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

ROY L. DENTON, *Plaintiff*	*	**Case No. 1:07-CV-211**
	*	**Chief Judge Curtis L. Collier**
v.	*	
STEVE RIEVLEY, *in his individual capacity* *Defendant*	*	
	*	***JURY DEMAND***

PLAINTIFF'S **MOTION** ***IN LIMINE*** TO PRECLUDE DEFENDANT RELYING UPON THE DOCTRINE OF **"COMMON AUTHORITY"**

Comes now the Plaintiff Roy L. Denton and hereby makes his objection to the defendant's claim to rely upon "common authority" and respectfully submits the following:

Third-party consent is when another person gives permission to the police to search another individual's property. Most commonly, these cases involve landlords granting police access to search a tenant's apartment; and parents allowing police to search their children's room. There are three general rules for third-party consent to searches: ***(1) husbands and wives may grant consent to search for each other; (2) parents can consent to search their children's room; and (3) children are not allowed to consent to a search of their parents' property because they are underage***. (Worrall, 2004).

As evidenced in the first jury trial in this matter, the Defendant Steve Rievley argued that he had the consent of the plaintiff's son, Brandon Denton, to enter the plaintiff's home, search it, and remove personal items from the plaintiff's home, all of which was done so without a warrant.

The defendant has not, nor does not, dispute the fact that he entered the plaintiff's home without a warrant. Also, there is no claim made, nor has there ever been made the claim, or otherwise any evidence offered to remotely justify a claim of "exigent circumstances". Therefore, as to issues of whether the defendant did or did not have a warrant, when he enter the plaintiff's home and the issue as to whether any exigent circumstances existed, are clearly established by undisputed facts. Simply put, it is firmly established that defendant did not have a warrant and did not have exigent circumstances.

The Fourth Amendment of the United States Constitution protects individuals against unreasonable searches and seizures by law enforcement officers. The Fourth Amendment of the United States Constitution provides:

> *The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

The defendant's mistaken reliance upon his "***reasonable belief***" that some person lives at a particular residence and can somehow use that "***reasonable belief***" to walk up to anyone's front door, take the property owner off to jail and then somehow say that since the property owner wasn't present then he waived consent, is a dangerous path. Based upon such obtuse proposition, any officer with malicious intent could go to any door and announce he is there under the belief that "*so and so*" lived there and even had "*so and so*" on the cell phone and that he [*the officer*] was going to come inside and search the home and gather up some items that "*so and so*" is telling him on his cellular phone belonged to him. Then as the property owner is telling this "*officer*" to go get a warrant and get off his property, somehow that does not constitute "not giving consent". For any person to hold a position that an officer or anyone for that matter can

waltz up to someone's home, and be told to get the "*expletive deleted*" off his property is somehow NOT the same thing as NOT GIVING CONSENT is mistaken and creates an argumentative objection to the issue as well as an instant appeal. The entire concept of such perplexed thinking goes directly against the established law in *GEORGIA v. RANDOLPH*, No. 04-1067. Argued November 8, 2005 — Decided March 22, 2006. *See Court Doc. No. 85-1*

THEREFORE, as a matter of law, the Defendant Steve Rievley cannot rely upon the doctrine of "common authority" the United States Supreme Court says he can't. Any inferences or reliance upon any claim that Brandon Denton, a fully grown adult male, had "common authority" to support a jury instruction or even to be used as a defense, should be disregarded and not considered. Defendant Steve Rievley clearly did not have the consent of the property owner, Roy L. Denton, to enter his home and search it.

Respectfully submitted, this 13th day of August, 2010.

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

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 placing an exact copy of same in the U.S. Mail addressed to such parties, with sufficient postage thereon to carry same to it's destination, on this 13th day of August, 2010.

Roy L. Denton

Copy mailed to:

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