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SUPERIOR COURT
THURSTON COUNTY, WA

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Linda Myhre Enlow
Thurston County Clerk

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17-1-01640-34

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ADPC 2
Affidavit of Probable Cause
1792891



**SUPERIOR COURT OF WASHINGTON
THURSTON COUNTY**

STATE OF WASHINGTON,

Plaintiff,

NO: 17-1-01640-34

vs.

NICHOLAS BRANDON LUND,

Defendant

**DECLARATION OF PROSECUTOR
SUPPORTING PROBABLE CAUSE**

JOSEPH F. WHEELER, Deputy Prosecuting Attorney for Thurston County, declares the following in support of probable cause for charges in the above-entitled cause:

I am a Deputy Prosecuting Attorney for Thurston County, Washington. I believe that there is probable cause to believe that the above named defendant has committed the crime(s) of ASSAULT IN THE SECOND DEGREE – DEADLY WEAPON/DOMESTIC VIOLENCE based on the following information from the official investigative reports:

On September 11, 2017, at approximately 0940 hours, in Thurston County, Washington, Deputy Kimball contacted Heather Lund in regards to a clear domestic disturbance. Heather advised that she had a physical altercation with her husband, Nicholas Lund, nine days prior. Heather stated she has been married to Nicholas for approximately six years. They have two children and all four live together. Heather and Nicholas both have anger problems and have had several domestic disturbances, which were reported in Pierce County. Both Nicholas and Heather have been arrested for domestic related crimes, and Heather stated she has PTSD from the past experiences.

On September 2, 2017, Heather had another domestic disturbance with Nicholas. The disturbance started as a verbal argument and Nicholas gave Heather some type of physical threat that upset Heather and brought back her PTSD. Heather became angry and her immediate response to the threat was to say, "Well I'll just kill you. Get the gun!" Nicholas became more irate. Nicholas walked away and came back with a small silver .38 caliber handgun. Nicholas waived the gun around and asked Heather, "You want to murder suicide this?" Nicholas pointed the gun at Heather as she was leaning on the couch. Nicholas walked up to Heather and pushed the barrel of the gun into the inside of Heather's right forearm. Heather feared for her life and she tried to pull away from Nicholas. Nicholas wrapped his arms around Heather and held her in place while she attempted to struggle away. Eventually Nicholas let go of Heather. Heather's mother, Diane Conatser, was in the hallway during the incident, protecting the children in the back bedroom. Once Nicholas let go of Heather she ran to her mother. Nicholas continued to waive the gun around and yell at Heather. Nicholas then went outside and left in a vehicle, taking the gun with him.

Heather claimed she had a bruise/welt on her right forearm from the gun barrel, but it was not obviously visible upon inspection. Heather was also adamant that the gun was loaded. According to Heather, the gun was always left loaded for home security. Heather stated she waited nine days to call law enforcement because she hoped Nicholas would get better and she did not want him to get in trouble. However, during the evening of September 10, 2017, Nicholas and Heather had another verbal argument. No threats or assaults were alleged this time, but during the incident Nicholas kicked Heather out of the house and would not let her back in. Nicholas also told Heather she would never see her children again. Heather walked around Yelm all night with nowhere to go. During the night, Heather spoke to a transient

DECLARATION OF PROSECUTOR SUPPORTING PROBABLE CAUSE

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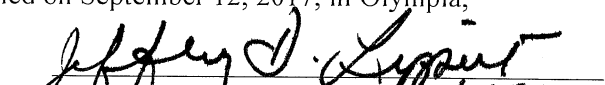
1 who talked her into reporting the incident. On the morning of September 11, 2017, Heather decided it was
2 time to have this incident documented so she would not lose her children.

3 Nicholas agreed to meet and make a statement. He provided that he and Heather had a long
4 history of domestic disputes. On September 2, 2017, Nicholas and Heather had a verbal argument.
5 Nicholas left to calm down. A short while later, Nicholas received a text message and a photo from
6 Heather. The picture showed a pile of Nicholas' clothing, which was scattered on the ground outside.
7 There was also a bottle of bleach lying on the clothing. The text read, "For thinking u can fucking yell at
8 me." Nicholas called Diane and informed her of what Heather was doing. Nicholas begged Diane to go
9 talk to Heather and stop her from committing the same crime she was arrested for last time. Nicholas sat
10 down the street and waited for Diane to arrive. Nicholas saw Diane go by and he waited a few minutes
11 before he went to the house. When Nicholas arrived he saw his clothing was still lying in the front yard
12 with white bleach spots on them. Nicholas remained on the outside of the fence as Heather came out on
13 the porch. Nicholas and Heather had another verbal argument. During the heat of the moment Nicholas
14 stated, "This is why men beat women." Heather took a step back towards the front door and said, "I might
15 just kill you with your own gun." Heather had a smile on her face. Nicholas became even more upset and
16 ran around the fence. Nicholas feared that since Heather had smiled and took a step towards the door that
17 she might actually follow through with the threat. Nicholas said, "You're not gonna fucking kill me with
18 my own gun." Nicholas ran into the house and grabbed the gun in the kitchen. While in the house,
19 Nicholas noticed that Diane was in the back bedroom with the kids. Heather followed Nicholas into the
20 house. Nicholas grabbed the gun and held it by the barrel. Nicholas brought the gun up to his forehead
21 with such force that he accidentally struck himself in the forehead. Nicholas walked towards Heather with
22 the barrel pointed to his forehead still. Nicholas yelled to Heather, "If you're going to kill me, kill me in
23 front of our kids." Heather put her hands up and Nicholas walked closer to Heather. Nicholas began to
beg Heather to shoot him. Nicholas was so close he almost put the gun handle in Heather's chest, but he
was adamant he never touched Heather. Nicholas then pulled the gun away, with the barrel still in his
hand (the barrel was now facing the ceiling). At that time Diane came out of the back bedroom and saw
Nicholas holding the gun by the barrel. Nicholas turned around and walked out of the house. While
walking out the door, Nicholas heard Diane say, "Call 911." Nicholas spun around and said, "Call 911 on
me? She is the one threatening to kill me." Nicholas then got in his car and left.

Nicholas was adamant that there was no physical touching between him and Heather. Nicholas
was also adamant that he never pointed the gun at anybody but himself. Nicholas became upset when
Heather threatened to kill him, because she had threatened to kill him before. Two weeks prior Heather
threatened to slit Nicholas' throat while he was asleep. At first Nicholas did not believe the threat, but as
time progressed he began to believe it. For the last couple of weeks Nicholas had slept outside or in his
car to avoid Heather. When Heather threatened his life again he became more upset because he was tired
of being threatened. Nicholas also advised that he sold the handgun in question a few days ago to a co-
worker who was a long haul trucker. The trucker might not be in the area, but Nicholas stated he could try
and buy the gun back if he needed too.

Heather was re-contacted about the threat to slit Nicholas' throat two weeks ago. Heather said she
did say that, but she never actually intended on following through with it. Heather also admitted to putting
bleach on Nicholas' clothing. Heather advised that she started making the death threats to Nicholas in an
attempt to protect herself. Heather had been abused and threatened by Nicholas for so long, that Heather
felt if she made her threats more serious than his, he might leave her alone.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing
is true and correct to the best of my knowledge. Signed on September 12, 2017, in Olympia,
Washington.


JOSEPH F. WHEELER #5991
Deputy Prosecuting Attorney, WSBA # 16936

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