

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-81471-CIV-HURLEY/WHITE

JULIEN GARCON,
plaintiff,

vs.
LARRY REAVIS, et al.,
defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION of
MAGISTRATE JUDGE**

THIS CAUSE is before the court upon the plaintiff's *pro se* civil rights complaint pursuant to *Bivens v Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) and 42 U.S.C. § 1983. This matter was previously referred to Magistrate Judge Patrick White for an initial screening and a report and recommendation in accordance with 28 U.S.C. §1915(e)(2)(B).

On February 25, 2011, Magistrate Judge White issued a Report and Recommendation recommending that the plaintiff's *Bivens* complaint be allowed to proceed against defendants Reavis, Mathew, Weeks, Van Reeth, Birch and Fererra for unlawful search of his apartment and Audi at Portofino Way on March 22, 2007, while all other claims related to search and seizure, which were not granted in a previous motion to suppress, be dismissed for failure to state a claim upon which relief may be granted.

Having reviewed the Magistrate Judge's Report and Recommendation *de novo*, together with the plaintiff's objections filed March 15, 2011 [DE# 24], pursuant to 28 U.S.C. § 636(b)(1), the court finds the resolution of the issues as recommended by Magistrate Judge White to be sound and well-reasoned and accordingly shall adopt that recommendation here.

It is therefore **ORDERED AND ADJUDGED**:

1. The Report and Recommendation of United States Magistrate Judge White [DE # 13]] is **APPROVED and ADOPTED** in full.

2. The plaintiff's *Bivens* claims against defendants Reavis, Mathew, Weeks, Van Reeth, Birch and Fererra for unlawful search of his apartment and Audi located at Portofino Way on March 22, 2007, shall proceed.

3. All other claims related to search and seizure, not granted in a prior motion to suppress and challenging the plaintiff's conviction, are barred by *Heck* and are accordingly **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.


4. All claims for return of property are dismissed for failure to state a claim.

5. The claim against Officer Jane Doe is dismissed for failure to state a claim.

6. All claims raised on behalf of the plaintiff's daughter and girlfriend are dismissed for lack of standing and failure to state a claim.

7. The claim of conspiracy is dismissed for failure to state a claim.

DONE and SIGNED in Chambers at West Palm Beach, Florida this 5th day of April, 2011.


Daniel T. K. Hurley
United States District Judge

Copies furnished to:
United States Magistrate Judge White
Julien Garcon, *pro se*