

**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’S MOTION FOR JUDGMENT NON OBSTANTE VEREDICTO (JNOV)  
OR IN THE ALTERNATIVE, MOTION FOR A NEW TRIAL**

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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’s Motion for Judgment Non Obstante Veredicta (JNOV) or In the Alternative, Motion for a New Trial. After a three (3) day trial, a jury of the Plaintiff’s peers returned a verdict in favor of Officer Rievley on the Plaintiff’s claims for warrantless arrest inside his home and unlawful search and seizure inside the Plaintiff’s home. Officer Rievley respectfully requests that this Court deny the Plaintiff’s Motion. For cause, Officer Rievley would show the Court the following:

**LEGAL ARGUMENT**

One of the most basic principles of our legal system is the right to a jury of one’s peers. Accordingly, the role the jury plays in a trial cannot be understated and the verdict they returned should be held sacrosanct unless clearly unreasonable.

When a party files a Motion for Judgment as a Matter of Law pursuant to Rule 50 of the FED. R. of CIV. P. and then, alternatively, renews that motion as a Motion for a New Trial after the jury has returned a verdict against him, “the decision whether to grant a new trial is left to the sound discretion of the district court.” *United States v. Wheaton*, 517 F.3d 350, 361 (6th Cir.2008). Because of the pivotal role of the jury in our legal system, the “Sixth Circuit has cautioned that in an action where the verdict has been rendered by a jury, a decision to grant a new trial must be closely scrutinized to protect the litigant's right to a jury trial.” *Holmes v. City of Massillon, Ohio*, 78 F.3d 1041, 1045-46 (6th Cir.1996) (citations omitted). Once a jury has rendered a verdict in favor of a party, a decision to grant a motion for a new trial “nullifies the jury's verdict and potentially interferes with the most important role of the jury to be the sole finder of fact.” *Id.* at 1047.

When considering a renewed motion for judgment as a matter of law or a motion for a new trial, the trial court must view “***the evidence in the light most favorable to the non-moving party***”. *Noble v. Brinker Int'l, Inc.*, 391 F.3d 715, 720 (6th Cir.2004);(see also *Schrand v. Federal Pac. Elec. Co.*, 851 F.2d 152, 154-55 (6th Cir.1988)(stating that non-moving party must be given “the benefit of all reasonable inferences”). In the instant case, the non-moving party is Officer Rievley.

In *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 143, 120 S.Ct. 2097, 147 L.Ed.2d 105 (2000), the Supreme Court stated that a trial court should only render judgment as a matter of law under Rule 50 when “a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue.” *Id.* Accordingly, the trial court may grant the plaintiff’s motion “only when there is a complete absence of fact to support the verdict, so that no reasonable juror could have found for the non-moving party.” *Pouillon v. City of Owosso*, 206 F.3d 711, 719 (6th Cir.2000).

Furthermore, because of the sanctity of a jury's verdict, when considering a motion for a new trial, the trial court "is not to set aside the verdict simply because it believes that another outcome is more justified." *Denhof v. City of Grand Rapids*, 494 F.3d 534, 543 (6th Cir.2007). If the jury's verdict was reasonable in light of the evidence presented by both sides, then the trial court should not set aside the verdict and grant the losing party a new trial. If the jury, having heard both versions of the facts, could reasonably have found for the non-moving party, the trial court should not overturn the jury's decision.

In *Holmes, supra*, the Sixth Circuit overturned the trial court's grant of motion for a new trial because the jury, after having been presented with both sides of the facts regarding the use of excessive force by a police officer, returned a verdict in favor of the plaintiff. *Id.* The police officer moved for a new trial because the weight of the evidence did not support the jury's verdict. *Id.* The motion was granted. *Id.* In reversing the trial court's decision to grant the motion for a new trial, the *Holmes* court stated that "[i]n short, this case came down to a question of who the jury believed." *Id.* at 1048. Because the jury could have reasonably believed the plaintiff (and did so), the trial court erred in granting the defendant's motion for a new trial. *Id.* Such a ruling ensures that the role of a jury remains that of the fact-finder.

In the present case, the Plaintiff had two claims: one for warrantless arrest inside his home and one for unlawful search and seizure inside the Plaintiff's home. The jury was presented with evidence and heard testimony from both the Plaintiff and the Defendant over the course of three (3) days. Several exhibits were admitted into evidence.

The Plaintiff claimed that he was arrested while standing a few feet inside his home with the

door open. Several police officers, including Officer Rievley, testified that the Plaintiff was arrested just outside his door on his front porch.

Additionally, the Plaintiff claimed that Officer Rievley improperly searched his home and seized personal items from his home without a warrant. Officer Rievley testified that he did not enter the Plaintiff's home until he saw Deputy Gerald Brewer enter the Plaintiff's home to provide "back-up" as Deputy Brewer was pursuing an unknown subject inside the house. Deputy Brewer confirmed this as well. Deputy Brewer and Officer Rievley went through the house looking for the unknown male subject until they found him in the bedroom, rifling through a duffle bag. He was identified as Dustin Denton, one of the men the victim had accused of domestic assault. Dustin Denton was arrested within minutes after both officers entering the bedroom. Officer Rievley testified that he took Dustin Denton with him as he retrieved some personal items, owned by and requested by, the victim, Brandon Denton. Officer Rievley and Deputy Brewer testified that they never searched the Plaintiff's home for anything related to the Plaintiff. Dustin Denton did not testify. The Plaintiff admitted that he was not present when Officer Rievley entered his home nor was he present when any alleged "search" or "seizure" took place. The Plaintiff testified that no personal items of his were seized.

On the Verdict Form, the jury clearly checked under

**Question One:**

A. Has Plaintiff met his burden in showing Defendant is liable under Section 1983 for arresting him inside his home?

\_\_\_\_\_  
Yes

\_\_\_\_\_  
No

**Question Two:**

A. Has Plaintiff met his burden in showing Defendant is liable under Section 1983 for an unlawful search and seizure inside the Plaintiff's home?

\_\_\_\_\_                            ✓        
Yes                                      No

Thus, it was clear that this came down to a matter of who did the jury believe - the Plaintiff or Officer Rievley and his witnesses? The Plaintiff was given ample opportunity to cross examine each witness about the events of the night in question and to present his evidence to the jury. After having been presented with all the admissible evidence and with the testimony of several witnesses who were present at the time of the events, the jury rendered its verdict in favor of Officer Rievley. As in *Holmes, supra*, this case came down to whom the jury believed. Ultimately, the jury found in favor of Officer Rievley. Certainly there was no complete absence of fact that would require this Court to grant a new trial as required by *Pouillon v. City of Owosso*, 206 F.3d 711, 719 (6th Cir.2000). In light of the evidence presented to the jury, there is no reason to believe that their verdict was unreasonable.

Accordingly, viewing all the evidence in the light most favorable to Officer Rievley as the non-moving party, Officer Rievley respectfully requests that this Court deny the Plaintiff's Motion for Judgment as a Matter of Law or in the Alternative for a New Trial.

Respectfully submitted,  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 30<sup>th</sup> day of September, 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.

Robinson, Smith & Wells

By: /s Elizabeth Roderick

cc: Roy L. Denton  
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