

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE,
AT CHATTANOOGA

FILED

2010 JUL 16 A 8:54

U.S. DISTRICT COURT
EASTERN DIST. TENN.

DEPT. CLERK

ROY L. DENTON,
Plaintiff

v.

STEVE RIEVLEY,
in his individual capacity
Defendant

*
*
*
*
*
*
*
*
*
*

Case No. 1:07-cv-211

Judge: *Collier/ Carter*

JURY DEMAND

PLAINTIFF ROY L. DENTON'S MOTION FOR JUDICIAL NOTICE

Comes now, Plaintiff Roy L. Denton, *pro se*, and hereby makes motion that this Court take judicial notice under *Federal Rule of Evidence 201* of certain exhibits as set forth herein, and he respectfully shows the Court the following:

II. LAW AND ARGUMENT

Federal Rule of Evidence 201 allows a court to take judicial notice of adjudicative facts not subject to reasonable dispute in that they are "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." FED. R. EVID. 201(b)(2); *LaSalle Nat'l Bank v. First Conn. Holding Group, L.L.C.*, 287 F.3d. 279, 290 (3d Cir. 2002). Judicial notice is mandatory when (1) properly requested by a party and (2) the party supplies the court with the necessary information. FED. R. EVID. 201(d).

The hereinafter exhibits are documents filed within this instant lawsuit of which each adjudicative fact is requested to be judicially noticed, as a matter of law. Each exhibit is a

document the existence of which is “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” FED. R. EVID. 201(b)(2). As such, the existence of such documents is properly the subject of judicial notice and should be granted.

The hereinafter exhibits 1 thru 16 are filed by either the defendant or by the plaintiff and are a matter of record in this instant lawsuit. Court records have been generally recognized to be “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned,” and, as such “courts routinely take judicial notice of documents filed in other courts, not for the truth of the matters asserted in the other litigation, but rather to establish the fact of such litigation and related filings.” *Kramer v. Time Warner, Inc.*, 937 F.2d 767, 774 (2d Cir. 1991). Therefore, court records of this instant lawsuit, just as for records of other courts, are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned”. Exhibit 17 below, is a publication that is “readily available online” and as such, is therefore ripe for judicial notice.

Moreover, courts have consistently taken judicial notice of the existence of information that is readily available on the world wide web. For example, in *Selkridge v. United of Omaha Life Ins.*, the Third Circuit took judicial notice of the existence of a letter-to-the-editor of an online publication that was published on that online publication. 360 F.3d 155, 162 n.5 (3d Cir. 2000); *see also In re Vicuron Pharm., Inc. Sec. Litig.*, 2005 WL 2989674, at * 3 n.5 (E.D. Pa. July 1, 2005) (Bartle, J.) (taking judicial notice of product labeling for prescription drug “as it appears on the website of Merck & Co., Inc.”); *U.S. v. Gentiva Health Servs., Inc.*, 2003 U.S. Dist. LEXIS 20690 at *11 n.3 (W.D. Pa. Nov. 4, 2003) (Caiazza, J.) (taking judicial notice of instructions for completion of an insurance application because the instructions were available online and, as such, “capable of accurate and ready determination by resort to sources whose

accuracy cannot reasonably be questioned”). Because Exhibit 17 is readily available online at the web site set forth below, the existence is “*capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.*” FED. R. EVID. 201(b)(2). Therefore, the Court should take judicial notice of this “readily available” online document.

I. NOTICE REQUESTS

The following Exhibits 1 through 16, are true, factual and accurate representations, all of which are filed, entered and/or otherwise referenced in this instant lawsuit. Exhibit 17 is online material provided by the *Tennessee Coalition against Domestic & Sexual Violence* and that the content of such communications at issue here involve a matter of public interest and reflect current established Tennessee law. Each of these exhibits are referenced as follows:

1. Defendant Steve Rievley was not dispatched to Roy L. Denton’s home located at 120 6th., Ave., Dayton, TN. *See Court Doc. No. 21-2.*
2. Defendant Steve Rievley was dispatched to the Rhea County jail at 1:39 a.m. *See Court Doc. No. 21-3.*
3. Defendant Steve Rievley arrived at the Rhea County jail at 1:40 a.m. *See Court Doc. No. 21-3.*
4. Defendant Steve Rievley had a “*reasonable suspicion*” to believe that Brandon Denton, son of Roy L. Denton and brother of Dustin B. Denton, had been the victim of a domestic assault and that Plaintiffs had committed the offense of domestic assault against Brandon Denton. *See Court Doc. No. 4.*
5. Defendant Steve Rievley left the Rhea County jail and drove from the jail to Roy L. Denton’s residence. *See Court Doc. No. 21-2.*
6. Defendant Steve Rievley did not have a warrant. *See Court Doc. No. 21-2.*
7. Defendant Steve Rievley arrived at Mr. Denton’s home at 2:13 a.m. *See Court Doc. No. 21-3.*
8. Defendant Steve Rievley entered Mr. Denton’s home without a warrant. *See Court Doc. No. 21-2.*

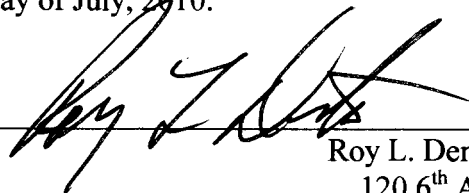
9. Defendant Steve Rievley arrested Roy L. Denton 4 minutes after his arrival at 2:17 a.m. *See Court Doc. No. 21-3.*
10. Roy L. Denton arrived at the jail at 2:18 a.m. *See Court Doc. No. 21-3.*
11. In a sworn affidavit, Steve Rievley stated, “**We arrived at 2:13 a.m. Roy came to the door and I asked him what had happened with his son. He would not answer me.**” *See Affidavit of Complaint; Court Doc. No. 21-3.*
12. In a sworn affidavit, Steve Rievley stated, “**When I arrived at the Denton household, I walked to the door... I asked Roy L. Denton if he had a son named Brandon. Roy L. Denton replied that he did not.**” *See Affidavit of Steve Rievley; Court Doc. No. 29-2, ¶15, 16.*
13. In a sworn affidavit, Steve Rievley stated, “I have been instructed as to the provisions of the Tennessee Domestic Abuse statutes, codified at Tennessee Code Annotated 39-3-619, *et seq.*”
14. Steve Rievley submitted into the record a handwritten statement of Brandon Denton which names “**multiple persons**” and alleging multiple allegations against “**multiple persons**”. *See Court Doc. No. 61-1.*
15. In a sworn affidavit, Steve Rievley stated, “Gerald Brewer, a Rhea County police officer, and I went into the Denton house **in search** of Dustin Denton.” *See Court Doc. No. 29-2, ¶19.*
16. In a sworn affidavit, Steve Rievley stated, “I took Dustin with me as **I collected Brandon Denton’s personal belongings.**” *See Court Doc. No. 29-2, ¶19.*
17. *State of Tennessee Domestic Violence Law Enforcement Model Policy Statement*, available at <http://www.tcadv.org/benchbook/2007%20benchbook/8LawEnfPolicy.pdf>.

CONCLUSION AND PRAYER

For the reasons set forth above, Plaintiff Roy L. Denton requests that the Court take judicial notice of Exhibits 1 through 17 as referenced, and to grant the plaintiff such other and further relief to which he may be entitled.

Respectfully submitted this 15th day of July, 2010.

BY: _____



Roy L. Denton
120 6th Ave.
Dayton, TN 37321
423-285-5581

CERTIFICATE OF SERVICE

The undersigned hereby certifies that an exact copy of this document has been served upon all parties of interest in this cause by placing an exact copy of same in the U.S. Mail addressed to such parties, with sufficient postage thereon to carry same to it's destination, on this 16th day of July, 2010.



Roy L. Denton

Copy mailed to:

Ronald D. Wells, BPR# 011185
Suite 700 Republic Centre
633 Chestnut Street
Chattanooga, TN 37450
Phone:423-756-5051