



Written by [Bob Adelman](#) on January 21, 2020

Judge Denies Red Flag Demand Because Petitioner Lied

Chief Judge Stephen Howard in Fort Collins, Colorado, last Thursday denied a “red flag” (aka “extreme risk protection order,” or ERPO) petition from Susan Holmes against a police officer because she lied on the form. It was the fifth petition to be filed since January 1, when Colorado’s new “red flag” law became effective.



Holmes thought she could use the new law to punish the police officer who shot and killed her son in self-defense in 2017. She’s been carrying a grudge ever since.

Back in 2017, Susan, the mother of 19-year-old Jeremy, called the police because Jeremy was threatening to kill his brother. When Colorado State University (CSU) police officer Phillip Morris and his partner confronted Jeremy, they demanded that he put down the knife he was brandishing. The video from the body cam Morris was wearing can be viewed [here](#). In a span of less than two minutes, Morris demanded that Jeremy put down his knife more than 30 times. Jeremy can be heard saying that he didn’t want to live and asking the officers to shoot him. When Morris started to reholster his sidearm in order to access his Taser, Jeremy ran toward Morris. Four rounds were fired by the officers, and Jeremy was dead.

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Ever since then, Susan Holmes has had a vendetta against police and took advantage of Colorado’s new “red flag” law to gain vengeance against Morris. She had to lie to do it, and Judge Howard uncovered the lies and tossed her petition. Morris remains active as an officer for CSU following a period of great uncertainty.

In order to skirt the requirements of the new law that “anyone with a child in common” can petition the court to order the removal of lawfully owned firearms without the victim being charged with a crime, Holmes declared on the petition that she and Morris “had a child in common” — presumably Jeremy. She expanded on the form claiming that Morris “used his firearm to recklessly and violently threaten and kill 19-year-old Jeremy Holmes.” She further added that Morris was “a credible threat of ... the unlawful reckless use of a firearm.... There have been a pattern of acts or credible threats of violence by [Morris] in the last year, including but not limited to acts or credible threats of violence against [him]self or others.” She reached still further, claiming in her petition against Morris that it is “unknown but possible” that he might have been convicted of a domestic violence offense in the past, accusing him of “ongoing violence and aggression from 2013-2018.”

Larimer County Sheriff Justin Smith said that Holmes’ petition had “zero merit,” adding, “I have not and will not be serving that petition, not because it’s against a police officer, but because it is a fraud.” His office is “actively investigating” the abuse of the law to determine what charges may be brought against Holmes.

When Holmes showed up for the hearing a week after she filed the petition, she provided no evidence



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and the petition was denied.

From the beginning, critics of red flag laws have warned about their potential abuse by people such as Holmes seeking to harass, intimidate, and punish perceived enemies who legally own firearms without having to charge them with a crime. ERPOs avoid the necessity of conforming to the U.S. Constitution's Fourth, Fifth and 14th Amendments. These guarantee "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures ... and no warrants shall issue but upon probable cause." They further mandate that no person shall be "deprived of life, liberty or property without due process of law."

Red flag laws have turned these guarantees on their heads, as explained by Raheem Williams. Writing for the Foundation of Economic Education, Williams noted:

Proponents of red flag laws argue due process is respected by allowing the deprived to appeal to the courts to reinstate their rights. However, this backward process would imply that the Second Amendment is a privilege, not a right. Furthermore, state agents finding cause for a warrant and subsequently seizing private property while denying access to a constitutional right seem to be a perfect setup for a kangaroo court system. There is a serious risk that citizens found guilty of nothing and charged with no crime will be paying expensive fees to petition the courts to restore what should be their constitutionally guaranteed rights. Such concerns aren't just wild superstitions.

Our nation's history of the corrupt process of civil asset forfeiture gives ample reason to believe the aforementioned outcome is more likely than not.

In this case, Judge Howard correctly denied Holmes' petition. But what's to keep others from seeking retribution and revenge through the use of illegal and unconstitutional red flag laws?

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