

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA**

**STATE OF FLORIDA,**

**v.**

**23-02935-CF**

**KOSOWSKI, TOMASZ**  
\_\_\_\_\_ /

**MOTION FOR A PROTECTIVE ORDER FOR  
ASSOCIATE COUNSEL OLIVIER LINDEMANN**

Attorney OLIVIER LINDEMANN, by and through undersigned counsel, hereby moves this Honorable Court for a protective order that testimony sought by the Defendant from Olivier Lindemann (“Lindemann”) not be had. In support of this motion and the relief requested, Olivier Lindemann states as follows:

1. Olivier Lindemann (hereinafter “Lindemann”) is an Associate Counsel working in the General Counsel’s Office of the Pinellas County Sheriff’s Office.
2. As part of his duties, Attorney Lindemann is tasked with representing the Pinellas County Sheriff’s Office and other law enforcement agencies in Risk Protection Orders (“RPO’s”) brought in Pinellas County.
3. Attorney Lindemann is not a sworn or certified law enforcement officer and is not a Pinellas County Sheriff’s Deputy.
4. Attorney Lindemann’s duties do not include conducting criminal investigations into the citizens of Pinellas County.
5. The Defendant, Tomasz Kosowski, is currently incarcerated at the Pinellas County Jail under case 23-02935-CF, wherein the Defendant is charged with one count of First-Degree Murder.

6. The Defendant was arrested in the above-styled case on March 26, 2023.
7. A temporary RPO was entered against the Defendant on March 28, 2023; with a final hearing calendared for April 5, 2023, under case 23-003300-IN.
8. A Joint Motion and Stipulation for Entry of Final RPO<sup>1</sup> was filed and entered on April 5, 2023, negating the need for a final evidentiary hearing to take place.
9. The stipulation to the final RPO was signed by Attorney Lindemann and Counsel for Defendant, Mr. Brunvand.
10. No hearing or live testimony was given to the court for the entry of the Final RPO in case 23-003300-IN.
11. The RPO against the Defendant expired on April 6, 2024.
12. As of the filing of this motion, there is no active RPO against the Defendant.
13. On or about December 30, 2024, Attorney Lindemann was contacted by Counsel for the Defendant wishing to set Attorney Lindemann for a deposition in the criminal case, 23-02935-CF.
14. At that time, Counsel for the Defendant explained that the testimony sought from Attorney Lindemann would be about the RPO process in general as well as how an RPO came to be against the Defendant in case 23-003300-IN.
15. The undersigned Counsel for Attorney Lindemann contacted Counsel for Defendant and explained that we would object to any testimony by Attorney Lindemann in the criminal case for the arguments set out below. Counsel for Defendant agreed to release Attorney Lindemann and not schedule his deposition at that time.

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<sup>1</sup> Counsel requests this court take judicial notice of the court filings in Pinellas County case 23-003300-IN, in which the motion and stipulation for entry of final RPO is docketed on April 5, 2023. Also attached as Exhibit A.

16. On February 25, 2025, Counsel for Attorney Lindemann received a copy of Defendant's Reciprocal Witness list<sup>2</sup> filed the same day, listing Attorney Lindemann<sup>3</sup> as a defense witness and Counsel requested that Attorney Lindemann be scheduled for a deposition on or about March 11, 2025<sup>4</sup>.

17. A search of the docket in case 23-02935-CF also shows a Notice of Taking Deposition<sup>5</sup> filed by Counsel for the Defendant and listing Attorney Lindemann as a deponent at 3:45pm on March 11, 2025 (via Zoom).

18. For the reasons set out below, any testimony by Attorney Lindemann would be inappropriate and inadmissible. As such, a protective order is not only appropriate but required.

#### MEMORANDUM OF LAW

In all criminal prosecutions, the accused has the right to have compulsory process for obtaining witnesses. FLA. CONST. art. I, § 16(a). However, that right is not unlimited.

#### **I. THE TESTIMONY SOUGHT BY DEFENDANT IS TANTAMOUNT TO EXPERT TESTIMONY AND AS SUCH THE OPINIONS ARE INADMISSIBLE.**

As mentioned above, Counsel for the Defendant are seeking to have Attorney Lindemann testify about the RPO process in general—a legal process directed under Florida Statute §790.401—as well as how a RPO came to be against the Defendant. RPO's are not part of a criminal prosecution and are by nature a civil legal process.

To have Attorney Lindemann testify as to the legal process of an RPO would be considered expert testimony. The testimony sought is unrelated to the criminal charge brought against the Defendant and, if allowed, would be an abuse of the trial court's discretion. "To be

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<sup>2</sup> Docketed February 25, 2025, in the above-styled cause. Also attached as Exhibit B.

<sup>3</sup> On the witness list Attorney Lindemann is referred to as "Oliver". It should be noted Attorney Lindemann's first name is Olivier.

<sup>4</sup> As of the filing of this motion, Attorney Lindemann has not been served with a subpoena for his testimony.

<sup>5</sup> Docketed February 26, 2025, in the above-styled cause. Also attached as Exhibit C.

admissible, expert testimony must concern a subject which is beyond the common understanding of the average juror and is such that it will aid the trier of fact in their search for truth.” Florida Power Corp. v. Barron, 481 So.2d 1309, 1310 (Fla. 2nd DCA 1986). Specifically, testimony or opinion on whether an accused is guilty or innocent is prohibited. Martinez v. State, 761 So.2d 1074 (Fla. 2000). While Attorney Lindemann is not expected to opine on the guilt of the Defendant, the only logical reasoning of the Defendant’s request is to seek the opinion of Attorney Lindemann as to the Defendant’s standing as a danger to himself or others as is contemplated by Florida Statute §790.401. Additionally, appellate courts have previously ruled that expert witnesses are not permitted to render an opinion that applies a legal standard to a set of facts and specifically states “[i]f a witness’ conclusion tells the trier of fact how to decide the case, and does not assist in determining what has occurred, then it is inadmissible.” Town of Palm Beach v. Palm Beach County, 460 So.2d 879, 882 (Fla. 1984). Such is exactly what is being requested by the Defendant of Attorney Lindemann when asked to apply a set of facts to the legal standard and process of an RPO, none of which would assist the jury in determining what occurred in the allegations against the Defendant.

Any argument that Attorney Lindemann would not be giving expert testimony, but lay witness testimony also fails to overcome the present necessity of an order for protection. Lay witnesses would not be permitted to testify to legal processes and standards as such knowledge and understanding requires particular training and knowledge.

## **II. THE TESTIMONY SOUGHT IS INADMISSIBLE AS ATTORNEY LINDEMANN IS NOT A FACT WITNESS.**

Attorney Lindemann, as stated above, is not a certified law enforcement officer. Attorney Lindemann is a licensed attorney within the State of Florida and works in a civilian capacity for the Pinellas County Sheriff’s Office. At no point during the pendency of this case did Attorney

Lindemann assist in the investigation, arrest, or prosecution of the Defendant. He does not have any first-hand knowledge of any facts relevant or material not only to the Defendant's murder case, but the RPO that the Defendant and his lawyer agreed to.

Pursuant to the Rules of Evidence and longstanding holdings of the Florida Supreme Court, Attorney Lindemann's lack of personal knowledge about any facts material to this case renders his testimony inadmissible. Fla. R. Evid. §90.604. See also Hayward v. State, 183 So.3d 286, 317 (Fla. 2015) ("Section 90.604 . . . provides that a witness may not testify to a matter unless sufficient evidence . . . is introduced to support a finding that the witness has personal knowledge of the matter."); Kennard v. State, 42 Fla. 581, 583 (Fla. 1900) (stating a witness must depose to facts within his knowledge, and cannot testify to mere matters of conjecture.).

Specifically, as in this case, "[w]here a witness has no personal knowledge of a matter, and the witness's knowledge is derived entirely from information given by another, the witness's testimony is incompetent and inadmissible as hearsay." Bryant v. State, 124 So.3d 1012, 1015 (Fla. 4th DCA 2013) (emphasis added). Any 'knowledge' of the above-styled case that Attorney Lindemann may have would be wholly based on information relayed to him by the law enforcement officer who initiated the RPO, contained in the offense report, law enforcement officer affidavit, or in any exhibits (such as witness statements, 911 calls, or body-worn camera footage) submitted by the initiating law enforcement officer.

As the Defendant, nor in fact any party of the criminal case, does not claim that Attorney Lindemann is a fact witness in the above-styled cause, Attorney Lindemann would be a non-witness, and a court is obligated to quash subpoenas for non-witnesses. State v. Domenech, 533 So. 2d 896, 896 (Fla. 3rd DCA 1988) (per curiam) ("Subpoenas issued at behest of defendants should have been quashed when witness' supposed testimony was affirmatively shown to bear no

legal pertinence whatever to issues in case, so it could not be of any potential assistance in legitimate defense of pending charges.”); Young v. Metropolitan Dade County, 201 So.2d 594, 596 (Fla. 3rd DCA 1967) (non-treating physician could not be required to render expert testimony where he “had absolutely no knowledge of the facts; had not agreed to render expert testimony... and had never examined or treated” the patient.); Kridos v. Vinskus, 483 So.2d 727, 731 (Fla. 4th DCA 1985) (detective subpoenaed to testify as an expert “may not willy nilly be compelled to testify purely because he is an expert, but only because he has information bearing directly on the case.”).

It is undisputed that Attorney Lindemann did not investigate this case. This can also be seen by the fact that Attorney Lindemann is not listed by the State in the above-styled cause. Had Attorney Lindemann been listed by the State, to comply with FL. R. Crim. P. 3.220(b)(1)(a), the state would have had to categorize Attorney Lindemann’s testimony into Category A, B, or C.

Category A witnesses include (1) eye witnesses, (2) alibi witnesses and rebuttal to alibi witnesses, (3) witnesses who were present when a recorded or unrecorded statement was taken from or made by a defendant or codefendant, which shall be separately identified within this category, (4) investigating officers, (5) witnesses known by the prosecutor to have any material information that tends to negate the guilt of the defendant as to any offense charged, (6) child hearsay witnesses, (7) expert witnesses who have not provided a written report and s curriculum vitae or who are going to testify, and (8) informant witnesses, whether in custody, who offer testimony concerning the statements of a defendant about the issues for which the defendant is being tried. FL. R. Crim. P. 3.220(b)(1)(A)(i).

It would be hard for anyone to dispute the Attorney Lindemann is most obviously not someone who could be considered a Category A witness in the case against the Defendant.

Jumping to Category C, these witnesses include all who performed only ministerial functions or whom the prosecutor does not intend to call at trial and whose involvement with and knowledge of the case is fully set out in a police report or other statement furnished to the defense. FL. R. Crim. P. 3.220(b)(1)(A)(iii).

Similarly, it should be undisputed that Attorney Lindemann is not a Category C witness against the Defendant as Attorney Lindemann had zero involvement in the criminal investigation and prosecution against the Defendant.

Finally, Category B witnesses are all witnesses not listed under Category A or C. FL. R. Crim. P. 3.220(b)(1)(A)(ii). For the sake of arguing that Attorney Lindemann would be considered a Category B witness, FL. R. Crim. P. 3.220(h)(1)(B) governs when their depositions may be taken by mandating that “no party may take the deposition of a witness listed by the prosecutor as a Category B witness except upon leave of the court with good cause shown. In determining whether to allow a deposition, the court should consider the consequences to the defendant, the complexities of the issues involved, the complexity of the testimony of the witness (e.g., experts), and the other opportunities available to the defendant to discover the information sought by the deposition.”

In this case, any information held by Attorney Lindemann would have been told to him by the very witnesses listed on the State’s witness list as Category A witnesses, all of whom the Defendant has a right to depose.<sup>6</sup>

*[Remainder of page intentionally left blank]*

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<sup>6</sup> Counsel, in fact, suspects that most, if not all these Category A witnesses have already been deposed by the Defense.

WHEREFORE, for the reasons stated above, while Attorney Lindemann has not yet been served with a subpoena for deposition in the case, counsel respectfully requests the Court enter a protective order prohibiting the testimony sought from Attorney Lindemann from being had.

Respectfully submitted,

/s/ Emily K. VanOosting

Emily K. VanOosting

Associate General Counsel

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[evanoosting@psonet.com](mailto:evanoosting@psonet.com)

Attorney for Pinellas County Sheriff's Office

#### **CERTIFICATE OF SERVICE**

I certify that on February 28, 2025, I electronically filed the foregoing with the Clerk of the Court through the Florida Courts E-Filing Portal and which will send notice of electronic filing to State Attorney's Office, 14250 49<sup>th</sup> Street North, Clearwater, FL 33762, at [SA6eservice@co.pinellas.fl.us](mailto:SA6eservice@co.pinellas.fl.us), and Bjorn Brunvand, Counsel for the Defendant, 615 Turner Street, Clearwater, FL 33756, at [bjorn@acquitter.com](mailto:bjorn@acquitter.com).



IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,  
IN AND FOR PINELLAS COUNTY, FLORIDA

PINELLAS COUNTY SHERIFF'S OFFICE,  
Petitioner,

Case No.:23-003300-IN

v.

Division: 003

TOMASZ KOSOWSKI,  
Respondent.

**JOINT MOTION AND STIPULATION FOR ENTRY OF  
FINAL RISK PROTECTION ORDER**

Comes now, Petitioner, PINELLAS COUNTY SHERIFF'S OFFICE, and Respondent, name, by and through their undersigned counsels, jointly move this Court for entry of a Final Risk Protection Order, based on the evidence stipulated herein and state:

1. Respondent has requested that a Final Hearing not be held and is in agreement that if a Final Hearing were held, Petitioner would establish by clear and convincing evidence the following:
  - (1) the Respondent engaged in a recent act or threat of violence against themselves or others;
  - (2) the Respondent engaged in an act or threat of violence, including but not limited to acts or threats of violence against themselves, within the past 12 months;
  - (3) the Respondent may be seriously mentally ill or may have recurring mental health issues;
  - (4) the Respondent has violated a risk protection order or no contact order issued under section(s) 741.30, 784.046, or 784.0485, Florida Statutes;
  - (5) the Respondent is the subject of a previous or existing risk protection order;
  - (6) the Respondent has violated a previous or existing risk protection order;

- (7) the Respondent has been convicted of, had adjudication withheld on, or pled *nolo contendere* in Florida or in any other state to a crime that constitutes domestic violence as defined in s. 741.28, Florida Statutes;
- (8) the Respondent has used, or threatened to use, against themselves or others, any weapons;
- (9) the Respondent has unlawfully or recklessly used, displayed, or brandished a firearm;
- (10) the Respondent has used, or threatened to use on a recurring basis, physical force against another person or has stalked another person;
- (11) the Respondent has been arrested for, ~~convicted of, had adjudication withheld, or pled *nolo contendere* to~~ a crime involving violence or a threat of violence in Florida or in any other state;
- (12) the Respondent, based on corroborated evidence, has abused or is abusing controlled substances or alcohol;
- (13) the Respondent has recently acquired firearms or ammunition;

2. Respondent stipulates to entry of a Final Risk Protection Order and understands the following will result from that Order:

**RESPONDENT IS HEREBY ORDERED TO SURRENDER IMMEDIATELY TO LAW ENFORCEMENT ALL FIREARMS AND AMMUNITION THAT THEY OWN OR HAVE IN THEIR CUSTODY, CONTROL, OR POSSESSION AND ANY LICENSE TO CARRY A CONCEALED WEAPON OR FIREARM ISSUED UNDER S. 790.06, FLORIDA STATUTES. RESPONDENT MAY NOT HAVE IN THEIR CUSTODY OR CONTROL, OR PURCHASE, POSSESS, RECEIVE, OR ATTEMPT TO PURCHASE OR RECEIVE, A FIREARM OR AMMUNITION WHILE THIS ORDER IS IN EFFECT.**

**A person who has in his or her custody or control a firearm or any ammunition or who purchases, possesses, or receives a firearm or any ammunition with knowledge that they are prohibited from doing so by court order commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.**

**Respondent has the sole responsibility to refrain from violating this order. Only a judge can change the order and only upon written request.**

THIS FINAL RISK PROTECTION ORDER shall be in effect until **Saturday, April 6, 2024**, unless extended or vacated, pursuant to section 790.401, Florida Statutes.

**Petitioner is hereby noticed that this Final Risk Protection Order will last until the date noted above. The Petitioner may, by motion, request an extension of this order at any**

**time within 30 days before the end of the order.**

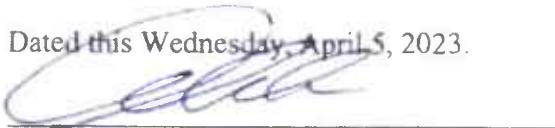
To the subject of this protection order: This order will last until the date noted above. If you have not done so already, you must surrender immediately to the PINELLAS COUNTY SHERIFF'S OFFICE all firearms and ammunition that you own in your custody, control, or possession and any license to carry a concealed weapon or firearm issued to you under section 790.06, Florida Statutes. You may not have in your custody or control, or purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect. You have the right to request one hearing to vacate this order, starting after the date of the issuance of this order, and to request another hearing after every extension of the order, if any. You may seek the advice of an attorney as to any matter connected with this order.

Respondent and/or Respondent's attorney may file a written request to vacate this order pursuant to s. 790.401(6), Florida Statutes, with the Clerk of the Circuit Court located at the Pinellas County Justice Center, 14520 49<sup>th</sup> St. N., Clearwater, FL 33762.

3. Counsel for Petitioner and Respondent represent that Respondent appears to understand the consequences of this Stipulation to Entry of Final Risk Protection Order. Counsel for Petitioner and Respondent represent they have no knowledge of any facts or circumstances that would indicate Respondent has not knowingly and voluntarily entered into this Stipulation for Entry of Final Risk Protection Order.
4. Petitioner is ready, willing and able to proceed with the Final Hearing as scheduled. However, the parties are requesting the entry of a Final Risk Protection Order to alleviate the need for the hearing and to stipulate to the conclusions as set forth above.

WHEREFORE, the parties jointly request that the Court enter a Final Risk Protection Order.

Dated this Wednesday, April 5, 2023.

  
Olivier Lindemann FBN: 0036042  
Attorney for Petitioner  
PINELLAS COUNTY SHERIFF'S OFFICE  
10750 Ulmerton Rd., Largo, FL 33778  
[olindemann@pcsonet.com](mailto:olindemann@pcsonet.com)  
(727) 582-6059

  
Bjorn Erik Bruvand  
Attorney for Respondent  
615 Turner Street  
Clearwater, FL 33756  
[bjorn@acquitter.com](mailto:bjorn@acquitter.com)  
(727) 446-7505

s/Tomasz Kosowski

*Tomasz Kosowski*

Respondent

04/04/2023

Date

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA

23-02935-CF

v.

CAPITAL MURDER

TOMASZ ROMAN KOSOWSKI \_\_\_/

**RECIPROCAL WITNESS LIST**

Defendant, Tomasz Roman Kosowski, by and through his undersigned counsel, hereby submits the following list of witnesses he may call to testify in hearings or at the trial in this cause:

Any and all witnesses listed now or in the future on the State's witness list, and the following:

1. Oliver Lindeman  
PCSO
2. Mark Sapino  
Tarpon Springs Police Department
3. David Villanueva  
PCSO

Respectfully Submitted,

*s/Bjorn E. Brunvand*

BJORN E. BRUNVAND, ESQ.

Counsel for the Defendant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished electronically to the Office of State Attorney, Sixth Judicial Circuit of Florida, Clearwater, Florida, this 25<sup>th</sup> day of February 2025.

*s/Bjorn E. Brunvand*

\_\_\_\_\_  
BJORN E. BRUNVAND, ESQ.

BRUNVAND & WISE

LAW GROUP

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\_\_\_\_\_  
Florida Bar No. 831077

Counsel for the Defendant

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA**

STATE OF FLORIDA

v.

23-02935-CF

TOMASZ KOSOWSKI /

**NOTICE OF TAKING DEPOSITION**

PLEASE TAKE NOTICE that on **Tuesday, March 11, 2025**, from **9:00 A.M.** until **4:30 P.M.**, the deposition of the following witness will be held over **Zoom**, before a member of **Verbatim Court Reporting, Inc.**, or before some other person duly authorized to administer oaths, not of counsel to either of the parties or interested in the event of the cause:

| <u>Time</u>       | <u>Name</u>            | <u>Report #</u> |
|-------------------|------------------------|-----------------|
| 9:00 A.M.         | Nicole Hadley (Expert) | LA23-2583       |
| <b>12:00 P.M.</b> | <b>BREAK</b>           |                 |
| 1:00 P.M.         | Mark Sapino            | TS23-7856       |
| 1:30 P.M.         | Heather Legg (Expert)  | LA23-2583       |
| 3:30 P.M.         | Major Scott Gore       | LA23-2583       |
| 3:45 P.M.         | Oliver Lindemann       |                 |

by oral examination for purposes of discovery or evidence, or for such other purposes as are permitted under the applicable and governing rules. Depositions of law enforcement officers are taken pursuant to Florida Rule of Criminal Procedure 3.220(h)(5). The Zoom connection information follows:

**Join Zoom Meeting**

<https://us02web.zoom.us/j/85386614674>

**Meeting ID: 853 8661 4674**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished electronically to [eservice@flsa6.gov](mailto:eservice@flsa6.gov), the Office of the State Attorney, this 26th day of February 2025.

*s/Bjorn E. Brunvand* \_\_\_\_\_

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