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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 DEBORAH D. MITCHELL,

9 Plaintiff,

10 v.

11 STATE OF WASHINGTON; JOHN
12 DOES 1-5, employees of the Washington
State Crime Laboratory; PIERCE
13 COUNTY, a subdivision of the State of
Washington; JOHN DOES 6-10,
14 employees of Pierce County,

15 Defendants.

CASE NO. C08-5531BHS

ORDER GRANTING
DEFENDANT STATE OF
WASHINGTON'S MOTION
FOR SUMMARY JUDGMENT

16 This matter comes before the Court on the motion for summary judgement, filed
17 by the State of Washington ("the State"). Dkt. 11. The Washington State Patrol Crime
18 Laboratory ("WSPCL") is an agency of the State. Dkt. 1 (Plaintiff's complaint).

19 **I. FACTUAL AND PROCEDURAL BACKGROUND**

20 Unless otherwise indicated, the following facts are presented in the light most
21 favorable to Plaintiff.

22 On May 25, 2005, Plaintiff was pulled over by Pierce County Sheriff's deputies.
23 Dkt. 1 at 5. The deputies searched her vehicle pursuant to a traffic stop, and found items
24 they believed to be "precursor" materials used in the manufacture of controlled
25 substances. *Id.*

26 The deputies removed several items from Plaintiff's car, including jars containing
27 cleaning agents. *Id.* According to the deputies, white powder located in a black pouch
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1 found in the car “field-tested positive for methamphetamine.” Dkt. 12 at 7 (Declaration of
2 Probable Cause in Support of Information). Plaintiff was arrested and booked into the
3 Pierce County Jail. Dkt. 1 at 6.

4 On May 27, 2005, Plaintiff was arraigned on charges of unlawful manufacturing of
5 a controlled substance and unlawful possession of a controlled substance. Dkt. 12, 6-7.
6 The materials seized from Plaintiff’s car were sent to the Washington State Patrol Crime
7 Lab in Pierce County, Washington, for analysis. According to Terence McAdam, a
8 WSPCL representative, the Crime Lab “received a request for analysis form along with
9 one ‘sealed can’ of evidence from the Pierce County Sheriff’s Office” on June 21, 2005.
10 Dkt. 13 at 2 (Declaration of Terence McAdam). It is unclear from Plaintiff’s complaint
11 and her response to the instant motion whether she disputes Mr. McAdam’s assertion that
12 the evidence and analysis request was received on June 21, 2005.

13 According to Mr. McAdam, the evidence was analyzed by the Crime Lab for
14 traces of illegal controlled substances from July 7, 2005, to July 11, 2005. Dkt. 13 at 2.
15 The parties agree that the analysis was completed on July 11, 2005, and indicated that
16 there was no sign of illegal controlled substances or precursor chemicals in the evidence.
17 *Id.* at 4 (Crime Laboratory Report). Mr. McAdam maintains that a Pierce County
18 employee retrieved the report on July 12, 2005. The crime laboratory report bears a Pierce
19 County Prosecuting Attorney “copy received” stamp dated July 14, 2005. Dkt. 13 at 4.

20 Plaintiff remained in Pierce County Jail until September 12, 2005, when the Pierce
21 County Prosecuting Attorney’s Office filed a motion to dismiss “for the reason that the
22 Crime Lab Report received by the State on September 9, 2005 did not identify any
23 controlled substances, precursors to controlled substances or reaction by-products from
24 the manufacture of controlled substances.” Dkt. 12 at 16 (Motion and Order for Dismissal
25 with Prejudice). Plaintiff was released from jail shortly thereafter. Dkt. 1 at 7.

26 On August 14, 2008, Plaintiff filed a complaint in Pierce County Superior Court
27 against the State of Washington, unknown employees of the WSPCL, Pierce County, and
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1 unknown employees of Pierce County. Dkt. 1. On September 4, 2008, this case was
2 removed to this Court. *Id.*

3 Plaintiff alleges three causes of action: (1) false imprisonment against all
4 Defendants; (2) detention without due process in violation of the Fifth and Fourteenth
5 Amendments, under 42 U.S.C. § 1983, against all Defendants; and (3) governmental
6 liability for a policy or practice resulting in a deprivation of Plaintiff's rights under of the
7 Fifth and Fourteenth Amendments and 42 U.S.C. § 1983 against the State of Washington
8 and Pierce County. *Id.*, 8-10.

9 On April 23, 2009, the State filed a motion for summary judgment. Dkt. 11. First,
10 the State maintains that Plaintiff's false imprisonment claim should be dismissed against
11 the WSPCL because WSPCL has no authority to imprison Plaintiff, and even if it did, her
12 claim is outside the two-year statute of limitations. *Id.* at 2. Second, the State contends
13 that Plaintiff's civil rights claims should be dismissed because the WSPCL is not a person
14 for the purpose of a Section 1983 claim, and because "the uncontested evidence shows
15 WSPCL did nothing wrong." *Id.*

16 On May 4, 2009, Plaintiff filed a response. Dkt. 14. In her response, Plaintiff
17 addressed only the State's argument that her Section 1983 claim should be dismissed
18 because WSPCL is not a person. Plaintiff claims that the State has not disclosed to her the
19 names of the State employees responsible for forwarding the Crime Lab Report to the
20 Pierce County Prosecuting Attorney's Office. *Id.* at 2. While unclear, it appears that
21 Plaintiff is claiming that the motion should be denied under Federal Rule of Civil
22 Procedure 56(f), because the State has not produced the names of these employees.

23 On May 15, 2009, the State filed a reply. Dkt. 16.

24 **II. LEGAL STANDARDS**

25 **A. SUMMARY JUDGMENT STANDARD**

26 Summary judgment is proper only if the pleadings, the discovery and disclosure
27 materials on file, and any affidavits show that there is no genuine issue as to any material
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1 fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c)
2 (“Rule 56”). The moving party is entitled to judgment as a matter of law when the
3 nonmoving party fails to make a sufficient showing on an essential element of a claim in
4 the case on which the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*,
5 477 U.S. 317, 323 (1985). There is no genuine issue of fact for trial where the record,
6 taken as a whole, could not lead a rational trier of fact to find for the nonmoving party.
7 *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (nonmoving
8 party must present specific, significant probative evidence, not simply “some
9 metaphysical doubt”). *See also* Fed. R. Civ. P. 56(e). Conversely, a genuine dispute over
10 a material fact exists if there is sufficient evidence supporting the claimed factual dispute,
11 requiring a judge or jury to resolve the differing versions of the truth. *Anderson v. Liberty*
12 *Lobby, Inc.*, 477 U.S. 242, 253 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors*
13 *Ass’n*, 809 F.2d 626, 630 (9th Cir. 1987).

14 The determination of the existence of a material fact is often a close question. The
15 Court must consider the substantive evidentiary burden that the nonmoving party must
16 meet at trial – e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477
17 U.S. at 254; *T.W. Elec. Serv., Inc.*, 809 F.2d at 630. The Court must resolve any factual
18 issues of controversy in favor of the nonmoving party only when the facts specifically
19 attested by that party contradict facts specifically attested by the moving party. The
20 nonmoving party may not merely state that it will discredit the moving party’s evidence at
21 trial, in the hopes that evidence can be developed at trial to support the claim. *T.W. Elec.*
22 *Serv., Inc.*, 809 F.2d at 630 (relying on *Anderson, supra*). Conclusory, nonspecific
23 statements in affidavits are not sufficient, and missing facts will not be presumed. *Lujan*
24 *v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888-89 (1990).

25 If a party opposing a motion for summary judgment shows by affidavit that, for
26 specified reasons, it cannot present facts essential to justify its opposition, the court may
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1 deny the motion, order a continuance to enable the affidavits to be obtained or other
2 discovery be undertaken, or issue any other just order. Fed. R. Civ. P. 56(f).

3 **B. SECTION 1983**

4 Section 1983 is a procedural device for enforcing constitutional provisions and
5 federal statutes; the section does not create or afford substantive rights. *Crumpton v.*
6 *Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). In order to state a claim under 42 U.S.C. §
7 1983, plaintiffs must demonstrate that (1) the conduct complained of was committed by a
8 person acting under color of state law and that (2) the conduct deprived a person of a
9 right, privilege, or immunity secured by the Constitution or by the laws of the United
10 States. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981), *overruled on other grounds by*
11 *Daniels v. Williams*, 474 U.S. 327 (1986).

12 **C. FALSE IMPRISONMENT**

13 In an action for false imprisonment, Plaintiff must prove that the liberty of her
14 person was restrained. *Moore v. Pay’N Save Corp.*, 20 Wn. App. 482, 486 (1978). A
15 claim for false imprisonment must be brought within two years of the alleged false
16 imprisonment. RCW 4.16.100(1).

17 **III. DISCUSSION**

18 **A. PLAINTIFF’S FALSE IMPRISONMENT CLAIM**

19 The Court concludes that Plaintiff’s false imprisonment claim against the State
20 must be dismissed. The State has met its burden in demonstrating that these claims are
21 barred by the two-year statute of limitations. *See* RCW 4.16.100(1), *supra*. Plaintiff did
22 not address this issue in her response, and the Court may consider Plaintiff’s failure to
23 respond as an admission that the State’s motion as to this claim has merit. *See* Local Rule
24 CR 7(b)(2).

1 **B. PLAINTIFF’S SECTION 1983 CLAIMS**

2 The Court concludes that Plaintiff’s Section 1983 claims against the State must be
3 dismissed because the State is not a “person” subject to suit for monetary damages under
4 Section 1983. *See Will v. Michigan Dep’t of State Police*, 491 U.S. 58 (1989).

5 While unclear, Plaintiff appears to argue that the State’s motion should be denied
6 under Rule 56(f) because she has been unable to obtain discovery relating to her Section
7 1983 claims against employees of WSPCL. Plaintiff contends that “[d]espite an
8 investigation into the underlying facts of the case that included public records requests to
9 both the State of Washington and Pierce County, Plaintiff was unable to ascertain the
10 names of the State or County employees responsible for forwarding the Crime Lab Report
11 produced on July 11, 2005, and forwarded to the Pierce County Prosecutor’s Office on
12 July 14, to the Deputy Prosecuting Attorney in charge of the case.” Dkt. 14, 1-2. Plaintiff
13 maintains that Pierce County failed to identify these employees in its initial Rule 26(a)
14 disclosures. *Id.* at 2. Plaintiff also states that she will send discovery requests “in an
15 attempt to name the individuals likely responsible for keeping the Washington State
16 Crime Lab Report buried for two months while Ms. Mitchell sat in jail.” *Id.* at 3.

17 As argued by the State, Plaintiff has not shown that additional discovery is needed
18 as to her claims against the State. The requested discovery would not alter the outcome of
19 the Court’s conclusion that Plaintiff’s false imprisonment claim is time-barred, and that
20 her Section 1983 claims fail because the State is not a person. Even if Plaintiff were to
21 name a state official in his or her official capacity as a “person,” Plaintiff’s Section 1983
22 claims against the State would still fail because she does not seek prospective relief. *See*
23 *Will* at 71, n.10. Finally, the Court notes that Plaintiff failed to provide an affidavit in
24 support of her response. *See Fed. R. Civ. P. 56(f).*

25 It appears that Plaintiff is seeking additional information regarding the other
26 Defendants in this case: the unknown employees of WSPCL, Pierce County, and
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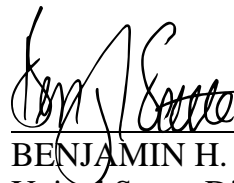
1 unknown employees of Pierce County. Such information is not relevant to the State's
2 motion for summary judgment.

3 **IV. ORDER**

4 Therefore, it is hereby **ORDERED** that

5 Defendant State of Washington's motion for summary judgment (Dkt. 11) is
6 **GRANTED**. Plaintiff's claims against the State of Washington are **DISMISSED WITH**
7 **PREJUDICE**.

8 DATED this 8th day of June, 2009.

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11 BENJAMIN H. SETTLE
12 United States District Judge
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