

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

THE AMERICAN HUMANIST  
ASSOCIATION, INC., ART ROJAS,  
FRANCES JEAN PORCAL, LUCINDA  
HALE, and DANIEL HALE,

Plaintiffs,

v.

Case No. 5:14-cv-651-Oc-32PRL

CITY OF OCALA, FLORIDA, KENT  
GUINN, individually and in his official  
capacity as mayor of the City of Ocala,  
OCALA POLICE DEPARTMENT, and  
GREG GRAHAM, individually and in  
his official capacity as chief of police of  
the Ocala Police Department,

Defendants.

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**ORDER**

Finding the right balance when legitimate First Amendment interests of American citizens conflict is often difficult. This is especially true when religion is involved. All of the participants in this case- - the Mayor, the Police Chief, the citizens of Ocala, atheists and believers- - have First Amendment rights that are due respect and protection. The question here is whether the City of Ocala, the Mayor and Police Chief organized and promoted a religious event in violation of the First Amendment. The Magistrate Judge has done a fine job of analyzing this legal question, concluding that the case deserves to go forward. I agree. However, this is just the beginning and

we are a long way from determining which side of this important debate will ultimately prevail.

On July 3, 2015, the assigned United States Magistrate Judge issued a Report and Recommendation (Doc. 14) recommending that Defendants' motion to dismiss (Doc. 8) be denied as to the individual Plaintiffs' claims for nominal damages against the City of Ocala and Mayor Guinn and Chief Graham in their individual capacities, but granted in all other respects. Only Defendants objected (Doc. 17); Plaintiffs responded to those objections (Doc. 19). Upon de novo review, it is hereby

**ORDERED:**

1. The Report and Recommendation of the Magistrate Judge (Doc. 14) is **ADOPTED** as the opinion of the Court. Defendants' objections are overruled as they would require the Court to engage in fact-finding which is beyond the purview of a motion to dismiss.

2. Defendants' Motion to Dismiss (Doc. 8) is **GRANTED** insofar as American Humanist Association's claims, any claim for prospective relief, and all claims against the Ocala Police Department and Mayor Kent Guinn and Chief Greg Graham in their official capacities are **DISMISSED with prejudice**.<sup>1</sup> The Motion is otherwise **DENIED**.<sup>2</sup>

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<sup>1</sup> As Plaintiffs did not object to the Magistrate Judge's Report and Recommendation, the Court dismisses these parties and claims with prejudice.

<sup>2</sup> Though the Court is denying the motion to dismiss, the Court will no doubt be revisiting these issues at a later stage of the case.

3. No later than **September 30, 2015** the remaining defendants should answer the complaint.

4. The parties have until **September 30, 2015** to file an Amended Case Management Report.

5. The Court encourages the parties to try to settle the matter. Consistent with the parties' recent filing (Doc. 21), if the parties wish the Court to appoint a mediator or stay the case pending settlement discussions, the Court will do so upon request.

**DONE AND ORDERED** in Jacksonville, Florida the 31st day of August, 2015.

  
TIMOTHY J. CORRIGAN  
United States District Judge

w.  
Copies (with R&R attached) to:

Honorable Philip R. Lammens  
United States Magistrate Judge

Counsel of record