FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 4-443 / 93-1866

JOANN MESCH,

Appellant,

vs.

DONALD J. MESCH and **ROBERT SHIMANEK,**

Appellees.

Appeal from the Iowa District Court for Linn County, William R. Eads, Judge.

Plaintiff appeals a district court order dismissing her tort action. **AFFIRMED.**

Charles C. Brown, Jr., of Tom Riley Law Firm, P.C., Cedar Rapids, for appellant.

John M. Maher of Maher, Nidey & Pence, Cedar Rapids, for appellee-Mesch.

Gregory M. Lederer and Chad M. VonKampen of Simmons, Perrine, Albright & Ellwood, Cedar Rapids, for appellee-Shimanek.

Considered by Donielson, C.J., and Sackett and Habhab, JJ.

PER CURIAM

The sole issue presented in this appeal is whether the district court abused its discretion in dismissing the plaintiff's case. The district court dismissed the case due to the plaintiff's noncompliance with court orders, her failure to attend scheduled settlement and pretrial conferences and her failure to file a pretrial statement. Upon our consideration of the parties' arguments, the record and the applicable law, we find no abuse of discretion in the district court's decision to dismiss the case.

A review of the record demonstrates the plaintiff's repeated noncompliance with discovery requests and court orders:

> August 7, 1992 -- The district court sustained a motion to compel the plaintiff's answers to interrogatories.
>
> September 30, 1992 -- When plaintiff's answers in response to the court order of August 7 were unsatisfactory, the district court ordered her to furnish complete answers and imposed $150 in sanctions.
>
> February 8, 1993 -- The district court ordered the plaintiff to answer and supplement discovery and ordered her to pay $250 in attorney fees as a sanction.
>
> May 7, 1993 -- The district court ruled the plaintiff had continued to provide inadequate discovery responses and entered an order requiring compliance. The plaintiff was ordered to pay $300 in attorney fees as a sanction. In its ruling the district court expressed concern with the number of hearings which had already been held on the issue of discovery compliance. It declined to dismiss the case at the present time, but cautioned the plaintiff that failure to comply with its order could result in further sanctions.

> September 21, 1993 -- The plaintiff failed to appear for a scheduled settlement conference and the court sustained a motion for sanctions. The plaintiff was ordered to pay $143.05 for attorney fees and expenses incurred by the defendants' counsel. The plaintiff also failed to file a pretrial statement prior to the settlement conference as required by a court order.
>
> October 22, 1993 -- The plaintiff failed to appear for a scheduled pretrial conference.

Plaintiff's counsel was allowed to withdraw his representation on September 3, 1993. Counsel withdrew because of the plaintiff's alleged refusal to cooperate with him. At the time plaintiff's counsel was allowed to withdraw, the district court advised plaintiff her case was set for trial on November 1, 1993, and she should promptly obtain new representation.

A plaintiff's failure to attend a pretrial conference can result in a dismissal of the case. See Iowa R. Civ. P. 134(b)(2)(C), 136(e). Our review of a district court's dismissal of a case is for an abuse of discretion. See Krugman v. Palmer College of Chiropractic, 422 N.W.2d 470, 473 (Iowa 1988), cert. denied, 488 U.S. 944 (1988). However, due to the severity of the sanction of dismissal, the range of discretion is narrowed. Postma v. Sioux Center News, 393 N.W.2d 314, 318 (Iowa 1986). To justify the dismissal of an action, a party's noncompliance must be due to willfulness, fault or bad faith. See id.

A review of the hearing transcripts and the district court's October 22 and November 19, 1993, orders reveals

the court considered the plaintiff's numerous acts of noncompliance and disobedience to court orders in deciding to dismiss the case. It concluded --

> The totality of this conduct indicates fault on her part and imputed bad faith. The Court concludes that Plaintiff was at fault and that her disobedience of court orders and disregard of the Iowa Rules of Civil Procedure constitute bad faith on her part.

We agree the cumulative effect of the plaintiff's numerous acts of noncompliance and disobedience infer fault and bad faith. The plaintiff initiated this litigation but her conduct obstructed its progression. The defendants are correct when they argue "they should not be expected to litigate this action by dragging the plaintiff against her will through the courthouse door and into trial."

We reject the plaintiff's argument that only her failure to attend the settlement and pretrial conferences is relevant to the determination of whether it was an abuse of discretion to dismiss her case. Not only does the record indicate the trial court relied on additional factors as the basis for its decision, but we may consider additional and alternative grounds in affirming the trial court. See, e.g., Clark v. Sisters of Mercy Health Corp., 458 N.W.2d 398, 400 (Iowa App. 1990) (record revealed additional numerous reasons which "collectively" supported dismissal of case); Smiley v. Twin City Beef Co., 236 N.W.2d 356, 360 (Iowa 1975) (appellate court may affirm if any proper ground appears in record).

Plaintiff's lack of legal representation does not excuse her failure to attend the settlement and pretrial conferences nor her failure to file a pretrial statement. We do not utilize a deferential standard when persons choose to represent themselves. Metro. Jacobson Dev. Venture v. Board of Review, 476 N.W.2d 726, 729 (Iowa App. 1991) ("If lay persons choose to proceed pro se, they do so at their own risk."). Based on the record before us, we find no abuse of discretion in the district court's dismissal of the case.

AFFIRMED.