

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

**ROY L. DENTON,**  
*Plaintiff*

v.

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

\*      **Case No. 1:07-CV-211**  
\*  
\*      **Chief Judge Curtis L. Collier**  
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\*      **JURY DEMAND**  
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**FINAL PRETRIAL ORDER**

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This matter having come before the Court on April 2, 2010, at a pretrial conference pursuant to Rule 16 of the Federal Rules of Civil Procedure, and having appeared Mr. Roy L. Denton, *pro se*, for the plaintiff, and Mr. Ronald D. Wells having appeared as counsel for the defendant Mr. Steve Rievley, the following action was taken:

(1)    **Jurisdiction:** This is an action for a Fourth Amendment violation. Jurisdiction of the Court is invoked pursuant to 42 U.S.C. § 1983. The jurisdiction of the Court is not disputed.

(2)    **General Nature of the Claims of the Parties:**

(a)    Stipulated facts: Parties have not met and conferred on any issue or fact. The plaintiff has incorporated the defendant's theory of the case; defendant's contested issues of law; defendant's exhibits and witness list into this Final Pretrial order.

(b)    Plaintiff theory: The defendant violated the plaintiff's Fourth Amendment right to the United States Constitution by entering the plaintiff's home and arresting him without a warrant, consent or exigent circumstances. The defendant also violated the plaintiff's Fourth Amendment right to the United States Constitution by re-entering the plaintiff's home searching it and seizing personal property located inside the plaintiff's home without a warrant, consent or exigent circumstances.

(c)    Defendant theory: Officer Rievley, along with other members of the City of Dayton Police Department and the Rhea County Sheriff's Department, was dispatched to the jail at approximately 1:39 a.m. on September 9, 2006 to respond to an assault that occurred.

Upon arrival at the jail, Officer Rievley spoke with Brandon Denton, the Plaintiff's son, who stated that he had been attacked by the Plaintiff and Dustin Denton, the Plaintiff's son (and Brandon's brother) when he arrived home after from (sic) work some time after midnight. Officer Rievley observed that Brandon had numerous abrasions on his forehead and both arms and appeared to have been strangled, which was consistent with his story. Brandon signed a statement to that effect.

Officer Rievley also telephoned Ms. Carbajal, a young woman who confirmed that Brandon did not have any of these injuries when she dropped him off at his house some time after midnight.

Brandon informed Officer Rievley that both his father and brother remained at their home at 120 Sixth Avenue, Dayton, TN. Brandon also told Officer Rievley that he wanted to retrieve some of his belongings from his home located at 120 Sixth Avenue but was afraid to do so by himself after the attack. Officer Rievley, along with several other officers, went to the Denton residence, arriving at approximately 2:13 a.m. The Plaintiff came to the door, and Officer Rievley asked him what happened to his son, Brandon. The Plaintiff would not answer him. Officer Rievley noted that on the front porch, Brandon's eyeglasses lay broken, further confirming his story of assault. He then advised the Plaintiff that he was under arrest for domestic assault. When Officer Rievley advised the Plaintiff that he would need to speak with Dustin as well, the Plaintiff turned away to go back inside the house. Officer Rievley handcuffed the Plaintiff's right arm as the Plaintiff attempted to close and lock the door. He then advised the Plaintiff that he needed to find Dustin and that he needed to give Officer Rievley his left hand. Officer Rievley was able to handcuff both the Plaintiff's hand without further incident and he was placed in a patrol car and taken to the jail at approximately 2:18 a.m. Officer Rievley then entered the Denton residence to locate Dustin and retrieve the personal items requested by Brandon. Dustin was located in a bedroom and was also arrested for domestic assault. He was transported to the jail at approximately 2:28 a.m.

Throughout his career as a police officer, Officer Rievley has received extensive training in the area of domestic abuse. Officer Rievley has been instructed as to the provisions of the *Tennessee Domestic Abuse* statutes, codified at *Tennessee Code Annotated* §§ 36-3-601, *et seq.* In his training, Officer Rievley was taught that an arrest of an individual whom the officer has probable cause to believe has committed the crime of domestic abuse is "the preferred response" of the officer as explicitly stated in section 36-3-619. Furthermore, Officer Rievley was taught that the Tennessee Attorney General has issued several opinions that construe this statute to allow for the warrantless arrest of an individual whom the officer has probable cause to believe committed domestic abuse. Officer Rievley had probable cause to believe that the Plaintiff, as the father of Brandon Denton, committed the crime domestic abuse when he arrested him at the Denton residen (sic).

(d) There are no other parties to this action.

(3) **Contested Issues of Law:**

Plaintiff:

The plaintiff submits that there is a disputed issue of law concerning whether the Defendant Steve Rievley arrested Roy L. Denton inside his home without a warrant.

**Contested Issues of Law:**

Defendant:

1. Whether Officer Rievley made an warrantless arrest inside what Officer Rievley reasonably believed to be the home of the plaintiff and Brandon Denton;

2. If Officer Rievley made a warrantless arrest inside what Officer Rievley reasonably believed to be the home of the plaintiff and Brandon Denton, whether he is entitled to rely upon the doctrine of qualified immunity to make a warrantless arrest inside said home given his training and the Tennessee Attorney General opinions and statutes regarding domestic abuse;

3. Whether Officer Rievley made an unlawful search and seizure of what Officer Rievley reasonably believed to be the home of the plaintiff and Brandon Denton under the following circumstances:

(a) Officer Rievley, along with other officers was attempting to arrest Dustin Denton, who had been accused by Brandon Denton as being involved in the assault on Brandon;

(b) Brandon Denton asked Officer Rievley to retrieve some of Brandon's personal belongings inside what Officer Rievley reasonably believed to be Brandon Denton's home; and

(c) The plaintiff has never made a claim, list or inventory of any items "seized" by Officer Rievley.

4. If Officer Rievley made a warrantless search inside what Officer Rievley reasonably believed to be the home of the plaintiff and Brandon Denton, whether he is entitled to rely upon the doctrine of qualified immunity to make a warrantless arrest inside said home under the circumstances described in paragraph three above.

(4) **Exhibits:** The parties have disclosed all exhibits in accordance with Fed. R. Civ. P. 26(a)(3)(C). All exhibits to be introduced have been pre-marked in such a way as to allow the Court to determine which party is offering them. The parties have prepared a joint list of exhibits. Three copies of this list have been provided to the Court at the final pretrial conference. The parties have not endeavored to stipulate the admissibility of all exhibits. However, at the behest of the defendant the plaintiff hereby submits the following exhibits:

**PLAINTIFF:**

1. Affidavit of Steve Rievley;
2. Memorandum of Judge Curtis L. Collier;
3. Steve Rievley's Affidavit of Complaint;
4. Plaintiff's Amended Complaint;
5. United States Court of Appeals Mandate;
6. Page 15 of Defendant Steve Rievley's Appellate Brief;
7. Page 8 of Defendant Steve Rievley's Appellate Brief;
8. Plaintiff's Response to Defendant's Motion for Summary Judgment;
9. Defendant's Answers to Plaintiff's Request for Admissions;
10. Defendant's Answers to Plaintiff's Interrogatories;
11. Dayton Police Department Family Violence Investigation Form;
12. Dayton Police Department Lethal Assessment Form;
13. Applicable sections of Tennessee Code Annotated;
14. Applicable Tennessee Attorney General Opinions;
15. Defendant's Answer to Plaintiff's Complaint;
16. Defendant's Motion for Summary Judgment;
17. State of Tennessee Domestic Violence Model Policy Statement;
18. Any Exhibit listed by the Defendant at the trial of this cause.

The following exhibits may be used by the plaintiff at the trial of this cause:

1. All pleadings filed in this matter;
2. Rhea County Circuit Court Clerk's Letter of Dismissal;
3. The written statement of Jessica Carbajal;

4. Answers of Jessica Carabajal's Questionnaire;
5. Handwritten Statement of Brandon Denton;
6. Cleveland State Community College Law Enforcement Training Academy Basic Law Enforcement Course.
7. Any exhibits necessary for rebuttal.

**DEFENDANT:**

1. Various documents in the file held by the Dayton Police Department related to the charges brought against Roy L. Denton;
2. Various documents in the file held by the Dayton Police Department related to the proceedings against Dustin Denton;
3. Various documents related to the training and experience of Officer Steve Rievley;
4. Tennessee Code Annotated §§ 36-3-619, 39-13-101 *et seq.*;
5. Tennessee Attorney General Opinions 98-169, 00-218 and 02-116;
6. Any exhibits introduced by the plaintiff; and
7. Any exhibits necessary for rebuttal.

(5) **Witnesses:** The parties have disclosed all witnesses in accordance with Fed. R. Civ. P. 26(a)(3)(A). A list comprised of the names of all witnesses, their addresses and telephone numbers, is as follows:

(i) List for Plaintiff.

1. Roy L. Denton - *Narrative form testimony requested*  
120 6<sup>th</sup> Ave.  
Dayton, TN 37321  
Tel: 423-285-5581

(ii) List for Defendant.

1. Officer Steve Rievley  
c/o Ronald D. Wells, Attorney  
B. Elizabeth Dickson, Attorney

Robinson, Smith and Wells  
Suite 700, Republic Centre  
633 Chestnut Street  
Chattanooga, TN 37450  
Tel: 423-756-5051  
Fax: 423-266-0474

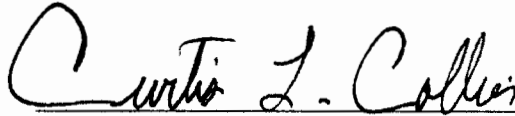
2. Chief Chris Sneed  
Dayton Police Department  
1191 Market Street  
Dayton, TN 37321  
Tel: 423-775-8403
3. Officer Jason Woody  
Dayton Police Department  
1191 Market Street  
Dayton, TN 37321  
Tel: 423-775-8403
4. Officer Brian Malone  
Dayton Police Department  
1191 Market Street  
Dayton, TN 37321  
Tel: 423-775-8403
5. Deputy Gerald Brewer  
Rhea County Sheriff Department  
444 Second Avenue  
Dayton, TN 37321  
Tel: 423-775-7837
6. Roy Denton  
120 Sixth Avenue  
Dayton, TN 37321
7. Jessica Carbajal  
187 Arrow Lane  
Dayton, TN 37321  
Tel: 423-570-0589
8. Brandon Denton  
120 Sixth Avenue  
Dayton, TN 37321

**OBJECTION**  
**Does not reside at this address.**

(6) **Other Matters:** This case is set for trial before the Chief United States District Judge Curtis L. Collier and a jury at 9:00 a.m. on April 12, 2010. Counsel shall be present at 9:00 a.m. on the first day of trial to take up any preliminary matters. The probable length of trial is one day. The parties should be prepared for trial on the date which has been assigned. If this case is not heard immediately, it will be held in line until the following day or anytime during the week of the scheduled trial date.

(7) This final pretrial order shall supplant the pleadings.

**APPROVED FOR ENTRY:**



Curtis L. Collier  
Chief United States District Judge

**APPROVED AS TO FORM AND SUBSTANCE:**



Roy L. Denton, *pro se*,  
for the plaintiff



Ronald D. Wells, BPR# 011185  
B. Elizabeth Dickson, BPR# 022762  
Attorney for Defendant Steve Rievley

**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 delivering by hand an exact copy to the party, on this 2<sup>nd</sup> day of April, 2010.



Roy L. Denton

Copy hand delivered to:  
Ronald D. Wells, BPR# 011185  
Suite 700 Republic Centre  
633 Chestnut Street  
Chattanooga, TN 37450  
Phone:423-756-5051