

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION  
CASE NO. 09-10043-CIV-KING**

JONATHAN THOMAS SCHMIDT,

Plaintiff,

v.

MONROE COUNTY SHERIFF'S  
DEPARTMENT, et al.,

Defendants.

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**FINAL ORDER OF DISMISSAL**

THIS CAUSE comes before the court upon Judge Patrick A. White's Report and Recommendation (DE # 6) recommending dismissal, filed November 4, 2009.

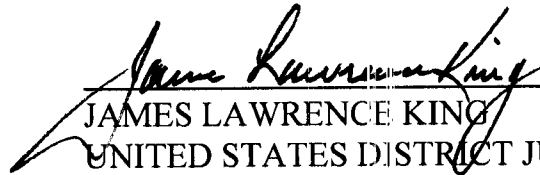
Judge White finds that Plaintiff raised the same claims in the previously dismissed action Case No. 08-10095-CIV-MARTINEZ and therefore recommends that the Complaint be barred by *res judicata*. Judge White notes that the two complaints allege incidents that occurred on different dates, but finds that the incident alleged in this action could have been raised in Plaintiff's previous Complaint. Alternatively, Judge White recommends that the case be dismissed because Plaintiff fails to state a constitutional claim for relief. This Court concludes that the R&R contains thorough and well reasoned recommendations.

Accordingly, after a careful review of the record and the court being otherwise fully advised in the premises, it is

ORDERED, ADJUDGED and DECREED as follows:

1. Magistrate Judge Patrick A. White's November 4, 2009 Report and Recommendation (**DE # 6**) be, and the same, is hereby **AFFIRMED** and **ADOPTED** as an Order of this Court.
2. The above-styled case be, and the same, is hereby **DISMISSED**.
2. All pending motions are hereby **DENIED** as moot.
3. The Clerk shall **CLOSE** this case.

DONE AND ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 5th day of November, 2009.

  
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JAMES LAWRENCE KING  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF FLORIDA

cc: The Honorable Patrick A. White

**Jonathan Thomas Schmidt**  
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Monroe County Detention Center  
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PRO SE