

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION**

**BRANDON RICARDO SMITH,**

**Plaintiff,**

**v.**

**CASE NO. 1:13-cv-166-MW/GRJ**

**CITY OF GAINESVILLE.**

**Defendant.**

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**ORDER ACCEPTING AND ADOPTING REPORT AND  
RECOMMENDATION**

This Court has considered the Magistrate's Report and Recommendation, ECF No.7, filed November 25, 2013. Upon consideration, no objections having been filed,

**IT IS ORDERED:**

The report and recommendation is **accepted and adopted** as this Court's opinion. The Clerk shall enter judgment stating, "The claims against the city of Gainesville Police Department are **DISMISSED** for failure to state a claim.

Service will be directed on the remaining Defendant, Officer Kelly, by separate order.”<sup>1</sup>

**SO ORDERED on January 3, 2014.**

**s/Mark E. Walker**  
**United States District Judge**

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<sup>1</sup> In so ruling, this Court recognizes that Plaintiff has filed a Second Amended Complaint. ECF NO. 10. This order does not address the Second Amended Complaint which requires action by the Magistrate Judge.