

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CYNTHIA LEVY,	:
Plaintiff,	:
	:
-vs-	: Civil No. 3:01cv15 (PCD)
	:
CATHOLIC CHARITIES/CATHOLIC	:
FAMILY SERVICES,	:
Defendant.	:

RULING ON MOTION TO REOPEN AND SET ASIDE JUDGMENT OF DISMISSAL

Defendant moved to dismiss plaintiff’s case for her failure to comply with two separate orders from this Court to provide security for costs. The motion was granted absent objection from plaintiff. Plaintiff now moves pursuant to FED. R. CIV. P. 60(b)¹ for relief from that judgment and seeks an order vacating the judgment dismissing her complaint and remanding her case to state court for a trial on the merits. In support of her argument, plaintiff provides only that she “did not intend to prosecute this matter before [this Court], and that counsel had been instructed to have the case remanded to State Court at the express instructions of the plaintiff.” Plaintiff did not move to remand her case to state court within thirty days of removal as required by 28 U.S.C. § 1447(c) and the alleged violation of her “federal constitutional and due process rights” conferred subject matter jurisdiction on this Court notwithstanding plaintiff’s trivialization of the allegation. *See Cole v. United States*, 657 F.2d 107, 109 (7th Cir. 1981) (“[b]ecause the United States Constitution is invoked there can be no question that section 1441(b) permitted removal”). Her complaint was therefore properly before this Court.

¹ Plaintiff does not cite a procedure by which she files the present motion. The present motion, filed five months after judgment issued, would be considered untimely if brought pursuant to FED. R. CIV. P. 59(b) and is therefore considered brought pursuant to FED. R. CIV. P. 60(b).

Plaintiff's dissatisfaction with this forum does not constitute "mistake, inadvertence, surprise, or excusable neglect" nor does it constitute "any other reason justifying relief from the operation of the judgment," *see* FED. R. CIV. P. 60(b)(1) & (6). Plaintiff therefore provides no basis on which to alter or amend the judgment dismissing her complaint. Further she makes no effort or offer to rectify the deficiency on which the dismissal was based.

The motion to reopen and set aside the judgment of dismissal (Doc. 18) is **denied**.

SO ORDERED.

Dated at New Haven, Connecticut, July ____, 2002.

Peter C. Dorsey
United States District Judge