents are under-reported and arrest rates are lower for abuse perpetrated by police populations. *See* Alex Roslin, *The Secret Epidemic of Police Domestic Violence: How It Affects Us All*, FAMILY & INTIMATE PARTNER VIOLENCE QUARTERLY 320 (Spring 2016); *see also* Leonor Boulton Johnson, Michael Todd, and Ganga Subramanian, *Violence in Police Families: Work-Family Spillover*, 20 J. OF FAMILY VIOLENCE 3 (Feb. 2005) (“Apart from the fact that most families will not ‘air dirty laundry,’ domestic violence by law enforcers escaped detection primarily because of the officers’ strong adherence to a code of secrecy, commitment to camaraderie, and resistance to external intrusion”). Evidence suggests that “a staggering amount of domestic violence rages behind the walls of cops’ homes, while most police departments do little about it.” Johnson, Todd & Subramanian, *supra*, at 3. Indeed, the abuse rate for police is up to 15 times higher than among the public. *Id.* Moreover, officers who are divorced or separated have even higher rates of violence at home—up to 66%. *Id.* Hence, Ewing’s status as a retired police officer, convicted for domestic partner abuse, suggests that he may be more—not less—

likely to re-offend against Suwalski or others in the future. *See generally* Alex Roslin, POLICE WIFE—THE SECRET EPIDEMIC OF POLICE DOMESTIC VIOLENCE (2d ed. 2017); Leigh S. Goodmark, *Hands Up at Home: Militarized Masculinity and Police Officers Who Commit Intimate Partner Abuse*, 2015 BYU L. REV. 1183 (2016).

In short, Judge Peeler’s finding that “the record reveals no evidence that [Ewing] is a risk to [his victim] or any other person,” April 29, 2019 Order at 3, and therefore should be granted relief to access his arsenal of firearms is belied by the abundant evidence and data that place Ewing squarely within multiple risk groups for repeated and dangerous reoffending.

CONCLUSION

For all of the reasons described in this brief, *Amici* respectfully request that the court affirm the decision of the Warren County Court of Appeals holding that a state Court of Common Pleas does not does not have the judicial power to relieve an individual of a federal firearms disability imposed under 18 U.S.C. 922(g)(9).

October 13, 2020

Respectfully submitted,

/s/ Gregory J. Phillips

Gregory J. Phillips (0077601)

Addisah Sherwood (0084399)

James J. Walsh, Jr. (0096660)

BENESCH, FRIEDLANDER, COPLAN

& ARONOFF LLP

200 Public Square, Suite 2300

Cleveland, OH 44114-2378

P: 216-363-4472

F: 216-363-4588

gphillips@beneschlaw.com

asherwood@beneschlaw.com

jwalsh@beneschlaw.com

Bruce A. Ericson

PILLSBURY WINTHROP SHAW PITTMAN LLP

Four Embarcadero Center, 22nd Floor

San Francisco, CA 94111-5998

P: 415-983-1000

bruce.ericson@pillsburylaw.com

Julia E. Judish

Jeetander T. Dulani

Charrise L. Alexander

Alton L. Hare

Katherine T. Danial

1200 Seventeenth Street, NW

Washington, DC 20036

P: 202-663-8000

julia.judish@pillsburylaw.com

*Counsel for Amici Curiae, The Domestic Violence Legal
Empowerment and Appeals Project, et al.*

PROOF OF SERVICE

I hereby certify that a copy of the foregoing was sent via U.S. Mail and/or email to the following:

Christopher J. Pagan (0062751)
REPPER PAGAN LAW, LTD.
1501 First Avenue
Middletown, Ohio 45044
P: 513-424-1823
F: 513-424-3135
cpagan@repperpagan.com

Counsel for Intervenor-Appellant, Roy Ewing

Elizabeth A. Well (0087750)
OHIO CRIME VICTIM JUSTICE CENTER
3976 North Hampton Drive
Powell, Ohio 43065
P: 614-848-8500
F: 614-848-8501
ewell@ocvjc.org

Micaela Deming (0085802)
O/B/O OHIO DOMESTIC VIOLENCE NETWORK
PO Box 176
Bluffton, Ohio 45817
P: 614-742-7902
MDemingEsq@gmail.com

Counsel for Relator-Appellee, Jamie Suwalski

Michael T. Gmoser (0002132)
BUTLER COUNTY PROSECUTOR
Michael Greer (0074352)
Assistant Prosecuting Attorney
315 High Street, 11th Floor
Hamilton, Ohio 45011
P: 513-887-3474
F: 513-887-3489
greerjm@butlercountyohio.org

*Counsel for Respondent-Appellant, Judge
Robert W. Peeler*

/s Gregory J. Phillips
Gregory J. Phillips
Counsel of Record for Amici Curiae

Appendix

FORM 10-A: PROTECTION ORDER NOTICE TO NCIC

Case/Order No. 2017CRB000035

FILED

Page 1 of 2

PROTECTION ORDER NOTICE TO NCIC (Required fields appear in bold print)

Initial NCIC Form

Modification of Previous Form

2017 JAN 15 AM 10:39

WARREN COUNTY COURT

Pursuant to Rules 10.01, 10.02, 10.03, and 10.05 of the Rules of Superintendence for the Courts of Ohio, this information shall be promptly entered into the National Crime Information Center Index.

SUBJECT NAME Ewing Roy J.
(LAST) (FIRST) (M.I.)
ADDRESS 8870 Winton Hills Ct. Springborn OH 45066
(STREET) (CITY) (STATE) (ZIP)

PHYSICAL DESCRIPTION: HGT 5'9" WGT 195 HAIR Brown
EYES Brown RACE White SEX M F

NUMERICAL IDENTIFIER (NOTE: Only ONE of the 4 numerical identifiers is needed.)

1. SSN [REDACTED] 2. DOB 10 1 02 1959
3. DRIVER'S LIC. NO. [REDACTED] STATE OH EXPIRATION YR. _____
4. VEHICLE LIC. NO. _____ STATE _____ EXPIRATION YR. _____

(* If #3 or #4 is used as a numerical identifier, entire line MUST be completed.)

BRADY DISQUALIFIERS:

Pursuant to 18 U.S.C. 922(g)(8), a "yes" response to all three Brady questions disqualifies the subject from purchasing or possessing any firearm, including a rifle, pistol, revolver, or ammunition.

- Does the Order protect an intimate partner or child(ren)? YES NO
- Did the subject have an opportunity to participate in the hearing regarding the Order? YES NO
- Does the Order find the subject a credible threat or explicitly prohibit physical force? YES NO

CASE / ORDER NO. 2017CRB000035 (15 DIGIT MAXIMUM)

COURT ORIGINATING AGENCY IDENTIFIER OH083013J (9 DIGIT ORI ASSIGNED BY NCIC)

R.C. 2903.213 R.C. 2903.214 R.C. 2151.34 R.C. 2919.28 R.C. 3113.31

NAME OF JUDGE/MAGISTRATE Judge Gary A. Loxley

DATE OF ORDER 01 / 15 / 2017 EXPIRATION OF ORDER NO N / N / EXP
(IN R.C. 2919.26 AND 2903.213 CASES, "NONEXP" MAY BE USED)

TERMS AND CONDITIONS OF ORDER (Mark all that are applicable):

- 01 The subject is restrained from assaulting, threatening, abusing, harassing, following, interfering, or stalking the protected person and/or the child(ren) of the protected person.
- 02 The subject shall not threaten a member of the protected person's family or household.
- 03 The protected person is granted exclusive possession of the residence or household.
- 04 The subject is required to stay away from the residence, property, school, or place of employment of the protected person or other family or household member.
- 05 The subject is restrained from making any communication with the protected person, including but not limited to, personal, written, or telephone contact, or their employer, employees, or fellow workers, or others with whom the communication would be likely to cause annoyance or alarm the victim.
- 06 The subject has visitation or custody rights of the children named in this Order.
- 07 The subject is prohibited from possessing and/or purchasing a firearm or other weapon as identified in the Miscellaneous Field.
- 08 See the Miscellaneous Field for comments regarding the specific terms and conditions of this Order.
Miscellaneous comments: _____

09 The protected person is awarded temporary exclusive custody of the children named.

OHP DATA

ONLY #EPO

2017 JAN 15 AM 10:59
WARREN COUNTY COURT
CLERK OF COURT

Subject's Name Roy Ewing

Case/Order No. 2017 USB 000035

LIST ALL PROTECTED PERSONS (Total of 9 allowed. SSN is NOT necessary if DOB is given.)

PROTECTED PERSON Ewing Jamie L
 (LAST) (FIRST) (M.I.)
 DOB 12 / 03 / 1973 SSN [REDACTED] RACE White
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

PROTECTED PERSON _____
 (LAST) (FIRST) (M.I.)
 DOB ____ / ____ / ____ SSN ____ - ____ - ____ RACE ____
 SEX M F

Authorized by (signature): *Angela Loxley* Date 01.15.17
 Judge/Magistrate (circle one)

**FORM 10.01-G:
WARNING CONCERNING THE ATTACHED
DOMESTIC VIOLENCE PROTECTION ORDER**

NOTE: Rules 10.01 and 10.02 of the Rules of Superintendence for the Courts of Ohio require this Warning to be attached to the FRONT of all civil and criminal domestic violence protection orders issued by the courts of the State of Ohio. TO BE USED WITH FORMS 10.01-H, 10.01-I, 10.01-J, 10.01-M, and 10.02-A.

WARNING TO RESPONDENT / DEFENDANT

Violating the attached Protection Order is a crime, punishable by imprisonment or fine or both, and may cause your bond to be revoked or result in a contempt of court citation against you.

This Protection Order is enforceable in all 50 states, the District of Columbia, tribal lands, and U.S. Territories pursuant to the Violence Against Women Act, 18 U.S.C. 2265. Violating this Protection Order may subject you to federal charges and punishment.

Only the Court may change this Protection Order. The Petitioner/Alleged Victim cannot give you legal permission to change this Order. If you go near the Petitioner/Alleged Victim or other protected person, even with their permission, you may be arrested. Only the Court may modify or terminate this Protection Order. Unless the Court modifies or terminates this Order, you may be arrested for violating this Protection Order. You act at your own risk if you disregard this WARNING.

WARNING TO PETITIONER / ALLEGED VICTIM

You cannot change the terms of this Order by your words or actions. Only the Court may allow the Respondent/Defendant to contact you or return to your residence. This Protection Order cannot be changed by either party without obtaining a written court order.

NOTICE ABOUT FIREARMS AND OTHER DEADLY WEAPONS

As a result of this Protection Order or Consent Agreement, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law, 18 U.S.C. 922(g)(8). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm or ammunition, you should consult with a lawyer.

This Protection Order may be subject to the exceptions pursuant to 18 U.S.C. 925(a)(1) only with respect to the official use of government-issued firearms or ammunition for the use of any department or agency of the United States, Ohio, or its political subdivision. This exception does not apply if the Defendant/ Respondent has been convicted of an offense of violence, for example, domestic violence, menacing by stalking, etc. against a family or household member.

NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS

The attached Protection Order is enforceable in all jurisdictions. Violation of this Protection Order, whether it is a criminal or civil Protection Order, is a crime under R.C.2919.27. Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.26, 2919.27, and 3113.31. If you have reasonable grounds to believe that Respondent/Defendant has violated this Protection Order, it is the preferred course of action in Ohio under R.C. 2935.03 to arrest and detain Respondent/ Defendant until a warrant may be obtained. Federal and state law prohibits charging a fee for service of this Order.

FORM 10.02-A: DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDER (DVTPO)

FILED

2017 JAN 15 AM 12:40 IN THE WARREN COUNTY COURT WARREN COUNTY, OHIO

WARREN COUNTY COURT Order of Protection

Per R.C. 2919.26(B)(3), this Order is indexed at

WC50

LAW ENFORCEMENT AGENCY WHERE INDEXED

(513) 695 -1280 PHONE NUMBER

STATE OF OHIO/ CITY OF

Roy J. Ewing

DEFENDANT

Case No.

2017 CRB 000035

Judge

Gary A. Loxley

State

OHIO

DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDER (DVTPO) (R.C. 2919.26)

[X] New Order [] Modification of Previous Order

ALLEGED VICTIM:

Jamie L Ewing

First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Alleged Victim Jamie Ewing DOB: 12/03/1973

Alleged Victim's Family or Household Members: [] Additional forms attached

DOB: DOB: DOB: DOB:

DEFENDANT:

Roy J. Ewing

First Middle Last

DEFENDANT IDENTIFIERS

Table with columns: SEX, RACE, HT, WT, EYES, HAIR, DATE OF BIRTH, DRIVER'S LIC. NO., EXP. DATE, STATE. Values: M, WHITE, 5'9", 195, BROWN, BROWN, 10 / 02 / 1959, OH.

Distinguishing features:

Address where Defendant can be found:

Warren County Jail

[X] WARNING TO LAW ENFORCEMENT: DEFENDANT HAS FIREARMS ACCESS - PROCEED WITH CAUTION

[] Ex Parte DVTPO Granted: (Date)

[X] DVTPO Granted: 01 / 15 / 2017 (Date)

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration; Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Defendant was provided the opportunity to be heard within the time required by Ohio law. Additional findings of this Order are set forth below.

THE COURT HEREBY ORDERS:

That the above named Defendant be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

WARNING TO DEFENDANT: See the warning page attached to the front of this Order.

certify this to be a true copy of the original.

Deputy Clerk, Warren County Court, Lebanon, Ohio

[Page 2 of 4 Form 10.02-A]

Case No. 2017 CP-B 000035

Upon a hearing held on 1 / 1 (Ex Parte DVTPPO) OR 01 / 16 / 2017 (DVTPPO)

the Court finds that the Motion for a Domestic Violence Temporary Protection Order is well taken. The Court finds that the safety and protection of the protected persons named in this Order may be impaired by the continued presence of the Defendant. Therefore, the following orders, which are designed to ensure the safety and protection of the protected person named in this Order, are issued to Defendant as pretrial conditions in addition to any bail set under Crim. R. 46.

DEFENDANT SHALL NOT ABUSE harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

- 1. DEFENDANT SHALL NOT ENTER or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Defendant may not violate this Order even with the permission of a protected person. [NCIC 04]
- 2. DEFENDANT SHALL NOT INTERFERE with the protected persons' right to occupy any residence by canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 05]
- 3. DEFENDANT SHALL SURRENDER all keys and garage door openers to the following residence 8870 Winton Hills Court, Springboro OH 45066 at the earliest possible opportunity after service of this Order to the law enforcement agency that serves the Defendant with this Order or as follows: _____
- 4. DEFENDANT SHALL STAY AWAY FROM THE PROTECTED PERSONS NAMED IN THIS ORDER, and shall not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Defendant knows or should know the protected persons are likely to be, even with Petitioner's permission. If the Defendant accidentally comes in contact with protected persons in any public or private place, the Defendant must depart immediately. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 5. DEFENDANT SHALL NOT INITIATE OR HAVE ANY CONTACT with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order even with the permission of a protected person. [NCIC 05]

[Page 3 of 4 Form 10.02-A]

Case No. 2017CPB000035

- 6. DEFENDANT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS owned or possessed by the protected persons named in this Order.
- 7. DEFENDANT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON to do any act prohibited by this Order.
- 8. DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON at any time while the Order remains in effect, unless the Defendant is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]
- 9. DEFENDANT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE in Defendant's possession to the law enforcement agency that serves Defendant with this Order or as follows:

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

- 9. DEFENDANT MAY PICK UP CLOTHING and personal effects from the following residence:
9870 Winton Hills Court, Springboro OH 45066
 only in the company of a uniformed law enforcement officer within seven days of the filing of this Order or the date of Defendant's release on bond in connection with this charge, whichever is later. Arrangements may be made by contacting:
LOCAL LAW ENFORCEMENT

- 10. DEFENDANT SHALL NOT USE OR POSSESS alcohol or illegal drugs.
- 11. IT IS FURTHER ORDERED: [NCIC 08]

- 12. DEFENDANT IS ADVISED THAT VISITATION ORDERS DO NOT PERMIT THE DEFENDANT TO VIOLATE ANY OF THE TERMS OF THIS ORDER.
- 13. IT IS FURTHER ORDERED a copy of this Order shall be delivered to the Defendant on the same day that the Order is entered.
- 14. THIS ORDER IS EFFECTIVE until the occurrence of one of the following: (1) modified by this Court; or (2) the criminal proceeding arising out of the complaint upon which these orders were issued is disposed of by this Court or by the court of common pleas to which the Defendant is bound over for prosecution; or (3) a court issues a Domestic Violence Civil Protection Order ("CPO") arising out of the

FILED

[Page 4 of 4 Form 10.02-A]

Case No. 2017CRB000035

same activities as those that were the basis of the complaint filed in this action.

2017 JAN 15 AM 13:40

IT IS SO ORDERED - COURT
WARREN COUNTY COURT

MAGISTRATE - DATE OF EX PARTE DVTP0

JUDGE - DATE OF EX PARTE DVTP0

MAGISTRATE - DATE OF DVTP0

JUDGE - DATE OF DVTP0

Angela Loxley 1-15-17

NOTICE TO DEFENDANT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

A HEARING on this Order shall be held before

Judge/Magistrate _____

on _____ / _____ /
at _____ a.m. p.m.,

at the following location: _____

TO THE CLERK:

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

- Prosecutor
- Alleged Victim
- Defendant (by personal service)
- Attorney for Defendant
- Police Department Where Alleged Victim Resides: _____
- Police Department Where Alleged Victim Works: _____
- Sheriff's Office:
WARREN COUNTY SHERIFF'S OFFICE
- CSEA
- Other: _____

Service acknowledged:

SIGNATURE OF DEFENDANT

DATE

WAIVER OF HEARING

I HAVE BEEN ADVISED OF MY RIGHT TO A HEARING ON THE MOTION FOR A DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDER AND HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THE HEARING ON THE MOTION AND AGREE TO BE BOUND BY THE TERMS OF THIS ORDER.

DEFENDANT

DATE

FORM 10.01-G:
WARNING CONCERNING THE ATTACHED
DOMESTIC VIOLENCE PROTECTION ORDER

COMMON PLEAS COURT
WARREN COUNTY, OHIO
FILED

NOTE: Rules 10.01 and 10.02 of the Rules of Superintendence for the Courts of Ohio require this Warning to be attached to the FRONT of all civil and criminal domestic violence protection orders issued by the courts of the State of Ohio. TO BE USED WITH THE FORMS 10.01-H, 10.01-I, 10.01-J, 10.01-M, and 10.02-A.

2017 MAR 07 PM 3:04
CLERK OF COURTS
17DV766D

WARNING TO RESPONDENT / DEFENDANT

Violating the attached Protection Order is a crime, punishable by imprisonment or fine or both, and may cause your bond to be revoked or result in a contempt of court citation against you.

This Protection Order is enforceable in all 50 states, the District of Columbia, tribal lands, and U.S. Territories pursuant to the Violence Against Women Act, 18 U.S.C. 2265. Violating this Protection Order may subject you to federal charges and punishment.

Only the Court may change this Protection Order. The Petitioner/Alleged Victim cannot give you legal permission to change this Order. If you go near the Petitioner/Alleged Victim or other protected person, even with their permission, you may be arrested. Only the Court may modify or terminate this Protection Order. Unless the Court modifies or terminates this Order, you may be arrested for violating this Protection Order. **You act at your own risk if you disregard this WARNING.**

WARNING TO PETITIONER / ALLEGED VICTIM

You **cannot** change the terms of this Order by your words or actions. Only the Court may allow the Respondent/Defendant to contact you or return to your residence. This Protection Order **cannot** be changed by either party without obtaining a written court order.

NOTICE ABOUT FIREARMS AND OTHER DEADLY WEAPONS

As a result of this Protection Order or Consent Agreement, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law, 18 U.S.C. 922(g)(8). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm or ammunition, you should consult with a lawyer.

This Protection Order may be subject to the exceptions pursuant to 18 U.S.C. 925(a)(1) **only** with respect to the official use of government-issued firearms or ammunition for the use of any department or agency of the United States, Ohio, or its political subdivision. This exception does not apply if the Defendant/ Respondent has been convicted of an offense of violence, for example, domestic violence, menacing by stalking, etc. against a family or household member.

NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS

The attached Protection Order is enforceable in all jurisdictions. Violation of this Protection Order, whether it is a criminal or civil Protection Order, is a crime under R.C.2919.27. Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.26, 2919.27, and 3113.31. If you have reasonable grounds to believe that Respondent/Defendant has violated this Protection Order, it is the preferred course of action in Ohio under R.C. 2935.03 to arrest and detain Respondent/ Defendant until a warrant may be obtained. Federal and state law prohibits charging a fee for service of this Order.

IN THE COURT OF COMMON PLEAS COMMON PLEAS COURT
 WARREN COUNTY, OHIO WARREN COUNTY, OHIO
 FILED

Order of Protection

Per R.C. 3113.31(F)(3), this Order is indexed at

Case No.

2017 JAN 17 PM 3:04
 17DV7660

JAMES L. SPAETH
 CLERK OF COURTS

Judge/Magistrate Jeffrey T. Kirby/Magistrate Christ Paine

State **OHIO**

Warren County Sheriff
 LAW ENFORCEMENT AGENCY WHERE INDEXED
 (513) 695 - 1282
 PHONE NUMBER

DOMESTIC VIOLENCE CIVIL PROTECTION ORDER
 (CPO) EX PARTE (R.C. 3113.31)

PETITIONER:

PERSON(S) PROTECTED BY THIS ORDER:

Jamie L. Ewing
 First Middle Last

Petitioner: Jamie L. Ewing DOB: 12/03/1973
 Petitioner's Family or Household Members:
 (Additional forms attached.)
 DOB: _____
 DOB: _____
 DOB: _____
 DOB: _____

v.

RESPONDENT:

RESPONDENT IDENTIFIERS

Roy J. Ewing
 First Middle Last

SEX	RACE	HT	WT
M	C	5'9	230
EYES	HAIR	DATE OF BIRTH	
brown/hazel	grey	10 / 02 / 1959	
DRIVER'S LIC. NO.	EXP. DATE	STATE	
		OH	

Relationship to Petitioner: husband
 Address where Respondent can be found:
C/O Extended Stay America- Dayton South
7851 Lois Circle, Dayton, Ohio 45459

Distinguishing features: _____

WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION unknown

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. **Additional terms of this Order are set forth below.**

The terms of this Order shall be effective until 01 / 17 / 2018 (DATE CERTAIN)

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

This proceeding came on for an *ex parte* hearing on 01 / 17 / 2017 (Respondent not being present), upon the filing of a Petition by Petitioner for a domestic violence civil protection order (CPO) against the Respondent, pursuant to R.C. 3113.31. In accordance with R.C. 3113.31(D)(1), the Court held an *ex parte* hearing on the same day that the Petition was filed.

The Court finds that the protected persons herein are in immediate and present danger of domestic violence and for good cause shown, the following temporary orders are necessary to protect the persons named in this Order from domestic violence.

RESPONDENT SHALL NOT ABUSE, harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

1. **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence:

2. **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at:

8870 Winton Hills Court

Springboro, OH 45066

is granted to: petitioner. Respondent shall not interfere with this individual's right to occupy the residence including, but not limited to canceling utilities or Insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

3. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

4. **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04] _____

5. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500-feet-of 100 yards (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

6. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications, or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 05]

7. **RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE,** _____, to the law enforcement agency that served Respondent with the Order or as follows:

_____ and Petitioner is granted exclusive use of this motor vehicle.

8. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order. Personal property shall be apportioned as follows:

9. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

10. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** at any time while the Order remains in effect unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

Upon the expiration of this Order, any deadly weapons, including firearms and ammunition, held in protective custody by law enforcement pursuant to this Order shall be disposed of as unclaimed property pursuant to R.C. 2981.12 unless Respondent files a motion for return with this Court within 180 days before the expiration of this Order.

TO THE RESPONDENT: If you plan to request the return of your weapon(s) from the police department who has custody of the weapon(s), you **MUST** inform the Clerk of Courts any time you change your address. This Order may be dismissed by Petitioner or the expiration date may otherwise change. The 180-day time period begins when the Order expires, or is dismissed. The Clerk must be able to find you to send you a copy of any changes in the Order to properly inform you of the timing.

11. PARENTAL RIGHTS AND RESPONSIBILITIES ARE TEMPORARILY ALLOCATED AS FOLLOWS:
[NCIC 09] _____

This Order applies to the following child(ren):

12. VISITATION ORDERS DO NOT PERMIT RESPONDENT TO VIOLATE THE TERMS OF THIS ORDER.

(A) Respondent's visitation rights are suspended; or

(B) As a limited exception to paragraphs 5 and 6, temporary visitation rights are established as follows: [NCIC 06]

This Order applies to the following child(ren):

13. LAW ENFORCEMENT AGENCIES, including but not limited to, _____
are ordered to assist Petitioner in gaining physical custody of the child(ren), if necessary.

14. RESPONDENT SHALL SUPPORT the protected persons named in this Order as follows:

15. RESPONDENT MAY PICK UP CLOTHING and personal effects from the above residence only in the company of a uniformed law enforcement officer within seven days of the filing of this Order. Arrangements may be made by contacting:

16. RESPONDENT SHALL NOT USE OR POSSESS alcohol or illegal drugs.

17. IT IS FURTHER ORDERED: [NCIC 08]

18. ALL DISCOVERY SHALL STRICTLY COMPLY with Civ.R. 65.1(D).

19. IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed against the Petitioner for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this protection order.

20. ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL 01 / 17 / 2018 unless earlier modified by or dismissed by order of this Court. Except for paragraphs 11, 12, 13, and 14 above, this Order survives a divorce, dissolution of marriage, or legal separation.

IT IS SO ORDERED.

Crist Faine
JUDGE/MAGISTRATE

CERTIFIED COPY
JAMES L. SPAETH, CLERK
WARREN COUNTY, OHIO
COMMON PLEAS COURT
BY Kevin Wehner
DEPUTY

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERM OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

A FULL HEARING on this Order, and on all other issues raised by the Petition, shall be held before Judge or Magistrate:

Crist Faine

on the 26 day of January 20 17

at 3:30 a.m./p.m. at the following location:
500 Justice Drive
Lebanon OH 45036

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

- Petitioner HP MES
- Respondent
- Police Department Where Petitioner Resides:
Springboro P.D.
- Sheriff's Office:
WCSC
- Police Department Where Petitioner Works:
- CSEA
- Other: ARCS; HP MES

Proper Attire is required. Shorts and tank tops are NOT permitted in the Courtroom.

IN THE Common PLEAS
WARREN

COURT PLEAS COURT
WARREN COUNTY, OHIO
COUNTY, OHIO
FILED

2017 JAN 17 PM 3:04 17 DV 7660

Jamie L. Ewing
Petitioner
8870 Winton Hills Ct
Address
Springboro, Ohio 45066
City, State, Zip & Code

Case No. _____
Judge/Magistrate JAMES L. SPAETH
CLERK OF COURTS

Date of Birth 12 / 03 / 1973

PETITION FOR DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (R.C. 3113.31)

v.

Roy J. Ewing
Respondent
8870 Winton Hills Ct
Address
Springboro, OH 45066
City, State, Zip & Code

Date of Birth 10 / 02 / 1959

CHECK EVERY THAT APPLIES. IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

1. Petitioner is a family or household member of Respondent and a victim of domestic violence and seeks relief on Petitioner's own behalf. The relationship of Petitioner to Respondent is that of:
- Spouse of Respondent
 - Former spouse of Respondent
 - Natural parent of Respondent's child
 - Other relative (by blood or marriage) of Respondent/ Petitioner who has lived with Respondent at any time
 - Child of Respondent
 - Parent of Respondent
 - Foster Parent
 - Person "living as a spouse of Respondent" is defined as:
 - now cohabiting;
 - or cohabited within five years before the alleged act of domestic violence

2. Petitioner seeks relief on behalf of the following family or household members:

NAME	DATE OF BIRTH	HOW RELATED TO		RESIDES WITH
		PETITIONER	RESPONDENT	
		son	step-son	petitioner

Case No. _____

3. Respondent has engaged in the following act(s) of domestic violence: (Describe the acts as fully as possible. Attach additional pages if necessary.)

He did many things to me that night, including but not limited to choking me and leaving marks on my neck, pushing me against the back door, and pulling my hair out.
He also failed to disclose to the police that he was in possession of 14 guns. I am in fear of my safety.

4. Petitioner requests that the Court grant relief under R.C. 3113.31 to protect the Petitioner and/or the family or household members named in this Petition from domestic violence by granting a civil protection order that:

(a) Directs Respondent to not abuse Petitioner and the family or household members named in this Petition by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them.

(b) Requires Respondent to leave and not return to or interfere with the following residence and grants Petitioner exclusive possession of the residence:
8870 Winton Hills Ct.
Springboro, Ohio 45066

(c) Divides household and family personal property and directs Respondent to not remove, damage, hide, or dispose of any property or funds that Petitioner owns or possesses.

(d) Temporarily allocates parental rights and responsibilities for the care of the following minor children and suspends Respondent's visitation rights until a full hearing is held (include names and birth dates of the minor children):

(e) Establishes temporary visitation rights with the following minor children and requires visitation to be supervised or occur under such conditions that the Court determines will ensure the safety of Petitioner and the minor children (include names and birth dates of the minor children):

Case No. _____

- (f) Requires Respondent to provide financial support for Petitioner and the other family or household members named in this Petition.
- (g) Requires Respondent to complete batterer counseling, substance abuse counseling, or other counseling as determined necessary by the Court.
- (h) Requires Respondent to refrain from entering, approaching, or contacting (by any means) the residence, school, business, and place of employment of or approaching or contacting (by any means) Petitioner and the family or household members named in this Petition.
- (i) Requires Respondent to permit Petitioner or other family or household member to have exclusive use of the following motor vehicle: Jeep Patriot 2010, Jaguar Vanden Plas 1996
- (j) Includes the following additional provisions: turn over all weapons

- 5. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order under R.C. 3113.31(D) and (E) and this Petition.
- 6. Petitioner further requests that the Court issue no mutual protection orders or other orders against Petitioner unless all of the conditions of R.C. 3113.31(E)(4) are met.
- 7. Petitioner further requests that if Petitioner has a victim advocate, the Court permit the victim advocate to accompany Petitioner at all stages of these proceedings as required by R.C. 3113.31(M).
- 8. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.
- 9. Petitioner lists here all present court cases and pertinent past court cases (including civil, criminal, divorce, juvenile, custody, visitation, and bankruptcy cases) that relate to the Respondent, you, your children, your family, or your household members:

CASE NAME	CASE NUMBER	COURT/COUNTY	TYPE OF CASE	RESULT OF CASE
Dissolution		Montgomery Co.	Dissolution	terminated 2007
		Montgomery Co.	Child Custody/Support	terminated 2007
Ch. 13		Montgomery Co.	Bankruptcy	Discharged

I hereby swear or affirm that the answers above are true, complete, and accurate to the best of my knowledge. I understand that falsification of this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury under R.C. 2921.11.

DO NOT SIGN THIS FORM UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PETITION FOR YOU.

Jamie L. Curing
SIGNATURE OF PETITIONER

Sworn to and subscribed before me on this 16th day of January, 2017

Jennifer L. Smalley
NOTARY PUBLIC



JENNIFER L. SMALLEY, Notary Public
In and for the State of Ohio
My Commission Expires July 5, 2020

Case No. _____

IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

Petitioner's Safe Address:

Signature of Attorney for Petitioner (if applicable)

Name of Attorney (if applicable)

Attorney's Address

City, State, Zip Code

Attorney's Registration Number

Attorney's Telephone

Attorney's Fax

Attorney's Email



Clearcreek Township Division of Police



EVIDENCE

PROPERTY

HAZARDS: Ammo Biological Chemical Drugs Explosive Gun Liquid Sharps

Incident Number: LLP170114000191 Property Room Number: _____

Submitting Officer: Cordero Investigating Officer: _____

Date and Time: 1/15/17 2106 Location of Recovery: 8870 Winton Hills

Suspect: Ewing Roy J 10/2/59
Last First Middle Last Date of Birth

Charges Filed: (Y) N Court: Warren County Felony / Misdemeanor

Victim: Ewing Jamie L 12/3/73
Last First Middle Last Date of Birth

Item Number	Amount/Weight	Description (Include Model, Make, Serial Number, Damage, ID Marks)	Bin	
1	1	M-P #D774185 Rifle		
2	1	LMT Rifle (#SN LMS172106)		
3	1	M-P Rifle (#SN SR95450)		
4	1	S+W Revolver (#SN AA99937) .357		
5	1	S+W Revolver (#SN ALB41688)		
6	1	Remington 700 (#SN# 10249631)		
7	1	Gamester 12 GA (#SN# J342365)		
8	1	1911 Handgun (#SN# NP110544) brown/blk		
9	1	Springfield XD40 (#SN# XP344119) 40 cal		
10	1	Glock 27 40 cal (#SN# GRAL659)		
11	1	Glock 19 (#SN# YFP351)		
12	1	.38 Revolver S+W (#SN# 23819)		
13	1	.22 Walther P22 (#SN# L366777)		
Item Number(s)	Date	Relinquished By Print and Sign Name	Received By Print and Sign Name	Purpose for Change of Custody
1-13	1/15/17	James L. Ewing Jamie S. Ewing	Nicole Cordero Nicole Cordero	Property

af

1/11/18
OR

COMMON PLEAS COURT
WARREN COUNTY, OHIO
FILED

TO THE CLERK.
SERVE NOTICE OF JUDGMENT
PURSUANT TO CIVIL RULE 58(B)

JAN 10 PM 12:12

JAMES L. SPAETH
CLERK OF COURTS

IN THE COMMON PLEAS COURT OF WARREN COUNTY, OHIO
DOMESTIC RELATIONS DIVISION

JAMIE EWING
108 Cherry Street
Springboro, OH 45066

Plaintiff,

vs.

ROY EWING
8870 Winton Hills Court
Springboro, OH 45066

Defendant.

* CASE NO.: 17-DR-39349
* Judge Jeffrey Kirby
* Magistrate Tyler Webb

DTR

FINAL JUDGMENT AND
DECREE OF DIVORCE

This cause came on for hearing on December 7, 2017 before Magistrate Webb upon the Complaint of the Plaintiff and the Answer and Counterclaim of the Defendant, both the Defendant and Plaintiff having been duly served with process of service according to law and notified of the final hearing date as was scheduled with the Court. Present at said hearing were Plaintiff with her attorneys, Jon Paul Rion and Kevin Lennen, and Defendant with his attorney, Robert L. Mues.

The Court finds that the parties have been residents of the State of Ohio for more than six (6) months and of Warren County for more than 90 days prior to the filing of the Complaint for Divorce. The Court, in this case, has jurisdiction over the subject matter and over the parties in this action.

The Court finds from the pleadings and the evidence adduced that the parties were married on December 10, 2015 in Santa Cruz, California and that there were no children born as issue of said marriage.

The Court further finds, based on the pleadings and the evidence adduced, that the parties are now incompatible in their marriage, and as a result, both parties are entitled to a Final Judgment and Decree of Divorce.

HOLZFASTER, CECIL, McKNIGHT & MUES
Attorneys at Law

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. **Termination of Marriage.** The parties' marriage is irretrievably broken and the parties are incompatible. The parties are each hereby awarded a Final Judgment and Decree of Divorce based upon incompatibility. The marriage contract heretofore existing between the parties is terminated and both parties are discharged from the obligations of the same. All temporary restraining orders are hereby terminated.
2. **Consent Entry in Case No. 17-DV-7660.** At the hearing held on December 7, 2017, the parties signed a Consent Entry in Case No. 17-DV-7660. Pursuant to said Consent Entry, the temporary protection order previously filed is hereby dismissed as of January 1, 2018. The Plaintiff releases the Defendant from any protection order claims and shall not file any motions or any claimed violations by the Defendant which occurred since the initial protection order issued January 17, 2016 until December 7, 2017. Further, in Defendant's Motion to Release Firearms filed May 3, 2017, there was a listing of 13 guns, magazines and holster. In said Consent Entry, the parties agreed that said guns, magazines, holster and any other accessories (including ammo, gun parts, tools, etc.) being held by the Clearcreek Township Police Department shall be turned over to Carol Ewing. Further, a certified copy of this Final Judgment and Decree of Divorce shall serve as an appropriate Court Order directing the Clearcreek Township Police Department to turn over all guns and accessories in their possession to Carol Ewing forthwith.
3. **Future Contact Between Parties.** Both parties agree that neither party shall attempt to harm, threaten, follow, stalk, harass, contact or go to each other's residence at any time.
4. **Personal Property.** Joint Exhibit A, a copy of which is attached hereto and incorporated herein by reference, lists items belonging to Defendant that may still be in Plaintiff's possession. Plaintiff agrees to use her best efforts to locate those items circled in blue on Exhibit A and submit those items to her counsel within thirty (30) days of the filing of this Decree and her counsel will then forward said items to Defendant's counsel. This includes gunsmithing tools, ammo, ammo reloading equipment and gun accessories.
5. **Global Settlement.** The parties acknowledge that they reached a global settlement of all divorce related issues, which issues involved Plaintiff's claim for certain monies owed from Defendant and Defendant's claim for damages for drilling into his premarital gun safe and for monies removed from said safe. The parties agree that the terms incorporated into this Decree constitute a global settlement between the parties.
6. **Real Estate.** Neither party has any ownership interest in any real estate.
7. **Vehicles.** Each party shall retain any and all vehicles in their possession free from any and all claims of the other party.

HOLZFASTER, CECIL, McKNIGHT & MUES
Attorneys at Law

8. **Bank Accounts.** Each party will retain any bank accounts in his or her name free and clear of any claims of the adverse party.
9. **Spousal Support.** Neither party shall be responsible for the payment of spousal support to the other party. Further, the Court shall not retain jurisdiction over the issue of spousal support.
10. **Defendant's Business.** Defendant shall retain his interest in Select Security Systems LLC free from any claim of Plaintiff and he shall be solely responsible for any and all indebtedness associated with said business.
11. **Life Insurance.** Each party shall keep any life insurance policies in his or her name free and clear of any claims of the other and be responsible for the payment of the premiums.
12. **Retirement.** Plaintiff has retirement benefits through her employment with Premier Health. Plaintiff shall retain her retirement benefits free and clear of the Defendant. Defendant does not have any retirement benefits.
13. **Debts.** Each party shall be responsible for the payment of any and all debts incurred in their individual names. The parties do not have any joint marital debt.
14. **2016 Tax Return.** If both parties had initially filed a "joint" 2016 tax return with the IRS, they would have received a refund of \$4,689.00. In order to reduce the overall amount of taxes owed for 2016, both parties shall take all steps necessary with the IRS to amend their respective 2016 tax returns from "married filing separately" to "married filing jointly" status. From the IRS refund check that will issue, the Plaintiff shall receive the first \$3,500.00 and the Defendant shall receive all amounts received above \$3,500.00. If by some unanticipated reason the joint IRS refund is less than \$3,500.00, the Defendant shall personally make up the difference so Plaintiff receives a total of \$3,500.00. The Defendant shall pay the costs for preparation of said returns and Plaintiff shall promptly execute them upon presentment. When the refund check is received from the IRS in both parties' names, Plaintiff shall execute said check and forward it to Defendant's office. Defendant shall then execute said check and the funds will be deposited into Defendant's counsel's trust account. Defendant's counsel will issue a check for \$3,500.00 out of said trust to Plaintiff and the remaining amount will be issued to Defendant.
15. **2017 Tax Returns.** The parties shall file single, individual Federal and State income tax returns for the tax year 2017. Each shall be solely responsible for payment of any income taxes due and owing and each shall retain any income tax refunds free from any claim of the other party.
16. **Contempt Motions.** Any and all contempt motions filed by either party in this instant matter are hereby dismissed with prejudice.

HOLZFASTER, CECIL, McKNIGHT & MUES
Attorneys at Law

17. **Nonuse of the Other's Credit.** Neither the Husband, nor the Wife, shall hereafter incur any debts or obligations upon the credit of the other and shall indemnify and save the other absolutely harmless from any such debts or obligations so charged or otherwise incurred.

18. **Waiver and Release.** Except as otherwise provided herein, each party hereby releases and discharges, completely and forever, the other party from any and all rights of past, present and future spousal support, division of property, right of dower, right to act as administrator or executor in the estate of the other, right of distributive share in the other's estate, right of exemption in the estate of the other, or any other property rights, benefits or privileges accruing to either party by virtue of said marriage relationship, or otherwise, and whether the same are conferred by statutory law or common law of Ohio or of any other state of the United States, or any other country.

In addition, except as otherwise provided herein, each party hereby waives, releases and discharges the other party from any and all rights he or she may have by virtue of being named as beneficiary of any life insurance policy, annuity, or any other investment account or asset owned by the other, including those governed by ERISA.

19. **Transfer of Titles/Deeds/Weapons.** Upon the failure of either party to execute and deliver any such deed, conveyance, title, certificate, release of privileged information or other document or instrument to the other party, as well as weapons held by the Clearcreek Township Police Department, this order shall constitute and operate as such properly executed document and the county auditor and/or county recorder and any and all other public and private entities are hereby authorized and directed to accept this Agreement or a properly certified copy thereof in lieu of the document regularly required for such conveyance, transfer, request for release of privileged information or release of weapons.

20. **Restoration of Former Name.** Plaintiff shall be restored to her former name of Jamie Suwalski.

21. **Attorney Fees and Court Costs.** Each party will be responsible for his or her own attorney fees. Any remaining court costs in this action shall be split equally between the parties and payable to the Warren County Clerk of Courts, Domestic Relations Division.

IT IS SO ORDERED.

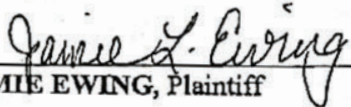
CERTIFIED COPY
JAMES L. SPAETH, CLERK
WARREN COUNTY, OHIO
COMMON PLEAS COURT
BY *Joan Weber*
DEPUTY

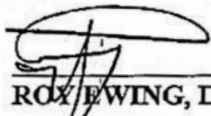
[Handwritten Signature]

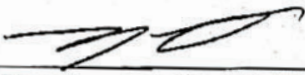
JUDGE JEFFREY KIRBY

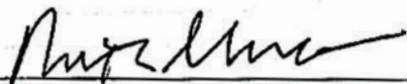
MAGISTRATE TYLER WEBB

HOLZFASTER, CECIL, McKNIGHT & MUES
Attorneys at Law


JAMIE EWING, Plaintiff


ROX EWING, Defendant


JON PAUL RION, #0067020
KEVIN L. LENNEN, #0038996
Rion, Rion & Rion, L.P.A., Inc.
Suite 2150
130 West Second Street
P.O. Box 10126
Dayton, Ohio 45402
(937) 223-9133
(937) 223-7540 Fax
Attorneys for Plaintiff


ROBERT L. MUES, #0017449
Holzfaster, Cecil, McKnight & Mues
1105 Wilmington Avenue
Dayton, Ohio 45420
(937) 293-2141
(937) 293-0914 Fax
Attorney for Defendant

NOTICE OF FINAL APPEALABLE ORDER

Copies of the foregoing Entry and Order, which may be a final appealable order, were mailed to parties indicated below, on the date indicated below, by ordinary mail.

Warren County Clerk of Courts

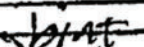
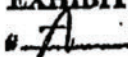
By: _____, Deputy Clerk

Date: _____

HOLZFASTER, CECIL, McKNIGHT & MUES
Attorneys at Law

CH CC

Apr. 16. 2017 2:22PM F C M & M ATTORNEYS AT LAW


 EXHIBIT

 CASE # _____ DATE _____

P. 6

PERSONAL PROPERTY STOLEN FROM ROY EWING

ITEMS STOLEN		
1. Daughters photo albums and a banker box of photos	To Return	what was taken
2. Christmas decorations, collected since my childhood	Did Not take	
3. Business records, log books, invoices, customer list, calendars, and correspondences. Approximately 8 years of records	To Return	what was taken
4. Past years of personal/business tax records. Approximately 8 years	Did Not take	
5. Personal files and records.	To Return	what was taken
6. 2017, Mail stolen, to include tax information.	Did Not take	
7. Daughters baby silver cup, spoon and fork sets.	Did Not take	
8. PFL log book (property of ATF)	Did Not take	
9. Personal Cash	\$6350 given to attorney	
10. 5 Silver bars	Did Not take	
11. Engagement ring set (old ring)	Did Not take	
12. Men's gold wedding ring	Did Not take	
13. Coin collection, Liberty, Seated Liberty, Peace Dollars and Morgan Silver Dollars, Morgan Half Dollars, Misc. Liberty, Morgan Quarters and more.	Did Not take	
14. 2 men's gold chains	Did Not take	
15. Cialis 8 to 10 pills	To Return "4"	
16. Men's Rolex watch, Submariner 14060	Did Not take	
17. Men's Citizens watch	Did Not take	
18. Remington 1100 shotgun, slug barrel, removed from master bedroom, turn over to Carol Ewing	Did Not take	
19. Colt AR-15, Bushmaster with furniture, removed from master bedroom, turn over to Carol.	Did Not take	
20. Springfield SOX& 9mm Handgun, not listed on inventory, turn over to Carol	Did Not take	
21. Lyndsey's sleeping bag	Did Not take	
22. 42" Flat Screen TV, removed from basement, purchased for business use	To Return	
23. 42" Flat Screen TV, used by her son. Her son Christian moved in, Jamie gave her flat screen to her daughter.	Gift to Blake - keeping	
24. DVR and 8HD color camera system	Did Not take	
25. 2 Honeywell alarm systems, pre-packaged	Did Not take	
26. HP Office Pro 8610 Printer	To Return	
27. Toshiba Lap Top Computer with case	*Mine - Keeping	
28. Nikon Digital SLR Camera and Accessories	Did Not take	
29. Nikon 2005 35mm Camera and Accessories	Did Not take	
30. Henckel 4 Star Knives, paring knife, utility knife and six-piece steak knife set.	To Return "2" taken	
31. Ping Copper Beryllium golf clubs, ping driver and driver set.	Did Not take	
32. Top Flight young athlete golf club set	Did Not take	
33. Hand yard tools	To return	

34.	Anti-Gravity chairs (3)	Gift Mine - Keeping
35.	Gas grill cover	Did Not take
36.	Jaguar car cover	T.Pash
37.	Wine collection, 1 plus, case of Roxo port, 2 cases plus Marilyn Remark 1 case misc. wines and ports. 2 CAROLTON <u>GREVACNE</u>	Keeping what I took
38.	Table linens	To Return
39.	Misc. dishes and cookware, Pampered chef pizza stone, new in box, colander set, stainless mixing bowl set, Pyrex measuring set, and Pyrex storage cooking set.	To Return
40.	Blood pressure cuff	To Return
41.	Lamp from back bedroom, Green Shade	Did Not take
42.	Milwaukee power tools M18 Fuel Set	Did Not take
43.	Misc. hand tools (I do want my framing hammer returned, had since 1978)	To Return
44.	Werner Telescoping, multi position ladder	Did Not take
45.	Gun Magazines, for guns listed in police inventory and police report. With the exception of the Sears 22cal rifle, not listed. 35-20 round 308 mags, 30-30 round 223 mags, 10 Glock 17 mags, 20, 1911 Kahr mags, 3 Springfield S&WC mags, 3 Glock 27 mags, 3 Walther P22 mags, 1 22cal Sears rifle mag, 2 M&P 22cal mags.	*
46.	Gunsmith tools	*
47.	Gun cleaning kit to include Otis law enforcement kit	*
48.	1911, LMR and Misc. gun repair parts, Iron sights, trigger assemblies and bolt.	*
49.	All Ammo	*
50.	Reloading supplies, 2-5 gal buckets of 45 and 223 brass, primers, bullets, new 45 brass, 308 and 273 brass.	*
51.	Dillon Super 1050 press, reloading equipment and accessories.	*
52.	Marvel Precision 22cal kit for 1911, with 4 magazines	*
53.	Eotech X320 Handheld Thermal Imaging System	? Did Not take
54.	Leupold Mark 8 Scope 2.5 x 25 56 458 Retical Illuminated	Did Not take
55.	Leupold Base mount	Did Not take
56.	Leupold SX-2 Spotting Scope	Did Not take
57.	Bipod and accessories	? I don't know what this is
58.	5.11 Gun Case	M+P? To Return with guns
59.	5.11 Range Bag	Did Not take
60.	Electronic Hearing Protection, Three sets stolen	To Return "1" taken; with?
61.	Flatware **	Did Not take
62.	Place Settings **	To Return "8" taken.
63.	All-Clad cookware **	To Return "3" taken
64.	Office Chair **	Gift Mine - Keeping
65.	Vacuum **	To Return
66.	Bed Linens and Pillows, **1 replaced one of 2 stolen sets, 2 Cloud Break	To Return "1" set of sheets taken + "1" set of pillows. Keeping 2nd set of pillows!

67.	Pillows purchased on 5/23/18 for \$319.61 (\$159.80)	X Keeping	
68.	8' Step Ladder**	Did Not	take
69.	Printer Stand**	Did Not	take
70.	Bed Linens Jamie removed from van, new in box, property of Elaine	Replaced.	Receipt attaches

** On Replacement List Below, reimbursement for these items.
 This list is NOT all inclusive of the property stolen from my residence.

PURCHASED TO REPLACE STOLEN PERSONAL PROPERTY

These items were purchased to replace a small number of items Jamie stole from my residence. These items were needed to get back to a minimal life style and for the business. If she does not return some of the stolen tools and equipment soon, I will need to replace those so it stops disrupting the business as we have to share needed tools/equipment.

	ITEM(S) PURCHASED	VENDOR	COST
71.	Nonstick Dishes	Macy's	\$224.32
72.	Printer Stand	Office Depot	\$64.33
73.	All-Clad Cook Ware, Flatware, Pillow Cases	Macy's	\$735.97
74.	Vacuum Cleaner, Bedding	TARGET	\$213.65
75.	Pillows and Bedding	Macy's	\$583.59
76.	8' Step Ladder	Menards	\$159.80
77.	Bedding	Macy's	\$345.32
78.	Office Chair	Larricks	\$398.18
	TOTAL REPLACEMENT COST		\$2,723.19

revised 2/15/17