

# **The 2012 Kentucky Mock Trial Case**

<b>Commonwealth of Kentucky</b>	>	
	>	
<b>v.</b>	>	<b>Case No. 11-CR-256-1</b>
	>	
<b>MORGAN SMITH</b>	>	

**BY: JUDGE EARL-RAY NEAL**

25th Judicial District  
Division III

With special thanks to Dr. Rosalee Edwards; Honorable Marc Rosen, Senior Judge;  
Honorable Stacey Hibbard, Attorney; and Family and Juvenile Services Staff: Patrick Yewell,  
Executive Officer; Rachel Bingham, Manager; and Billy Stover, Program Coordinator

## **Past Winners--Kentucky Mock Trial Tournament**

1985 – Boyd County High School  
1986 – Woodford County High School  
1987 – Model Laboratory School  
1988 – Model Laboratory School  
1989 – Model Laboratory School  
1990 – Woodford County High School  
1991 – Model Laboratory School  
1992 – Model Laboratory School  
1993 – Model Laboratory School  
1994 – Montgomery County High School  
1995 – Model Laboratory School  
1996 – Owensboro High School  
1997 – Montgomery County High School  
1998 – Montgomery County High School  
1999 – Breckinridge County High School  
2000 – Montgomery County High School  
2001 – Madison Central / KY Tech  
2002 – Montgomery County High School  
2003 – Model Laboratory School  
2004 – Montgomery County High School  
2005 – Montgomery County High School  
2006 – Montgomery County High School  
2007 – Montgomery County High School  
2008 – Highlands High School  
2009 – Madison Central / KY Tech  
2010 – Madison Central / KY Tech  
2011 – Montgomery County High School

# CASE MATERIALS

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*Questions or comments about the case may be directed to your State Mock Trial Coordinator. Teams may not edit the materials. The problem is as written. If there are discrepancies, please regard them as complexities for consideration in developing a trial strategy. It is the responsibility of the teams to review the Rules each year to ensure they are aware of any changes.*

## STATEMENT OF FACTS

Morgan Smith is a retired fifty-seven-year-old police officer who served the citizens of Robbinsville, Kentucky, for twenty-five years. Despite being sought after by many with romantic interest, Smith never married. In January 2011, Officer Smith retired and took up a life-long interest in competitive shooting.

While at a charity event at the Fraternal Order of Police Lodge in Robbinsville, Kentucky, Officer Smith happened upon Christy Rose. Ms. Rose had been a dispatcher with the Robbinsville Police Department during the time Officer Smith worked there. They had always admired each other from afar. Officer Smith approached Christy and struck up a conversation. A love affair quickly developed.

It was not long after the couple met and commenced a relationship that people close to Christy began to worry about her. After an intimate gathering of a few friends over the July 4<sup>th</sup> holiday, Christy was injured as a result of a physical altercation.

Christy sought and obtained an Emergency Protective Order restraining Officer Smith from any and all contact. Despite being served with a Domestic Violence Summons, Officer Smith failed to appear for the hearing. A hearing was held in Circuit Court and the Family Court Judge entered a Domestic Violence Order (DVO).

After being served with the DVO, Officer Smith fell into what some may consider a depression. On August 2, 2011, Christy encountered Officer Smith in the Conclave Condominiums parking lot. Christy was shot once in the chest and died on the scene.

The news of Christy's death hit the news media immediately. A Kentucky State Police (KSP) Detective responded to a call of a suicidal suspect in the parking lot of the Robbinsville Police Department.

Upon arrival, the Detective immediately recognized the suspect as Officer Morgan Smith. Despite the efforts of on scene officers to deescalate the situation, Officer Smith shot a revolver of small caliber into the air. Smith said, "I just want to die, too" and that "This is all a big mess that won't end well for anyone."

Investigation into Christy's death ensued. The handgun found on Officer Smith was determined by ballistic testing to have been the gun that fired the shot that killed Christy Rose. Officer Smith was charged with and subsequently indicted for Murder.

**This Statement of Facts is not to be used as evidence in the case;  
see Stipulations Rule 5.**

**COMMONWEALTH OF KENTUCKY  
ROBBINS CIRCUIT COURT  
CASE NO. 11-CR-256-1**

**COMMONWEALTH OF KENTUCKY**

**PLAINTIFF**

**VS.**

**STIPULATIONS**

**MORGAN SMITH**

**DEFENDANT**

\* \* \* \* \*

1. Stipulations cannot be contradicted or challenged.
2. All exhibits included in the problem are authentic and accurate in all respects, and no objections to the authenticity of the exhibits shall be entertained. However, this stipulation does not preclude the necessity of teams laying the appropriate foundation for admissibility.
3. The signatures on the witness affidavits and all other documents are authentic.
4. Chain of custody for evidence is not in dispute.
5. The Statement of Facts is of no legal consequence in terms of the trial and is **not** **admissible** for impeachment purposes or for any other purpose.
6. Exhibit 5 was prepared by Detective Dusty Hon. While not to scale, this drawing accurately reflects the distances noted on the drawing by Detective Hon.
7. Exhibit 6, the Personnel File of defendant Morgan Smith, is a record kept in the regular course of business by the Robbinsville Police Department.
8. In Exhibit 6, the handwriting on the Incident Report is that of Susan Grayson; the handwriting on the "For Internal Use Only" portion is that of Chief Casey Reardon.
9. The handgun found on the person of the Defendant was determined by ballistic testing to have been the gun that fired the shot that killed Christy Rose.
10. Service of process was perfected on the Defendant and thus notice was given for the following: the Emergency Protective Order, the Domestic Violence Order Hearing, and the Domestic Violence Order. No objection to notice will be entertained by the Court concerning these matters.
11. This trial is for the verdict phase only; sentencing will not be addressed.
12. Exhibit 2 and Exhibit 3 are hereby certified as authentic, and are admissible without further foundation.

**ROBBINS CIRCUIT COURT**  
INDICTMENT NUMBER 11-CR-256-1  
DIVISION NUMBER I

<b>COMMONWEALTH OF KENTUCKY</b>	)	<b>INDICTMENT</b>
	)	
	)	<b>MURDER—CAPITAL OFFENSE</b>
	)	<b>KRS 507.020</b>
	)	
<b>VS</b>	)	<b>VIOLATION OF DOMESTIC VIOLENCE</b>
	)	<b>ORDER/EMERGENCY PROTECTIVE</b>
	)	<b>ORDER—KRS 403.763</b>
	)	<b>CLASS A MISDEMEANOR</b>
<b>MORGAN SMITH</b>	)	
<b>DEFENDANT</b>	)	

\*\*\*\*\*

**THE GRAND JURY CHARGES THAT:**

**COUNT ONE:**

On or about the 2<sup>nd</sup> day of August, 2011, in Robbins County, Kentucky, the above named defendant committed the offense of Murder by shooting Christy Rose to death with a handgun;

**COUNT TWO:**

On or about the 2<sup>nd</sup> day of August, 2011, in Robbins County, Kentucky, the above named Defendant, committed the offense of Violation of an Emergency Protective Order or a Domestic Violence Order by coming within 500 feet of Christy Rose and having contact with her;

**AGAINST THE PEACE AND DIGNITY OF THE COMMONWEALTH**

**A TRUE BILL**

/S/ Cameron Gonzalez  
FOREPERSON,  
ROBBINS COUNTY GRAND JURY

Witness:  
Detective Dusty Hon

UOR Codes: 009151

Defendant ID:

Morgan Smith

SS#: 987-65-4321

DOB: September 3, 1954

Address: 946 Elmhurst St., Robbinsville, Ky.

### **CERTIFICATION OF RETURN**

I DO HEREBY CERTIFY THE FOLLOWING TO BE TRUE AND CORRECT:

1. UPON DIRECTION OF THE COURT, I CALLED THE ROLL OF THE GRAND JURY AND THERE WERE TWELVE DULY SWORN AND ACTING GRAND JURORS PRESENT IN THE COURTROOM AT THE TIME THIS INDICTMENT WAS RETURNED BY THE GRAND JURY.
2. THIS INDICTMENT WAS PRESENTED BY THE FOREPERSON IN THE PRESENCE OF THE GRAND JURY, TO THE JUDGE IN OPEN COURT AND FILED WITH THE CLERK, ON THE 6<sup>TH</sup> DAY OF DECEMBER, 2011.

ANDREW R. NEELY, CLERK

BY: /S/ Alex Mason DEPUTY CLERK





47 approximately 45 feet from where I found Miss Rose's body. Grubb was very clear that s/he  
48 saw Miss Rose and the defendant struggle in the parking lot and that a flash of the barrel and a  
49 gunshot sound was very clear.

50

51 The next eyewitness I spoke with was Carson Rawlins. The first thing I noticed was an  
52 odor of alcoholic beverage on or about Carson Rawlins' person. I concluded that Rawlins was  
53 sober enough to issue a credible statement, and I listened carefully to her/his version of events.  
54 Rawlins was adamant that the person that shot Ms. Rose had been sitting in the parking lot for  
55 most of the afternoon. Rawlins also described a scene eerily similar to the description of events  
56 given by Jamie Grubb. As a matter of fact, I asked Rawlins if s/he had spoken to anyone else  
57 about the events of that evening and was told "no."

58

59 Rawlins was also mumbling something about a shiny necklace that was found at the  
60 scene. I know that the statement Rawlins gave indicates that I took the necklace in as evidence.  
61 Nothing could be further from the truth. As you can tell from the Evidence Log, there is no  
62 necklace that was taken into custody, and I did not find or receive a necklace in connection with  
63 my investigation of the murder of Christy Rose.

64

65 After I finished interviewing the eyewitnesses, I overheard radio traffic stating a suicidal  
66 person was in the parking lot of the Robbinsville Police Station, and that the person admitted to  
67 already killing once today. I had a hunch that it might be Morgan Smith because my  
68 investigation revealed that Christy Rose had a Domestic Violence Order against Smith.  
69 Everybody in law enforcement knows Smith. Morgan Smith was a lifer with Robbinsville  
70 Police Department. As a matter of fact, while I was a rookie road Trooper I even worked a few  
71 cases with then Officer Smith. I also knew of Smith's reputation as one of the best shots in this  
72 area. It came into my mind that only a marksman the likes of Smith could have pulled off a shot  
73 like the one that killed Rose.

74

75 I arrived at the Robbinsville Police Department parking lot to find that my hunch was  
76 correct. There Morgan Smith was, in the middle of a number of Robbinsville Police officers.  
77 They were all trying to talk Smith down. I observed a weapon in Smith's hand. I was worried  
78 that this might be an attempted "suicide by cop" situation and proceeded with extreme caution.  
79 As I approached I could see Captain Casey Reardon begging Smith to put down the gun and  
80 cooperate. Smith fired one round into the air. I plainly heard Smith say, "I just wanna die, too!"  
81 and that "This is all a big mess that won't end well for anyone." I could tell things were close to  
82 getting out of hand. I deployed my taser and stepped to the back of Smith. My taser shot hit  
83 directly where I aimed, and Smith was incapacitated long enough for one of the officers to get  
84 the weapon out of Smith's hand.

85

86 Since I was the only officer of the law that was not a member of the Robbinsville Police  
87 Department, I detained Smith for questioning. Smith admitted to being in the parking lot of the  
88 Conclave Condominiums. I asked Smith if I could conduct a GSR test and consent was given.  
89 The result of the test showed conclusively that Smith had recently fired a weapon. I also  
90 confiscated the weapon on Smith's person and found that it actually belonged to Christy Rose.  
91 All of the evidence I collected in this case has been bagged and tagged by the Kentucky State

92 Police Evidence unit. Based on Smith being in possession of Christy Rose's firearm, the result  
93 of the GSR, and Smith's confession, I perfected an arrest for Murder.

94  
95 Although this is my first homicide investigation, this is a textbook example of a stalk  
96 and murder. My investigation revealed that Morgan Smith sent a threatening email to her/his  
97 prey on or about July 22, 2011. This email was provided to me by Miss Rose's parent, Jordan  
98 Rose, and Jamie Grubb. Additionally, Carson Rawlins, an eyewitness, placed the defendant at  
99 the crime scene for several hours prior to the death of Christy Rose. Miss Rose was hunted  
100 down and butchered like an animal, and I am here to seek justice for her and her family today.

101

102 Further, your affiant sayeth naught.

103

Signed,

104

/S/

105

**Dusty Hon**

**AFFIDAVIT OF JAMIE GRUBB**

1  
2  
3 My name is Jamie Grubb, and I live in the Conclave Condominium complex. I have to  
4 admit, I am looking for another place to live as I cannot bear to walk by the spot where my best  
5 friend, Christy Rose, was gunned down. Christy and I first met in 2009 at a Carry and Conceal  
6 Deadly Weapon class in Robbinsville. We immediately became close friends and began hitting  
7 the town on the weekends and spending our free time together until Morgan Smith came into the  
8 picture.

9  
10 In March of this year the condominium next to Christy was listed for sale. I wanted the  
11 condo so much I made a full asking price offer on it the day it came on the market. My real  
12 estate agent told me I was a fool for making such a high offer out of the gate, but I desperately  
13 wanted that condo. I moved in, and it was like a dream come true as Christy and I had a great  
14 time being next-door neighbors. Once Morgan came into the picture, my relationship with  
15 Christy changed.

16  
17 Morgan always seemed a bit overbearing to me. About a month into their relationship, I  
18 started to worry about Christy. On several occasions I could hear them arguing over “small  
19 stuff.” Morgan would accuse Christy of flirting with other people. On more that one occasion  
20 Christy described being afraid of Morgan’s temper.

21  
22 Christy was supposed to have a pool party for a bunch of our friends over the July 4<sup>th</sup>  
23 holiday. We reserved the pool and bar area with the Conclave management, and we were  
24 working on the invitations when I saw a small handgun in Christy’s condo. Up until then, I  
25 knew that Christy was afraid of Morgan, but it had never really struck me how serious Christy  
26 was about self-protection. I know that I certainly would not carry a gun unless I was afraid for  
27 my life. And at that moment it was obvious to me that Christy thought Morgan was going to do  
28 something crazy. This whole thing has been a big blur to me. Looking back and considering  
29 the eerie feeling I had about Christy’s relationship with Morgan, Christy describing to me being  
30 afraid of Morgan’s temper, seeing a gun, and reading the death-threat email in late July, I wish I  
31 could have done more to help Christy. I can’t believe Christy is gone.

32  
33 Despite being against my better judgment, Christy and I had the July 4<sup>th</sup> party. To say it  
34 was a disaster is an understatement. Everybody had a few drinks and was enjoying the evening  
35 when Morgan went off. Apparently, Morgan felt like Christy had done something to attract the  
36 attention of a police officer they both used to work with. Morgan started yelling and said  
37 Christy should have more respect for their relationship than to openly flirt in public. I didn’t  
38 think Christy had done anything wrong. The party broke up. Christy and Morgan went into her  
39 condo, and I was left to clean up the mess.

40  
41 It took me about an hour to finish up. It was around 1:00 a.m. by the time I sat down to  
42 relax and reflect on the evening that Morgan had ruined. I once again heard them fighting next  
43 door. This time was different though. Not only was Morgan verbally abusive, but it was  
44 obvious Christy was being physically abused. As I opened my door to go bust open Christy’s  
45 door, Morgan ran out of the condo yelling unspeakable things. I found Christy battered and  
46 bruised.

47 Christy was humiliated, confused and disoriented. I took it upon myself to call the  
48 police. Christy begged the officer not to arrest Morgan but asked for an Emergency Protective  
49 Order. The officer was a Robbinsville Police officer, and let's just say he didn't need any  
50 convincing that Morgan should not be arrested. It was obvious the Officer knew Morgan and  
51 was interested in protecting one of his own. In my experience, most cops have anger issues and  
52 they all stick together. The Judge signed an Emergency Protective Order and the officer gave  
53 Christy a copy.

54

55 On July 13, 2011, I drove Christy to Robbinsville Family Court for a domestic violence  
56 hearing. I didn't really want to go, but Christy was afraid of walking through the parking lot in  
57 case Morgan showed up. Morgan was served with notice of the hearing to appear but did not.  
58 The Family Court Judge granted Christy's request for a Domestic Violence Order that prevented  
59 Morgan from having any contact with Christy for three years. I knew this would not sit well  
60 with Morgan.

61

62 Saturday night, July 23, I stopped by Christy's place because we had dinner plans to  
63 celebrate my new job at Robbins University as a Psychology professor. While Christy was  
64 getting ready, I saw an email Morgan had sent Christy the day before. I have never been in  
65 what I would consider an abusive relationship and frankly, I didn't know how to react. Christy  
66 wanted me to have a copy of the email in case Morgan did something crazy. She also told me  
67 that she thought Morgan had been coming into her condo that week while she was at work. I  
68 took the email and told Christy that I'd keep an eye out for Morgan, but I never dreamed  
69 Morgan would kill Christy. I gave Detective Hon a copy of the email as I thought it would help  
70 put this animal away for what happened to Christy.

71

72 August 2, 2011, is a day I will never forget. I had just arrived home from the gym and  
73 was getting undressed. As I sat down on my bed, I could hear arguing in the Conclave parking  
74 lot. I looked out my window and saw Morgan and Christy about forty feet away. Morgan was,  
75 once again, on a rampage. I could not hear everything they were saying, but I did hear Christy  
76 say, "Just get on with your life; this will never work. I made a mistake." Morgan came closer  
77 to Christy--matter of fact it looked to me like they were going to embrace. Then Christy took a  
78 step back. That's when I saw the gun in Morgan's hand. I don't know where the gun came  
79 from. I just know what I saw happen. Morgan pointed the gun directly at Christy, took aim,  
80 and shot her. Poor Christy never had a chance; she fell to the ground. Morgan ran off, and I  
81 grabbed my cell phone and ran out. I called 911 and found Christy lying in the parking lot  
82 bleeding. The neighbors began to come outside. In a few minutes it was mass confusion with  
83 people everywhere. I honestly cannot remember much after that.

84

85 Further, your affiant sayeth naught.

86

Signed,

87

/S/

88

\_\_\_\_\_  
**Jamie Grubb**

1  
2  
3 **AFFIDAVIT OF JORDAN ROSE**

4 Christy was my only child. I never imagined I would be sitting here giving a statement  
5 after burying my baby. Since Morgan Smith came around, my life has been lived in agony. Do  
6 you know what it is like to be worried that every phone call is the call saying your child has  
7 been taken from you? I finally got that call on August 2, 2011.

8 Every parent thinks their child is special. I am no different. Christy, from a very young  
9 age, was extraordinarily bright and gregarious--brightened up a room just by walking into it.  
10 Christy was always a good child, on the honor roll, played soccer at Robbinsville High School,  
11 Senior Class vice-president, just well-liked by everyone. After graduating from Eastern  
12 Kentucky University with a degree in Criminal Justice, Christy took a job at the Robbinsville  
13 Police Department to save money for law school. Christy was only 23, but had been accepted to  
14 Chase, UK and the University of Louisville Law Schools. I wish I had enough money to simply  
15 write a check for the tuition, but I don't. Christy was going to make a decision on which law  
16 school to attend soon and start in the fall of 2011.

17  
18 Christy and Morgan started dating in late May of 2011. I have a large pool in my  
19 backyard, and I love to entertain. I met Morgan at a spring cookout I had at my house. Frankly,  
20 something about Morgan never sat right with me. Morgan seemed to control the relationship  
21 from the very start. From what Christy told me, Morgan acted differently in private than in  
22 public and never accepted any blame or responsibility for any disagreement they had. Being a  
23 trauma nurse, I recognized these as characteristics of a domestic violence perpetrator. I warned  
24 Christy that if she got into an intimate relationship with such a person, the physical and mental  
25 abuse would only escalate. But initially Christy wouldn't listen to me. She thought she was in  
26 love. I don't believe Christy understood how serious the situation was until late June of 2011.  
27 It was after that when I learned it wasn't unusual for Morgan to spend the night at Christy's  
28 condo.

29  
30 I planned a cookout on June 25 for a few family members to celebrate my mother's 94<sup>th</sup>  
31 birthday. Frankly, I didn't like Morgan and didn't want any disruption, so I told Christy that the  
32 cookout was for family members only. Morgan apparently did not like the fact the cookout was  
33 restricted to family. Christy came to the cookout quite upset and told me that Morgan insisted  
34 on sitting in the car in front of my home until the cookout was over. Morgan had told Christy  
35 that if someone that was not a family member showed up, the "party would be over."

36  
37 Not only was I disturbed by Morgan's surveillance of my home, the phone rang off the  
38 hook during the cookout. I have caller ID, but the number was blocked. How childish was it  
39 for an adult to call continuously for no reason other than to create a disturbance? I knew Christy  
40 was in for a rough ride. But I never guessed that freak would kill her.

41  
42 Sometime in late July Morgan sent Christy a disturbing email. Christy came to my  
43 house the night she received it and was very upset. She gave me a copy of the email. I read it  
44 and begged her to break up with Morgan immediately. It scared me that Morgan said, "I'm  
45 watching, even when you think I'm not." Christy mumbled, "It's just not possible to break up.  
46 Morgan says 'If we are not together I will not be with anyone.'"

47 I hoped Christy would turn to someone working at the Robbinsville Police Department  
48 for advice. Police officers deal with domestic violence every day. It didn't occur to me that  
49 those cops would stick together and cover for each other.

50

51 On August 2, 2011, I was watching the local news channel and saw that a shooting had  
52 taken place in the parking lot of Christy's condominium. The phone rang and it was Christy's  
53 best friend, Jamie Grubb, telling me Christy had been murdered in cold blood. Jamie was an  
54 eyewitness to it. I can't believe we have to go to the trouble of having a trial. Morgan  
55 murdered Christy in cold blood in front of a witness. The only thing a trial does is make me  
56 have to live this nightmare all over again.

57

58 I have now dedicated my life to helping victims of domestic violence. I plan on setting  
59 up a scholarship with the life insurance money I receive as the sole beneficiary of Christy's  
60 policy. Sad fact is, unless Morgan is convicted, the insurance company is not going to pay me a  
61 penny of that money. Instead of setting up a foundation, I guess I will have to picket outside the  
62 Robbinsville Police Department, because if Morgan gets away with murder, it will only be  
63 because the cops covered it up some way.

64

65 Further, your affiant sayeth naught.

66

Signed,

67

/S/

68

\_\_\_\_\_  
**Jordan Rose**

1  
2  
3 **AFFIDAVIT OF MORGAN SMITH**

4 My name is Morgan Smith. As a retired police officer I know my rights, and I know I  
5 do not have to say a word in my defense. However, I feel compelled to set the record straight  
6 and tell my version of what happened that night. I am NOT responsible for what happened to  
7 Christy. As a matter of fact, what happened that night was a tragic accident.

8 After serving nearly half my life as a police officer, I decided to retire in January 2011.  
9 Frankly, I miss the action of being on the road. There is nothing that can replace the adrenalin  
10 rush of rolling up on a scene and taking control of it. I was born to be a police officer, and at  
11 heart will always be one. Retirement life has not been all that I thought it would be. I love to  
12 shoot anything that goes bang: automatic rifles, semi-automatic handguns, black powder  
13 weapons, you name it. It seemed I never had time to shoot competitively as I wanted when I  
14 was active duty.

15  
16 Once I retired, I set about shooting in competitions across the country. Simply put, I am  
17 the best shot around here. I was a sniper on the Robbinsville Special Response Unit and a  
18 contract firearms instructor with the Kentucky State Police. It is a bit ironic that I was Detective  
19 Hon's firearms instructor when at the Kentucky State Police Academy. I recall the instructors  
20 saying they did not think Hon was cut out to be a State Trooper. Now, I know why. Hon has  
21 completely botched this investigation. I did not even have a gun when I went to Christy's  
22 apartment that night.

23  
24 I met Christy while I was working as a police officer with the Robbinsville Police  
25 Department. I was in my mid-fifties and Christy was much younger. We had always flirted and  
26 joked together at work, but I didn't think someone like Christy would ever be interested in  
27 someone like me. It was exhilarating to have someone that age interested in me. I felt young all  
28 over again.

29  
30 In late May 2011, I ran into Christy at a Fraternal Order of Police party at the lodge here  
31 in Robbinsville. We were having a silent auction for the "Shop with a Cop" program, and I  
32 bumped into Christy as we were both about to bid on a new set of night sights for a Glock .40.  
33 We started talking, and the next thing I know five hours had gone by. It was like I had met my  
34 soul mate.

35  
36 Despite my age, I fell in love like a moon-eyed teenager. From May until early July we  
37 were inseparable. The only problems we had were instigated by Jamie Grubb. Let me tell ya, I  
38 have seen unstable stalkers in my career, and Jamie Grubb takes the cake. Christy would  
39 complain to me that Jamie was always meddling in every aspect of her life. Frankly, Jamie's  
40 obsession with Christy was unhealthy. Christy told me Jamie made life very uncomfortable by  
41 moving in next door.

42  
43 There are some allegations that I called Jordan Rose's home during a cookout and that I  
44 sent a threatening email to Christy. These allegations are just plain false. Matter of fact, I  
45 believe Jamie Grubb called and harassed Jordan Rose during that party and that Jamie Grubb  
46 sent that email.

47 I did not call the Rose home during that cookout. I sat outside waiting for Christy during  
48 that cookout because I had arrested her nephew the year before for possession of alcohol by a  
49 minor, and I did not want to cause any discomfort for the family during the celebration of  
50 Christy's grandmother's birthday. I knew Christy was going to be drinking that evening, so I  
51 sat outside and waited for the party to be over.

52

53 As for the email, anyone that knows me can tell you I am not a computer nerd. I don't  
54 even have an email account nor do I have any reason to get one. If I have something to say to  
55 someone, I don't have to hide behind a computer screen. I deal with things face to face--always  
56 have and always will. Email is for cowards.

57

58 Christy and I planned a 4<sup>th</sup> of July pool party at the Conclave Complex. We worked  
59 very hard on the event, and I was really looking forward to it. Unfortunately, and as always,  
60 Jamie ruined the night. Everyone was having a great time until Jamie showed up drunk spouting  
61 off that I had "taken Christy away" and that "no one was good enough for Christy." It was a  
62 sad, sad sight. Jamie had to be escorted home, and we finished the party.

63

64 After the party, Christy and I headed back to her condo. Jamie was roaming around out  
65 in the hallway and started verbally assaulting me. I am not one to take any lip. I told Jamie to  
66 get out of my face or there would be a price to pay. Jamie kept running that mouth, and we got  
67 into a physical altercation. I regret that. Jamie was drunk and unfortunately, Christy got hurt  
68 trying to separate us.

69

70 Later one of my buddies from the Robbinsville Police Department brought me an  
71 Emergency Protective Order and a civil summons to appear in Family Court. I had a shooting  
72 competition scheduled in Frankfort that day, so I called a lawyer about it and was told not to  
73 worry about appearing that day. A few days afterwards, I was served with a Domestic Violence  
74 Order. This time, the Order was served by another Robbinsville officer I did not know. She  
75 took all of my weapons and told me a Judge had entered an order preventing me from being in  
76 possession of any firearm. I was furious!

77

78 The Order also said I could not have any contact with Christy. Ironically, the night I got  
79 served with the paperwork, Christy called me and said we could take a few days apart and try to  
80 sort all this through. I didn't like it, but I agreed. On the afternoon of August 2, 2011, Christy  
81 called me again, and this time she asked me to come over that evening. I didn't think it was a  
82 great idea until the Order was amended permitting us to have contact, but I really wanted to see  
83 Christy again. I missed feeling young, I missed being in love.

84

85 As I arrived at the Conclave Condos, Christy was standing in the parking lot. I pulled in  
86 and parked. I looked at my iPhone as I unplugged it, and I remember it was 8:50 p.m. Christy  
87 was dressed up and it was obvious it was not for me. I looked up toward the condo, and I saw  
88 Jamie peering out at us. I asked Christy if it was necessary for us to be babysat by the stalker.  
89 Obviously, Christy had invited me over to set me up to let me down. I have been dumped  
90 before in my life, and that was what was on Christy's mind that night. Christy got emotional  
91 and started blabbering how "this had all been a big mistake, I should not have ever called you"



92 and that “Jamie would make life miserable as long as I was around.” I started walking toward  
93 Christy with my arms slightly open hoping for a hug, and that is when I saw the gun.

94  
95 I knew Christy carried a gun. As a matter of fact, we shared a love of shooting. I was  
96 shocked when Christy pulled the revolver out of a jacket pocket. Look, I have been shot at a lot  
97 in my life, and I know when someone pulls a gun they intend to use it. I don’t know if Jamie’s  
98 rhetoric finally got to Christy or what, but I know I had to get that gun or it was not going to  
99 turn out well for me. We struggled and the gun went off while it was in Christy’s hand. Christy  
100 dropped lifeless from my arms. I lost it! I grabbed the gun and ran from the parking lot.

101  
102 I ran to the very place I felt the safest, the place where I spent twenty-five years of my  
103 life, the Robbinsville Police Department. I was a mess and acted a fool there. I embarrassed  
104 myself and the police force I served for so long. I even shot a gun up in the air that night. If I  
105 had not been surrounded by friends, I would have probably been shot myself. I miss Christy  
106 more than I can ever say. It is a shame to have such a young life snuffed out in such a tragic  
107 accident.

108  
109 Further, your affiant sayeth naught.

Signed,

/S/

\_\_\_\_\_  
**Morgan Smith**

110  
111  
112

1  
2  
3 **AFFIDAVIT OF CASEY REARDON**

4 I am the Chief of Police for Robbinsville, Kentucky. I have known Morgan Smith for  
5 most of my adult life. It seems like yesterday we were both wet-behind-the-ears rookies on the  
6 Robbinsville Police force. Morgan is a police officer's police officer. There is no doubt  
7 Morgan had my back anytime we arrived at a crime scene. Didn't matter what kind of scrape I  
8 found myself in, I knew I could depend on Morgan.

9 When Morgan retired, I knew I would never be able to find a true replacement. There is  
10 not now, nor will there ever be, a better shot to wear the badge of the Robbinsville Police  
11 Department. While I rose up through the ranks from a beat cop to my current position as Chief,  
12 Morgan always held steady on the road. Most people think Morgan did not promote because of  
13 an allegation of excessive force that was made by a crackpot complainer that lives here in  
14 Robbinsville. I never believed it for a second. I had already made Chief, and it was my  
15 responsibility to investigate it. I called Morgan in and asked what happened. There are always  
16 two sides to every story. Once I heard Morgan's response, it was obvious Morgan had acted  
17 appropriately and that the allegation was bogus. I dismissed the complaint out of hand and  
18 noted it in her/his personnel file.

19  
20 On August 2, 2011, I was sitting in my office reviewing reports, listening to a little Neil  
21 Diamond on my iPod, when one of my Sergeants came running in yelling, "Chief, Chief, get out  
22 here; Morgan's got a gun and is waving it around." Honestly, I had not seen Morgan much  
23 since the retirement ceremony, so I was shocked to say the least. Seems a chance meeting with  
24 one of my dispatchers resulted in a romance and that took up most of Morgan's free time. First  
25 thing I thought of was Morgan's shooting prowess. If Morgan started firing, whatever that gun  
26 was aimed at was hit dead on.

27  
28 I ran out into the parking lot and found Morgan sitting on the hood of a cruiser. I did  
29 notice that Morgan was in possession of what looked to be a revolver of fairly small caliber. I  
30 hated seeing my old friend in distress, and I knew this was a serious, life-threatening situation.  
31 Any police officer's worst fear is a "suicide by cop" situation, and I was afraid this was shaping  
32 up to be just that.

33  
34 Morgan kept crying out, "All I wanna do is die, too," and "This is all a big mess." I had  
35 not yet heard that Christy was dead, and I could not figure out what Morgan was talking about.  
36 I tried to talk Morgan down as best I could. I felt like I was making some progress when  
37 "Detective" Hon showed up. Once Hon arrived, it all went downhill. I had heard my officers  
38 complain about Hon's inability to control any scene and that on several occasions even allowing  
39 people not associated with an investigation to contaminate a scene.

40  
41 I guess Hon assumed that the presence of the Kentucky State Police made it a KSP  
42 scene. I took the position it was my friend in trouble, it was my parking lot, and that KSP could  
43 stand down. Hon informed me that this was now a homicide investigation and that no dim-  
44 witted local police chief was going to interfere with it. That did not sit well with me, and I  
45 again instructed Hon to stand down. The commotion caused by Detective Hon only served to

46 escalate an already life-threatening situation. Morgan fired off one round to get everyone's  
47 attention.

48

49 Detective Hon snuck around behind Morgan and deployed a taser. Frankly, if Hon had  
50 given me a few more minutes, I could have talked Morgan out of that gun and off that hood.  
51 Turns out, this is Detective Hon's first homicide investigation. I just wish the training wheels  
52 didn't have to be taken off on Morgan's case. Like I said, there are always two sides to every  
53 story. I have heard Morgan's side and I believe it. I would never have arrested Morgan for  
54 murder on these facts.

55

Signed,

56

/S/

57

**Casey Reardon**

1  
2  
3 **AFFIDAVIT OF CARSON RAWLINS**

4 I ain't never give no statement like this before. I live in the park that is next to the  
5 apartments. I served Uncle Sam in Vietnam. Since I got back there ain't nothing the same.  
6 People spittin on me and callin me a baby killer when I got off the plane. I went over there to  
7 do a job nobody else wanted to do, and I got nothing to show for it. I ain't very smart but there  
8 is one thing I can do, and that is shoot a gun.

9 When I was in the Army, I was put on a team that did nothing but shoot. When I heard  
10 that shot go off that night in the parking lot, I knew right what it was. I never got any help from  
11 the government for what I did and saw in Vietnam, so I turned to drinkin. Now I like a good  
12 cold drink just as much as anybody else and yep, it's true I had a nip or two the night I saw that  
13 shootin over in the parking lot. I know what I seen and heard though.

14  
15 I was mindin my own business getting ready to bed down for the night, and I heard an  
16 awful clatterin comin from the apartment parking lot. They don't like my kind over there. I've  
17 been run off from there more times than I can count. They have a nice lil place next to the shed  
18 by the pool I like to go when it rains. Allz I try to do is stay warm and dry and mind my own  
19 business.

20  
21 Two people were a fighting and carrying on. The woman that got shot was waving one  
22 hand around while she talked. I noticed she had her other hand buried in this long red bag that  
23 was hanging from her shoulder. It was a big bag, maybe leather, the kind that would keep your  
24 things dry in a rainstorm. I heard her yell something about "getting on with life and making a  
25 mistake." Then the other one said, "Hey I already told you—this has got to end!" You know,  
26 love makes some people say and do foolish things.

27  
28 Seems to me the one that ran away had been sitting in the parking lot for most of the  
29 afternoon. Thought that was a little strange, but then again, I live anywhere I can find, so I  
30 guess hanging out in a car ain't so crazy. I was confused about what was going on. After all the  
31 yelling it seemed like things had changed, and they moved like they were gonna hug or  
32 something. But then I saw that woman pull her hand out of that red bag with a gun in it. She  
33 turned away from me, and I couldn't see much else. Next thing I know there's a gunshot, one of  
34 em fell down, and the other one picked something up, ran away, and didn't say much.

35  
36 A few buddies and me wandered over there to see what was a going on. I found a shiny  
37 necklace laying not far from where it all happened. Wasn't long before there was a bunch of  
38 cameras and reporter people running around. Man it was crazy. People tromping everywhere!  
39 It looked like something outta "Nam." I talked to a policeman and gave it to'em. Not sure what  
40 happened to it. I liked it cause it sure was shiny. Wish I could get it back. I was raised that  
41 finders are keepers.

42  
43 Somebody named Jamie or something ran up to me and asked if I could hear what they  
44 was a sayin or if I seen what happened. I said what I saw just like I am doing now. I thought it  
45 was funny that Jamie person asked me questions even before the police got there. Not sure what  
46 business it was of theirs. Guess some people gotta have their nose into everything.

47 I ain't got no dog in this fight. I was told I had to come here today and tell you good  
48 folks what I saw. Like I said, most times I just wanna stay warm, dry and mind my own  
49 business.

50

51


52

53

Signed,

/S/

**Carson Rawlins**

Commonwealth of Kentucky Court of Justice <a href="http://www.courts.ky.gov">www.courts.ky.gov</a> KRS Chapter 403; FCRPP Part IV	  <b>DOMESTIC VIOLENCE                  PETITION / MOTION</b>	Case No. <u>11-D-2553</u>  Court <u>Family</u>  County <u>Robbins</u>						
<table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 33%; text-align: center;"><u>Christy</u></td> <td style="border: none; width: 33%; text-align: center;"><u>L.</u></td> <td style="border: none; width: 33%; text-align: center;"><u>Rose</u></td> </tr> <tr> <td style="border: none; text-align: center;">First</td> <td style="border: none; text-align: center;">Middle</td> <td style="border: none; text-align: center;">Last</td> </tr> </table>	<u>Christy</u>	<u>L.</u>	<u>Rose</u>	First	Middle	Last	<b>PETITIONER</b>  <b>VS.</b>  <b>RESPONDENT</b>	
<u>Christy</u>	<u>L.</u>	<u>Rose</u>						
First	Middle	Last						
<table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 33%; text-align: center;"><u>Morgan</u></td> <td style="border: none; width: 33%; text-align: center;"><u>N.</u></td> <td style="border: none; width: 33%; text-align: center;"><u>Smith</u></td> </tr> <tr> <td style="border: none; text-align: center;">First</td> <td style="border: none; text-align: center;">Middle</td> <td style="border: none; text-align: center;">Last</td> </tr> </table>	<u>Morgan</u>	<u>N.</u>	<u>Smith</u>	First	Middle	Last		
<u>Morgan</u>	<u>N.</u>	<u>Smith</u>						
First	Middle	Last						

**Information about Respondent:**

Current Residence: 946 Elmhurst Street, Robbinsville, Ky. 44399

Occupation: Retired

Employer Name and Address:  
 \_\_\_\_\_  
 \_\_\_\_\_

Birthdate	Social Security #	Drivers License #	State
<u>Sept. 3, 1954</u>	<u>987-65-4321</u>	<u>S44-123-456</u>	<u>Kentucky</u>

**CAUTION:**             Weapon involved             Believed to be armed and dangerous  
 The Parties have a             custody  dissolution action pending in \_\_\_\_\_ Circuit Court.  
 Petitioner,  Petitioner, on behalf of minor child(ren) says that on July 5, 2011, in  
Robbins County, Kentucky, the above-named Respondent engaged in act(s) of domestic  
 violence and abuse, in that:

I've been dating Morgan Smith for a couple of months, and I thought we were in love. But Morgan has a real quick temper and has always been jealous of my even talking to another person. After my July 4<sup>th</sup> pool party ended around midnight, Morgan was really furious with me. Morgan screamed at me, and accused me of outrageously flirting with a friend of mine at the party – a police officer I used to work with. I tried to reassure Morgan of my love. That's always helped calm things down in the past. But this time was different. Morgan was in a rage—kept telling me I was “anybody's whore,” and when I argued, caught me off guard, shoved me into the china cabinet, and I fell to the floor. Before I could get my breath and get up, Morgan bent over and slapped me across the face, then started kicking me in the side. Finally, Morgan said something like, “You belong to me, and you'd better shape up if you know what's good for you.” That scared me! I want Morgan to stay far away from me. I'm afraid of Morgan's temper and that Morgan will totally lose control the next time and decide to kill me. I just want out of this relationship.

**Copies to:**

- Court File
- Petitioner
- Respondent (copy with blacked-out portion served with summons)
- Court Clerk in County of Petitioner's usual residence, if different
- Local Department of Community Based Services, CHFS
- Law enforcement agency(ies) designated for service

**1. Information about Petitioner**

Birthdate: <u>June 20, 1988</u>	Age: <u>23</u>
Current Residence:	<u>593 Stover Avenue, Unit 5, Robbinsville, Ky. 44399</u>
Length of residence there:	<u>almost 2 years</u>
Occupation:	<u>Dispatcher</u>
Employer Name:	<u>Robbinsville Police Department</u>
Employer Address:	<u>120 Main Street, Robbinsville, Ky. 44399</u>

**2. Respondent's relationship to Petitioner:**  spouse;  former spouse;  unmarried, with child in common;  unmarried, currently or formerly living together;  child;  stepchild;  parent;  grandparent;

**MOTION FOR RELIEF**

Petitioner **OR**  Petitioner, on behalf of minor child(ren), requests that the Court:

(1) **Issue an emergency protective order** based on the presence of an immediate and present danger of domestic violence and abuse to:

**restrain Respondent** from committing any further acts of domestic violence and abuse; and/or  
 **restrain Respondent** from any contact or communication with Petitioner except as directed by the Court; and/or

**restrain Respondent** from going to or within a specified distance of a specifically described **residence, school, or place of employment** of the Petitioner, minor child(ren) of the Petitioner, family member, or member of an unmarried couple protected in the order. Please explain the reason(s) for and benefit(s) of excluding Respondent.

*\*Any address information provided will not be considered confidential and will be available to the Respondent.*

**Location:** 593 Stover Ave. Unit 5, Robbinsville, KY 44399

Reason(s): \_\_\_\_\_

**Location:** 120 Main Street, Robbinsville, Ky. 44399

Reason(s): \_\_\_\_\_

**restrain Respondent** from disposing of, or damaging, any property of the parties, and/or  
 **direct Respondent to vacate residence shared by the parties located at (give address):**

**grant other relief which would assist in stopping further domestic violence (describe):** \_\_\_\_\_

Petitioner states the allegations contained herein are true on information and belief.

Christy L. Rose

Petitioner's/Movant's Signature

**NOTICES:**

1. IF AN ORDER IS ISSUED WHICH SAYS NO CONTACT AND YOU DECIDE TO HAVE CONTACT WITH THE RESPONDENT WHILE THIS ORDER IS IN EFFECT, YOU MAY BE PLACING YOURSELF AT RISK. ADDITIONALLY, SUCH CONTACT MAY RESULT IN THE RESPONDENT BEING ARRESTED FOR VIOLATING THE ORDER.

2. ISSUANCE OR DENIAL OF AN EMERGENCY PROTECTIVE ORDER DOES NOT PREVENT YOU FROM CONSULTING WITH THE COUNTY ATTORNEY ABOUT FILING CRIMINAL CHARGES AGAINST THE RESPONDENT.

Subscribed and sworn to before me on July 5, 2011.

Date: July 5, 2011. \_\_\_\_\_ /S/ Julie Sinkhorn \*Name

\_\_\_\_\_ Circuit Clerk Title

*\*Must be signed by circuit clerk or other individual authorized by Court to provide and verify emergency petitions.*



**EMERGENCY ORDER  
OF PROTECTION**

Case No. 11-D-2553

Court Family

County Robbins State KY

PETITIONER/PLAINTIFF

Christy                      L.                      Rose

First                      Middle                      Last

v.

PETITIONER/PLAINTIFF IDENTIFIERS

June 20, 1988

Date of Birth of Petitioner

RESPONDENT/DEFENDANT

Morgan                      N.                      Smith

First                      Middle                      Last

Relationship to Petitioner:  spouse  former spouse  
 unmarried, child in common  unmarried, currently or  
formerly living together  child  stepchild  parent  
 grandparent

Respondent Address: 946 Elmhurst St., Robbinsville,  
KY 44399

RESPONDENT/DEFENDANT IDENTIFIERS

Date of Birth September 3, 1954

Social Security Number 987-65-4321

Drivers License # S44-123-456

State KY Exp. Date 9/3/11

Distinguishing Features \_\_\_\_\_

**CAUTION:**  Weapon involved  Armed and Dangerous  Divorce/Custody/Visitation Case pending

**THE COURT HEREBY FINDS:**

That it has jurisdiction over the parties and subject matter, and Kentucky law providing Respondent notice and opportunity to be heard.

Additional findings of this order are as set forth below:

**THE COURT HEREBY ORDERS:**

- That the above-named Respondent be restrained from committing further acts of abuse or threats of abuse.
- That the above-named Respondent be restrained from any contact with the Petitioner/Plaintiff.
- Additional terms of this order are as set forth below.

The terms of this order shall be effective until the hearing provided for in KRS 403.740(4) or in KRS 403.745, or until withdrawn by the Court. SEE ATTACHED SUMMONS FOR DATE AND TIME OF HEARING. KRS 403.740(4).

Continuance of an **unserved** EPO is limited to six (6) months. If Respondent has not been served with this order

and the Court has not otherwise withdrawn it, this order will expire in six (6) months, on

Jan. 5, 2012

**WARNING TO RESPONDENT:**

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Only the Court can change this order.



**ADDITIONAL FINDINGS:** The Court, having reviewed the petition and being sufficiently advised, finds that the allegations indicate an immediate and present danger of domestic violence and abuse.

**THEREFORE, IT IS FURTHER ORDERED:**

That the above-named Respondent be restrained from any communication with the above-named Petitioner.

That the above-named Respondent remain at all times and places at least 500 feet (not to exceed five hundred) away from Petitioner, Petitioner's minor child(ren), and Petitioner's family or household;

except as follows: \_\_\_\_\_.

That, Petitioner having established specific demonstrable danger, the above-named Respondent be restrained from going to or within the distance(s) specified of the location(s) described below:

Location: 593 Stover Ave., Unit 5, Robbinsville, Ky. 500 feet

Location: Robbinsville Police Department, 120 Main St., Robbinsville, Ky. 500 feet

except as follows: \_\_\_\_\_

That the above-named Respondent be restrained from disposing of, or damaging, any property of the parties.

That the above-named Respondent vacate the residence shared by the parties located at \_\_\_\_\_

In accordance with the criteria of KRS 403.270, 403.320 and 403.822, temporary custody of \_\_\_\_\_

be awarded to \_\_\_\_\_

In order to assist in eliminating future acts of domestic violence and abuse \_\_\_\_\_

**VIOLATION OF THIS ORDER SHALL CONSTITUTE CONTEMPT OF THIS COURT AND MAY RESULT IN CRIMINAL CHARGES. ANY PEACE OFFICER SHALL ARREST THE RESPONDENT WITHOUT A WARRANT UPON PROBABLE CAUSE THAT A VIOLATION OF THIS ORDER HAS OCCURRED.**

July 5, 2011

Date Issued

/S/ Rhonda Edwards

Judge

-----

<b>Service of Process</b>	Served on the Respondent this the <u>5<sup>th</sup></u> day of <u>July, 2011</u> , at <u>11:15 a.m.</u> by: <u>/S/ Officer Kelly Rouse, Robbinsville Police Department</u>
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# ORDER OF PROTECTION

- DOMESTIC VIOLENCE ORDER
- AMENDED DOMESTIC VIOLENCE ORDER

Page 1 of 2

Case No. 11-D-2553

Court Family

County Robbins State KY

### PETITIONER/PLAINTIFF

Christy                      L.                      Rose

First                      Middle                      Last

### PETITIONER/PLAINTIFF IDENTIFIERS

June 20, 1988

Date of Birth of Petitioner

**V.**

### RESPONDENT/DEFENDANT

Morgan                      N.                      Smith

First                      Middle                      Last

- Relationship to Petitioner:  spouse  former spouse  
 unmarried, child in common  unmarried, currently or formerly living together  child  stepchild  parent  
 grandparent

Respondent Address: 946 Elmhurst St., Robbinsville, KY 44399

### RESPONDENT/DEFENDANT IDENTIFIERS

Date of Birth September 3, 1954

Social Security Number 987-65-4321

Drivers License # S44-123-456

State KY Exp. Date 9/3/11

Distinguishing Features \_\_\_\_\_

**CAUTION:**  Weapon involved  Armed and Dangerous  Divorce/Custody/Visitation Case pending

### THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard.

- Additional findings of this order are as set forth below:

### THE COURT HEREBY ORDERS:

That the above-named Respondent be restrained from committing further acts of abuse or threats of abuse.

That the above-named Respondent be restrained from any contact with the Petitioner/Plaintiff.

Additional terms of this order are as set forth below.

3 years from date of DVO Hearing

The terms of this order shall be effective until

July 13

2014

### WARNING TO RESPONDENT:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)).

Only the Court can change this order.

**ADDITIONAL FINDINGS:**

- For the Petitioner against the above-named Respondent in that it was established, by a preponderance of the evidence, that an act(s) of domestic violence or abuse has occurred and may again occur; or
- For the Respondent in that it was not established, by a preponderance of the evidence, that an act(s) of domestic violence or abuse has occurred and may again occur

**ADDITIONAL TERMS OF ORDER:**

**That the above-named Respondent surrender to the Court, or to the officer serving the order, Respondent's Kentucky license to carry concealed firearms or other deadly weapons pursuant to KRS 237.110(13)(k).**

- Kentucky license to carry surrendered to Court.
- That the above-named Respondent is restrained from any contact or communication with the above-named Petitioner.
- That Respondent shall remain at all times and places at least 500 feet (not to exceed five hundred) away from Petitioner, Petitioner's minor child(ren), and Petitioner's family or household;
  - except as follows: \_\_\_\_\_
- That, Petitioner having established specific demonstrable danger, the above-named Respondent be restrained from going to or within the distance(s) specified of the location(s) described below:
  - Location: 593 Stover Ave., Unit 5, Robbinsville, Ky. 500 feet
  - Location: Robbinsville Police Department, 120 Main St., Robbinsville, Ky. 500 feet
  - except as follows: \_\_\_\_\_
- That the above-named Respondent be restrained from disposing of, or damaging, any property of the parties.

The terms of this order shall not exceed three (3) years from date of issue pursuant to KRS 403.750(2). The Petitioner may return to the court, which issued this order, before expiration of this order to request that it be reissued for an additional period not to exceed three (3) years. **The number of times this Order may be reissued shall not be limited. KRS 403.750(2).**

**Violation of this order shall constitute contempt of this Court and may result in criminal charges and/or imposition of a global positioning monitoring system device. Any peace officer shall arrest the Respondent without a warrant upon probable cause that a violation of this order has occurred. Pursuant to 18 U.S.C. Section 922(g)(8), it may be a federal violation to purchase, receive or possess a firearm or ammunition while subject to this order.**

July 13, 2011

Date

/S/ Rhonda Edwards

Judge

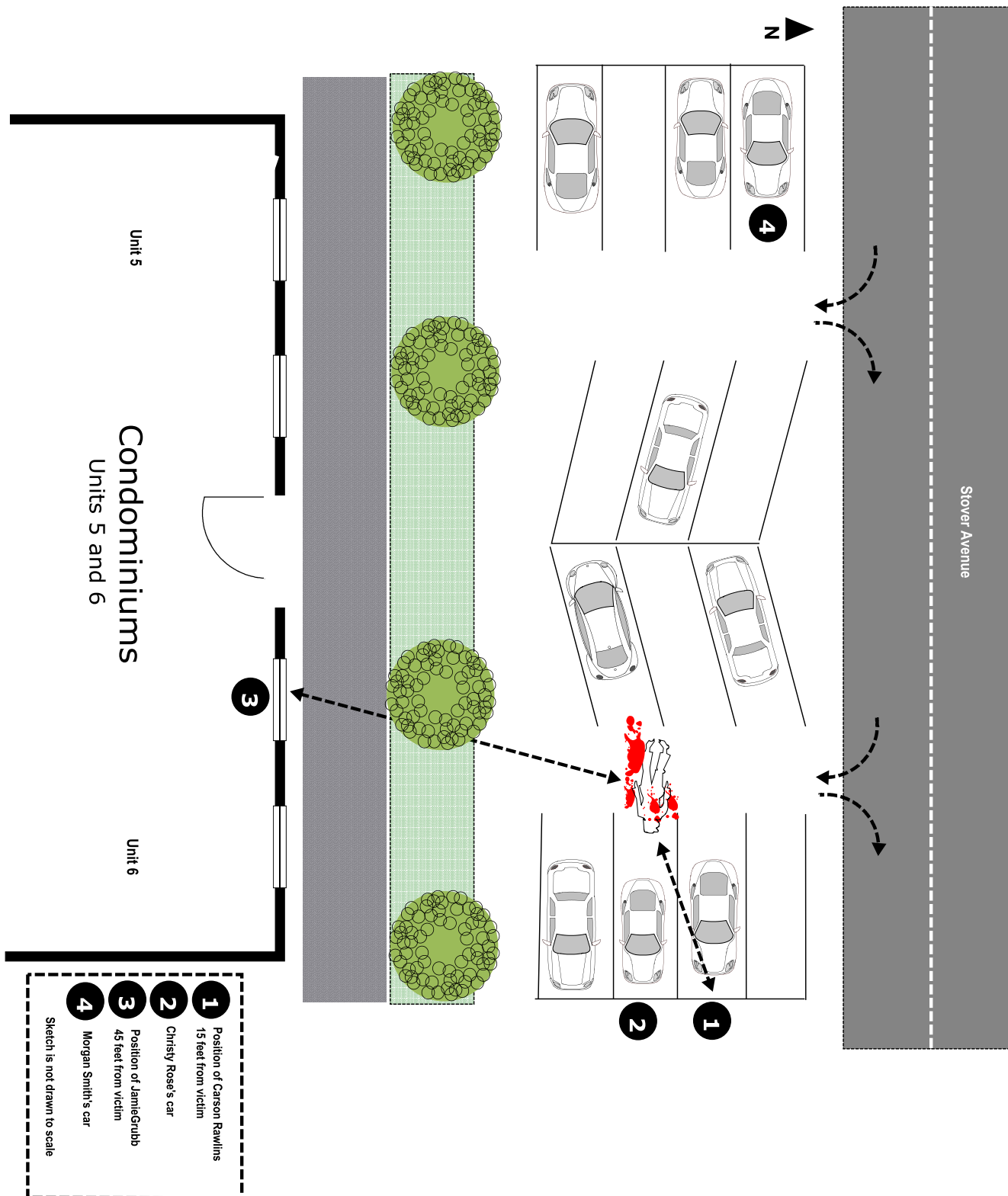
<b>Service of Process</b>	Served on the Respondent this the <u>22nd</u> day of <u>July</u> , 2011, at <u>7:10 p.m.</u> by: <u>/S/ Officer Jane Wells , Robbinsville Police Department</u>
---------------------------	--

## Kentucky State Police—Incident Report

<b>CASE NUMBER:</b> 11-H-1092		<b>DATE OF REPORT – TIME:</b> 8/9/11 at 10:00 a.m.		<input checked="" type="checkbox"/> <b>ORIGINAL REPORT</b> <input type="checkbox"/> <b>SUPPLEMENTAL REPORT</b>	
<b>DATE OF OCCURRENCE:</b> 8/02/11		<b>TIME OF OCCURRENCE:</b> 9:00 p.m.		<b>DOD:</b> <input type="checkbox"/> 1 Sun <input type="checkbox"/> 2 Mon <input checked="" type="checkbox"/> 3 Tues <input type="checkbox"/> 4 Wed <input type="checkbox"/> 5 Thur <input type="checkbox"/> 6 Fri <input type="checkbox"/> 7 Sat <input type="checkbox"/> 98 Unk	
<b>INCIDENT LOCATION:</b> parking lot at 593 Stover Ave., Robbinsville, KY					
<b>COMMON/BUSINESS NAME:</b> Conclave Condominiums		<b>BEAT:</b> C.I.D.		<b>MAPR:</b>	
<b>DISTRICT:</b>		<b>ALCOHOL:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK		<b>DRUG:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK	
<b>LOCATION TYPE:</b>		<b>DEPT. CLASSIFICATION:</b>			
<b>CASE STATUS:</b> <input checked="" type="checkbox"/> 1 cleared by arrest <input type="checkbox"/> 2 exceptionally cleared <input type="checkbox"/> 3 unfounded <input type="checkbox"/> 4 inactive <input type="checkbox"/> 5 pending arrest <input type="checkbox"/> 6 pending inv. results <input type="checkbox"/> 7 info. Only <input type="checkbox"/> 8 admin. cleared				<b>DATE:</b> 8/2/11	
<b>UCR STATE CLASSIFICATION: (STATUTE NUMBER AND TEXT)</b> 507.020 Murder				<b>UOR CLASSIFICATION:</b> 009151	
<b>ATTEMPTED/COMMITTED:</b> <input checked="" type="checkbox"/> 1 Committed <input type="checkbox"/> 2 Accessory After <input type="checkbox"/> 3 Accessory Before <input type="checkbox"/> 4 Aid/Abet <input type="checkbox"/> 5 Assault To <input type="checkbox"/> 6 Attempt to <input type="checkbox"/> 7 Conspiracy To <input type="checkbox"/> 8 Facilitation Of <input type="checkbox"/> 9 Solicitation To <input type="checkbox"/> 10 Threat To <input type="checkbox"/> 11 Unfounded					
<b>ATTACK REASON:</b> <input checked="" type="checkbox"/> 1 Assault <input type="checkbox"/> 2 Theft <input type="checkbox"/> 3 Menace <input type="checkbox"/> 4 Concerned Citizen <input type="checkbox"/> 5 Mental			<b>WEAPON TYPE:</b> <input checked="" type="checkbox"/> 1 Firearm <input type="checkbox"/> 2 Knife/Cutting Instrument <input type="checkbox"/> 3 Hands/Fists/Feet, etc. <input type="checkbox"/> 4 Other Weapon		
<b>ENTERED:</b>		<b>STRUCTURE OCCUPANCY:</b>		<b>EVIDENCE OBTAINED:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK	
<b>LOCATION TYPE:</b> parking lot					
<b>JUVENILE DISPOSITION:</b> <input type="checkbox"/> 1 Handled w/in Dept. <input type="checkbox"/> 2 Referred to Juvenile Court <input type="checkbox"/> 3 Referred to Welfare Agency <input type="checkbox"/> 4 Referred to Other Police <input type="checkbox"/> 5 Referred to Adult Court					
<b>UCR DISPOSITION:</b> <input type="checkbox"/> 1 Cleared by Arrest - Adult <input type="checkbox"/> 2 Cleared by Arrest - JUV <input type="checkbox"/> 3 Exceptionally Cleared – Adult <input type="checkbox"/> 4 Exception Cleared – JUV <input type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Active					
<b>EX CLEARED TYPE:</b> <input type="checkbox"/> 1 Extradition Declined <input type="checkbox"/> 2 Arrest on Primary Ofns <input type="checkbox"/> 3 Death of Offender <input type="checkbox"/> 4 Vict/Witn Refused Cooperate <input type="checkbox"/> 5 Prosecution Declined <input type="checkbox"/> 6 Juvenile/No Custody					
<b>THEFT BY COMPUTER?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>FORCED ENTRY?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		<b>DATE CLEARED:</b>	
<b># ARRESTED:</b> 1					
<b>DRUG ACTIVITY:</b> <input type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Buy <input type="checkbox"/> 3 Deliver <input type="checkbox"/> 4 Use <input type="checkbox"/> 5 Distribute <input type="checkbox"/> 6 Manufacture <input type="checkbox"/> 7 Produce <input type="checkbox"/> 8 Cultivate <input type="checkbox"/> 9 Possess <input type="checkbox"/> 10 Smuggle <input type="checkbox"/> 11 Sell <input type="checkbox"/> 12 Traffic <input type="checkbox"/> 13 Other					
<b>DRUG TYPE:</b> <input type="checkbox"/> 1 N/A <input type="checkbox"/> 2 Amphetamine <input type="checkbox"/> 3 Barbiturate <input type="checkbox"/> 4 Cocaine <input type="checkbox"/> 5 Heroin <input type="checkbox"/> 6 Hallucinogen <input type="checkbox"/> 7 Marijuana <input type="checkbox"/> 8 Opium/Derivative <input type="checkbox"/> 9 Synthetic <input type="checkbox"/> 10 Paraphernalia					
<b>QUANTITY:</b>		<b>UNITS:</b> <input type="checkbox"/> 1 Gram <input type="checkbox"/> 2 Milligram <input type="checkbox"/> 3 Kilogram <input type="checkbox"/> 4 Ounce <input type="checkbox"/> 5 Pound <input type="checkbox"/> 6 Ton <input type="checkbox"/> 7 Liter <input type="checkbox"/> 8 Milliliter <input type="checkbox"/> 9 Dose		<b>VALUE</b>	
<b>VICTIM/OFFENDER RELATIONSHIP:</b> Paramour			<b>ASSAULT/HOMICIDE CIRCUMSTANCES:</b> Murder with Aggravating Circumstance		
<b>CHILDREN WERE...</b> <input type="checkbox"/> 1 Involved <input type="checkbox"/> 2 Present <input checked="" type="checkbox"/> 3 N/A <input type="checkbox"/> 4 Both			<b>OFFICER ACTION:</b> <input type="checkbox"/> 1 Arrest Family Violence <input type="checkbox"/> 2 Arrest Other Offense <input type="checkbox"/> 3 Summons <input type="checkbox"/> 4 Separation <input type="checkbox"/> 5 Unfounded <input type="checkbox"/> 6 Referred to Social		
<b>PRIOR COURT ORDERS:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK EPO 7-5-11/DVO 7-13-11		<b>ALCOHOL USED BY:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used		<b>DRUGS USED BY:</b> <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <input type="checkbox"/> Both Used <input type="checkbox"/> Neither Used	
<b>PREVIOUS COMPLAINTS:</b> <input checked="" type="checkbox"/> 1 None <input type="checkbox"/> 2 One-Five <input type="checkbox"/> 3 Six-Ten <input type="checkbox"/> 4 More than 10 <input type="checkbox"/> 5 Unknown		<b>SERVICES:</b> <input type="checkbox"/> Advised <input type="checkbox"/> Not Advised		<b>AGGRESSOR IDENTIFIED BY:</b> <input type="checkbox"/> 1 Physical Evidence <input type="checkbox"/> 2 Testimonial <input checked="" type="checkbox"/> 3 Both	

<b>CASE NUMBER:</b> 11-H-1092	<b>DATE OF REPORT – TIME:</b> 8/9/11 at 10:00 a.m.	<input checked="" type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT
<b>BRIEF DESCRIPTION:</b>		
<p>August 2, 2011--I received a call from dispatch informing me a body had been found in the parking lot of the Conclave Condominiums in Robbinsville, Kentucky. I rushed to the scene and arrived at 21:17. I observed a female body later identified as Christy Rose dead on arrival. I secured the scene and began processing it. A search of the body revealed a driver's license and a Kentucky carry and conceal deadly weapon license issued to the decedent. Miss Rose had suffered a gunshot wound to the chest. I did not find any weapon at the scene of the homicide. I conducted a field gunshot residue test (GSR) on the hands of the victim. The test concluded that Miss Rose had gunshot residue on her hands. There was a single fatal gunshot wound to the chest of the decedent. The wound appeared to be the result of small caliber gunfire. The point of entry was directly in the center of the heart.</p> <p>My crime scene measurements established that the body was lying fifty feet from the entrance of the apartment complex. Miss Rose was lying on her back, head closest to the rear bumper of her vehicle. Blood splatter was found to the south of the body, on the body, and north of the body. The body was transported from the crime scene to the Coroner's office for autopsy.</p> <p>I undertook investigative interviews of people on the scene. Jamie Grubb was very clear that s/he saw Miss Rose and Morgan Smith struggle in the parking lot, saw a flash of the barrel, and heard a gunshot sound. Grubb pointed out to me where s/he was standing when the shot was fired. I noted the location on the crime scene map. Grubb also informed me that Morgan Smith had sent Ms. Rose a threatening email prior to the shooting.</p> <p>I next spoke with Carson Rawlins. I noticed there was an odor of alcoholic beverage on or about Carson Rawlins' person. I did not administer FST but did conclude Rawlins was sober enough to issue a credible statement. Rawlins was adamant that the person who shot Rose had been sitting in the parking lot for most of the afternoon. I noted the description given to me by Rawlins.</p> <p>After I finished interviewing the eyewitnesses, radio traffic indicated that a suicidal person was in the parking lot of the Robbinsville Police Station, and that the person admitted to already killing once today. I responded to the call as I had reason to believe the call was connected to this murder. When I arrived at the Robbinsville Police Department parking lot, Morgan Smith was in the middle of a number of Robbinsville Police officers. They were all trying to talk Smith down. I observed a weapon in Smith's hand. As I approached I could see Captain Casey Reardon begging Smith to put down the gun and cooperate. Smith fired one round into the air. I plainly heard Smith say, "I just wanna die, too!" and that "This is all a big mess that won't end well for anyone." I could tell things were close to getting out of hand. I deployed my taser and stepped to the back of Smith and made the arrest. A GSR of Smith's hand determined s/he had recently fired a weapon. I also confiscated the weapon on Smith's person and found that it actually belonged to Christy Rose. Ballistics testing confirmed the weapon found on Smith's person to be the murder weapon.</p>		
<b>ATTACHMENTS:</b> <input type="checkbox"/> Persons <input checked="" type="checkbox"/> Evidence Log <input type="checkbox"/> Offenses <input type="checkbox"/> Narrative Statement of the Defendant		<b>GCIC ENTRY</b> <input type="checkbox"/> Warrant <input type="checkbox"/> Vehicle <input type="checkbox"/> Article <input type="checkbox"/> Boat <input type="checkbox"/> Gun
<b>REPORTING OFFICER:</b> Detective Dusty Hon /S/	<b>BADGE:</b> 705	<b>DATE:</b> 8/9/11
<b>SUPERVISOR:</b> Cpt. Eddie Johnson /S/	<b>BADGE:</b> 110	<b>DATE:</b> 8/11/11
<b>KCIC OPERATOR:</b>	<b>BADGE:</b>	<b>DATE:</b>

**Commonwealth vs. Smith – Sketch of August 2, 2011, Shooting Scene**  
 Prepared by Detective Dusty Hon



## Robbinsville Police Department Personnel File

Last Name: Smith First Name: Morgan MI: N.  
 Address: 946 Elmhurst St. City: Robbinsville State: KY Zip: 44399  
 Telephone Numbers:  
 Work: 555-123-4567 Home: 555-987-1238 Cell: 211-333-3333  
 E-mail Address: msmith@robbinsvillepd.org  
 Employer Name: Robbinsville Police Department  
 Address: 120 Main Street City: Robbinsville State: KY Zip: 44399  
 SSN: 987-65-4321 Driver's License #: S44-123-456  
 Marital Status: Single  Married  Spouse's Name: \_\_\_\_\_  
 Dependents: Name(s): \_\_\_\_\_  
 Date Joined Dept.: January 1986 Date Terminated: Retired January 2011

### Education and Training:

Robbinsville High School, 1972

University of Kentucky, BS in Biology, 1978

Dept. of Criminal Justice Training, Eastern Kentucky University, Richmond, KY (18 weeks)

<u>Course</u>	<u>Score</u>
Driving	70%
Shooting	100%
Investigations	90%
Evidence Collections	85%
Interview and Interrogations	95%
Courtroom Testimony	100%

40 hours in-service annually since 1986

Qualified with Sidearm 4 times a year—twice in daylight and twice at night

Weapons Courses (at professional training schools):

- Gunsight Academy, 1992, 2005
- Front Sight Firearms, 1995, 2008
- Colorado Weapons Training, 1996
- American Small Arms Academy, 2000
- Beretta Training, 2003

### Commendations Received:

Mayor's Award for Valor – 1995 (Pulled citizen from burning car)

D.A.R.E. Law Enforcement Officer of the Year - 1992

Kentucky Domestic Violence Counsel Officer of the Year - 1997 (For Outstanding Contribution to the Detection and Prevention of Domestic Violence in the Commonwealth of Kentucky)

Chief's Commendation for Public Service - 2005 (“Shop with a Cop” program)

Chief's Commendation – 2010 (For efforts above and beyond the call of duty—using investigative knowledge, persistence and thoroughness in apprehending an armed robber of a gas station)

## Robbinsville Police Department Incident Report

Date of Incident May 6, 2001

Officer Morgan Smith stopped me for speeding. The officer asked me to get out of my vehicle. When I did not move as fast as the officer thought I should, I was grabbed by the hair of my head and jerked from my car. Officer Smith threw me to the ground, kicked me in the stomach, and said, "Don't say a word about this; I'll be watching you even when you think I'm not."

Susan Grayson

Name

May 7, 2001

Date

### FOR INTERNAL USE ONLY

Officer notified of complaint 5/7/01

Officer advised of rights 5/7/01

Interview conducted 5/9/01 at 13:00

Complainant notified 5/9/01

Investigation notes:

**I spoke with Officer Smith and related the substance of the allegation made by Susan Grayson. Officer Smith declined representation by counsel and denied the specifics of Ms. Grayson's complaint. Based on Officer Smith's exemplary record of service, this complaint is closed as unsubstantiated. Complainant notified by phone at 13:10.**

Casey Reardon

Chief, Robbinsville Police Department





Christy Rose <Christyrose@gmail.com>

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## This has got to end

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**From:** Smith, Morgan <morgansmith@gmail.com>

**Fri, July 22, 2011 at 11:49 PM**

**To:** "Christyrose@gmail.com" <Christyrose@gmail.com>

Christy, I can't understand why you keep calling me. You apparently told the judge and anyone else that would listen that you are afraid of me. I am tired of your games. You are not going to play on my emotions any more. If we are not together, I can't bear to see you with anyone else. I am so depressed and lonely I can't take it any more. This has got to end!!! I'm watching, even when you think I'm not. . . .

**COMMONWEALTH OF KENTUCKY  
ROBBINS CIRCUIT COURT  
CASE NO. 11-CR-256-1**

**COMMONWEALTH OF KENTUCKY**

**PLAINTIFF**

**VS.**

**JURY INSTRUCTIONS**

**MORGAN SMITH**

**DEFENDANT**

\* \* \* \* \*

**INSTRUCTION NO. 1**

Immediately upon retiring to the jury room, you shall select one of your number to be foreperson. All twelve jurors must agree on a verdict. The law presumes a Defendant to be not guilty of a crime and the indictment shall not be considered as evidence against the Defendant. You shall find the Defendant not guilty unless you are satisfied from the evidence alone, beyond a reasonable doubt, that the Defendant is guilty. The Commonwealth of Kentucky has the burden of proof and that burden does not shift to the Defendant during the trial.

**INSTRUCTION NO. 2**

**AUTHORIZED VERDICTS**

You shall find the Defendant not guilty under these Instructions unless you believe from the evidence beyond a reasonable doubt that the Defendant is guilty of one of the following offenses:

A. Murder under Instruction No. 4;

OR

B. First-degree manslaughter under Instruction No. 5;

OR

C. Second-degree manslaughter under Instruction No. 6 or Instruction No. 8 B (1);

OR

D. Reckless homicide under Instruction No. 7 or Instruction No. 8 B (2).

AND

E. Violation of a Emergency Protective Order or Domestic Violence Order under Instruction 11.

**INSTRUCTION NO. 3**

**DEFINITIONS**

**Intentionally**--A person acts intentionally with respect to a result or to conduct when his conscious objective is to cause that result or to engage in that conduct.

**Wantonly**—A person acts wantonly with respect to a result or to a circumstance when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

**Recklessly**—A person acts recklessly with respect to a result or to a circumstance when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The

risk must be of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

**Extreme Emotional Disturbance**—Is a temporary state of mind so enraged, inflamed, or disturbed as to overcome one’s judgment, and to cause one to act uncontrollably from the impelling force of the extreme emotional disturbance rather than from evil or malicious purposes. It is not a mental disease in itself, and an enraged, inflamed, or disturbed emotional state does not constitute an extreme emotional disturbance unless there is a reasonable explanation or excuse therefor, the reasonableness of which is to be determined from the viewpoint of a person in the Defendant’s situation under circumstances as the Defendant believed them to be.

**Serious Physical Injury**—Means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

**Physical Force**—Means force used upon or directed toward the body of another person.

**Deadly Physical Force**—Means force which is used for the purpose of causing death or serious physical injury or which the Defendant knows to create a substantial risk of causing death or serious physical injury.

#### **INSTRUCTION NO. 4**

##### **MURDER**

You will find the Defendant guilty of Murder under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following:

A. That in this county on or about August 2, 2011, and before the finding of the Indictment herein, the Defendant killed Christy Rose by shooting her with a handgun;

AND

B. That in so doing, the Defendant caused the death of Christy Rose intentionally and not while acting under the influence of extreme emotional disturbance;

AND

C. That he was not privileged to act in self-protection;

PROVIDED, HOWEVER, if you believe from the evidence beyond a reasonable doubt that the Defendant would be guilty of intentional Murder under Instruction No. 4B, except that you have a reasonable doubt as to whether at the time the Defendant killed Christy Rose, the Defendant was or was not acting under the influence of extreme emotional disturbance, you shall not find the Defendant guilty of Murder under Instruction No. 4B.

#### **INSTRUCTION NO. 5**

##### **FIRST-DEGREE MANSLAUGHTER**

If you do not find the Defendant guilty of Murder under Instruction No. 4, you will find the Defendant guilty of First-Degree Manslaughter under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following:

A. That in this county on or about August 2, 2011, and before the finding of the Indictment herein, the Defendant killed Christy Rose by shooting her with a handgun;

AND

B. That in so doing:

1. The Defendant intended to cause the death of Christy Rose;
- OR
2. The Defendant did not intend to kill Christy Rose, but intended to cause serious physical injury to Christy Rose;

AND

- C. That the Defendant was not privileged to act in self-protection.

#### **INSTRUCTION NO. 6**

#### **SECOND-DEGREE MANSLAUGHTER**

If you do not find the Defendant guilty under either Instruction No. 4 or Instruction No. 5, you will find the Defendant guilty of Second-Degree Manslaughter under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following:

- A. That in this county on or about August 2, 2011, and before the finding of the Indictment herein, the Defendant killed Christy Rose by shooting her with a handgun;

AND

- B. That in so doing, the Defendant was acting wantonly as that term is defined in Instruction No. 3.

AND

- C. That the Defendant was not privileged to act in self-protection.

#### **INSTRUCTION NO. 7**

#### **RECKLESS HOMICIDE**

If you do not find the Defendant guilty under Instruction No. 4 or Instruction No. 5 or Instruction No. 6, you will find the Defendant guilty of Reckless Homicide under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following:

- A. That in this county on or about August 2, 2011, and before the finding of the Indictment herein, the Defendant killed Christy Rose by shooting her with a handgun;

AND

- B. That in so doing, the Defendant was acting recklessly as that term is defined in Instruction No. 3;

AND

- C. That the Defendant was not privileged to act in self-protection.

#### **INSTRUCTION NO. 8**

#### **SELF-PROTECTION**

Even though the Defendant might otherwise be guilty of an offense described in Instruction No. 4, 5, 6, or 7, if at the time the Defendant killed Christy Rose (if s/he did so), the Defendant believed that Christy Rose was then and there about to use physical force against her/him, the Defendant was privileged to use such physical force against Christy Rose as the Defendant believed to be necessary in order to protect her/himself against it, but including the right to use deadly physical force in so doing only if the Defendant believed it to be necessary in order to protect her/himself from death or serious physical injury at the hands of Christy Rose.

**A. INITIAL AGGRESSOR QUALIFICATION**

Provided, however, if you believe from the evidence beyond a reasonable doubt that the Defendant was the initial aggressor in the use of physical force, the defense of self-protection is not available to the Defendant, unless:

1. The Defendant did not initially intend to cause death or serious physical injury to Christy Rose and the Defendant's physical force was not such that s/he thereby created and knew s/he was creating a substantial risk of death or serious physical injury to Christy Rose;

AND

3. The force returned or threatened by Christy Rose was such that the Defendant believed her/himself to be in imminent danger of death or serious physical injury.

**B. WANTON OR RECKLESS BELIEF QUALIFICATION:**

Provided further, however, if you believe from the evidence beyond a reasonable doubt that the Defendant was mistaken in her/his belief that it was necessary to use physical force against Christy Rose in self-protection, or in her/his belief in the degree of force necessary to protect her/himself,

AND

1. That when the Defendant killed Christy Rose, the Defendant was aware of and consciously disregarded a substantial and unjustifiable risk that s/he was mistaken in that belief, and that her/his disregard of that risk constituted a gross deviation from the standard of care that a reasonable person would have observed in the same situation, then if you would otherwise find the Defendant guilty of Murder under Instruction No. 4, or First-Degree Manslaughter under Instruction No. 5, you shall not find the Defendant guilty of that offense, but shall instead find her/him guilty of Second-Degree Manslaughter under this Instruction No. 8 B(1) and so state in your verdict.

OR

2. That when the Defendant killed Christy Rose, the Defendant failed to perceive a substantial and unjustifiable risk that s/he was mistaken in that belief, and this her/his failure to perceive that risk constituted a gross deviation from the standard of care that a reasonable person would have observed in the same situation, then, if you would otherwise find the Defendant guilty of Murder under Instruction No. 4, or First-Degree Manslaughter under Instruction No. 5, or Second-Degree Manslaughter under Instruction No. 6, you shall not find the Defendant guilty of that offense, but shall instead find the Defendant guilty of Reckless Homicide under this Instruction No. 8 B(2) and so state in your verdict.

**INSTRUCTION NO. 9**

**PRESUMPTION OF INNOCENCE**

The law presumes a defendant to be innocent of a crime and the Indictment shall not be considered as evidence or as having any weight against her/him. You shall find the Defendant not guilty unless you are satisfied from the evidence alone and beyond a reasonable doubt that the Defendant is guilty. If upon the whole case you have a reasonable doubt that the Defendant is guilty, you shall find the Defendant not guilty.

**INSTRUCTION NO. 10**

**VERDICT**

The verdict of the jury must be in writing, must be unanimous and must be signed by one of you as foreperson.

**INSTRUCTION NO. 11**

**COUNT II**

**VIOLATION OF EMERGENCY PROTECTIVE ORDER/DOMESTIC VIOLENCE ORDER**

You shall find the Defendant guilty of violating the emergency Protective Order and Domestic Violence Order entered against the Defendant on July 13, 2011, and served on the Defendant on July 22, 2011, if you believe beyond a reasonable doubt that in this county between July 22, 2011, and August 2, 2011;

- A. The Defendant came within 500 feet of Christy Rose
- OR
- B. The Defendant had contact or communication with Christy Rose
- OR
- C. The Defendant committed an act of abuse

**FORM VERDICT**

**COUNT I**

**NO. 1**

We, the jury, find the Defendant NOT GUILTY.

\_\_\_\_\_  
FOREPERSON

**NO. 2**

AS TO MURDER UNDER  
INSTRUCTION NO. 4

We, the jury, agree and find the Defendant guilty of  
Murder under Instruction No. 4

\_\_\_\_\_  
FOREPERSON

**NO. 3**

AS TO FIRST-DEGREE  
MANSLAUGHTER UNDER  
INSTRUCTION NO. 5

We, the jury, agree and find the Defendant guilty of  
First-Degree Manslaughter

\_\_\_\_\_  
FOREPERSON

**NO. 4**

AS TO SECOND-DEGREE  
MANSLAUGHTER UNDER  
INSTRUCTION NO. 6

We, the jury, agree and find the Defendant guilty of  
Second-Degree Manslaughter

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FOREPERSON

**NO. 5**

AS TO RECKLESS HOMICIDE  
UNDER INSTRUCTION NO. 7

We, the jury, agree and find the Defendant guilty of  
Reckless Homicide

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FOREPERSON

**NO. 6**

AS TO SECOND-DEGREE  
MANSLAUGHTER UNDER  
INSTRUCTION NO. 8 B(1)

We, the jury, agree and find the Defendant guilty of  
Second-Degree Manslaughter

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FOREPERSON

**NO. 7**

AS TO RECKLESS HOMICIDE  
UNDER INSTRUCTION NO. 8 B(2)

We, the jury, agree and find the Defendant guilty of  
Reckless Homicide

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FOREPERSON

**FORM VERDICT  
COUNT II**

We, the jury, find the defendant NOT GUILTY of Violation of a Emergency Protective Order or  
Domestic Violence Order.

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FOREPERSON

We, the jury find the Defendant GUILTY of Violation of a Emergency Protective Order or  
Domestic Violence Order.

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FOREPERSON