

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

ROY L. DENTON)	
)	
Plaintiff)	Case No. 1:07-cv-211
)	
v.)	JURY DEMAND
)	
STEVE RIEVLEY)	Collier/Carter
)	
Defendant)	

**DEFENDANT STEVE RIEVLEY’S RESPONSE TO
PLAINTIFF’S MOTION TO CONTACT A JUROR**

Comes the Defendant, Steve Rievley, in his individual capacity, (herein “Officer Rievley”), through counsel, and hereby files his Response to Plaintiff’s Motion to Contact a Juror. In his Motion, the Plaintiff is seeking permission to contact a juror which he identifies as “Jen Touchstone.” The basis for the Plaintiff’s Motion is an email he received from a person identifying him/herself as “jentouchstone”, a juror on his case, and a blog exchange involving several people where a person identifying him/herself as “unfortunate juror” discussed the case. For the reasons set forth below, Officer Rievley respectfully requests that this Court deny the Plaintiff’s Motion.

The Plaintiff, Roy Denton, filed his Complaint, *pro se*, on September 6, 2007. The first trial of this matter resulted in a hung jury on April 13, 2010. The second trial of this matter began on August 23, 2010, with the jury returning an unanimous verdict in favor of Officer Rievley on August 25, 2010.

After the jury unanimously returned a verdict in favor of Officer Rievley, someone purporting

to be a juror from the trial apparently contacted the Plaintiff through the Plaintiff's Topix account on August 25, 2010. This "Message" is attached hereto as Exhibit A. In this "Message", the person claims that s/he would have hung the jury "but according to the wording of the laws we were given I was outvoted & eventually out-fought, I think due to some lack of legal-ese knowledge. If you appeal, I hope you get some legal counsel to explain in detail some of these laws, and your position."

Id. Exhibit A is attached as a basis for the Plaintiff's Motion as well.

The Plaintiff also references a website called "Topix" that is essentially a local community blog and sends this Court to a hyperlink where the trial of this matter was discussed following the jury verdict ("the Blog"). *See Court Doc. 141*. In the Blog, a person identified only as "unfortunate juror" wrote on August 26, 2010 that s/he was a member of the jury. *See Blog #9*, attached hereto as Exhibit B. The juror affirmatively stated because "it was up to the plaintiff to prove his case, and we had so many unanswered questions when we went to deliberate, we couldn't in good faith say he had proven his case. Although it would have helped him tremendously to have had a lawyer because there were many many many tiresome tedious minutes/hours/days of objections from the actual lawyer in the room requiring the judge to explain legal proceedings to the plaintiff & us in the jury..."

Id.

It is clear from both the August 25th Message to Mr. Denton and the August 26th Blog, that the juror fulfilled her duty as a juror. *See Exhibit A* and *Exhibit B*. She understood that the ***Plaintiff had the burden of proof*** and she stated that ***the jury could not "in good faith say he had proven his case."*** *Exhibit B*. (emphasis added). She understood that she had to ***apply the law as instructed by the Court to the facts as presented during the trial of the case.*** *See Exhibit A*. (emphasis added). That is the fundamental task of a juror in a civil case: to determine if a plaintiff

has met his burden, and to apply the law as given by the Court to the facts as presented during the trial, all while setting aside any personal feelings the juror may have toward either party. It is clear in this case, from the postings of this juror, upon which the Plaintiff basis his Motion, that the jury was able to perform their task.

While the “juror” may hint at facts that were not presented, “unanswered questions” or the potential for a hung jury, it is clear that this is because the Plaintiff represented himself, and not because of any impropriety during the trial. In fact, the “juror” even states that the Plaintiff would have been helped “tremendously” if had a lawyer because of the necessity of the Court to explain legal proceedings to the Plaintiff. *See Exhibit B - Blog #9.*

During the pendency of the case, from the filing of the original Complaint through the filing of this Response, the Plaintiff has represented himself *pro se*. In choosing to represent himself, however, he does so at his own peril. According to the Rule 83.13 of the Local Rules for the Eastern District of Tennessee, a *pro se* litigant **shall** be expected to be familiar with and follow the Federal Rules of Civil Procedure and these rules. LR83.13 (emphasis added). Furthermore, the Plaintiff is “not entitled to special treatment with regard to the evidentiary rules. *Palmer v. Town of Jonesborough*, 2009 WL 1255780, *2 (E.D. Tenn.,2009) (citing *Brock v. Hendershott*, 840 F.2d 339, 343 (6th Cir.1988) (“When a person ... chooses to represent himself, he should expect no treatment which prefers him over others who are represented by attorneys”)).

Therefore, the Plaintiff cannot now fall back on the position that because he represented himself and did not know the rules of the games, he was somehow prejudiced. Likewise, he should not be allowed to bolster such a frivolous argument with insinuations and innuendos, especially in light of the fact that the very postings that provide the basis for his Motion clearly evidence the fact

that this juror acted in accordance with the Court's instructions and that she fulfilled her duties as a juror. To do otherwise, would be to allow the Plaintiff to continue to try this case after having a jury return a verdict against him.

Accordingly, Officer Rievley respectfully requests that the Plaintiff's Motion be denied.

Respectfully submitted,

ROBINSON, SMITH & WELLS
Suite 700, Republic Centre
633 Chestnut Street
Chattanooga, TN 37450
Telephone: (423) 756-5051
Facsimile: (423) 266-0474

By: s /Elizabeth Roderick

Ronald D. Wells, BPR# 011185

Elizabeth Roderick, BPR # 022762

Attorney for Defendant, Steve Rievley

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of September, 2010 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 3rd day of September, 2010.

Robinson, Smith & Wells

By: /s Elizabeth Roderick

cc: Roy L. Denton
120 6th Avenue
Dayton, TN 37321

/09032010/daytondenton/respmotcontactjuror.wpd

ROY DENTON

Profile

Messages

Inbox

Send

Compose

Settings



Messages: View Message

Message from jentouchstone to Roy Denton. Wednesday Aug 25

Reply »



jentouchstone

I was a juror on your case this week and I wanted to let you know some things we discussed, if you're interested. I respect what you were doing and just so you know, if you would have polled the jury I would have been the dissenting vote to give you another hung jury. I really hated having to give the verdict we did, as did several of us, but according to the wording of the laws we were given I was outvoted & eventually out-fought. I think due to some lack of legal-ese knowledge. If you appeal, I hope you get some legal counsel to explain in detail some of these laws, and your position.

Report Abuse | Block jentouchstone

Delete

Messages are deleted after 30 days - Topix may review message content

Comments

41

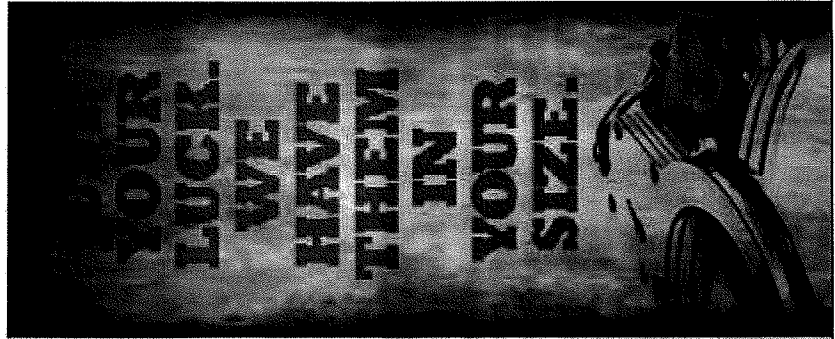


Exhibit A

Local News: Dayton, TN

Sign Up | Sign In

ZIP code or keyword



1 2 3
Topix Issues Map:
Would you support
the legalization of
Marijuana?

*Disclaimer



TOYOTA
moving forward

- HOME
- FORUMS
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- WORLD
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DAYTON

News

Forums & Polls

Roy Denton LOSES laws...

Real-Time News

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Weather
88°F | 55°F

Roy Denton LOSES lawsuit!!!!

Posted in the Dayton Forum

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Showing posts 1 - 20 of 20

Lawsuit News
Cleveland, TN

Wednesday Aug 25

#1 |

Judge it! | Report Abuse | Reply »

Judged: 1

Roy Denton was arrested for domestic assault in 2006 by Officer Steve Rievley of the Dayton Police Department. Roy sued the officer in Federal Court in Chattanooga in 2007. The case finally went to trial this week. A jury of their peers, twelve of them, rendered the verdict in favor of Officer Steve Rievley on all accounts. The jury decided that Officer Rievley did nothing wrong and that Roy Denton's arrest was proper and that the entry of his house was proper. Mr. Denton has written on several websites that he was guaranteed a win and that he was going to have Officer Rievley's job. He even called it "The battle of the former Constable versus the soon to be former Policeman". Of course, all of his stories that he posted were only of side of the story. The Federal jury got to hear what really happened. Mr. Denton got to present his side, he got to question all of the witnesses, and he had the right to call his own witnesses. Even giving it his best, he still LOST. Officer Rievley was completely exonerated and it was found that HE DID NOTHING WRONG! Justice was served today!

fool for a client
Cleveland, TN

Wednesday Aug 25

#2 |

Judge it! | Report Abuse | Reply »

I wonder if Roy's loss had anything to do with the fact that he represented himself (no lawyer) in a Federal trial?
Smart move, Roy.

DAM THE GREEK
United States

Wednesday Aug 25

#3 |

Judge it! | Report Abuse | Reply »

fool for a client wrote:
I wonder if Roy's loss had anything to do with the fact that he represented himself (no lawyer) in a Federal trial?
Smart move, Roy.

IELL DUHHHHH....

Hilarious
Cleveland, TN

Wednesday Aug 25

#4 |

Judge it! | Report Abuse | Reply »

Judged: 1

Guess of Roy isn't as smart as he thinks he is. Serves the bum right.

Truth Prevails

KitchenAid 2-Slice Toaster

Model: KPTT780PM



209.99

See it

at Sears

KitchenAid 2-Slice Toaster

Model: KPTT780PM

Powered by Krillion

DAYTON SHOPPING [See all]

Dayton, TN Jobs

Entry Level - Mail Room Clerk Jobs - Training Available

Exhibit B

unfortunate juror
Chattanooga, TN
Thursday Aug 26 #11 | Judge it! | Report Abuse | Reply »
It was an hour and a half, we went back just before 10 and brought our decision to the court liason at 11:40.

Truth Prevails
Cleveland, TN
Thursday Aug 26 #12 | Judge it! | Report Abuse | Reply »
unfortunate juror wrote:
it was an hour and a half, we went back just before 10 and brought our decision to the court liason at 11:40.
Okay Roy. The jury had already been dismissed by 11:40. The foreperson said they had reached a verdict by 11:00. Not to mention that the jury got to the jury room around 10:00, but had to wait for the evidence to be brought back, which took around ten minutes, and then they had to elect a foreperson, and THEN they deliberated. So it was positively LESS THAN ONE HOUR.

Big Pappa Pump
Cleveland, TN
Thursday Aug 26 #13 | Judge it! | Report Abuse | Reply »
Judged: 1
Go Away Ex-Constable Won't A Be Cop Roy! You Lost &&^*&! You should be Judge Mckensie's Court Officer you both try to make up the Law as you go!

Time Teller
Cleveland, TN
Thursday Aug 26 #14 | Judge it! | Report Abuse | Reply »
I got a text message at 12:04 p.m. saying that Officer Rievley had one. You have to leave you phone at the front door of the courthouse so I know at ny 12:04 p.m. it was all over and everyone had left the building. Now let's think about this: When the jury has reached a unanimous verdict, the foreperson records this. The foreperson then has to notify the court clerk, and then the court clerk has to notify the judge. The judge has other important issues to tend to so he has to finish whatever he is doing and return to the courtroom. Court is reopened. Then the jury is brought back in to the courtroom and assembled. The judge asks the foreperson if they have reached a verdict and the foreperson answers. The judge reads the verdict to himself, and then hands it to the court clerk to read out loud. The verdict is read, and then the judge asks if either side wants the jury polled. The judge thanks the jury and spends a few minutes talking about our legal system and how they have played a very important role. The jury is excused and then the judge asks if there are any other issues. Roy makes a frivolous motion to have the judge overturn the JURY verdict because he can't believe that they didn't see it his way. He is told to put it in writing for the record, but it is a complete waste of time. Court is adjourned, and Roy goes and gets his appeal paperwork. AFTER he leaves, the person that sent me the text leaves and sends me the message.
IF ANYONE CAN EXPLAIN HOW ALL OF THIS HAPPENED BETWEEN 11:40 A.M. AND 12:04 P.M. I WOULD LOVE TO HEAR IT.

unfortunate juror
Chattanooga, TN
Thursday Aug 26 #15 | Judge it! | Report Abuse | Reply »
I had no idea he asked for the judge to overturn our verdict! That's hilarious. He should have just polled us. But it looks like I've inadvertently stirred up some emotions on this guy by posting my opinion of it all. Sorry if I rained on anybody's parade, lol. I don't know the guy, and I really did take my position as juror seriously and tried to get to a reasonable outcome with the limited evidence we were given. Can't post anymore, do not want to lose my job over this!!

MountainMourning Crap
Cleveland, TN
Thursday Aug 26 #16 | Judge it! | Report Abuse | Reply »
I heard its hard to beat what cant be beat....The Truth

Back Bone
Cleveland, TN
Thursday Aug 26 #17 | Judge it! | Report Abuse | Reply »
My hat goes off to the Police Officers that stood up and held to their guns on a case as this was. that have Back Bones and a Call To Duty.

He got one thing right
Cleveland, TN
Friday Aug 27 #18 | Judge it! | Report Abuse | Reply »
One thing of' Roy did get right was when he said the truth will prevail. He was 100 percent correct!

lurker
Cleveland, TN
Saturday Aug 28 #19 | Judge it! | Report Abuse | Reply »
I read a bunch about this on the internet. There are a bunch of websites that talk about this lawsuit. I do think its kinda funny that this guy brags about himself so much and says over and over you cant beat the truth. I guess he was right about that part.

silence
Monday Aug 30 #20 | Judge it! | Report Abuse | Reply »

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Libra
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