

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 07-21139-CIV-COOKE/WHITE**

ERIK SANCHEZ

Plaintiff,

v.

HIALEAH POLICE DEPARTMENT, *et al.*,

Defendants.

ORDER ADOPTING JUDGE WHITE'S REPORT AND RECOMMENDATION

This matter is before me on Judge White's Report and Recommendation [D.E. 46] and Plaintiff Erik Sanchez's ("Sanchez") Objections to Report [D.E. 50]. I have conducted a *de novo* review of the record, which included Plaintiff's Third Amended Complaint and Motion for Detailed Damage Claims, Judge White's Report, and Plaintiffs' Objections to Report.

I find that Judge White's Report should be affirmed and adopted. I grant Sanchez leave of court to amend his Second Amended Complaint [D.E. 21], except that he cannot allege claims against the City of Hialeah ("Hialeah") and the City of Hialeah Police Chief Rolando Bolanos ("Bolanos"). Sanchez did not establish a causal link between Hialeah's or Bolano's policy or custom and the injury suffered. *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 694-95, 98 S.Ct. 2018, 2037-38 (1978). Therefore, Sanchez has not stated a viable claim against Hialeah and Bolanos.

Therefore, I adjudge as follows:

1. The Amended Complaint [D.E. 10] is dismissed.
2. The Second Amended Complaint [D.E. 21] is dismissed.

3. Leave of Court to proceed on the Third Amended Complaint [D.E. 34] and the Motion for Detailed Damage Claim [D.E. 41] is granted in part and denied in part as follows:

a. Leave is granted with respect to the Third Amended Complaint and the Motion for Detailed Damage Claim to the extent they raise claims against Defendants R. Del Nodal for engaging in excessive force upon arrest and committing battery and L. Garrido for failure to intervene.

b. Leave is denied with respect to all claims in the Third Amended Complaint against Hialeah and Bolanos.

4. The Third Amended Complaint coupled Motion for Detailed Damage Claim are now the operative complaint.

DONE AND ORDERED in Chambers at Miami, Florida, this 6th day of March 2009.



MARCIA G. COOKE
United States District Judge

cc:

All counsel of record

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