

APR 13 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALICIA UNGER,

Plaintiff - Appellant,

v.

CITY OF LOS ANGELES; CHIEF
RONALD J. BOYD; SGT. KEVIN
MCCLOSKEY,

Defendants - Appellees.

No. 09-55375

D.C. No. 2:08-cv-02139-SVW-CT

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted April 9, 2010**
Pasadena, California

Before: D.W. NELSON and REINHARDT, Circuit Judges, and WHALEY, Senior
District Judge.***

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Robert H. Whaley, United States District Judge for the
Eastern District of Washington, sitting by designation.

Plaintiff Alicia Unger brought this action pursuant to 42 U.S.C. § 1983 alleging violations of her First and Fourth Amendment rights during an incident that occurred after a press conference on August 3, 2007. She appeals the district court's decision granting summary judgment in favor of defendants Sergeant Kevin McCloskey, Port Police Chief Ronald Boyd, and the City of Los Angeles on her First Amendment claims. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Because Unger has not presented any evidence from which a reasonable fact-finder could infer that McCloskey acted with the intent to chill her speech, she has not created a genuine issue of material fact as to whether his conduct violated her rights under the First Amendment. *See Mendocino Env'tl. Ctr. v. Mendocino County*, 192 F.3d 1283, 1300-01 (9th Cir. 1999). Because Unger has not created a genuine issue of material fact as to the existence of a constitutional violation, her supervisory and municipal liability claims also fail. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690-91 (1978); *Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989). Accordingly, we affirm the grant of summary judgment in favor of the defendants.

AFFIRMED.