

**Eduardo PRIETO, Appellant,**  
**v.**  
**MIAMI-DADE COUNTY, Appellee.**

**District Court of Appeal of Florida, Third District**  
**No. 3D01-1274**

**Decided November 21, 2001**

**Rehearing and Rehearing En Banc Denied January 23, 2002**

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Jose M. Francisco; Bambi G. Blum, Miami; and Stokes & Gonzalez, Miami, for appellant.

Michael H. Lax, Miami, for appellee.

Before JORGENSEN, GREEN, and RAMIREZ, JJ.

**PER CURIAM.**

Eduardo Prieto, the plaintiff below, appeals from a final judgment entered in favor of defendant Miami Dade County. We affirm.

Prieto sued defendants Miami-Dade County, Alanis Security, and The Wackenhut Corporation for negligence; his claim arose from an assault he suffered at a Metrorail station. There is no evidence in the record of prior similar incidents at that station.<sup>1</sup>

<sup>1</sup> Prieto knew his assailants, as they had attacked him before at different locations. Prieto had not reported the attacks.

The trial court properly entered final summary judgment for defendant Miami-Dade County on the grounds that the attack was not foreseeable.<sup>2</sup> In the absence of any record evidence that the County had actual or constructive notice of similar criminal activity at that station, the County cannot be held liable as a matter of law for the incident. See *Metropolitan Dade County v. Ivanov*, 689 So.2d 1267 (Fla. 3d DCA 1997); *Ameijeiras v. Metropolitan Dade County*, 534 So.2d 812 (Fla. 3d DCA 1988).

<sup>2</sup> The claims against the other defendants remain pending. We do not reach the issue of sovereign immunity, as the issue of duty is dispositive. See *Metropolitan*

*Dade County v. Dubon*, 780 So.2d 328, 330 n. 2 (Fla. 3d DCA 2001).

**AFFIRMED.**