

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

<b>ROY L. DENTON</b>	)	
	)	
<b>Plaintiff</b>	)	<b>Case No. 1:07-cv-211</b>
	)	
<b>v.</b>	)	<b>JURY DEMAND</b>
	)	
<b>STEVE RIEVLEY</b>	)	<b>Collier/Carter</b>
	)	
<b>Defendant</b>	)	

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**DEFENDANT STEVE RIEVLEY’S RESPONSE TO  
PLAINTIFF ROY L. DENTON’S MOTION *IN LIMINE* TO PRECLUDE DEFENDANT  
FROM RELYING UPON  
THE DOCTRINE OF “COMMON AUTHORITY”**

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Comes the Defendant, Steve Rievley, in his individual capacity, (herein “Officer Rievley”) through counsel, and hereby files his Response to Plaintiff Roy L. Denton’s Motion *in Limine* to Preclude the Defendant from Relying upon the Doctrine of Common Authority. For cause, Officer Rievley would show the Court as follows.

The Plaintiff is asking this Court to preclude Officer Rievley from relying upon the doctrine of common authority. He cites no case law that is relevant to the instant case that would prevent Officer Rievley from relying upon the doctrine common authority.

In the present case, the Plaintiff is claiming that his Fourth Amendment rights were violated when Officer Rievley “searched” his home without his consent. As the court in *Harajli v. Huron Twp.*, 365 F.3d 501, 506 (6th Cir. 2004) stated, “a search by police, however, does not violate the Fourth Amendment if voluntary consent has been obtained, either from the individual

whose property is searched ... or from a third party who possesses common authority over the premises.” *Id. Illinois v. Rodriguez*, 497 U.S. 177, 181, 110 S.Ct. 2793, 111 L.Ed.2d 148 (1990)). In fact, the search may still be valid “even if the third party does not in fact possess “common authority over the premises...if the police officers *reasonably believed* that the third party had such authority. *Rodriguez*, at 186, 110 S.Ct. 2793 (emphasis in original). As the *Rodriguez* court pointed out, this is an objective standard and requires the fact finder to ask: “[W]ould the facts available to the officer at the moment ... warrant a man of reasonable caution [to believe] that the consenting party had authority over the premises?” *Id.* at 188, 110 S.Ct. 2793.

In the present case, Officer Rievley had a reasonable belief that Brandon Denton had common authority to give him consent to enter the premises at 120 6<sup>th</sup> Avenue. Brandon Denton was the adult son of the Plaintiff and listed the 120 6<sup>th</sup> Avenue residence as his home address. He informed the officers that he had just arrived home from work where he was assaulted at that address. He requested that Officer Rievley retrieve personal belongings, including pieces of his work uniform, from his home residence located at 120 6<sup>th</sup> Avenue. Thus, Officer Rievley had reason to believe that Brandon Denton, the Plaintiff’s son, possessed the requisite authority to give him permission to enter the home. At the very least, this is a question of fact for the jury.

Accordingly, Officer Rievley respectfully requests that the Court deny the Plaintiff’s Motion.

Respectfully submitted,

ROBINSON, SMITH & WELLS  
Suite 700, Republic Centre  
633 Chestnut Street  
Chattanooga, TN 37450  
Telephone: (423) 756-5051  
Facsimile: (423) 266-0474

By: s /Elizabeth Roderick  
Ronald D. Wells, BPR# 011185  
Elizabeth Roderick, BPR #022762  
Attorney for Defendant, Steve Rievley

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>th</sup> day of August, 2010, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

This the 18<sup>th</sup> day of August, 2010

Robinson, Smith & Wells

By: s/Elizabeth Roderick

cc: Mr. Roy Denton  
120 6<sup>TH</sup> Avenue  
Dayton, TN 37321

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