

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Purnell v. Mora

Purnell v. Mora · No. 1:19-cv-00210-KES-BAM · Decided September 11, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 GEORGETTE G. PURNELL, Case No. 1:19-cv-00210-KES-BAM 12
Plaintiff, FINDINGS AND RECOMMENDATIONS REGARDING DEFENDANT’S MOTION
13 v. FOR PARTIAL JUDGMENT ON THE PLEADINGS, MOTION FOR SANCTIONS, 14 RT
MORA #772, AND MOTION FOR SUMMARY JUDGMENT 15 Defendant. (Docs. 26, 29, 36)
16 FOURTEEN-DAY DEADLINE 17 18 Plaintiff Georgette G. Purnell (“Plaintiff”), proceeding
pro se and in forma pauperis, 19 initiated this civil action on February 13, 2019.

(Doc. 1.) On September 20, 2021, Defendant R. 20 T. Mora (“Defendant” or “Defendant Mora”) filed a motion for partial judgment on the 21 pleadings.¹ (Doc. 26.) That same day, Defendant also requested that the Court issue an order for 22 the redacted copy Defendant’s body worn camera (“BWC”) video to be filed under seal (Doc. 23 33), and filed a motion for sanctions against Plaintiff seeking \$2,520 for attorney’s fees.

(Doc. 24 29.) On April 20, 2022, Defendant filed an additional motion, a motion for summary judgment, 25 on the basis that his actions were objectively reasonable, that he did not use a racial insult during 26 27 1 Defendant’s pending motions for partial judgment on the pleadings (Doc. 26), motion for sanctions (Doc. 29), and motion for summary judgment (Doc.

36) were referred to the 28 undersigned on May 14, 2025. (Doc. 59.) 1 the course of the arrest, and that he was protected by qualified immunity. (Doc 36.) Defendant’s 2 summary judgment motion was fully briefed on May 25, 2022. 3 Having considered the record and briefing in this matter, the Court will recommend 4 Defendant’s motion for summary judgment be GRANTED.

The Court will further recommend 5 Defendant’s motion for partial judgment on the pleadings be DENIED as moot, and Defendant’s 6 motion for sanctions be DENIED. 7 BACKGROUND 8 I. Procedural Background 9 On February 19, 2019, Plaintiff filed her complaint naming as defendants four Fresno 10 police officers identified by their first initial, last name, and badge number: N. Cruz, Hodge, R.T.

11 Mora, and B. Phelps. (Doc. 1.) On January 10, 2020, the Court screened Plaintiff’s complaint. 12 (Doc. 7.) The Court found that Plaintiff’s complaint failed to comply with Fed. Rule Civ. P. 8

13 and failed to state a cognizable claim, but granted Plaintiff leave to amend her complaint to cure 14 the identified deficiencies to the extent she was able to do so in good faith.

(Id.) 15 On February 28, 2020, Plaintiff filed a First Amended Complaint (“FAC”) purporting to 16 bring claims for (1) excessive force by law enforcement officers under the Fourth Amendment of 17 the U.S. Constitution; and (2) racial insults by law enforcement officers under the Fourteenth 18 Amendment of the U.S. Constitution. (Doc. 38 at 3, 8.) Plaintiff requests “[c]ompensatory 19 [d]amages according to proof: 1 Million dollars each defendant.

Punitive damages according to 20 proof: 1 million dollars each defendant. Additional Training for all defendants with regards to 21 their interactions with citizens, their duty to serve and protect, and not to abuse.” (Doc. 10 at 6.) 22 Elsewhere in the FAC, Plaintiff indicates that “Defendants and all of them named are liable due to 23 the Claims of violations being raised in the amount of 8 million dollars total which includes 24 compensatory and punitive damages.” (Id. at 5.)

25 On January 5, 2021, the Court screened Plaintiff’s FAC. (Doc. 15.) The Court issued 26 Findings and Recommendations that the action proceed on (1) Plaintiff’s Fourth Amendment 27 claim against Defendant Mora for use of excessive force in effectuating an arrest, and (2) 28 Plaintiff’s 42 U.S.C. § 1981 claim against Defendant Mora for use of a racial insult.

The Court 1 recommended that all other claims and defendants be dismissed from this action. On February 2, 2 2021, the District Judge issued an order adopting the Court’s Findings and Recommendations. 3 (Doc. 16.) 4 II. Factual Allegations 5 A. Undisputed Facts 2 6 The case arises from a traffic stop that occurred in Fresno, California on August 30, 2018. 7 At approximately 12:24 PM, Officer Cruz of the Fresno Police Department initiated contact with 8 Plaintiff and conducted a traffic stop.

(Doc. 36-3 at 14.) While on routine patrol, Defendant 9 Mora’s unit was requested to check a suspicious vehicle that was driving in the area of California 10 Ave and Lee St. (Doc. 36-3 at 19.) Upon arriving at the area, the officers were advised that the 11 vehicle was “circling the area and possible [sic] looking for someone.” (Id.)

The area was 12 “considered a high crime area with gang activity present.” (Id.) 13 The officers located the suspicious vehicle pulled over on the east side of Lee Street. (Id.) 14 They noticed that the registration on the vehicle was expired and pulled in behind the stopped 15 vehicle. (Id.) At that time, Defendant activated his Axon BWC. (Id.) Officer Cruz approached 16 the vehicle and advised the driver—who was identified as Plaintiff—that the tags on her vehicle 17 were expired.

(Doc. 36-3 at 14.) During the stop, Officer Cruz approached Plaintiff’s vehicle 18 and questioned Plaintiff regarding her vehicle’s expired registration. (Id.) In response, Plaintiff 19 attempted to produce documents from her vehicle purportedly showing that another officer had 20 recently informed her that she had six months to remedy the expired registration.

(Doc. 38 at 5.) 21 The officers prepared a citation for Plaintiff to sign. (Doc. 36-3 at 19.) Plaintiff did not sign the 22 citation and instead requested to speak to a supervisor. (Id.) 23 24 2 See Statement of Undisputed Material Facts in Support of Defendant's Motion for Summary Judgment. (Doc. 36- 4.) Plaintiff did not comply with the rules in preparing her opposition, including by failing to reproduce Defendant's 25 Statement of Undisputed Material Facts and providing "a citation to the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon in support" of any disputed facts, or providing a statement of disputed facts.

Local Rule 260(b). As a result, Defendant's Statement of Undisputed 26 Material Facts is accepted except where brought into dispute by Plaintiff's verified first amended complaint and portions of her opposition to the motion for summary judgment signed under penalty of perjury. See *Jones v. Blanas*, 27 393 F.3d 918, 923 (9th Cir. 2004) (verified complaint may be used as an opposing affidavit if it is based on pleader's personal knowledge of specific facts which are admissible in evidence); *Johnson v. Meltzer*, 134 F.3d 1393, 1399– 28 1400 (9th Cir.

1998) (same, with respect to verified motions). 1 Plaintiff attempted to present Defendant with the documents that showed that she had six 2 months to remedy the expired registration. (Doc. 10 at 8 ¶ 1.) When Plaintiff attempted to show 3 Defendant the documents, he grabbed her arm, handcuffed her, and along with other officers put 4 her into custody and had her sit in the back of the police unit.

(Doc. 36-3 at 20.) The physical 5 force of grabbing Plaintiff's arm lasted for approximately twenty to thirty seconds. (Doc. 38 at 8 6 ¶¶ 1, 3.) Subsequently, Sergeant Hodge arrived on scene. (Doc. 36-3 at 20.) Plaintiff was then 7 permitted to make a phone call and eventually signed the citation and was released. (Id.) 8 Plaintiff indicated that she was feeling pain in her arm as a result of being put into 9 custody.

(Id.) Paramedics were called and Plaintiff was treated at the scene for pain in her arm. 10 (Doc. 36-3 at 16.) A Law Enforcement Report Form (a "Police Report") prepared by Officer 11 David M. Desoto, dated August 30, 2018, and attached to the Defendant's motion for summary 12 judgment as Exhibit A states that photos of Plaintiff's arm were taken at the scene, showing 13 "slight linear depressions across her right wrist." 3 (Id.)

Officer Cruz issued notices to appear to 14 Plaintiff for driving with an expired registration in violation of California Vehicle Code § 15 4000(a)(1) and resisting arrest in violation of California Penal Code § 148.

The citation for 16 resisting arrest was later dismissed. (Doc. 38 at 8 ¶ 5.) 17 B. Disputed Facts 18 1. Defendant's Allegations 19 Defendant Mora provides that during the course of the traffic stop, Plaintiff became upset 20 and told Officer Cruz that she had already been cited for the expired

registration. (Doc. 36-3 at 21 14.) Plaintiff claimed to have documentation showing that she had already been cited and had six 22 months to remedy the expired registration.

(Id.) She searched through her vehicle for the 23 documentation. (Id.) 24 Officer Cruz was then informed by non-party Officer Ruiz that Ruiz had “information 25 from a reliable source that [Plaintiff] may have a firearm in her car” which was suspected to 26 27 3 Neither party provided the photographs as evidence.

However, Plaintiff’s declaration in opposition to the motion for summary judgment states photographs were taken. (Doc. 38 at 7 ¶ 4 28 (“pictures were taken of the injury done to my arm due [sic] defendant Mora’s twisting it.”)) 1 belong to her brother who “is involved with gangs.” (Doc. 36-3 at 19.) Officer Cruz checked 2 Department of Motor Vehicle records and determined that the registration had been expired for 3 more than six months.

(Id.) The officers determined that the vehicle should be towed and 4 Plaintiff was advised accordingly. (Id.) Defendant Mora’s Police Report states that Plaintiff 5 “became very upset and claimed she was being targeted and harassed.” (Id.)

The officers 6 explained the situation “several time[s],” but Plaintiff “would not listen and became more irate.” 7 (Id.) She started to curse at the officers and continued to do so throughout the remainder of the 8 incident. (Id. at 19-20.) 9 Due to the reliable report of the possibility of a gun in the vehicle, Defendant and Officer 10 Cruz monitored Plaintiff as she removed property from the vehicle.

(Doc. 36-3 at 19.) Plaintiff 11 refused to sign the traffic citation and indicated that she wanted to speak to a sergeant. (Id.) 12 Eventually, a sergeant was requested. (Id. at 20.) While the officers waited for a sergeant to 13 arrive, the officers monitored Plaintiff while she “continued to remove[] property from her car 14 and continually cursed at OFC.

Cruz and myself.” (Id.) Defendant contends that Officer Ruiz 15 spoke to Plaintiff about the rumored firearm in her car, but that Defendant was not present while 16 they spoke. (Id. at 19.) Defendant reported that Plaintiff “appeared to be attempting to draw [the 17 officers] into a[n] argument” and remained in an “agitated” state. (Id. at 20.) 18 Defendant contends that Plaintiff “again claimed to have all the paper work allowing her 19 to drive and I stated to her that she had not real [sic] shown us anything.” (Doc.

36-3 at 20.) 20 Defendant’s Police Report then describes the altercation at issue in this action: 21 Purnell the [sic] picked up what appeared to be court documents and lunged at me, shoving the paper work in my face. I instinctively stepped back and pulled the item away 22 from my face. I then tried to control her hands to prevent her from further attempting to 23 come at me or possible assault me.

She was advised to put her hand behind her back and resisted our efforts to place her in handcuffs. At one point OFC. Cruz, OFC. Baroni and 24 myself all struggled with Purnell to place her into custody. She was told several time [sic] to stop resisting and to cooperate. I had the [sic] pulled her right arm front [sic] her front 25 to back in a attempt to cuff her as the other officers were struggling with her left arm.

We finally overcame her resistance and placed her into handcuffs. 26 (Id.) Plaintiff was then placed in the back of a patrol vehicle. (Id.) 27 Defendant maintains that “[t]he only force used on Purnell was the amount needed to 28 1 overcome her physical resistance to being handcuffed.” (Id.)

The vehicle was searched and no 2 weapon was found. (Id.) Plaintiff’s vehicle was then towed. (Id.) 3 2. Plaintiff’s Allegations 4 Plaintiff states that throughout the traffic stop she “never became agitated” and was never 5 “disrespectful to defendant Mora, and did absolutely nothing at all, much less said anything to 6 provoke such action by defendant Mora.” (Doc.

38 at 7 ¶ 2; 9-10.) 7 Plaintiff alleges that when she attempted to show Defendant the documents, Defendant 8 “viciously” knocked her documents from her hands and used a racial slur, indicating that he did 9 not want to see Plaintiff’s documents. (Id. at 8 ¶ 8 (“Nigger, I don’t want to see anything from 10 you”)). Plaintiff alleges that Defendant then grabbed her arm “for no apparent reason at all” and 11 “viciously twisted it to the point of... excruciating pain[]” and Plaintiff cried out.

She alleges 12 that “the whole ordeal [] lasted for approximately 20 to 30 seconds as I was crying out in pain 13 from Defendant Mora twisting my arm for no apparent reason at all.” (Id. at 7 ¶ 3.) Officers 14 Cruz, Phelps, and Hodge, as well as non-defendant Officer Ruiz, were present during these events 15 and did not deescalate or stop the incident. (Id. at 7 ¶ 3.)

She contends that the racial insult, 16 “coupled with the knocking of the documents from [Plaintiff’s] hands” and “the twisting of the 17 arm” was “wilful [sic], and motivated by hatred by defendant of a protected class of people to 18 whom plaintiff belonged: A race of black people.” (Id. at 9 ¶ 9.) 19 Plaintiff states that she continues to feel pain in her arm and has also experiences sleepless 20 nights and loss of appetite since the incident.

(Doc. 36-3 at 26.) After the incident, Plaintiff also 21 filed an administrative complaint with the Fresno Police Department, stating that her arm was 22 “viciously twisted by Defendant” in the course of being put into custody, which still hurts as of 23 the time of filing the administrative complaint. (Doc. 36-3.) 24 LEGAL STANDARD 25 I. Summary Judgment 26 Summary judgment is appropriate when “there is no genuine dispute as to any material 27 fact and the movant is entitled to judgment as a matter of law.” Fed.

R. Civ. P. 56(a). A dispute is 28 “genuine” if “a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. 1 Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A fact is “material” if it “might affect the outcome 2 of the suit under the governing law.” *Id.* 3 The party seeking summary judgment “always bears the initial responsibility of informing 4 the district court of the basis for its motion, and identifying those portions of the pleadings, 5 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, 6 which it believes demonstrate the absence of a genuine issue of material fact.” *Celotex Corp. v. 7 Catrett*, 477 U.S. 317, 323 (1986) (internal quotation marks omitted).

The exact nature of this 8 responsibility, however, varies depending on whether the issue on which summary judgment is 9 sought is one in which the movant or the nonmoving party carries the ultimate burden of proof. 10 See *Soremekun v. Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007). If the movant will 11 have the burden of proof at trial, it must “affirmatively demonstrate that no reasonable trier of fact 12 could find other than for the moving party.” *Id.* (citing *Celotex*, 477 U.S. at 323).

In contrast, if 13 the nonmoving party will have the burden of proof at trial, “the movant can prevail merely by 14 pointing out that there is an absence of evidence to support the nonmoving party’s case.” *Id.* 15 If the movant satisfies its initial burden, the nonmoving party must go beyond the 16 allegations in its pleadings to “show a genuine issue of material fact by presenting affirmative 17 evidence from which a jury could find in his favor.” *F.T.C. v. Stefanchik*, 559 F.3d 924, 929 (9th 18 Cir.

2009) (emphasis omitted). In this case, summary judgment is appropriate “only if, taking the 19 facts in the light most favorable to [Plaintiff], a reasonable jury could not find that ‘the officer’s 20 conduct violated a constitutional right.’” *Young v. Cnty. of Los Angeles*, 655 F.3d 1156, 1160 21 (9th Cir. 2011) (quoting *Saucier v. Katz*, 533 U.S. 194, 201 (2001)).

22 In resolving a summary judgment motion, “the court does not make credibility 23 determinations or weigh conflicting evidence.” *Soremekun*, 509 F.3d at 984. Instead, “[t]he 24 evidence of the [nonmoving party] is to be believed, and all justifiable inferences are to be drawn 25 in [its] favor.” *Anderson*, 477 U.S. at 255. Inferences, however, are not drawn out of the air; the 26 nonmoving party must produce a factual predicate from which the inference may reasonably be 27 drawn.

Richards v. Nielsen Freight Lines, 602 F. Supp. 1224, 1244-45 (E.D. Cal. 1985), *aff’d*, 28 810 F.2d 898 (9th Cir. 1987). “Conclusory, speculative testimony in affidavits and moving 1 papers is insufficient to raise genuine issues of fact and defeat summary judgment.” *Soremekun*, 2 509 F.3d at 984. 3 II. Partial Judgment on the Pleadings 4 Federal Rule of Civil Procedure 12(c) provides that “[a]fter the pleadings are closed—but 5 early enough not to delay trial—a party may move for judgment on the pleadings.” Fed.

R. Civ. 6 P. 12(c). A party moving under Rule 12(c) must meet the same standard as if moving under Rule 7 12(b). *Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1054 n.4 (9th Cir. 8 2011). On a Rule 12(c) motion, the Court must “accept the facts as pled by the nonmovant.” *Id.* 9 at 1053. “A claim has facial plausibility when the plaintiff pleads factual content that allows the 10 court to draw the reasonable inference that the defendant is liable for the misconduct 11 alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

12 III. Rule 11 Sanctions 13 Federal Rule of Civil Procedure 11 “provides for the imposition of sanctions when a filing 14 is frivolous, legally unreasonable, or without factual foundation, or is brought for an improper 15 purpose.” *Estate of Blue v. Cty. of Los Angeles*, 120 F.3d 982, 985 (9th Cir. 1997). “Frivolous 16 filings are those that are both baseless and made without a reasonable and competent inquiry.” 17 *Buster v. Greisen*, 104 F.3d 1186, 1190 (9th Cir.

1997). “The test for whether Rule 11 is violated 18 does not require a finding of subjective bad faith by the attorney or unrepresented party.” 19 *McMahon v. Pier 39 Ltd. P’ship*, No. C03-00251 CRB, 2003 WL 22939233, at *6 (N.D. Cal. 20 Dec. 5, 2003). Individuals proceeding in pro se are bound by the Court’s Local Rules just the 21 same as licensed attorneys.

L.R. 183 (“Any individual representing himself or herself without an 22 attorney is bound by the Federal Rules of Civil or Criminal Procedure, these Rules, and all other 23 applicable law. All obligations placed on counsel’ by these Rules apply to individuals appearing 24 in propria persona.”). 25 /// 26 /// 27 28 1 DISCUSSION4 2 I. Defendant’s Body Worn Camera Video 3 A. Description of Body Worn Camera Video 4 As evidentiary support for Defendant’s motion, Defendant Mora submits relevant portions 5 of video clips from other officers and the video taken from Defendant’s BWC camera of the 6 incident.5 (Doc.

28, lodging flash drive; Doc. 36-2 ¶ 2.) The Court has reviewed the submitted 7 evidence and summarizes the pertinent parts. 8 Defendant’s BWC video begins with Plaintiff standing at the rear of her car, searching 9 through the trunk of her vehicle, with the Defendant standing on the curb. Plaintiff is in view of 10 the camera. Defendant is attempting to explain the citation to Plaintiff.

Plaintiff is in an agitated 11 state and tossing items around in her trunk and is repeatedly screaming profanities at the officers 12 for an extended period of time. Defendant stays on the curb and does not engage Plaintiff as she 13 continuously yells profanities at Defendant and other officers. Defendant indicates that Plaintiff 14 has not shown him anything that demonstrates that she has additional time to remedy her expired 15 registration.

(Doc. 36-3 at 88, ll. 19-20) (“That doesn’t mean nothing.”) As Plaintiff continues to 16 yell profanities at Defendant, Defendant tells Plaintiff, “you can say all you want, just stay over 17

there,” indicating by the trunk of her car. 18 Plaintiff then grabs some papers near the top of her trunk and lunges at Defendant with 19 what looks like an open book of papers.

She thrusts the documents at Defendant within inches of 20 Defendant’s face and apparently blocking his face. When Plaintiff lunges at Defendant, in 21 4 In arriving at these findings and recommendations, the Court carefully reviewed and considered 22 all arguments, points and authorities, declarations, exhibits, statements of undisputed facts and 23 responses thereto, if any, objections, and other papers filed by the parties.

Omission of reference to an argument, document, paper, or objection is not to be construed to the effect that this Court 24 did not consider the argument, document, paper, or objection. This Court thoroughly reviewed and considered the evidence it deemed admissible, material, and appropriate. 25 5 Defendant submitted a flash drive containing the BWC video of the incident.

(Doc. 36-2 ¶ 2.) 26 Defendant also submitted a hyperlink to six video clips of the day of the incident. (Doc. 36-3, 27 Exhibit D at 57.) The Court tried multiple times to view the clips via the hyperlink, but the hyperlink is inoperable. Defendant also submits transcripts of the six video clips. (Doc. 36-3, 28 Exhibit E-J).

The Court has reviewed all of the available evidence. 1 response, Defendant pushes the papers out of his face and to the ground, “saying don’t do that, 2 don’t do that.” Defendant instructs Plaintiff not to put any papers in his face. (Doc. 36-3 at 88 ll. 3 22, 24) (“Don’t put that in my face,” “Don’t do that.”); Doc. 28, flash drive 4:35-5:00.) Plaintiff 4 says “I’m showing you,” and walks up on the curb, near defendant, to get the papers that had 5 fallen.

At this point, another officer grabs Plaintiff’s left arm and Defendant grabs Plaintiff’s 6 right arm. Her arms are turned to her back such that Plaintiff is facing away from Defendant. 7 Defendant holds her arms firm behind her by also grabbing her elbow (straight arms her) and 8 instructs her not to resist. With her arms straight behind her, Plaintiff is walked towards the patrol 9 car.

Plaintiff is screaming at Defendant. She is walking but not complying with the officer. At 10 the patrol car, Defendant bends her right arm, so he can handcuff her, at which point, Plaintiff 11 screams in pain that he is twisting her arm. He handcuffs her, and along with other officers, puts 12 Plaintiff into custody and in the back of the police unit. (Doc.

36-3 at 20; flash drive at 5:17- 13 5:30.) Throughout the arrest, Defendant instructs Plaintiff not to resist. (Doc. 36-3 at 89, ll. 17, 14 24-25) (“Stop, stop. Stop resisting,” “This is what I need you to do. Just relax.”) The BWC 15 shows that Plaintiff is non-compliant with Defendant’s instructions by screaming and yelling. At 16 this point, Defendant disengages while Plaintiff continues to curse and yell at the officers.

17 B. Plaintiff's Challenge to the Body Worn Camera Video 18 Plaintiff challenges the BWC video, asserting that the video "did not convey the correct 19 version of the incident." (Doc. 38 at 3.) However, Plaintiff fails to submit any competent 20 evidence to demonstrate how or the extent to which the video was "incorrect." In her Opposition 21 brief, Plaintiff argues that the video was altered: 22 For the record, the law regarding summary judgment motions does not require any party to disclose trial strategies to prove their case.

All trial strategies are clearly to be executed 23 at trial. That being said, plaintiff will not disclose her strategy with regards to proving 24 defendant's evidence was tampered with. This is a clear matter for a jury to decide.

Here, this court's duty is limited to whether there are specific facts showing genuine issues of 25 material facts in dispute. ANDERSON, 477 US at 248. 26 (Id. at 4.) 27 The Court can consider police video footage when deciding a summary judgment motion 28 to determine whether a party is entitled to summary judgment on an excessive force claim. *Uzun 1 v. City of Santa Monica*, 54 F.4th 595, 596 (9th Cir.

2022); *Stakey v. O'Brien*, No. 1:22-CV- 2 00513-AKB, 2025 WL 461403, at *9 (D. Idaho 2025) ("The Court need not credit Stakey's 3 allegation on this point because it is blatantly contradicted by the [bodycam footage]"). "When 4 opposing parties tell two different stories, one of which is blatantly contradicted by the record, so 5 that no reasonable jury could believe it, a court should not adopt that version of the facts for 6 purposes of ruling on a motion for summary judgment." *Scott v. Harris*, 550 U.S. 372, 380 7 (2007).

On summary judgment the Court does not have to "accept a version of events that the 8 record, such as an unchallenged video recording of the incident, quite clearly contradicts." 9 *Seidner v. de Vries*, 39 F.4th 591, 595 (9th Cir. 2022) (internal quotation marks and citation 10 omitted). 11 Here, Plaintiff offers no competent evidence that the video was altered.

Plaintiff presents 12 her recollection of events in her declaration, but does not present evidence that the video itself 13 was tampered with, beyond a conclusory statement that the video "did not convey the correct 14 version of the incident." (Doc. 38 at 3.) Plaintiff does not present any evidence of how the video 15 was altered, either within the video or what mechanism was used to alter the video.

Her 16 speculation that the video was altered is insufficient to raise an issue of fact.⁶ 17 Even viewing the facts in the light most favorable to Plaintiff, the Court will not deny 18 summary judgment solely on the mere possibility that Plaintiff's unsupported allegation that the 19 video was altered is correct. *Scott*, 550 U.S. at 380; *Hernandez v. Town of Gilbert*, 989 F.3d 739, 20 746 (9th Cir.

2021) (“While we view the facts in the light most favorable to the non-moving party 21 at the summary judgment stage, we are not required to accept a non-movant’s version of events 22 when it is ‘clearly contradict[ed]’ by a video in the record.” (citing Scott, 550 U.S. at 378-80)). 23 While the Court understands that Plaintiff was not recording the events contemporaneously, her 24 6 The Court cannot accept Plaintiff’s version of events when her version is diametrically opposed 25 to the events as they played out on the BWC video.

Plaintiff contends that throughout the traffic stop she “never became agitated” and was never “disrespectful to defendant Mora, and did 26 absolutely nothing at all, much less said anything to provoke such action by defendant Mora.” 27 (Doc. 38 at 7 ¶ 2; 9-10.)

The BWC video, however, shows something completely different. Plaintiff is yelling and cursing at officers, is clearly agitated and upset, and nearly hostile to the 28 officers. 1 conclusory assertion that the video was altered is insufficient to establish a genuine issue of 2 material fact.

The party opposing summary judgment must show that there is a genuine issue of 3 material fact. Anderson, 477 U.S. at 247–48. A dispute about a material fact is genuine only “if 4 the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Id. 5 (emphasis added). 6 Plaintiff argues that the instant case is distinguishable from Scott v. Harris and that the 7 Court should not apply the Scott rule here because (1) Plaintiff does dispute the authenticity of the 8 video, and (2) Defendant has a motive to fabricate the video.

(Doc. 38 at 4 (“Two reasons as to 9 why this case is inapposite: (a) plaintiff therein never disputed the video” and (b) defendant’s 10 evidence is “self serving”)). The Ninth Circuit has held that even where a plaintiff challenges the 11 validity of the defendant’s body camera footage on a summary judgment motion, the Court may 12 still grant summary judgment where, as here, the plaintiff “presented no evidence” that the 13 evidence was falsified.

Hunt v. City of Boulder City, 799 F. App’x 533, 535 (9th Cir. 2020) 14 (affirming the district court’s grant of summary judgment where plaintiff has presented no 15 evidence that a police report or dash-cam were falsified). 16 It is not enough just to dispute the authenticity of the video with a conclusory allegation. 17 Taylor v. List, 880 F.2d 1040, 1045–46 (9th Cir.

1989) (“A summary judgment motion cannot be 18 defeated by relying solely on conclusory allegations unsupported by factual data.”) Nor may 19 Plaintiff simply assert that facts are in dispute. Plaintiff failed to identify with “reasonable 20 particularity” any evidence that precludes summary judgment. Redick v. Lowe’s Home Centers, 21 LLC, No. 1:21-CV-00358-SAB, 2022 WL 17363476, at *6 (E.D.

Cal. Dec. 1, 2022) (granting 22 defendant’s motion for summary judgment where plaintiff purported defendant had falsified 23 police reports but proffered only conclusory allegations unsupported by sufficient evidence). 24 Furthermore, Plaintiff must present more than “some

metaphysical doubt” as to the veracity of the 25 video. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (“When the 26 moving party has carried its burden under Rule 56[], its opponent must do more than simply 27 show that there is some metaphysical doubt as to the material facts.”) (internal citation omitted).

28 Accordingly, “[w]here the record taken as a whole could not lead a rational trier of fact to find for 1 the non-moving party, there is no genuine issue for trial.” *Matsushita*, 475 U.S. at 587 (internal 2 quotation marks and citation omitted). And while all inferences are to be drawn in favor of the 3 non-moving party, the non-moving party must still produce a factual predicate from which the 4 inference may be reasonably drawn.

Richards, 602 F. Supp. at 1244. 5 The Court has reviewed the BWC video provided by the Defendant. (Doc. 28.) The 6 video is consistent with the police reports of Officer Cruz (Doc. 36-3 at 13) and Officer Mora 7 (Doc. 36-3 at 18-20).

The video is consistent with the overall events in Plaintiff’s FAC and 8 declaration, except that no racial slur occurred (as discussed *infra*) and Plaintiff’s agitated state. 9 The entirety of the interaction between Plaintiff and Defendant is captured, with no missing audio 10 or video footage. Where a plaintiff does not make a factual showing in opposition to a motion for 11 summary judgment, the Court need not hunt through the record for some genuine issue of 12 material fact.

See Redick, 2022 WL 17363476, at *6. Accordingly, Plaintiff’s challenge to the 13 BWC video is insufficient to raise an issue of fact. 14 II. Defendant’s Motion for Summary Judgment 15 Defendant moves for summary judgment on two grounds: (1) that Plaintiff’s claim for 16 excessive force under 42 U.S.C. § 1983 fails because Defendant’s actions were objectively 17 reasonable under the totality of the circumstances, and (2) that Plaintiff’s Fourteenth Amendment 18 claim fails because Defendant did not use a racial insult.

(Doc. 36.) 19 A. Fourth Amendment Unreasonable Search and Seizure Claim 20 The FAC asserts a claim for “excessive force by law enforcement officers” under the 21 Fourth Amendment.7 Defendant Mora is the sole defendant. 22 The Fourth Amendment requires law enforcement officers that are making an arrest or 23 investigatory stop to use only an amount of force that is objectively reasonable in light of the 24 totality of the circumstances.

Graham v. Connor, 490 U.S. 386, 397 (1989). To determine 25 7 The Findings and Recommendations (Doc. 15) adopted by Judge Drozd allows Plaintiff’s 26 claims against Defendant Mora for use of excessive force and for use of a racial insult in violation 27 of 42 U.S.C. § 1981.

Accordingly, the Court will consider Defendant’s Fourth Amendment arguments. The Court will also liberally construe a pro se plaintiff’s pleadings. *Erickson v. 28 Pardus*, 551 U.S. 89, 94

(2007). 1 whether a use of force is objectively reasonable, courts balance “the nature and quality of the 2 intrusion on the individual’s Fourth Amendment interests” against the “countervailing 3 government interests at stake.” *Id.* at 396 (quoting *Tennessee v. Garner*, 471 U.S. 1, 8 (1985)).

4 In assessing whether an officer’s actions were objectively reasonable, the Court should consider 5 factors that include but are not limited to (1) “the severity of the crime at issue,” (2) “whether the 6 suspect poses an immediate threat to the safety of the officers or others,” and (3) “whether he is 7 actively resisting arrest or attempting to evade arrest by flight.” *Id.* at 396. “The reasonableness 8 of a particular use of force must be judged from the perspective of a reasonable officer on the 9 scene, rather than with the 20/20 vision of hindsight.” *Id.* (internal quotation marks omitted).

10 Defendant contends that his actions while putting Plaintiff into custody constitutes 11 “reasonable force” under the Fourth Amendment. (Doc. 36 at 5-8.) Defendant further argues 12 that, regardless of whether the Court finds that Defendant exercised reasonable force during the 13 arrest, Defendant’s actions are nonetheless entitled to qualified immunity because there was no 14 violation of Plaintiff’s constitutional rights.

(*Id.* at 8-11). 15 Plaintiff contends that Defendant “knocked the papers” from her hands, “used racial 16 slurs,” and “grabbed plaintiff’s arm and twisted it to the point of causing excruciating pains [sic] 17 enough that medical personnel were summoned and treated plaintiff’s arm.” (Doc. 38 at 5.) 18 Plaintiff argues that Defendant is not entitled to qualified immunity because he used excessive 19 force in an unjustified, unprovoked, and intentional manner.

(*Id.*) 20 1. Severity of the Intrusion – Type and Amount of Force Used 21 The first step of the excessive force analysis evaluates the severity of the intrusion on the 22 individual’s Fourth Amendment rights by assessing “the quantum of force used” during the 23 investigatory stop. *Smith v. City of Hemet*, 394 F.3d 689, 701 (9th Cir. 2005).

In conducting this 24 analysis the Court should consider “[t]he nature and degree of physical contact” and “the risk of 25 harm and the actual harm experienced” by the individual who is taken into custody. *Williamson v. City of National City*, 23 F.4th 1146, 1151-52 (9th Cir. 2022) (internal citations omitted). 27 “In most cases in which we have found that officers used excessive force in the course of 28 an arrest, the force used was gratuitous or violent.” *Hopson v. Alexander*, 71 F.4th 692, 705-6 1 (9th Cir.

2023) (collecting cases). In situations of less extreme police conduct, the Ninth Circuit 2 has found that an officer’s use of force was objectively unreasonable in light of the circumstances 3 when “the government interests at stake have been correspondingly lower.” *Id.* at 706. See, e.g., 4 *Hansen v. Black*, 885 F.2d 642, 645 (9th Cir. 1989) (where officers aggressively handcuffed a 5

suspect who was taking out her garbage and complying with the law at the time she was arrested); 6 Robinson v. Solano Cnty., 278 F.3d 1007, 1014 (9th Cir.

2002) (where officer pointed a gun at 7 unarmed suspect who was approaching peacefully with no dangerous circumstances apparent). 8 Viewing the evidence in Plaintiff's favor, the type and amount of force used by the 9 officers in this case was appropriately minimal. See Donovan v. Phillips, 685 F. App'x 611, 612 10 (9th Cir. 2017) (an officer using a "control hold" at a traffic stop that involved gripping the 11 individual's wrist, pulling her arm downward, and causing her to roll onto the ground employed a 12 "relatively minimal" and "reasonable" use of force given the circumstances).

Here, as shown in 13 the BWC video, minimal force was used to place Plaintiff in handcuffs. After Plaintiff ignored 14 Defendant's order to stay on the street, Plaintiff lunged from the street onto the curb at Defendant 15 where Defendant was standing. Plaintiff lunged at Defendant with papers in Defendant's face to 16 block his view of her. Defendant pushed the papers out of his face.

Plaintiff approached 17 Defendant again. Defendant then took Plaintiff's right arm and another officer took her left arm. 18 Plaintiff's arms were turned behind her, and Defendant firmly grabbed her elbow (straight armed 19 her) to gain control.

In this posture, Plaintiff was walked a few feet to the patrol car. She was 20 objecting to the hold, but Plaintiff did not express any indication of pain. Rather, she was 21 screaming words to the effect of "why are you doing this," and cursing at the officers. At the 22 patrol car, Defendant bent her right arm in a turning/twisting motion behind her back, so that her 23 right arm could join the left and be handcuffed.

At this point, Plaintiff screamed in pain when her 24 arm was turned for handcuffing, but the video shows she in a highly agitated state and was 25 resisting the handcuffing. 26 The force used was necessary to gain control and compliance and place Plaintiff in 27 handcuffs.

The officers did not strike Plaintiff or use any extraordinary compliance techniques or 28 weapons for the purpose of inflicting pain. See Williamson, 23 F.4th at 1152 (considering similar 1 factors when analyzing the nature and degree of physical contact between the officers and the 2 plaintiff).

The only point at which Plaintiff indicated pain was when her arms were turned inward 3 towards her back to place her hands in handcuffs. But Plaintiff was struggling, agitated, and not 4 complying. Plaintiff's injuries—a twisted arm that could be treated with an ice pack at the 5 scene—are relatively minimal in light of her conduct. (Docs. 36-3 at 15; 38 at 7 ¶ 1.)

6 Based on the record, the undisputed evidence shows that the nature and quality of the 7 intrusion was minimal. 8 2. Governmental Interest at Stake – Threat to Officers 9 The second Graham

factor—the extent to which “the suspect poses an immediate threat to the safety of the officers or others”—strongly favors Defendant. *Graham*, 490 U.S. at 396. This is the “most important single element of the three specified factors.” *Id.* Fresno Police officers were initially dispatched for the purposes of investigating “a suspicious vehicle seen moving in the area.” (Doc.

36-3 at 45.) The officers ultimately cited Plaintiff for an expired vehicle registration. “Traffic violations generally will not support the use of a significant level of force.” *Bryan v. MacPherson*, 630 F.3d 805, 828 (9th Cir. 2010). According to Defendant’s Police Report, during the course of the traffic stop, Officer Cruz received a call from Officer Ruiz to advise him that there was information from a “reliable source” that Plaintiff may have had a firearm.

(Doc. 36-3 at 50.) The firearm was suspected to belong to Plaintiff’s brother, who the officer reported “is involved with gangs.” (Doc. 36-3 at 20 50.) Given this reliable information, the Court finds a basis for Defendant’s belief that Plaintiff may have had a firearm or that she posed an immediate threat to the safety of officers or others. See *Deskins v. City of Bremerton*, 388 F. App’x 750, 752 (9th Cir.

2010) (not knowing whether an individual was armed is a factor that could allow an officer to reasonably fear for her safety). The possible presence of a firearm provides an “objectively reasonable basis” for the officers to conclude that an individual posed an immediate threat to the safety of the officers or others. See *Vernon v. City of Santa Barbara*, 485 F. App’x 221, 224 (9th Cir.

2012) (dismissing an excessive force claim where, among other factors, officers had information that an individual could be armed). Despite the fact that no firearm was ultimately determined to be in the vehicle, the officers still received credible information that Plaintiff could be armed when she was parked on the side of the road. Defendant could not have known whether Plaintiff was armed until after a thorough search of the vehicle.

Lowry, 858 F.3d at 1256 (“An officer’s use of force cannot be deemed excessive based on facts that he reasonably would not have known or anticipated.”) Even without a gun, Plaintiff became a threat to the safety of Defendant. Plaintiff’s agitated state throughout the traffic stop reasonably contributed to Defendant’s belief that Plaintiff posed an immediate threat to the safety of the officers or others.

Defendant’s Police Report contends that after the officers told her that the car would be towed, Plaintiff “became very upset,” “would not listen and became more irate,” and “started to curse” at the officers. (Doc. 36-3 at 19-20.) An individual’s “volatile, erratic conduct” can be an objective factor to justify an officer’s fears for his safety or the safety of others, though it “does

not, by itself, 13 contribute the use of significant force.” See *Bryan v. MacPherson*, 630 F.3d 805, 826 (9th Cir.

14 2010) (affirming the district court’s ruling that an individual stopped for a traffic violation who 15 was agitated, standing outside his car, cursing, and yelling “could lead an officer to be wary.”) 16 Further, Plaintiff escalated the stop by lunging at Defendant with papers which obscured 17 Defendant’s vision of her. Plaintiff lunged from the street onto the curb at Defendant where he 18 was standing.

He immediately pushed her papers away and when she approached him again, he 19 turned her right arm behind her back and walked her to the patrol vehicle. Given Plaintiff’s 20 conduct, it was reasonable for Defendant to construe Plaintiff’s conduct as an immediate threat to 21 his safety. 22 3. Actively Resisting 23 The third Graham factor is whether Plaintiff is “actively resisting arrest or attempting to 24 evade arrest by flight.” *Graham*, 490 U.S. at 396.

The officers’ reports state that Plaintiff refused 25 to sign the citation and asked for a supervisor, and that Plaintiff “resisted our efforts to place her 26 in handcuffs” even though she was “told several time [sic] to stop resisting and cooperate.” (Doc. 27 36-3 at 20.)

As explained above, Plaintiff was placed in handcuffs after she lunged at Defendant 28 and blocked his view of her. Defendant then used minimal force to control her by straight arming 1 her right arm behind her, even as she was struggling with him. This force is minimal. Her arms 2 were further turned behind her to place them in handcuffs.

The BWC video shows that this force 3 was likewise minimal. Plaintiff screamed in pain at this point, but it appears she was resisting 4 placing her hands behind her back for handcuffing. Even in the light most favorable to Plaintiff, 5 it is undisputed that Plaintiff continually ignored the officers’ requests to cooperate and not to 6 resist. She was not in compliance with officer orders.

See *Williamson*, 23 F.4th at 1152 (holding 7 that officers employed a minimal use of force where officers pulled the handcuffed and screaming 8 protester backward out of meeting room by her arms and wrists in a nearly seated position).

To 9 the extent that Plaintiff physically resisted arrest by twisting her arms to avoid the handcuffs, such 10 resistance only lasted a brief time and the force used was minimal. Eventually Plaintiff was 11 allowed to make a phone call, signed the citations, and was released at the scene. (Doc. 36-3 at 12 20.) 13 “[A]n additional factor that we may consider in our Graham analysis is the availability of 14 alternative methods of capturing or subduing a suspect.” *Seidner*, 39 F.4th at 599 (“whether ‘less 15 intrusive alternatives’ were available to law enforcement”).

The Ninth Circuit has held that 16 “[p]olice need not employ the least intrusive means available; they need only act within the range 17 of reasonable conduct” in capturing or subduing a suspect.

S.R. Nehad v. Browder, 929 F.3d 18 1125, 1138 (9th Cir. 2019).

Here, Defendant used a relatively nonintrusive method of straight- 19 arming Plaintiff and then handcuffing her. Defendant had repeatedly attempted to deescalate the 20 situation by explaining the citation to Plaintiff. Handcuffs are the “standard method used to 21 restrain an arrestee,” and Plaintiff actively resisted being put into cuffs. Stakey, 2025 WL 22 461403, at *9.

There does not appear to be any less other “clear, reasonable, and less intrusive” 23 means available to the Defendant at the time. Id. There does not appear to have been a less 24 intrusive means available to Defendant at the time. Defendant’s BWC video footage shows the 25 officers used only the necessary force to handcuff Plaintiff and place her in the patrol car.

26 In considering the totality of the circumstances, and based on the record, the undisputed 27 evidence shows that Defendant and the officers had a substantial governmental interest in 28 securing Plaintiff and ensuring that there was no firearm present in the vehicle. Plaintiff’s 1 offense—an expired vehicle registration—is relatively minor. While a minor offense, Plaintiff 2 was very agitated and lunged at Defendant and then resisted being put into custody.

As seen on 3 the BWC video, the force used was minimal and brief. Because Defendant used minimal force 4 against Plaintiff under the circumstances, the force used by Defendant was “objectively 5 reasonable in light of the facts and circumstances” confronting Defendant. Graham, 490 U.S. at 6 397 (internal quotation marks omitted). Viewing the evidence in the light most favorable to 7 Plaintiff, a rational trier of fact could not find that Defendant’s use of force was objectively 8 unreasonable, and therefore, summary judgment is granted in favor of Defendant.

9 B. Fourteenth Amendment Claim 10 The Fourteenth Amendment’s Equal Protection Clause bars any state from “deny[ing] to 11 any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. 12 “Police action sufficiently shocks the conscience, and therefore violates substantive due process, 13 if it is taken with either ‘(1) deliberate indifference or (2) a purpose to harm[,] unrelated to 14 legitimate law enforcement objectives.’” S.R.

Nehad, 929 F.3d at 1139 (quoting A.D. v. 15 California Highway Patrol, 712 F.3d 446, 453 (9th Cir. 2013)). An “improper motive” for law 16 enforcement objectives could include a “use of force intended to teach a suspect a lesson or get 17 even.” Id. (internal quotation marks and citation omitted). “In some cases, a use of force might 18 be so grossly and unreasonably excessive that it alone could evidence a subjective purpose to 19 harm.” Id. at 1140.

This is not such a case. 20 To the extent that Plaintiff argues that she was targeted for a traffic stop because of her 21 race, or that Defendant’s actions were racially discriminatory in violation of the Fourteenth 22 Amendment, the Court finds that summary judgment is appropriate.

To succeed on her Equal 23 Protection claim, Plaintiff must prove that Defendant “acted in a discriminatory manner and that 24 the discrimination was intentional.” *Bingham v. City of Manhattan Beach*, 341 F.3d 939, 948 25 (9th Cir. 2003), overruled on other grounds, (quoting *Reese v. Jefferson Sch. Dist. No. 14J*, 208 26 F.3d 736, 740 (9th Cir. 2000)).

To avoid summary judgment, Plaintiff “must produce evidence 27 sufficient to permit a reasonable trier of fact to find by a preponderance of the evidence that [the] 28 decision... was racially motivated.” *Id.* (internal quotation marks and citations omitted). 1 Plaintiff seems to be offering evidence of the alleged racial slurs as evidence of the 2 “improper motive” of racial animus during the traffic stop.

Alternatively, Plaintiff seems to argue 3 that she was stopped on the basis of race as evidenced by her allegation that she was subjected to 4 racial insults. Plaintiff also points to the fact that she is African American and Defendant is white 5 to support her equal protection claim. (Doc. 38 at 8 ¶ 9.) 6 An Equal Protection claim is insufficient merely based on facts that Defendant is white 7 and Plaintiff is African American.

See *Bingham*, 341 F.3d at 948–49 (“Essentially, [Plaintiff] 8 argues that because he is African–American, the officer is white, and they disagree about the 9 reasonableness of the traffic stop, these circumstances are sufficient to raise an inference of racial 10 discrimination.

We disagree.”) Plaintiff has offered no evidence of discriminatory intent except 11 the allegation that Defendant used a racial slur and her race. However, she offers no evidence 12 that her race was the impetus for any of Defendant’s conduct. Plaintiff was approached by 13 officers for expired registration tags, following a report of a suspicious vehicle that was driving in 14 the area.

As shown in the BWC video, after they approached her, the Defendant and other 15 officers were calmly conversing with Plaintiff as she screamed obscenities at Defendant and other 16 officers. Defendant took action only when Plaintiff lunged at him and failed to follow his 17 commands. No racial slur is heard on the BWC video. (Doc. 28, flash drive at 4:35-5:00.)

Thus, 18 Plaintiff offers no evidence that the stop or any conduct after the stop was motivated by racial 19 animus. 20 Further, Defendant argues that the BWC video shows that Defendant did not use a racial 21 insult at any point during the interaction with Plaintiff.

The Court agrees. After a thorough 22 review of the BWC video, the Court did not ascertain that any racial slur was used. As noted 23 above, Plaintiff disputes the veracity of the video but declines to provide any competent evidence 24 that the video was altered. (Doc. 38 at 3 (stating only that the video “did not convey the correct 25 version of the incident.”)) Plaintiff furthermore points directly to a moment of the racial slur.

26 (Doc. 38 at 8 ¶ 8 (“[D]efendant Mora viciously knocked these document from my hands, while
27 saying to me ‘Nigger, I don’t want to see anything from you’”). But that moment is fully 28
captured in its entirety in the BWC video. (Doc. 28, flash drive at 4:35-5:00.)

The video is 1 continuous and does not appear that any remark could have been cut out or omitted.
No racial 2 slur is uttered. Id. Plaintiff’s bare allegation that the video has been altered is not
sufficient 3 evidence to create a genuine issue of material fact to defeat summary judgment. 4
Regardless, even assuming that Defendant did utter a racial slur after she was stopped as 5
alleged, Plaintiff provides no evidence that Defendant committed discriminatory acts based on her
6 identity as an African American woman.

See *Leon v. Weiss*, No. 2:22-CV 2170 TLN KJNP, 2023 7 WL 4686805, at *5 (E.D. Cal. July 21,
2023) (dismissing equal protection claim against prison 8 physician who allegedly made a racially
offensive statement due to plaintiff’s failure to plead 9 facts alleging defendant committed
discriminatory acts based on plaintiff’s identity as a Native 10 American) and *Smith v. Hernandez*,
No. 1:16-CV-01267-DAD-SAB-PC, 2017 WL 5192352, at 11 *6 (E.D.

Cal. Nov. 9, 2017), report and recommendation adopted, No. 1:16-CV-01267-LJO- 12 SAB-PC,
2018 WL 3357433 (E.D. Cal. July 9, 2018) (dismissing equal protection claim because 13 “[t]he
fact that Plaintiff is a member of a protected class and that racial slurs were uttered is 14
insufficient for the Court to infer discriminatory conduct because of Plaintiff’s race”) and *Cortes-*
15 *Salcedo v. City of Redding*, No. 2:20-CV-0048 DB P, 2020 WL 5569621, at *4 (E.D.

Cal. Sept. 16 17, 2020) (dismissing equal protection claim based on use of racial slurs during an
arrest, but 17 without other allegations showing an intent to discriminate based on membership in
a protected 18 class); see also *King v. City of Eastpointe*, 86 F. App’x 790, 807 (6th Cir. 2003)
(affirming 19 summary judgment in favor of defendant police officers where plaintiffs alleged one
of the 20 officers uttered a racial slur but offered no other evidence to show the arrest was racially
21 discriminatory in violation of the Fourteenth Amendment).

Plaintiff had been stopped for 22 legitimate law enforcement reasons, the expired car registration
and for reports of a suspicious 23 vehicle that was driving in the area. She was taken into custody
after lunging at Defendant with 24 papers which obscured his view of her and because she failed
to comply with orders.

Because 25 Plaintiff presents insufficient evidence to support her Fourteenth Amendment claim,
summary 26 judgment is granted in favor of Defendant. 27 /// 28 /// 1 C. Qualified Immunity 2
Defendant also asserts that the Court should grant summary judgment on the basis of 3 qualified
immunity.

However, the Court need not reach this argument, based upon the above 4 determination regarding
the undisputed facts in this case. 5 III. Defendant’s Motion for Partial Judgment on the Pleadings 6

Because the Court rules that summary judgment should be granted on Plaintiff's claims, 7 and because no claims remain in the case, the Court denies Defendant's Motion for Partial 8 Judgment on the Pleadings as moot.

9 IV. Defendant's Motion for Sanctions 10 Defendant Mora moves for sanctions against Plaintiff Purnell pursuant to Fed. R. Civ. P. 11 11. (Doc. 29.) Defendant argues that that there is no evidentiary support for the factual 12 allegations in the FAC. (Id. at 6.) Defendant argues that the FAC is frivolous "and was filed 13 solely for the improper purpose of harassing defendant." (Id.)

14 The Court finds that sanctions pursuant to Rule 11 are inappropriate here. Defendant's 15 disagreement with the facts presented in Plaintiff's FAC are more appropriately raised in 16 Defendant's motion for summary judgment, as he has done, rather than in a motion for sanctions. 17 The parties have presented different versions of events to the Court, which does not, in itself, 18 demonstrate that Plaintiff's complaint is being presented for any improper purpose, frivolous, 19 legally unreasonable or without factual foundation as required by Rule 11.

The Court does not 20 find that Plaintiff made filings that are "both baseless and made without reasonable and 21 competent inquiry." *Buster*, 104 F.3d 1190. 22 Further, Defendant has presented no evidence of bad faith on the part of Plaintiff that 23 would support the imposition of sanctions. *Fink*, 239 F.3d at 994 (holding that an attorney's 24 "reckless misstatements of law and fact, when coupled with an improper purpose, such as an 25 attempt to influence or manipulate proceedings in one case in order to gain tactical advantage in 26 another case, are sanctionable under a court's inherent power.") Plaintiff's unsupported assertions 27 are not sufficient to demonstrate the required bad faith necessary to warrant the imposition of 28 sanctions.

The Court does not find it necessary at this time to impose any sanctions pursuant to 1 Local Rule 110. 2 Accordingly, with respect to Defendant's request for sanctions, Defendant has not met the 3 standard for the imposition of sanctions pursuant to Rule 11. 4 CONCLUSION AND RECOMMENDATION 5 For the reasons stated, it is HEREBY RECOMMENDED as follows: 6 1.

Defendant's motion for summary judgment be GRANTED. 7 2. Defendant's motion for partial judgment on the pleadings be DENIED as moot. 8 3. Defendant's motion for sanctions be DENIED. 9 These Findings and Recommendations will be submitted to the United States District 10 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within 11 fourteen (14) days after being served with these Findings and Recommendations, the parties may 12 file written objections with the court.

The document should be captioned "Objections to 13 Magistrate Judge's Findings and Recommendations." Objections, if any, shall not exceed 14 fifteen (15) pages or include exhibits.

Exhibits may be referenced by document and page 15 number if already in the record before the Court. Any pages filed in excess of the 15-page 16 limit may not be considered.

The parties are advised that failure to file objections within the 17 specified time may result in the waiver of the “right to challenge the magistrate’s factual 18 findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter 19 v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). 20 IT IS SO ORDERED. 21 22 Dated: September 11, 2025 /s/ Barbara A. McAuliffe _ UNITED STATES MAGISTRATE JUDGE 23 24 25 26 27 28