

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PEGGY ANN DUFF EL,

Petitioner,

v.

UNITED STATES OF AMERICA DEPT.
OF AGRICULTURE RURAL HOUSING
SERVICE, JOHN C. ALBERT and KENNETH
WM. JOST,

Respondents.

OPINION and ORDER

07-C-031-C

In this proposed civil action for monetary, injunctive and declaratory relief, frequent litigant petitioner Peggy Duff El seeks leave to proceed in forma pauperis on her claim that respondents United States Department of Agriculture Rural Housing Service, Judge John C. Albert and lawyer Kenneth Jost violated her right to due process in unspecified ways. Although petitioner has not submitted an affidavit of indigency in support of her request for leave to proceed in forma pauperis, I am satisfied from the affidavit she recently submitted in Case No. 06-C-744-C that she is, in fact, indigent.

In addressing any pro se litigant's complaint, the court must read the allegations of

the complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972). However, leave to proceed must be denied when a proposed action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages from a respondent who is immune from such relief. 28 U.S.C. § 1915(e)(2). Petitioner's claim against respondent Albert is barred by the doctrine of judicial immunity. Moreover, she has failed to state any recognizable claim against respondents Jost and United States Department of Agriculture Rural Housing Service. Consequently, her request to proceed in forma pauperis will be denied.

From publicly available court records and the allegations of petitioner's complaint, I draw the following allegations of fact.

FACTUAL ALLEGATIONS

A. Parties

Petitioner Peggy Duff El is a defendant in a Dane County civil action, Case No. 2005-CV-3956, United States of America v. Peggy A. Duff.

Defendant United States Department of Agriculture Rural Housing Service is a government agency that owns the deed to petitioner's home.

Defendant John C. Albert is the judge presiding over Case No. 2005-CV-3956.

Defendant Kenneth Jost is a lawyer with the United States Department of Justice

Office of Consumer Litigation. Respondent Jost represents the United States in Case No. 2005-CV-3956.

B. Case No. 2005-CV-3956

On March 31, 2006, respondent Albert entered judgment in favor of the United States in Case No. 2005-CV-3956, ordering that petitioner's home be forfeited and sold. Petitioner's appeal was dismissed by the Wisconsin Court of Appeals on November 30, 2006. A foreclosure sale is scheduled for January 30, 2007.

According to the complaint, respondents Albert and Jost "filed a [sic] unverified, false and fraudulent documents claims of damages in Dane County Courthouse, Registered [sic] of Deeds and Madison Newspaper." Respondent Jost appeared at one hearing by telephone, an act to which petitioner objects because there was no way for her to verify he was who he said he was. As petitioner sees it, "[Jost] could be Winnie the Pooh, Mary Magdalene there is no verifiable, justifiable proof he is in fact attorney Kenneth Wm. Jost"

OPINION

Petitioner's complaint is difficult to understand. It is clear that she objects to the United States Department of Agriculture Rural Housing Service's decision to foreclose on her home, resents respondent Jost's representation of the United States' interests and

disagrees with respondent Albert's decision to order the foreclosure. However, although petitioner contends that her due process rights have been violated, she has alleged no facts from which it might be inferred that respondents have engaged in any illegal activity. Neither respondent Jost's telephonic appearance at a pretrial hearing on behalf of the United States Department of Agriculture Rural Housing Service nor respondents Albert and Jost's alleged filing of certain unidentified documents in the action implies that any respondent violated petitioner's due process rights. That alone is reason to deny her leave to proceed in forma pauperis. 28 U.S.C. § 1915(e)(2).

In addition, petitioner's claims against respondent Albert are barred by the doctrine of judicial immunity. There are few doctrines established more solidly than the absolute immunity of judges from liability for their judicial acts, even when they act maliciously or corruptly. Mireles v. Waco, 502 U.S. 9 (1991). This immunity is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, which has an interest in a judiciary free to exercise its function without fear of harassment by unsatisfied litigants. Pierson v. Ray, 386 U.S. 547, 554 (1967). It is unquestioned that immunity applies to "the paradigmatic judicial acts involved in resolving disputes between parties who have invoked the jurisdiction of a court." Forrester v. White, 484 U.S. 219 (1988). Because petitioner's claims against respondent Albert are based on her dissatisfaction with Albert's judicial decisions, there is no arguable basis in fact or law for her claims against him.

ORDER

IT IS ORDERED that petitioner Peggy Duff El's request for leave to proceed in forma pauperis is DENIED. The clerk of court is directed to close this file.

Entered this 22d day of January, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge