

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 19 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

VERNIE WESTLEY REED, Jr.,

Plaintiff-Appellant,
Cross-Appellee

v.

CITY OF TACOMA, a municipal
corporation; et al.,

Defendants-Appellees.
Cross-Appellants

Nos. 14-35925, 14-35979

D.C. No. 3:13-cv-05538-BHS

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Benjamin H. Settle, District Judge, Presiding

Argued and Submitted May 10, 2017
Seattle, Washington

Before: McKEOWN, BEA, and N.R. SMITH, Circuit Judges.

The evidence that Officer Terwilliger's microphone was both attached to his uniform by a cord and stuck inside Vernie Reed's vehicle as the vehicle started to move forward is not contested. Therefore, there is no genuine dispute of material fact as to whether Officer Terwilliger's use of force was reasonable under the

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

circumstances, and the district court properly granted summary judgment in favor of Officer Terwilliger. *Jackson v. City of Bremerton*, 268 F.3d 646, 653 (9th Cir. 2001).

As there was no constitutional violation, the City of Tacoma cannot be held liable under *Monell v. Department of Social Services of the City of New York*, 436 U.S. 658, 690–95 (1978). Therefore, the City of Tacoma was also entitled to summary judgment. *Scott v. Henrich*, 39 F.3d 912, 916 (9th Cir. 1994).

AFFIRMED.