

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

ROY L. DENTON
Plaintiff

v.

STEVE RIEVLEY, in his individual capacity,
Defendant

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No. 1:07-cv-211

Collier/Carter

ORDER

Defendant Steve Rievley has moved the Court for a protective order [Doc. 144] which would prevent the plaintiff, Roy Denton, from issuing a subpoena seeking information pertaining to the instant case or to Officer Rievley. As grounds, defendant notes that a trial has already been held and judgment has been entered in the defendant's favor. Plaintiff opposes the motion for a protective order on the ground that he has not issued any subpoena and that defendant's motion is based on mere speculation that he might issue such a subpoena without giving opposing counsel notice. Plaintiff does not state in his response that he will not issue a subpoena.

Fed. R. Civ. P. 26(c) provides in relevant part that "[a] party of any person from whom discovery is sought may move for a protective order in the court where the action is pending...." Fed. R. Civ. P. 45 (c)(3) gives the court authority to quash or modify a subpoena for various reasons. Both these rules contemplate that discovery is being sought. In the instant situation, defendant has provided the court with no information to indicate that plaintiff has issued a subpoena or that plaintiff, in fact, intends to issue a subpoena. The undersigned declines to provide a protective order on the ground that defendant thinks plaintiff might issue a subpoena. Accordingly, defendant's motion is DENIED.

SO ORDERED.

s/William B. Mitchell Carter
UNITED STATES MAGISTRATE JUDGE