

UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS

JOSEPH AGUIAR,

Plaintiff,

v.

LOIS RUSSO,

Defendant.

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Civil Action No. 09-10353-JLT

ORDER

July 29, 2010

TAURO, J.

Defendant’s Supplemental Memorandum in Support of Motion to Dismiss [#18], which this court has interpreted to be a Motion for Reconsideration,¹ is hereby ALLOWED WITHOUT OPPOSITION. As Plaintiff’s challenge to the constitutionality of Section 58A is foreclosed by relevant caselaw and a proper construction of the statute, this claim is DISMISSED.

Having dismissed all of the claims against Defendant, this case is now CLOSED.

IT IS SO ORDERED.

/s/ Joseph L. Tauro
 United States District Judge

¹By Memorandum and Order [#14] dated November 6, 2009, Judge Stearns denied Defendant’s original request to dismiss the constitutional claim contained in Defendant’s Motion to Dismiss [#12]. In his order, however, Judge Stearns “invited” Defendant “to file a brief addressing this issue,” noting that Plaintiff’s constitutional claim was “vague,” and, for that reason, Defendant’s failure to fully brief the issue was “understandabl[e].” Nov. 6, 2009 Order at 4-6. It is therefore appropriate to interpret the present motion to be a Motion for Reconsideration, as it is implicit in the November 6, 2009 Order that Defendant’s initial failure to brief the issue was the result of “excusable neglect,” and possibly subject to relief under Fed. R. Civ. P. 60(b)(1).