

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MONICA BUTLER

CIVIL ACTION

VERSUS

THE STATE OF LOUISIANA

NO.: 16-00132-BAJ-EWD

RULING AND ORDER

Before the Court is the State of Louisiana's **Motion to Dismiss Plaintiff's Notice of Removal (Doc. 9)**. The state seeks to dismiss Plaintiff's Notice of Removal (Doc. 1), which attempts to bring before the Court a state criminal case against Plaintiff that has been dismissed. (Doc. 10 at p. 1). Plaintiff, proceeding *pro se*, has not responded to the motion. For reasons explained fully herein, Defendant's **Motion to Dismiss Plaintiff's Notice of Removal (Doc. 9)** is **GRANTED**.

I. BACKGROUND

This case stemmed from charges that were dismissed in Louisiana's 19th Judicial District, Case Number 02-14-0844. (Doc. 10 at pp. 1-3). In February of 2014, Plaintiff was charged with resisting an officer—a misdemeanor—by the state of Louisiana. (*Id.* at 2). The charges grew out of an incident that occurred on July 3, 2013. (*Id.*). Plaintiff filed this Notice of Removal on March 8, 2016, seeking to remove the criminal case to federal court. (Doc. 1). In December of 2015, the State initially dropped the charges pursuant to a plea agreement, but the State re-filed charges after Plaintiff did not comply with the terms of the agreement. (Doc. 10 at pp. 2-3). A

motion to quash the charges against Plaintiff was then filed. (*Id.*). It was granted on May 24, 2016. (*Id.* at 3). There currently are no charges pending against Plaintiff. (*Id.*).

The State of Louisiana filed the current motion, alleging that the issue is moot, as the case had already been dismissed. (*Id.* at 7-8). Defendant also alleges that service was improper. (*Id.* at 4-7). Finally, the state argues that the Court is deprived of jurisdiction. (*Id.* at 8-9).

II. DISCUSSION

A. The Issue is Moot

This case will be dismissed because the removal is moot. In order for a criminal case to be removed to federal court, there must be a case in controversy in state court. *See Johnson v. Mississippi*, 421 U.S. 213, 220 (1975) (discussing when a pending case may be removed to federal court prior to trial). However, in this case, no case or controversy exists such as to be removed to federal court because the state charges against Plaintiff have already been dismissed. (Doc. 10 at pp. 1-3). Plaintiff has received the remedy she seeks. *Id.* Thus, the action must be dismissed.

IV. CONCLUSION

Accordingly,

IT IS ORDERED that Defendant State of Louisiana's **Motion to Dismiss Plaintiff's Notice of Removal (Doc. 9)** is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the above captioned case is **DISMISSED AS MOOT**.

Baton Rouge, Louisiana, this 20th day of January, 2017.



**BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**