

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

TIMOTHY HINDS,

Plaintiff,

v.

Case No: 6:18-cv-578-Orl-41TBS

**APOPKA POLICE DEPARTMENT and
JENNIFER PYBURN,**

Defendants.

ORDER

THIS CAUSE is before the Court on United States Magistrate Judge Thomas B. Smith's Report and Recommendation ("R&R," Doc. 9), in which he recommends that the claims against Defendant Apopka Police Department be dismissed without leave to amend because a police department "is not a legal entity subject to suit under § 1983." (*Id.* at 2 (citing *Bigham v. Powell*, 1:07cv523-MHT (WO), 2007 WL 2081283, at *2 (M.D. Ala. July 19, 2007))); *see also King v. Lake Cty.*, 5:17-cv-52-Oc-34PRL, 2017 WL 6502395, at *5 (M.D. Fla. Dec. 19, 2017) ("[c]apacity to sue or be sued is determined . . . by the law of the state where the court is located. Under Florida law, a [police] department is not a legal entity that can be sued.") (internal citations omitted). "[T]he city or municipal corporation [is] the proper party." *Wymer v. Baxter*, 6:15-cv-1669-Orl-37DAB, 2015 WL 7731406, at *3 (M.D. Fla. Nov. 4, 2015), *report and recommendation adopted*, 2015 WL 7721330 (M.D. Fla. Nov. 30, 2015).

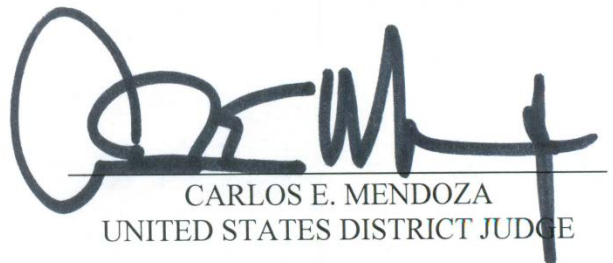
Plaintiff filed an Objection to the R&R ("Objection," Doc. 12). Plaintiff's Objection does not discuss the legal analysis in the R&R, but instead argues that according to the Oxford English

Dictionary's definition of "legal" and "entity," the Apopka Police Department is a legal entity subject to suit. (*Id.* at 1–2).

After reviewing the record in this matter, the Court agrees entirely with the analysis set forth in the R&R. Therefore, it is **ORDERED** and **ADJUDGED** as follows:

1. The Report and Recommendation (Doc. 9) is **ADOPTED** and **CONFIRMED** and made a part of this Order.
2. The Amended Complaint (Doc. 6) is **DISMISSED** as to Defendant Apopka Police Department.
3. The Clerk is directed to terminate Apopka Police Department as a Defendant and amend the case style accordingly.

DONE and **ORDERED** in Orlando, Florida on November 8, 2018.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party