

"FILE"

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

2008 MAR 27 AM 10:57

U.S. DISTRICT COURT
EASTERN DIST. TENN.

ROY L. DENTON,
Plaintiff

BY _____ DEPT. CLERK

Case No. 1:07-cv-211

v.

Judge: Collier/ Carter

STEVE RIEVLEY,
in his individual capacity
Defendant

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JURY DEMAND

AMENDED COMPLAINT

Comes now the Plaintiff Roy L. Denton, *pro se*, to bring this complaint against the above-named defendant to safeguard his rights under the United States Constitution, and in support thereof allege the following:

I. INTRODUCTION

1. This action arises under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution; under federal law, specifically, 42 U.S.C. §§1983 and 1988.

2. While the individual Defendant Steve Rievley (*hereinafter Defendant Rievley*) was acting in the scope of his employment as a police officer for the Dayton Police Department and under color of state law, he made a warrantless entry into the plaintiff Roy L. Denton's home, and seized him while inside his home, arresting him.

3. Without a warrant of any kind, Defendant Rievley searched the home of the plaintiff Roy L. Denton and found his son Dustin, a guest, who was visiting the

plaintiff in this instant case, before deploying to Iraq for his second tour of duty and arrested him also. Never at any time was there any exigent circumstances.

4. These unlawful actions, along with the unlawful *forcible* entry into the plaintiff's home without warrant, by the Defendant Rievley, resulted in a shocking of the conscience concerning the blatant invasion of the plaintiff's privacy inside his very own home.

5. All acts of the defendant resulted in an unreasonable search and seizure amounting to the unlawful arrest of the Plaintiff Roy L. Denton.

6. Rievley's conduct violated a clear established constitutional right of which a reasonable person would have known that a forcible entry into another man's home, without a warrant, searching his home, arresting his guest and assaulting the home owner with absolutely no authority and no exigent circumstances would be a deprivation of the plaintiff's constitutional rights.

7. An excessive use of force was used against the Plaintiff Roy L. Denton.

8. Defendant Rievley is a "reasonably well-trained officer" with a "reasonable knowledge of what the law prohibits" and would have known that the challenged action of the night in question violated the Fourth Amendment.

9. The plaintiff also alleges that all acts of the Defendant Rievley were unlawful and are held to be expressly unconstitutional and forbidden under the landmark case of *Payton v. New York, 445 U.S. 573(1980)*.

II. JURISDICTION AND VENUE

10. This action arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331, 1332, 1343, and 1367, and venue is properly set in the United States District Court for the Eastern District of Tennessee pursuant to 28 U.S.C. §1391.

11. The causes of action alleged herein arise from factual allegations occurring in this judicial district.

III. PARTIES

A. Plaintiff

12. Roy L. Denton is a United States citizen and resident of Tennessee.

B. Defendant

13. At all times relevant to this Complaint, Defendant Steve Rievley was a police officer employed by the Dayton Police Department. Defendant Rievley is sued in his *individual capacity*.

14. At all times relevant to this Complaint, Defendant Rievley acted under color of state law and as an officer of the Dayton Police Department.

IV. FACTUAL ALLEGATIONS

15. Roy L. Denton (*hereinafter Mr. Denton*) and Dustin B. Denton (*hereinafter Sgt. Denton*) are father and son. Sgt. Denton was given orders to deploy to Iraq for his second tour of duty. Sgt. Denton along with the soldiers of his unit received a two week leave prior to deploying to Iraq. During this time, Sgt. Denton traveled to Dayton, Tennessee and visited with his family for the majority of his two week leave

where he stayed at his father's home as a guest.

16. The Defendant Rievley negligently misinterpreted information from a known to be *unreliable person* with a substantial history of mental impairments, along with a criminal history while living an unstable lifestyle, and set in motion the series of events that would result in the violations of the plaintiffs' civil rights.

17. On Saturday, September 9, 2006 it was after mid-night and the plaintiff was winding down a day of visitation when Mr. Denton's wife and step-son went to McDonald's for take out. Shortly after she left for McDonald's, Mr. Denton heard a knock at the front door. Mr. Denton, thinking it was his wife answered the door.

18. Standing on the front porch of Mr. Denton's home were several police officers along with the Defendant Rievley.

19. Mr. Denton first thought that the police were at his door with bad news about his wife being hurt in a car wreck or something perhaps worse, and was momentarily shocked.

20. Defendant Rievley asked Mr. Denton, "what's the story with Brandon?" and Mr. Denton responded to defendant Rievley in stating, "what do you mean, what's the story with Brandon", or words to similar effect.

21. Immediately, Defendant Rievley advised Mr. Denton that he was under arrest for domestic assault.

22. Mr. Denton was standing more than three (3) feet from the threshold of his door when he advised the officers standing on his porch that he wanted to see a warrant. Defendant Rievley completely ignored Mr. Denton's plea to see a warrant as he was blocking the door from being shut.

23. As Mr. Denton was backing away the Defendant Rievley stepped over the threshold into Mr. Denton's home. Mr. Denton refused what he thought to be an unlawful search and seizure and told the Defendant Rievley that he had a "no trespassing" sign posted and that if they didn't have a warrant to "get off his property".

24. Defendant Rievley then slapped a cigarette from Mr. Denton's mouth and grabbed him by the arm as Mr. Denton tried to shut the door to his home. Within seconds, the Defendant Rievley and several officers forced their way into Mr. Denton's home where Mr. Denton was forcefully placed in cuffs and pulled from his home.

25. During this time the Defendant Rievley asked Mr. Denton where was his son "Dustin" and Mr. Denton continually told the Defendant Rievley as well as every officer on his property to get off his property, but the officers lead by Defendant Rievley barged their way into Mr. Denton's home. All pleas from Mr. Denton fell on deaf ears as Mr. Denton was placed in a patrol car and hauled to the county jail.

26. The Defendant Rievley did not allow Mr. Denton to put on pants or a shirt, socks or shoes. Mr. Denton was transported to jail where he remained there for a minimum of 12 hours before being allowed to post bail. Mr. Denton was taken to jail clad only in thin, silk shorts in which he slept.

27. Approximately 56 feet from the front door was a bedroom. It was this bedroom that Dustin Denton had been staying while he was a guest of Mr. Denton's.

28. The Defendant Rievley walked through the entire length of Mr. Denton's home and searched every room in the house looking for Dustin Denton, who was in the back bedroom and did not hear what was happening, nor did he hear the pleas of his father being the victim of what in essence was a "terrorist" styled home invasion and

abduction.

29. The Defendant Rievley remained inside Mr. Denton's home for approximately 10 minutes before transporting Dustin Denton to jail and it is unknown as to what all the Defendant Rievley searched through, rummaged through or simply "nosed" around in.

30. At all times relevant to this complaint the Defendant Rievley never had in his possession any warrant issued by a judge, court, or magistrate authorizing a search of Roy L. Denton's house or the arrest of any of the Dentons. In fact, no warrant had ever been issued by any court, judge, or magistrate for such search and arrest. There were absolutely no exigent circumstances involved with the unlawful entry, search, seizure and arrest of the plaintiff Roy Denton.

31. The Defendant Rievley has deprived the plaintiff of his right to freedom from illegal searches and seizure of his persons, papers, and effects and his right to freedom from unlawful arrest, detention, and imprisonment. All of these rights are secured to plaintiff by the Fourth and Fourteenth Amendments to the Constitution of the United States and by 42 U.S.C. §§ 1983 and 1988.

32. The Plaintiff has suffered severe emotional distress and mental anguish affecting his psychological well-being.

33. As a direct and proximate result of the intentional and/or negligent acts of the Defendant Rievley, plaintiff sustained severe mental and physical pain and suffering and injury in an amount that will be established at trial.

34. Plaintiff is entitled to compensation for the constitutional harms that the Defendant Rievley inflicted upon him, including personal injury, loss of liberty, and the

invasion of privacy.

35. Plaintiff is entitled to punitive damages in an amount that will be established at trial.

V. CAUSES OF ACTION

COUNT I

Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983 (General Allegations)

36. Plaintiff realleges and incorporates herein by reference the allegations set forth in paragraphs 1-35 of this Complaint.

37. In committing the acts complained of herein, the Defendant Rievley acted under color of state law to deprive plaintiff of certain constitutionally protected rights under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States including, but not limited to: a) the right to be free from unreasonable searches and seizures; b) the right not to be deprived of liberty without due process of law; c) the right to be free from excessive use of force by persons acting under color of state law; d) the right to be free from false arrest; and e) the right to be free of false imprisonment.

38. In violating Plaintiffs' rights as set forth above that will be proven at trial, the Defendant Rievley acted under color of state law and conducted an unauthorized, warrantless illegal search, and seizure of the plaintiff. The illegal and warrantless crossing of the threshold of the door of Plaintiff's home set into motion the chain of events that led to an unauthorized and warrantless illegal search and seizure, in violation of Plaintiffs' rights under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

39. As a direct and proximate result of the violation of his constitutional rights by the Defendant, the plaintiff suffered general and special damages as alleged in this Complaint and is entitled to relief under 42 U.S.C §1983.

40. The conduct of Defendant Rievley was willful, malicious, oppressive and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

COUNT II

Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983 (Use of Excessive Force)

41. Plaintiff realleges and incorporates herein by reference the allegations set forth in paragraphs 1-40 of this Complaint.

42. The Defendant Rievley adopted “personal” policies, procedures, practices or customs under the color of law in total disregard to the existing Dayton Police Department mission statement, that allowed to his own satisfaction, the use of excessive force when other more reasonable and less drastic methods were available.

43. The actions of Defendant Rievley amount to deliberate indifference to the rights of the Defendant Roy L. Denton to be free of excessive force and unreasonable seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States.

COUNT III

Violation of Civil Rights Pursuant to 42 U.S.C. §1983 (False Arrest)

44. Plaintiff realleges and incorporates herein by reference the allegations set forth in paragraphs 1-43 of this Complaint.

45. In committing the acts complained of herein, Defendant Rievley acted under color of state law by falsely arresting and detaining the plaintiff with no basis in fact or law to do so. In violating Plaintiffs' right to be free from false arrest, the Defendant Rievley violated Plaintiffs' rights under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States. The very fundamental and "direct on point" language of *Payton* that specifically prohibits the warrantless search and arrest inside a home has been clearly violated.

46. As a direct and proximate result of the violation of his constitutional right to be free from false arrest by the Defendant Rievley, plaintiff suffered serious personal injuries and special damages as alleged in this Complaint and are entitled to relief under 42 U.S.C. §1983.

COUNT IV

Tennessee Common Law (Assault)

47. Plaintiff realleges and incorporates herein by reference the allegations set forth in paragraphs 1-46 of this Complaint.

48. Mr. Denton avers that the actions of the Defendant Rievley breached a duty of care owed to him to not assault him or cause him physical harm or injury, except to the extent allowed by law.

49. Mr. Denton avers that the Defendant Rievley knowingly, wantonly, intentionally, and with gross disregard for the rights of plaintiff, assaulted him by slapping a lit cigarette out of his mouth while inside the plaintiff's own home, forcefully grasping the plaintiff by the arm and wrestled the plaintiff for his other arm while inside

the plaintiff's own home. Restated, the Defendant did not have a warrant. There was no exigent circumstances and the Defendant Rievley's actions were completely unlawful pursuant to *Payton v. New York*, 445 U.S. 573(1980).

50. Mr. Denton was forcefully arrested and removed from inside his home and transported to jail without allowing Mr. Denton to put on any clothing. All Mr. Denton had on was a pair of silk shorts in which he slept in, no shoes, no shirt, nor underwear.

51. As a direct and proximate result of the acts of the Defendant Rievley, Mr. Denton suffered both physical and mental injuries and is entitled to relief.

PRAYERS FOR RELIEF

WHEREFORE, the above premises considered, Plaintiff demands:

- a. That process issue to the Defendant Steve Rievley and that he be required to answer in the time allowed by law.
- b. That judgment be rendered in favor of the Plaintiff and against the Defendant Rievley on all causes of action asserted herein.
- c. That Plaintiff be awarded those damages to which it may appear they are entitled by the proof submitted in this cause for his physical and mental pain and suffering, both past and future.
- d. That Plaintiff be awarded punitive damages as may be proven at trial.
- e. *That Plaintiff be awarded reasonable expenses incurred in this litigation, including reasonable attorney and expert fees, pursuant to 42 U.S.C. §1988 (b) and (c).*
- f. That the Plaintiff receive any other further and general relief to which it may appear he is entitled.
- g. A jury for the trial of this matter.

Respectfully submitted, this 27th day of March, 2008.

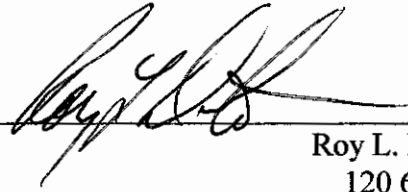
BY:

A handwritten signature in black ink, appearing to read "Roy L. Denton", written over a horizontal line.

Roy L. Denton
120 6th Ave.
Dayton, TN 37321
423-570-9653

Respectfully submitted, this 27th day of March, 2008.

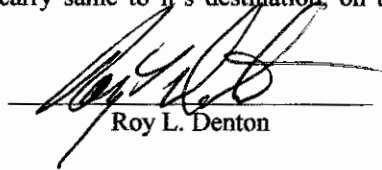
BY: _____



Roy L. Denton
120 6th Ave.
Dayton, TN 37321
423-570-9653

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 its destination, on this 27th day of MARCH, 2008.



Roy L. Denton

Copy mailed to:

Ronald D. Wells, BPR# 011185
Suite 700 Republic Centre
633 Chestnut Street
Chattanooga, TN 37540
423-756-5051