

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-3876

Mary Bower, next friend;

Plaintiff-Appellant,

Ariel Bower, Minor;

Gabrielle N. Lyon, Minor,

Plaintiffs,

v.

Springfield R-12 School District;

Charrie Dixon; Janis Duncan; Jane

Hancock; Susan Provance; School

Board of Springfield,

Defendants-Appellees.

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Appeal from the United States
District Court for the Western
District of Missouri.

[UNPUBLISHED]

Submitted: February 07, 2008

Filed: February 13, 2008

Before BYE, SMITH, and BENTON, Circuit Judges.

PER CURIAM.

Mary Bower appeals the district court's¹ grant of summary judgment to defendants in her 42 U.S.C. § 1983 action alleging violations of her First Amendment right to free speech, and defamation under state law. Bower also appeals the denial of her motion for appointed counsel, and the dismissal of her children as plaintiffs.

After careful review of the record, we find no error in the district court's grant of summary judgment, *see Dulany v. Carnahan*, 132 F.3d 1234, 1237 (8th Cir. 1997) (standard of review), and nothing to support Bower's contention that the district court judge should have recused himself, *see* 28 U.S.C. § 455(a) (judge is required to disqualify himself in proceedings in which his impartiality might reasonably be questioned). We also find that the district court did not abuse its discretion in denying Bower's motion for appointed counsel. *See Butler v. Fletcher* 465 F.3d 340, 346 (8th Cir. 2006) (standard of review). Thus, the district court did not err in dismissing the claims of Bower's minor children, as Bower was unable to represent them pro se, *see Myers v. Loudoun County Pub. Schs.*, 418 F.3d 395, 401 (4th Cir. 2005), but those claims should have been dismissed without prejudice.

Accordingly, we affirm, *see* 8th Cir. R. 47B, but we modify the dismissal of the claims of Bower's minor children to be without prejudice.

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.