

**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 REPLY TO PLAINTIFF’S RESPONSE TO  
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

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Comes the Defendant, Steve Rievley, in his individual capacity, (herein “Officer Rievley”) pursuant to Rule 56 of the *Federal Rules of Civil Procedure*, through counsel, and hereby files his Reply to Plaintiff’s Response to Defendant’s Motion for Summary Judgment. Officer Rievley asserts that summary judgment in his favor is appropriate.

**I. STATEMENT OF FACTS**

\_\_\_\_\_ For a statement of the facts, Officer Rievley would refer this Court to his Motion for Summary Judgment, with all attachments as well as his Response to Plaintiff’s Motion to Strike. Suffice to say, the Plaintiff has submitted that there are factual disputes which make summary judgment inappropriate. Officer Rievley contends, however, that any factual discrepancies, are immaterial, and that the summary judgment in his favor is appropriate because the undisputed, *material* facts demonstrate that he had probable cause to arrest the Plaintiff for domestic abuse and that he has qualified immunity.

As the Plaintiff points out, Officer Rievley spent over 33 minutes speaking to Brandon Denton, the Plaintiff's son, about what had happened to Brandon. Officer Rievley then called Jessica Carbajal to confirm Brandon's story and to see if he had any injuries when she dropped him off at his house after midnight. He took pictures of Brandon's injuries, including strangulation marks around his neck and red marks on his arms, consistent with Brandon's statement that his father strangled him. Officer Rievley then traveled to Brandon's house where he observed Brandon's glasses lying broken on the front porch, consistent with his account of his abuse at the hands of his brother. Officer Rievley then arrested both the Plaintiff and his son, Dusty Denton.

Plaintiff makes much of what he calls a time discrepancy between the time Brandon was taken home by Ms. Carbajal (sometime after midnight) and the time he arrived at the jail (1:39am). Officer Rievley would simply point out that 1:39am is "sometime after midnight" and that there is no time discrepancy. Specifically, Brandon would have had to arrived home at 120 6<sup>th</sup> Street after midnight, argued with his brother, and then been attacked by his brother and his father. He then would have had to walk the 1/4 of a mile to the jail, arriving at 1:39am. There is simply no discrepancy. Furthermore, the Plaintiff states that there is some contradiction in Officer Rievley account of that night because he says that "Roy came to the door" and that he (Officer Rievley) "walked to the door." This is not contradictory - the Plaintiff came to the door and Officer Rievley walked up on the porch to the door. The Plaintiff then assumes that there is a dispute as to the facts because Officer Rievley testifies that he "first grabbed the plaintiff's right arm" and that he handcuffed the right arm. Officer Rievley would respectfully point out that in order to handcuff the Plaintiff's right arm that he would have to grab the right arm. There is no contradiction here.

## **II. LAW AND ARGUMENT**

Officer Rievley would respectfully point this Court to the Law and Argument section of his Motion for Summary Judgment previously filed. He would submit that he had probable cause to arrest the Plaintiff for domestic abuse, that he did not arrest the Plaintiff inside his home, but rather on his front porch, and that he has qualified immunity for his arrest of the Plaintiff. As the Plaintiff points out in his Response to the Motion for Summary Judgment, “under this test, an official will be immune if ‘officers of reasonable competence could disagree’ on whether the conduct violated the Plaintiff’s rights.” Response, pg. 25, citing *Malley v. Briggs*, 475 U.S. 335, 241 (1986). Given that the law is unsettled as to these very issues in this district according to *Cannon v. Hamilton County*, 2007 WL 3238959, \* 13 (E.D. Tenn. 2007), Officer Rievley respectfully submits that officers of reasonable competence could disagree and therefore, he is entitled to qualified immunity for his actions.

The Plaintiff does not address the issue of Officer Rievley’s immunity for assault and battery claims pursuant to TENN. CODE ANN. § 29-20-310(b). He also does not address the lack of evidence to support a claim for excessive force and his ability to receive the attorneys’ fees pursuant to 42 U.S.C. 1988. Therefore, Officer Rievley respectfully submits that he is entitled to summary judgment as to these issues.

## **III. CONCLUSION**

For the foregoing reasons, Officer Rievley respectfully submits that he is entitled to summary judgment as to all issues in this case. Accordingly, he respectfully asks this Court to grant his motion for summary judgment, in whole or in part.

Respectfully submitted,

Page -3-

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 1st day of October, 2008, 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.

This the 1st day of October, 2008.

Robinson, Smith & Wells

By: s/Ronald D. Wells

cc: Roy L. Denton  
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