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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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9 BARBARA STUART ROBINSON,

10 Plaintiff,

v.

11 CITY OF TACOMA, et al.,

12 Defendants.

CASE NO. C17-5724 BHS

ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT AND GRANTING
SUMMARY JUDGMENT IN
FAVOR OF DEFENDANTS

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14 This matter comes before the Court on Plaintiff Barbara Stuart Robinson's
15 ("Plaintiff") motion for summary judgment. Dkt. 15. The Court has considered the
16 pleadings filed in support of and in opposition to the motion and the remainder of the file
17 and for the reasons stated herein (1) denies Plaintiff's motion and (2) grants summary
18 judgment in favor of Defendants.

19 **I. BACKGROUND**

20 On July 17, 2017, Plaintiff was charged in Tacoma Municipal Court for Criminal
21 Trespass and Obstruction of a Law Enforcement Officer. Dkt. 20 at 6. The prosecutor's
22 probable cause statement alleged that as police officers were attempting to conduct a

1 welfare check on a reported subject in a motorized chair at an Econolodge in Tacoma,
2 Washington, Plaintiff approached them, identified herself as a federal agent and told them
3 that they were trespassing on the property. *Id.* at 8. As the officers attempted to locate the
4 subject of their reported welfare check, Plaintiff proceeded to follow them while yelling
5 that they were trespassing and that she would place them under arrest. *Id.* The on-duty
6 clerk of the Econolodge then informed the officers that Plaintiff was not a guest of the
7 facility and requested that they remove her from the property due to her disruptive
8 behavior. *Id.* Plaintiff refused to leave upon the officers' request. *Id.* Ultimately, the
9 officers abandoned their original welfare check to address Plaintiff in light of her refusal
10 to leave the property and the disturbance she was causing despite repeated instructions to
11 leave the police alone. *Id.* Plaintiff was arrested and booked into the Pierce County Jail
12 for trespassing and obstruction of a law enforcement officer.

13 On July 18, 2017, Plaintiff was arraigned in Tacoma Municipal Court. *See* Dkt. 20
14 at 11. Plaintiff was represented by defense counsel who informed the judge that he was
15 concerned over Plaintiff's competency to stand trial. *Id.* at 13–14. Accordingly, the judge
16 ordered that Plaintiff be held without bail until July 26, 2017, when a competency
17 evaluation could be completed pursuant to the procedures outlined in RCW 10.77. *Id.* at
18 12–15. When the evaluation could not be performed until July 31, 2017, the hearing was
19 set over until August 2, 2017.

20 On August 2, 2017, Plaintiff again appeared before the Tacoma Municipal Court.
21 *See* Dkt. 20 at 30. Based on the results of the competency evaluation performed by the
22 Washington Department of Social and Health Services, *see id.* at 49–53, the municipal

1 court determined that Plaintiff lacked the rational capacity to understand the nature of the
2 proceedings and to assist in her defense. *Id.* at 34–35. The municipal court then dismissed
3 the charges against Plaintiff and she was referred to health treatment for a civil
4 commitment evaluation pursuant to RCW 10.77.088. *Id.* at 38–45. Once the 72-hour
5 period set forth in RCW 10.77.088(1)(c)(ii) had elapsed without a determination by a
6 designated mental health professional as to whether a petition for involuntary
7 commitment should be filed, Plaintiff was released from custody.

8 On August 15, 2017, Plaintiff initiated this lawsuit in Pierce County Superior
9 Court. Dkt. 2-3. On August 17, 2017, Plaintiff filed an amended complaint. Dkt. 1-2.
10 Plaintiff claims that her arrest and custody violated a variety of federal and state laws. *Id.*
11 at 2–13. On September 11, 2017, Defendants removed the case to this court. Dkt. 1.

12 On December 17, 2017, Plaintiff moved for summary judgment. Dkt. 15. On
13 January 8, 2017, Defendants responded. Dkt. 19. In their response, Defendants argue that
14 the Court should enter summary judgment in their favor, despite the absence of a cross-
15 motion for summary judgment. *Id.* On January 9, 2017, Plaintiff replied. Dkt. 21.

16 II. DISCUSSION

17 The Court denies Plaintiff’s motion for summary judgment. Summary judgment is
18 proper only if the pleadings, the discovery and disclosure materials on file, and any
19 affidavits show that there is no genuine issue as to any material fact and that the movant
20 is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). The moving party is
21 entitled to judgment as a matter of law when the nonmoving party fails to make a
22 sufficient showing on an essential element of a claim in the case on which the nonmoving

1 party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). There
2 is no genuine issue of fact for trial where the record, taken as a whole, could not lead a
3 rational trier of fact to find for the nonmoving party. *Matsushita Elec. Indus. Co. v.*
4 *Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (nonmoving party must present specific,
5 significant probative evidence, not simply “some metaphysical doubt”). *See also* Fed. R.
6 Civ. P. 56(e). Conversely, a genuine dispute over a material fact exists if there is
7 sufficient evidence supporting the claimed factual dispute, requiring a judge or jury to
8 resolve the differing versions of the truth. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242,
9 253 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass’n*, 809 F.2d 626, 630 (9th
10 Cir. 1987).

11 The determination of the existence of a material fact is often a close question. The
12 Court must consider the substantive evidentiary burden that the nonmoving party must
13 meet at trial—e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477
14 U.S. at 254; *T.W. Elec. Serv., Inc.*, 809 F.2d at 630. The Court must resolve any factual
15 issues of controversy in favor of the nonmoving party only when the facts specifically
16 attested by that party contradict facts specifically attested by the moving party. The
17 nonmoving party may not merely state that it will discredit the moving party’s evidence
18 at trial, in the hopes that evidence can be developed at trial to support the claim. *T.W.*
19 *Elec. Serv., Inc.*, 809 F.2d at 630 (relying on *Anderson*, 477 U.S. at 255). Conclusory,
20 nonspecific statements in affidavits are not sufficient, and missing facts will not be
21 presumed. *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888-89 (1990).

1 Plaintiff has failed to produce any evidence in support of her claim. Instead, she
2 offers only a formulaic recitation that her 16-day detention constituted a “breach of
3 fiduciary duty” and a violation of her rights. *See* Dkt. 15. Nowhere in her complaint or
4 exhibits does she allege or evince a policy, practice, or custom attributable to the
5 Defendants. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 691–92 (1978). Accordingly,
6 she cannot prevail on her motion for summary judgment against the City of Tacoma and
7 its departments for claims of constitutional violations.

8 More importantly however, Plaintiff’s pleadings and evidence fail to attribute any
9 improper conduct to anyone. Plaintiff merely describes conduct by individuals and
10 agencies that was authorized under the procedures outlined in RCW 10.77, without
11 articulating any coherent theory on why these procedures are unconstitutional or
12 otherwise unlawful. The closest Plaintiff comes to identifying allegedly unlawful conduct
13 comes in the form of her declaration that she was administered forced medication without
14 proper authority or support for such decision. *See* Dkt. 8-1 at 17–20. However, this action
15 was not undertaken by Defendants, but rather by the Greater Lakes Recovery Center.
16 Moreover, Plaintiff has failed to articulate how the forced administration of this
17 medication fell short of the procedures set forth in RCW 71.05.215, how those
18 procedures are inadequate, or how such conduct is possibly attributable to the named
19 Defendants.

20 Additionally, Defendants argue that the Court should enter summary judgment in
21 their favor, even though they have failed to properly file a cross-motion. “Even when
22 there has been no cross-motion for summary judgment, a district court may enter

1 summary judgment sua sponte against a moving party if the losing party has had a ‘full
2 and fair opportunity to ventilate the issues involved in the matter.’” *Gospel Missions of*
3 *Am. v. City of Los Angeles*, 328 F.3d 548, 553 (9th Cir. 2003) (quoting *Cool Fuel, Inc. v.*
4 *Connett*, 685 F.2d 309, 312 (9th Cir. 1982)). *See also Albino v. Baca*, 747 F.3d 1162,
5 1176 (9th Cir. 2014) (“We have long recognized that, where the party moving for
6 summary judgment has had a full and fair opportunity to prove its case, but has not
7 succeeded in doing so, a court may enter summary judgment sua sponte for the
8 nonmoving party.”).

9 Plaintiff has had a full and fair opportunity to plead and support viable claims
10 against Defendants. However, as described above, Plaintiff has failed to allege facts, let
11 alone provide evidence, that would support a cognizable claim against Defendants. This
12 is not to say that Plaintiff does not potentially possess cognizable claims against other
13 individuals or entities. If that is the case, she may file a new lawsuit against those entities
14 with a complaint that includes sufficiently detailed factual allegations to support her
15 claims. However, it is clear from the pleadings and the evidence submitted on summary
16 judgment that Plaintiff’s conclusory claims against the named Defendants are
17 unsupported by either evidence or adequate factual allegations. Most importantly, the
18 record makes clear that the nature and duration of Plaintiff’s detention was reasonably
19 related to the evaluative and restorative purposes advanced by conducting competency
20 evaluations prior to proceeding on criminal charges. *See Oregon Advocacy Ctr. v. Mink*,
21 322 F.3d 1101, 1122 (9th Cir. 2003).

1 **III. ORDER**

2 Therefore, it is hereby **ORDERED** that Plaintiff's motion for summary judgment
3 is **DENIED**. Moreover, the Court **GRANTS** summary judgment in favor of Defendants.

4 The Clerk shall enter JUDGMENT and close the case.

5 Dated this 14th day of February, 2018.

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7 BENJAMIN H. SETTLE
8 United States District Judge

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