

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**AUDREY LUEVENIA DANIELS,
Plaintiff,**

v.

Case No. 12-CV-00650

**MILWAUKEE BOARD OF SCHOOL DIRECTORS,
Defendant.**

DECISION AND ORDER

I denied pro se plaintiff Audrey Daniels' motion for default judgment because I found that there was not a sufficient basis in the pleadings to support the entry of the requested judgment. I then dismissed the complaint for failure to state a claim, and the clerk entered final judgment on November 15, 2012.

I now exercise my authority to act sua sponte under Fed. R. Civ. P. 59(e) and set aside the final judgment in this case so that plaintiff can have the opportunity to amend her complaint. See *Burnam v. Amoco Container Co.*, 738 F.2d 1230, 1232 (11th Cir. 1984) (“[S]o long as the court acts within ten days after the entry of judgment, the court has the power to sua sponte consider altering or amending the judgment [under Rule 59(e)].” (citing 6A Moore’s Federal Practice ¶ 59.12[4] (updated version at 12 James Wm. Moore et al., Moore’s Federal Practice ¶ 59.33 (3d ed. 2012)))); see also *Charles v. Daley*, 799 F.2d 343, 348 (7th Cir. 1986) (“[T]he purpose of Rule 59 is to allow the district court to correct its own errors, sparing the parties and appellate courts the burden of unnecessary appellate proceedings.”). My decision to deny the motion for default judgment and dismiss the complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B) was correct, but

I should have given plaintiff a chance to correct the deficiencies in her complaint before the entry of final judgment. See *Stewart Title Guar. Co. v. Cadle Co.*, 74 F.3d 835, 836 (7th Cir. 1996).

THEREFORE, IT IS ORDERED that the final judgment in this case is **VACATED**.

IT IS FURTHER ORDERED that plaintiff has until **December 10, 2012** to file an amended complaint, if she wishes to do so. If plaintiff does not file an amended complaint by this deadline, the case will be dismissed.

Dated at Milwaukee, Wisconsin, this 16th day of November 2012.

s/ Lynn Adelman

LYNN ADELMAN
District Judge