

FILED

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

2010 AUG 18 A 11:14

U.S. DISTRICT COURT  
EASTERN DIST. TENN.

ROY L. DENTON,  
*Plaintiff*

v.

STEVE RIEVLEY,  
*in his individual capacity*  
*Defendant*

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Case No. 1:07-CV-211

BY \_\_\_\_\_ DEPT. CLERK

Chief Judge Curtis L. Collier

**JURY DEMAND**

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**PLAINTIFF'S REQUEST TO EXCLUDE WITNESSES AND TO EXPAND RULE 615  
TO KEEP WITNESSES SEPERATED AFTER TESTIFYING**

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Comes now, the plaintiff Roy L. Denton, *pro se*, pursuant to *Federal Rules of Evidence* Rule 615 and respectfully moves this court to require and order all witnesses expected to testify in the upcoming trial for this matter scheduled August 23, 2010 to be excluded from the court room so that any such witness cannot hear the testimony of other witnesses.

Additionally, the plaintiff moves the court to use it's discretion and expand Rule 615 to include requiring every witness at the conclusion of their testimony, to remain inside the courtroom or be placed in some other room under court officer supervision to inhibit any communication between a witness that has testified and a witness awaiting to testify.

In support of this motion, the plaintiff submits the following:

Separation of witnesses during a trial has been deemed "one of the greatest engines that the skill of man has ever invented for the detection of liars in a court of justice."<sup>1</sup>

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<sup>1</sup> John Henry Wigmore, *A Treatise on the Anglo-American System of Evidence in Trials at Common Law* vol. 6, § 1838, 463 (Little Brown and Co. 1976).

“In sum, the rule demarcates a compact procedural heartland, but leaves appreciable room for judicial innovation beyond the perimeters of that which the rule explicitly requires. . . . And as the courts have indicated, “if appellants desired a more vigorous sequestration regime, such as an edict that would have banned cohabitation or other contact amongst prisoner-witnesses, they had a duty to ask for it. They failed to do so.” *U.S. v. Sepulveda*, 15 F.3d 1161, 1176-77 (1st Cir. 1993); *U.S. v. Solorio*, 337 F.3d 580, 592 (6th Cir. 2003).

It appears that although Rule 615 is somewhat self explanatory in it’s terminology, the Rule can only be fairly enforced when its scope is extended to ***all communications between witnesses, both inside and outside the courtroom***. This safeguard is necessary because once jurors are exposed to false testimony, it is impossible to expunge it from their minds.

The text of the codified rule indicates a narrow scope because the Rule defines the exclusion of witnesses as applying to the “testimony of other witnesses”.<sup>2</sup> Because testimony only takes place in the courtroom, Rule 615 does not acknowledge communication among witnesses outside of the courtroom where witnesses are not hearing courtroom testimony. Therefore, the majority of sequestration orders involve placing the witnesses in a room separate from the courtroom and under the supervision of an officer who controls their departure and their conversations.<sup>3</sup>

However, the plaintiff feels that there is no need for such complexity to involve “separate rooms with officer supervision” but just a simple order requiring for the witness remaining inside the courtroom at the completion of the witness’ testimony. Such separation would ensure that a witness cannot testify then go outside the courtroom and discuss his testimony with witnesses

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<sup>2</sup> Charles Alan Wright & Victor James Gold, *Federal Practice & Procedure* Ch. 7, § 6243 (West 2004).

<sup>3</sup> Wigmore, *supra* n. 1, at § 1840(4).

awaiting to be summoned to come inside the courtroom to give their testimony from their own recollection, without influence or any refreshing or inducements from other witnesses who already had testified, and to communicate what they testified to. See *U.S. v. Smith*, 578 F.2d 1227, 1235 (8th Cir. 1978) (holding that the sequestration order was limited to the exclusion of witnesses from the courtroom, ***but the question of whether or not to instruct segregated witnesses concerning communications with other witnesses after they have testified is within the court's discretion.***) — (emphasis added)

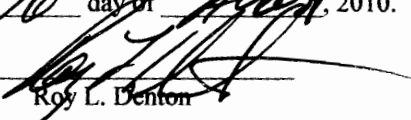
Therefore, for the reasons herein stated, the plaintiff moves to invoke Rule 615 and separate each witness or potential witness in this matter, and further, the plaintiff prays this court expand the Rule to instruct the witnesses to remain inside the courtroom once the witness had finished with their testimony.

Respectfully submitted this 16<sup>th</sup> day of August, 2010.

  
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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 its destination, on this 16<sup>th</sup> day of August, 2010.

  
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Roy L. Denton

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