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

FILED
2009 SEP 14 P 3:35
U.S. DISTRICT COURT
EASTERN DIST. TENN.
BY

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

PLAINTIFF ROY L. DENTON'S REPLY TO STEVE RIEVLEY'S RESONSE TO PLAINTIFF'S MOTION TO RECONSIDER PLAINTIFF'S CLAIM OF FALSE ARREST

Comes now, the Plaintiff Roy L. Denton, pro se, (*hereinafter Mr. Denton*) and timely files his Reply to the Response of the Defendant Steve Rievley to the Plaintiff Roy L. Denton's Motion to Reconsider his Claim of False Arrest. Accordingly, Mr. Denton hereby submits the following:

First and foremost, Mr. Denton takes exception to the way Mr. Rievley's attorney is trying to convey to this court that he, as a pro se litigant, is somehow burdening this court with a "***myriad of filings***". For the record, this lawsuit was filed September 2007 with a complaint then an amended complaint. From the point of the amended complaint forthwith to the point of Mr. Rievley's interlocutory appeal, this pro se plaintiff has filed 4 motions, 2 memorandums in support of those motions, 2 replies, 1 response and 1 notice for "***plagiarism***". In over 24 months of litigation to use the term "***myriad***" is an unprofessional depiction. This pro se litigant has been respectful and mindful to this courts case load and has gone the extra mile to limit filings. Every

filing filed by the plaintiff has been well cited, well supported and well articulated and more importantly, in accordance to the rules and always respectful to this court.

In reply to the defendant Steve Rievley's response, (hereinafter Mr. Rievley) as authored and submitted to this court by and through his attorney, he ***is correct*** in pointing out to to this court that Mr. Denton stated ***in a prior affidavit*** (*see Court Doc. 36* ¶*6*) insofar, that Brandon ***was not attacked by his father Mr. Denton during that time frame of 1:40 a.m. and that Brandon was NOT attacked in any manner "in which Steve Rievley describes in his affidavit..."*** (*see Court Doc. 29-2*).

Once again, Mr. Rievley is either having a problem communicating to his attorney what really happened, what he really said or what events really happened ***during that time frame*** himself. To refresh Mr. Rievley's memory, as he has stated in every statement he has ever made to this court that ***"he was dispatched to the jail at 1:39 a.m. and arrived at the jail at 1:40 a.m.."*** Apparently, Mr. Rievley is once again confused or has once again contradicted himself because as he has testified in every affidavit and every pleading in this record, he didn't even arrive at the jail until 1:40 a.m. and that Brandon Denton was already there complaining of an altercation or "scuffle" that he and his brother had been involved in approximately 90 minutes earlier, shortly after midnight as the record so reflects. More importantly, Mr. Rievley directs this courts attention to one particular document picked out from what Mr. Rievley's attorney states as "Mr. Denton's **myriad** filings". This document in which he refers at page 2 of his response beginning at line 11 Mr. Rievley states:

"Most importantly, however, it is **not** mentioned in Mr. Denton's affidavit (*Court Doc. 36*) wherein he testified about events in the early morning hours of September 9, 2006 "based upon [his] personal knowledge." *Id.* at ¶2. In that Affidavit, he testified that he was waiting "for his wife to come back home from a restaurant" around 1:40 a.m. *Id.* at ¶ 3. He also testified that "***Brandon Denton was not attacked in any manner***..." during this time period. *Id.* at ¶ 6. There

is no mention in this Affidavit that Mr. Denton denies that Brandon Denton was attacked at all in this Affidavit. *Id.* Thus it is clear that Mr. Denton is either confused about the events of the early morning hours of September 9, 2006 or has given contradictory affidavits". (all emphasis added by Mr. Rievley).

Once again, Mr. Rievley once again avoids the issues presented and has simply evaded responding to the rather strong allegations of "fraud" that Mr. Denton has alleged against him. Furthermore, to reply with Mr. Rievley's above statement, this court should order him to show proof of the contradiction he states that Mr. Denton has made in his affidavits. Mr. Denton has only filed TWO affidavits with this court (Court Doc. 36 and Court Doc. 59). Certainly, Mr. Denton has NEVER addressed anything concerning the events that happened "shortly after midnight". This entire case, as the record clearly shows but Mr. Rievley appears to ignore, has been predominantly a case of events that happened when Brandon walked into the jail where Mr. Rievley was dispatched at 1:39 a.m. and arrived there at 1:40 a.m.. Clearly, it is an impossibility for Brandon to have been "attacked during that time frame" because as Mr. Rievley and ALL evidence that is admitted and completely undisputed, Brandon was safely at the jail and remained there with Mr. Rievley for over 30 minutes. At all times, it has always been the issue of what happened from the time Brandon left Mr. Denton's home, purportedly to walk to the jail "**shortly after midnight**" and the enormous amount of time he spent with Mr. Rievley and other officers at the jail. So for Mr. Rievley's attorney to even whisper the allegation that Mr. Denton has contradicted himself in his 2 affidavits is alleged to be a fraud upon this court and this court should demand strict proof of the contradiction. To once again clarify, Mr. Denton is not attempting to mislead this honorable court as Mr. Rievley's attorney is trying to insinuate. Mr. Denton is not denying that ANY attack occurred on Brandon, BUT that Mr. Denton NEVER took part in what Mr. Rievley's attorney is now dramatizing the assault as an attack. Mr. Denton,

once again would like to impress upon Mr. Rievley's attorney, that Mr. Denton has stated that he attempted to break up the altercation between his two sons. Furthermore, Mr. Rievley's attorney now presents to this court a document (the identification of document needed here) that is an unsigned, undated by the officer who took such written complaint by Brandon Denton. While cleverly producing this document to the court as some sort of evidence to discredit Mr. Denton, Mr. Wells also implies that Mr. Denton had prior knowledge to this written statement and claims that Mr. Denton himself knew of this document and purposely neglects to bring it to the court's attention. Mr. Denton has not mentioned such document because Mr. Denton became aware of this said document when Mr. Wells filed it with this honorable court. Therefore, once again, Mr. Wells has made another attempt to cloud Mr. Denton's credibility by stating as fact that Mr. Denton knew of the written statement by Brandon Denton and that Mr. Denton was somehow misleading the court by not volunteering information that he had knowledge of a document that in fact, Mr. Denton did not know existed until Mr. Wells chose to file it with this court. Once again, this document that Mr. Wells, for some reason, chose to "spring" on this honorable court and upon Mr. Denton is not dated, nor is it signed by the officer that took the statement from Brandon. Mr. Wells displays yet another tactic in which to murky the waters of this case by such dishonest claims upon Mr. Denton with said document. Finally, with this document that Mr. Wells is using for "proof" that Mr. Denton is not credible and even attempts to deceive this honorable court by somehow concealing that he had knowledge of this document is completely misleading the court. This document is not signed by Mr. Rievley as even being the officer that took the written statement from Brandon.

In every instance where Mr. Denton has alleged a contradiction against Mr. Rievley he has cited each document against the offending document and not spouted out unsupported

allegations due to his evasiveness and trying to redirect this courts attention away from the fact that Mr. Rievley has made false representations to this court. Mr. Denton does not allege such conduct, Mr. Rievley's own actions indicate it. Jessica Carbajal's very on words support such and the very words of Brandon Denton sworn to in his affidavit support that proposition *Id.*

Mr. Rievley is trying to present an impression that 3 years after September 9, 2006 that father and son "*made up*" and that Brandon now comes forward to present an affidavit. This proposition is based upon a set of facts based upon an unverified written statement of Brandon Denton that Mr. Rievley *said* was made by Brandon, but failed to disclose such statement to Mr. Denton at any time. Even when he was opposing a motion to strike portions of what Mr. Rievley said that Brandon Denton told him as "*hearsay*" he still failed to disclose it. Why not produce such handwritten statement then?

Additionally, why does Mr. Rievley in his response to this instant motion ***clearly evade responding*** to the facts and evidence presented by Mr. Denton that Jessica Carbajal NEVER came to the jail to give any statement that night? Why is it that Jessica has essentially provided evidence to this court that Mr. Rievley, police officer or not, has basically been caught in a lie?

Mr. Denton's position on that is Mr. Rievley due to his evasiveness and refusal to respond to the new evidence that Jessica Carbajal **did not** give any statement in the manner in which Mr. Rievley states to this court, in the manner whatsoever in which he states that he relied upon to formulate a "probable cause" to arrest Mr. Denton. Even still, he continues to not respond to his words, not those words of Mr. Denton, that being armed with ALL the evidence he stated he had when he left the jail to come to Mr. Denton's home without a warrant to arrest him, he only had a "***reasonable suspicion***" (*Court Doc 58-1, Ex.1*).

Therefore, due to Mr. Rievley's failure to admit, deny or otherwise respond to his alleged

fraud as relative to Jessica Carbajal then it must be undeniable and therefore should be deemed admitted as true that he misrepresented to this court about a statement made that night which was never made and clearly cannot impeach the words of Jessica Carbajal (*Court Doc. 58-1 Ex. 4*).

Mr. Rievley states that Mr. Denton's pleadings have been "*replete*" in asserting how his own son was unreliable with a history of mental impairments, criminal history while living an unstable lifestyle. In spite of Mr. Rievley saying Mr. Denton's pleadings for the most part, have been *replete* with negative references as to Brandon, is blown out of proportion in an attempt to make this court think that page after page Mr. Denton attacks his son's character. Amazingly, Mr. Rievley says Mr. Denton's pleadings "*for the most part*" attack Brandon's character, yet ironically Mr. Rievley only cites Mr. Denton's Original Complaint and his Amended Complaint. These two pleadings are essentially the same as the record clearly shows, the amended complaint simply removed the name of Dustin Denton as a plaintiff and the paragraph or so that applied to Dustin, nothing more. Therefore, to say something restated in an Amended Complaint that is virtually word-for-word of the Original Complaint and to call that a "*repletive*" is outrageous. Furthermore, the matter of the credibility or lack thereof concerning Brandon has been laid to rest by this court when the court found Brandon to be "credible" (*see Court Doc 51*).

Why was Brandon Denton's handwritten statement not written on the same or in the least, a similar police form paper like Jessica wrote hers on? Why was Brandon Denton's handwritten statement not dated? Why was Brandon Denton's handwritten statement not attested to by some sort of witness? Why was Brandon Denton's handwritten statement not even signed as accepted by some police officer? Where is a declaration that Brandon gave such statement under his own free will? After all, Brandon for some reason remained at the jail for a long amount of time. This is a matter of record. Based upon the newly discovered evidence found by the diligent

investigation of Mr. Denton, a former law enforcement officer himself, the reason as to "why" Brandon Denton's handwritten statement was kept "secret" was the clear and obvious fact that Brandon gave his account and his account is exactly the same account given by every person that has submitted any form of evidence or testimony into this record.

If one examines Brandon Denton's handwritten statement it actually shows a statement that is then concluded with an alleged police enticed extension of that statement. This may explain the massive amount of time that Brandon was at the jail. As the record shows, all events concerning Brandon happened shortly after midnight. As the record shows, Mr. Rievley arrived at the jail at **1:40 a.m**. and remained there with Brandon until he left to go arrest Mr. Denton at **2:13 a.m**.. So, upon the close examination by a reasonable and objective mind the statement reads:

- My brother called me at work asking do I have a ride home I said yes when I got home my brother [sic] started cussing me my dad and step mom was cussing me also they went back inside and that's when I ran from my house to the jail.

The above is a verbatim reproduction of Brandon's undated, unwitnessed, unattested statement. And upon careful examination of Brandon's handwritten account the only period ending his rather long sentence is after the word "jail". This account is directly on point as to everything evidenced in this record. In sum, Dustin calls Taco Bell and inquires about whether Brandon needed a ride, Brandon got off work at midnight, Jessica Carbajal brings Brandon to his dad's house and drops him off shortly after midnight. Dusty became argumentative and then started hitting Brandon, his dad and step mom are "cussing" at him then went back inside, Brandon then ran to the jail. This account actually is in line with virtually every account, however, there is a second continuation of the statement. A continuation where it is alleged that police personnel enticed and coached Brandon to write "***more detail***". The intent seems clear that

Mr. Rievley already had it in his mind that Dustin was going to be arrested but that the big prize was the father, the political rival and former sheriff candidate against his chief Chris Sneed's father. Therefore, Mr. Rievley and every other police officer at that jail knew there was no probable cause as to Mr. Roy L. Denton but Roy Denton had to be arrested all the same. Probable cause could have been imputed upon Dustin but not to Mr. Denton. In fact, just as Mr. Rievley says himself in an affidavit sworn to by him dated June 20, 2008, "Upon going onto the porch, I noticed Brandon's **eyeglasses**, consistent with Brandon Denton's story, **lying on the front porch, broken**. **At that point, I decided to arrest Roy L. Denton** and Dustin Denton **for domestic assault**" (*see Affidavit of Steve Rievley - Court Doc 29-2 ¶16*)

Upon close examine of the continuation of this handwritten statement of Brandon Denton, beginning after the first period and thought process after the word "jail", an examination of the statement with a reasonable mind the statement reads:

- **Dad also started pushing and hitting me my step mom cused [sic] me and got in my face they broke my glases [sic]. Dusty broke my glasses Dusty hit me in the head causing a red mark Dad put the places on my neck by stranling [sic] me.**

Clearly, it is suspect upon reading how this portion of Brandon's handwritten statement state that not only did his father strangle him, his father HIT him as well. Mr. Rievley has never stated any hits by the father at all, just an alleged "strangling". Also, clearly a simple reading of this portion of the statement then his step mom [Kimberly] could have been arrested for assault as well because as it says, "they broke my glasses". Then amazingly, the very next words are "Dusty broke my glasses". It appears that the once murky waters concerning what really happened while police swarmed around the known to them to be "mentally impaired" Brandon, they made a play on words inducing him to say what needed to be said to create probable cause to arrest Roy Denton. Although this handwritten statement conflicts with everything Steve

Rievley has stated, it actually gives an impression that Kimberly was just as "arrest - able" as Mr. Denton was. After all, it was Mr. Rievley who claims that he decided to arrest Roy L. Denton when he saw Brandon's broken glasses. No wonder Mr. Rievley withheld this document from disclosure as he has defeated himself in showing it now. Not one single time has Mr. Rievley ever stated anything about Roy Denton or his wife Kimberly breaking Brandon's glasses in spite of Brandon writing those words himself, or so Mr. Rievley claims. Now Mr. Rievley wants to present this handwritten statement to this court then act like that Mr. Denton knew about it all along but somehow entered an affidavit completely devoid of any mention or reference to the handwritten statement as if Brandon's statement "didn't exist" (see page 6 of Defendant's Response - Court Doc. 61). Also, Mr. Rievley asserts that Brandon Denton signed his statement on September 9, 2009 but there is no date on it anywhere. In his response, the tune has once again changed to be that Brandon gave his statement to "police" although Steve Rievley has purported himself the entire time of litigation of being the Lone Ranger on this escapade.

Mr. Denton would like to point out to this court, however, that he along with his wife, Kimberly Denton, did not attach their affidavits to his Motion to Reconsider as "newly discovered evidence". Each affidavit was filed separately and assigned their own Court Document number and were submitted individually to "support" the Motion to Reconsider. Furthermore, as Mr. Rievley's points out in his response, that nowhere in the "myriad filings" of Mr. Denton has Mr. Denton ever mentioned, much less recited the facts of the events of the scuffle between Brandon Denton and his brother Dustin Denton. Also, Mr. Denton never recited any of these facts concerning any scuffle other than the consistent denial of the "scuffle" not happening in the way that Steve Rievley said it happened. Furthermore, as stated by counsel on behalf of Mr. Rievley, "Mr. Denton is not on trial for domestic assault of his son, Brandon" (*see*

Court Doc. 47, pg. 2). Therefore, clearly Mr. Denton's recital of the facts of the events of September 9, 2006 are made to show this court that Mr. Rievley's account, his statements and even his sworn testimony is in complete contradiction as to the facts told by each person he by himself states.

Clearly, a reasonable mind can conclude that when Brandon gave his statement he started from the beginning where his brother called him at work asking if he need a ride home. Once being dropped off at Mr. Denton's home, Dusty starts cussing and hitting him, his dad and step mom are never even mentioned to do nothing more than "cuss" then go back inside the house where Brandon then took off running to the jail. Now with this added account, a whole new scenario is born. In this statement, Brandon states that his dad, Mr. Denton "started pushing and hitting me my step mom cussed me and got in my face they broke my glasses" *Id.* Clearly, Mr. Rievley never asserts in any testimony that Mr. Denton "hit" Brandon. As the affidavit of complaint sworn to by Mr. Rievley states (*see Court Doc 21-3*). Even the Dayton Police departments official domestic violence form doesn't state that at anytime did Mr. Denton "push" or "hit" Brandon, just the reference to "strangling (*see Court Doc 44-1, Ex. 2*). One major portion of Brandon's handwritten statement completely impeaches Mr. Rievley's "reason for his decision to arrest Mr. Denton" is how in Brandon's written statement he states that THEY BROKE MY GLASSES.

To expound upon that, in every document, paper, sworn, un-sworn and everything else submitted to this court by Mr. Rievley is one clear and convincing fact. A fact that HE states himself as the "deciding factor" in his decision to arrest Mr. Denton and that was "**Brandon's broken glasses**". *Id.* Restated, at all times within this entire record and every piece of testimony and representation to this court is stated over and over unequivocally that **Dustin broke**

Brandon's glasses. However, in Brandon's very own written words he states that THEY broke his glasses. In his statement, THEY = his dad and step mom. How is it that Brandon stated to Mr. Rievley that **THEY broke his glasses** yet Mr. Rievley simply disregarded it. Why is that? To further cloud the issues, Brandon in his very next set of words states, "**Dusty broke my glasses**".

Although, in spite of Brandon stating in the second alleged enticed part of his statement that his dad, Mr. Denton "started pushing and hitting me", Brandon states that Dustin hit him in the head causing a red mark. However, Mr. Rievley has never claimed a probable cause that Mr. Denton had ever "hit" Brandon, just strangled him. To much amazement, Mr. Rievley would try to have this court believe that although it has always been alleged that Mr. Denton strangled his son Brandon, it should be noted that in the official Dayton Police department domestic violence form *Id.*, ***the only box checked*** under "Strangulation Symptoms" was only one which was, "Scratch Marks". The reason Mr. Rievley withheld the handwritten statement was because he knew that he could not answer to allegations that Mr. Denton now raises and will indeed demonstrate at trial. Clearly there was never probable cause to arrest Roy L. Denton.

Everything written in Brandon Denton's written statement in the least contradicts itself and is unclear. First Dusty hit him, then his dad hit him to his step mom cussing him to his dad and step mom breaking his glasses, and the list goes on. Ironically, based solely upon the broken eyeglasses being the determining factor for the decision to arrest Mr. Denton it could reasonably be assumed that had Kimberly Denton been at home at the time of Mr. Rievley's arrival then she too would have been arrested.

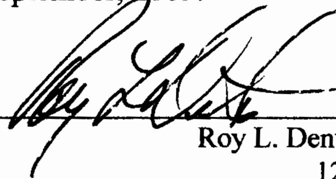
Restated, Mr. Denton never had a clue that the handwritten statement of Brandon existed and had he not filed his motion to reconsider it is abundantly clear that Mr. Rievley never had any intention of ever disclosing it. His attorneys know full well, or should know, that the court

would frown upon the unfair "springing" of unmade disclosure of this discovery and that such gamesmanship conduct is prejudicial to Mr. Denton.

Had Mr. Rievley disclosed this statement during the summary judgment phase as he has indicated as some sort of support for his response, then Mr. Denton could have, and in fact would have argued his false arrest claim using a much different strategy. This form of evasive tactic of springing into the record an undated, unattested document is a shock of the conscience and such conduct should not be condoned by this honorable court.

Therefore, based upon the foregoing facts the motion of the plaintiff should be granted.

Respectfully submitted, this 14th day of September, 2009.

BY: 

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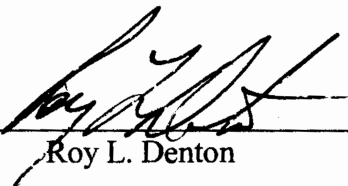
CERTIFICATE OF SERVICE

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 14th day of Sept, 2009.



Roy L. Denton

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