

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DEREASE L. IRONS,

Plaintiff,

v.

Case No. 6:16-cv-479-Orl-37GJK

CITY OF HOLLY HILL; STEPHEN
ALDRICH; and JAMES PATTON,

Defendants.

ORDER

In the instant civil rights action, Plaintiff is proceeding *pro se* against officer James Patton in his individual capacity ("**Patton**") and police chief Stephen Aldrich in his official capacity ("**Aldrich**"). As such, the Court construes the claim against Aldrich as a claim against the City of Holly Hill ("**the City**"). See *Busby v. City of Orlando*, 931 F.2d 764, 776 (11th Cir. 1991).

In light of Plaintiff's *pro se* status, the Court has allowed him to proceed on claims set forth in separate iterations of the Complaint—namely: (1) an unlawful search claim against Patton as set forth in the First Amended Complaint ("**Count I**") (Doc. 23, ¶¶ 1-44); and (2) an unlawful search claim against the City as set forth in the Second Amended Complaint ("**Count II**") (Doc. 61). (Doc. 70.)

On May 4, 2017, the City moved to dismiss Count II on several grounds. (Doc. 73 ("**the City's MTD**").) In response, Plaintiff moved to voluntarily dismiss Count II, conceding the difficulties of proceeding against the City without counsel. (Doc. 74


("Plaintiff's MTD).) Upon consideration of Plaintiff's MTD, the Court construes the City's MTD as unopposed and finds that it is due to be granted. Going forward, this action will proceed on Count I alone – that is, the unlawful search claim set forth against Patton in the First Amended Complaint (Doc. 23, ¶¶ 1-44).

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Defendant City of Holly Hill's Motion to Dismiss Count II of the Complaint (Doc. 73) is **GRANTED**.
2. Plaintiff's Amended Complaint Against the City of Holly Hill [and] Stephen Aldrich[] [Pursuant to] 42 U.S.C. § 1983 (Doc. 61) is **DISMISSED**.
3. Plaintiff's Motion to Voluntar[ily] Dismiss [the] Second [A]mended Complaint and Proceed with [His] First [A]mended Complaint (Doc. 74) is **DENIED AS MOOT**.
4. The Clerk is **DIRECTED** to **TERMINATE** Defendants City of Holly Hill and Stephen Aldrich as parties to this action.

DONE AND ORDERED in Chambers in Orlando, Florida, on May 9, 2017.




ROY B. DALTON JR.
United States District Judge

Copies to:
Pro se Plaintiff
Counsel of Record