

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

FILED

2010 SEP 17 P 1:11

U.S. DISTRICT COURT
EASTERN DIST. TENN.

BY _____ DEPT. CLERK

ROY L. DENTON,
Plaintiff

* Case No. 1:07-cv-211

*

* Judge: Collier/ Carter

*

v.

*

STEVE RIEVLEY,
in his individual capacity
Defendant

*

*

*

*

JURY DEMAND

*

*

*

**MOTION FOR ORDER OF CONTEMPT AGAINST THE
DEFENDANT STEVE RIEVLEY**
In the alternative,
Motion for Extraordinary Relief

Plaintiff Roy L. Denton, *pro se*, moves this court for the impositions of sanctions for a contempt of this court, against the defendant Steve Rievley for giving “false testimony“, under oath, in a federal court, and/or, for violations of 18 U.S.C. 1621, and 1623. In support of this motion, the plaintiff Roy L. Denton hereby submit’s the following:

FACTS

On April 13, 2010, the defendant Steve Rievley testified at a *first* jury trial in this court. In that jury trial, Mr. Rievley testified that Brandon Denton was located at the Rhea County jail and that he [Rievley] was gathering up some property that Rievley said Brandon wanted. Mr. Rievley testified under oath that he had used his cellular phone as he searched the plaintiff’s home, to call Brandon Denton who was located at the jail a quarter-mile away. Steve Rievley also said under oath, that Brandon was telling him where to go and where to look for various items throughout the area of the plaintiff’s home, that he was searching without a warrant,

consent or exigent circumstances. *See excerpt of transcript of Steve Rievley, attached Exhibit A.*

This first trial resulted in a “hung jury” and as a result, a mistrial was declared. Thereafter, the plaintiff immediately set out to diligently prove that the telephone call that Rievley testified under oath to had happened, *in fact, never happened at all*. In layman’s words, it was a lie, period.

MEMORANDUM

On May 20, 2010, the plaintiff Roy L. Denton, issued a subpoena against attorney Ronald D. Wells, to obtain his client “Steve Rievley’s” city issued Verizon cellular number, as well as his personal Sprint cellular phone that he testified under oath in an Interrogatory to use on duty as a police officer. *See Court Doc. No. 95-2*

On May 26, 2010, an appearance was made by Elizabeth Dickson, an associate attorney of Ronald D. Wells, where she then filed a Motion to Quash the subpoena that was issued against Mr. Wells by Mr. Denton. *See Court Doc. 95, 95-1 and 95-2*

A hearing was held before the Honorable Magistrate Judge Carter on June 11, 2010 concerning the defendant’s motion to quash or for a protective order. [Doc. 95]. The court GRANTED in part and DENIED in part defendant’s motion and entered an order stating in pertinent part:

“Defendant Steve Rievley *shall provide to the plaintiff copies of the records for defendant’s personal cell phone and his county issued cell phone* for September 9, 2006 from midnight to 3 am. Defendant shall provide these records to plaintiff by placing a copy of these records in the United States mail on or before Friday, June 25, 2010.” *(emphasis added) See Court Doc. No. 99*

On June 25, 2010, defense counsel filed a Motion for Relief [Doc. 103] from the order issued by Magistrate Judge Carter [Doc. 95]. In their motion counsel stated in pertinent part:

“In effort to comply with the Order, Attorney Roderick contacted Sprint Nextel

Corporate Security Department (“Sprint”), the provider for Officer Rievley’s personal telephone, on June 15, 2010 to determine the procedure for serving a subpoena upon the company in the most efficient way given the compressed timeline. (See Affidavit of Attorney Roderick, attached hereto as Exhibit 1, ¶ 3).”

In the supporting affidavit of attorney B. Elizabeth Dickson Roderick filed with her Motion for Relief [Doc. 103-1], not only does the attorney for the defendant state that “Sprint” and “Verizon” were the providers for the phone records of the defendant Steve Rievley, they go one step further in “*swearing in an affidavit*” that the phone providers and the phone records are that *of their client, Steve Rievley*. See attached Ex. B - Aff. of B. Elizabeth Dickson Roderick.

On July 16, 2010, the plaintiff submitted a notice to this court that the defendant had in part, complied with this court’s Order by providing plaintiff defendant’s personal Sprint phone number and record as Ordered by Magistrate Judge Carter. See attached Sprint record Exhibit C

On the same date, July 16, 2010 a hearing was held concerning the defendant’s Motion for Relief. The plaintiff requested a Court Reporter be present at the hearing, where such court reporter was provided. During the argument phase of this hearing, the plaintiff went on record, and stated to the court that he believed that, “*the defendant’s attorneys don’t want me [the plaintiff] to have any of those phone records because they know it will prove that Steve Rievley lied under oath*”. Defense counsel did not object, or otherwise indicate any denial response to the direct allegation by the plaintiff, whatsoever. Then, on August 2, 2010, Magistrate Judge Carter entered an Order concerning the hearing. The Order of the court reads in pertinent part:

“that Defendant Steve Rievley through counsel shall furnish said records from Verizon Wireless to the Plaintiff as soon as they are received; and, that if the records have not been received from Verizon Wireless by August 9, 2010, Defendant Steve Rievley, through counsel, shall so advise the Court. The Court hereby authorizes Plaintiff Roy L. Denton to issue his own subpoenas for these records” See Court Doc. No. 111

On August 9, 2010, defendant filed a Notice with the court that Verizon phone records

were served upon the plaintiff by U.S. Mail. *See Court Doc. No 112*

On August 13, 2010, the plaintiff filed a Notice, with the court that he had received the Verizon city issued phone records of defendant Steve Rievley being phone number. Again, no objections, no notice, no indications, no nothing whatsoever was filed, remotely indicating that the Verizon phone records produced by the attorneys for the defendant, to the plaintiff as ORDERED by this court, belonged to anyone else other than their client Steve Rievley. *See Verizon phone record attached Exhibit D*

On August 23, 2010, a new trial was had in this matter. Defendant Steve Rievley testified in this same court, and to these same matters while under oath, where he once again testified to had been on his cellular phone with Brandon Denton while he (*Rievley*) conducted a warrantless, nonconsensual search of my (*the plaintiff*) home gathering up various personal items.

OBSTRUCTION OF JUSTICE AND FALSE SWEARING

There are several general statutes that outlaw obstructing the government's business by deception. Three involve perjury: *18 U.S.C. 1623* which outlaws false swearing before federal *courts* and grand juries; *18 U.S.C. 1621* the older and more general prohibition that proscribes false swearing in federal official matters. However, for the purposes of this motion for contempt, or in an alternative, a *sua sponte* punishment for criminal contempt, against the defendant Steve Rievley, resulting from direct allegations made by the plaintiff Roy L. Denton, in that he alleges that Steve Rievley is, in violation of 18 U.S.C. 1621 and 1623, and that each a crime is subject to fine and/or imprisonment. —

It has been said in the words of U.S. Attorney Jeffrey Sloman, "***Our system of justice is based on the integrity and truthfulness of every witness that testifies in court...When any witness lies under oath or conspires to obstruct justice, our system of justice is undermined.***"

With that said, plaintiff further submits —


That the defendant Steve Rievley, although not a “legal scholar”, or held as one, who is a certified “*indoctrinated*” police officer, should readily know “that giving false testimony while under oath, in a federal court law is against the law. The defendant Steve Rievley *knowingly* made a false statement, Steve Rievley *knew* the statement was false, Steve Rievley *knew* the false statement *was material* to this instant case, Steve Rievley *knew* he was under oath and Steve Rievley *knew* that the proceeding was before a “court of the United States”. Moreover, not only did defendant Rievley *know* all this at the first trial that resulted in a hung jury, he *knew* it at the second trial as well. Not only has Steve Rievley dishonored, disrespected and insulted the very fabric that intertwines ever so delicately the very fibers of our justice system, he has defiled and obstructed the system of law in, contempt thereof, not once, but twice depriving the plaintiff of a fair trial as a direct result of his false statements while under oath.

For all the foregoing reasons, the plaintiff moves this court to find the defendant Steve Rievley in contempt of this court for perjury, giving false statements while under oath in this United States Court, and/or in the alternative, that this matter be directed upon a United States Attorney for an inquiry into any possible misconduct on the part of attorneys Ronald D. Wells and Elizabeth Roderick, in consortium with Steve Rievley, for the subornation of perjury.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on September 15, 2010, to defendant Steve Rievley, through his counsel of record.

Respectfully submitted, this 15th day of September, 2010.

BY: _____



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

1 digging through a duffel bag of concern to you as a police
2 officer?

3 A Absolutely.

4 Q Why so?

5 A He could be getting a weapon.

6 Q Once he did take his hands out of the duffel bag,
7 what happened next; what did you do, or what did Deputy Brewer
8 do?

9 A I handcuffed him.

10 Q All right. Was that still back there in that back
11 room?

12 A Yes.

13 Q Okay. And once he was in custody, tell the jury
14 what happened next.

15 X A We walked back up to the front of the house. That's
16 when Deputy Brewer asked if everything was okay. I don't know
17 if he had another call or what his -- what he had to do, but
18 he left. I stayed in the house with Dustin because Brandon
19 had stated that he had some personal items in the house that
20 he needed. I kept Dustin with me because I didn't want to be
21 alone in their house; I didn't want Mr. Denton to say that I
22 had free rein to do whatever in his house. I called the jail
23 from my cell phone, they gave Brandon Denton the phone, and I
24 asked him specifically what he needed and where it was.

25 Q Okay. Based on what he told you, what did you do?

1 A I took the-- Of course I had my cell phone with me.
2 I walked to where he told me to go. And he stated that he had
3 a Taco Bell hat, Taco Bell name tag, and I'm thinking he might
4 have had a Taco Bell apron, but I'm not sure about that. And
5 he had a spiral notebook that he kept as a diary. And he
6 described those items and told me exactly what they were and
7 told me which room they were in. And I went to that room—I
8 had Dustin with me—I retrieved those items, we walked out the
9 door, me and Dustin, and I locked the door behind me.

10 Q Did you go into any other rooms of the house other
11 than the back room where Dustin was and other -- the room
12 where you went to retrieve the items that belonged to Brandon?

13 A No, I did not.

14 Q Did you take any other items from the house other
15 than the items that you've described for the jurors?

16 A No, I did not.

17 Q As far as the timing of these events, can you look
18 at the reports and records that you have in front of you there
19 and tell the jury, first of all, what time you received the
20 call to go to the jail?

21 A 1:39 a.m.

22 Q And is there any information on there that indicates
23 to you what time you arrived at the jail?

24 A I believe it was 1:40. Yes, sir, 1:40 a.m.

25 Q And is there any records there that indicate to you

volume of subpoenas Sprint receives each month.

(5) I served the Subpoena upon Sprint by facsimile on June 15, 2010, receiving confirmation of the service by Sprint that same day. I then filed Notice of Subpoena Returned Executed as to Sprint Nextel with the Court on June 17, 2010.

(6) When I received the requested records from Sprint, I sent the same, unredacted, to the Plaintiff on June 24, 2010 in compliance with this Court's June 14, 2010 Order.

(7) On June 17, 2010, I also contacted Verizon Wireless's Litigation Department ("Verizon"), the provider for Officer Rievley's city-issued cellular telephone, to determine the procedure for serving a subpoena upon the company in the most efficient way given the compressed timeline.

(8) I was informed by Verizon that Officer Rievley is not the owner or customer of Verizon of Officer Rievley's city-issued cellular telephone with Verizon.

(9) Like Sprint, Verizon confirmed that I could serve the subpoena via facsimile but that I could not expect to receive the requested records for up to six (6) to eight (8) weeks even with the Court's Order.

(10) I proceeded to serve the subpoena upon Verizon, along with Court's Order, and to file a Notice of Subpoena Returned Executed as to Verizon Wireless on June 17, 2010.

(11) To date, I have not received the requested records from Verizon Wireless and do not expect to receive on or before June 25, 2010.

(12) On June 24, 2010, I notified the Plaintiff that I had not received the information requested from Verizon Wireless for the reasons set forth herein.

FURTHER affiant saith not.

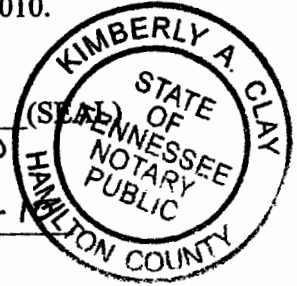
B. Elizabeth Dickson Roderick
B. ELIZABETH DICKSON RODERICK

STATE OF TENNESSEE)
)
COUNTY OF HAMILTON)

Subscribed and sworn to before me this 25th day of June, 2010.

Kimberly A. Clay
NOTARY PUBLIC

My Commission Expires: 11-7-

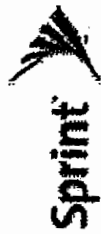


06252010/DAYTONDENTON/AFFEXTIME.WPD

Account Number
324630122

Billing Period
08/21/06-09/20/06 A2 of 4

Invoice Date
September 24, 2008



Cellular Services Call Detail

No.	Date	Time	Call To	Number	Footnote (See Pg. 2) Min/Sec	Usage	Long Dial/ Other	Total Charges
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DETAILS for 423-595-0011, STEVE RIEVLEY continued

SUBSCRIBER ACTIVITY DETAIL

Cellular Services Call Detail

No.	Date	Time	Call To	Number	Footnote (See Pg. 2) Min/Sec	Usage	Long Dial/ Other	Total Charges
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97	09/09	12:07A	Incoming	423-619-5780	09/PU	1:00	0.00	0.00
98	09/09	12:08A	CHATTNOOGA, TN	423-619-5780	09/PU	1:00	0.00	0.00
99	09/09	12:20A	CHATTNOOGA, TN	423-718-7071	09/PU	5:00	0.00	0.00
100	09/09	12:28A	DAYTON, TN	423-775-7837	09/PU	3:00	0.00	0.00
101	09/09	12:31A	CHATTNOOGA, TN	423-618-0181	09/PU	4:00	0.00	0.00
102	09/09	01:25A	DAYTON, TN	423-775-2442	09/PU	2:00	0.00	0.00
103	09/09	01:37A	CHATTNOOGA, TN	423-718-7071	09/PU	3:00	0.00	0.00
104	09/09	01:54A	CHATTNOOGA, TN	423-605-8430	09/PU	4:00	0.00	0.00
105	09/09	02:11A	DAYTON, TN	423-775-2442	09/PU	1:00	0.00	0.00

NOTE: RIEVLEY'S ARRIVAL TIME
AT DAYTON'S HOME WAS
2:13 AM. NO CALLS WERE
MADE AFTER HE ARRIVED
AT DAYTON'S HOME -
by [signature]
9-15-10

Continued...

EXHIBIT C

RIEVLEY

Bill date September 20, 2006
 Account number
 Invoice number

Page 4 of 47

Charges for 423-847-7348

Chris Sneed

Monthly Charges

Current calling plan
 09/21/06 - 10/20/06 \$80.00

Total monthly charges \$80.00

Your Service Profile

Current calling plan: America's Choice II Fam Sh Pri 1400 Any Unl N&W/IN Call \$80 S4512 0705
 Monthly charge \$80.00
 Monthly allowance minutes 1400 general
 Additional per minute charge \$.40 peak, \$.40 off-peak

Promotional details:

Current: >Beginning on 07/31/06: Unlimited night and weekend home airtime minutes per month

Enhanced services:

3-Way Calling, Busy Transfer, Call Forwarding, No Answer Transfer, Call Waiting, Call Delivery, Basic Voice Mail, TXT MSG W Per MSG Charges, Caller ID, Message Waiting Ind, Declined Insurance, Streamline Billing, PIX-FLIX Pay Per MSG, Natl Enhanced Svc Access, Natl IN Calling-unlim, New Every Two Multi Tier

Current feature(s):

Natl IN Calling-unlim
 Monthly allowance unlimited general

Usage Summary 423-847-7348

Chris Sneed

In Your Home Area	Allowance	Peak		Off Peak		Total
		Included	Billable	Included	Billable	
Current Usage						
Promotional Minutes		0	0	23	0	Included
Monthly Minutes	1400 General	10	0	0	0	Included
IN-Calling (08/21-09/20)	Unlimited	50	0	184	0	Included
Usage Totals		60	0	207	0	
Total Current Airtime Usage			60		207	267
Current Usage Charges			\$0.00		\$0.00	\$0.00
Total usage charges in your home area						\$0.00

Your Data Products and Services

	Messages	Total
Current Usage		
TXT Messaging - Received	1	\$1.10
Total Current TXT Messaging Usage	1	\$1.10
Total current data products and service usage charges		\$1.10

Total usage charges

\$1.10

EXHIBIT D

RIEVLEY

Bill date September 20, 2006
Account number
Invoice number

Page 6 of 47

Usage detail continued ...

In Your Home Area

Date													
50	09/03												
51	09/05												
52	09/05												
53	09/07												
54	09/07												
55	09/08												
56	09/08												
57	09/08												
58	09/09	01:42A	O	1	Dayton	TN	(423)847-7362	Incoming	CL	MN	Included	.00	.00
59	09/09	01:54A	O	1	Dayton	TN	(423)847-7351	Chattnooga	TN	MN	Included	.00	.00
60	09/09	03:45A											
61	09/09												
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