

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

KIM KING, )  
)  
Plaintiff, )  
)  
v. )  
)  
CITY OF SEMINOLE, )  
a municipal corporation, )  
)  
Defendant. )


Case No. CIV-09-066-JHP

**ORDER**

Before the Court is Plaintiff’s “Motion for Conditional Dismissal of Federal Claim, and for Remand” [Docket No. 12]. In the Motion, Plaintiff offers to dismiss her sole federal claim if the Court would remand the case back to state court. However, Plaintiff does not wish to release her federal claim if she is “forced to litigate in federal court.” The Court notes that Defendant opposes remanding this case. [Docket No. 15]. Because the Court does not entertain “conditional” motions, the Court addressed the merits of Defendant’s Partial Motion to Dismiss [Docket No. 9] which sought dismissal of Plaintiff’s federal claim. In an Order entered this same day [Docket No. 20], the Court dismissed Plaintiff’s Fourteenth Amendment due process claim. The due process claim was the only claim over which the Court had original jurisdiction. Even though the sole federal claim is now dismissed, the Court has the discretion to retain supplemental jurisdiction over the remaining state law claims pursuant to 28 U.S.C. § 1367(c)(3). The Court, however, declines to exercise its supplemental jurisdiction in this case and remands the case to the District Court of Seminole County. Plaintiff’s “Motion for Conditional Dismissal of Federal Claim, and for Remand” is hereby MOOT and the case is

REMANDED.

IT IS SO ORDERED this 18<sup>th</sup> day of September, 2009.

  
James H. Payne  
United States District Judge  
Eastern District of Oklahoma