

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 09-3084

Barbara Mrzlak Brundo, Ed.D.,

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Appellant,

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v.

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Nebraska Catholic Conference,

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Mr. James R. Cunningham, Executive

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Director; Archdiocese of Omaha,

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Most Rev. Elden F. Curtiss, 100 N.

*

62nd St., Omaha, NE 68132; Christ

*

the King Catholic School & Church,

*

Rev. Steven Stillmunks, Registered

*

Agent, 654 South 86th Street, Omaha,

*

Nebraska 68114; Diocese of Lincoln,

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Most Rev. Fabian W. Bruskewitz,

*

Chancery Office, 3400 Sheridan

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Boulevard, P.O. Box 80328, Lincoln,

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Nebraska 68501; Diocese of Grand

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Island, Most Rev. William J.

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Dendinger, P.O. Box 1531, 2708 Old

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Fair Road and/or 311 W. 17th Street,

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Grand Island, NE 68802,

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Appellees.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: March 10, 2010

Filed: March 19, 2010

Before WOLLMAN, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Barbara Brundo appeals the district court's¹ dismissal and imposition of sanctions under Fed. R. Civ. P. 11 in her employment-discrimination suit. Defendants have filed a motion for damages and costs under Fed. R. App. P. 38.

We find that the district court properly dismissed Brundo's complaint. See Goss v. City of Little Rock, 90 F.3d 306, 308 (8th Cir. 1996) (de novo review of dismissal for failure to state a claim); see also Bales v. Wal-Mart Stores, Inc., 143 F.3d 1103, 1111 (8th Cir. 1998) (liability under Title VII borne by employers, not individuals); Birkback v. Marvel Lighting Corp., 30 F.3d 507, 510 (4th Cir. 1994) (individuals are not subject to suit under ADEA); Billingsley v. BFM Liquor Mgmt. Inc., 613 N.W.2d 478, 484 (Neb. 2000) (NFEPA is modeled on ADEA). We also hold that Brundo has not given this court any reason to find that the district court abused its discretion in imposing sanctions under Rule 11, or that the amount the district court awarded was unreasonable. See Fed. R. Civ. P. 11(b), (c); Clark v. United Parcel Serv., Inc., 460 F.3d 1004, 1008-11 (8th Cir. 2006) (standard of review; describing Rule 11 procedures).

Accordingly, we affirm. See 8th Cir. R. 47B. Because we have determined that Brundo's appeal is wholly without merit, we grant defendants' Rule 38 motion, and award damages and costs in the requested amount of \$4,783.50. See 28 U.S.C. § 1912 (when judgment is affirmed, court may, in its discretion, award just damages and costs to prevailing party); Fed. R. App. P. 38 (if court finds appeal frivolous, it may award just damages and single or double costs to appellees); see also Newhouse v.

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

McCormick & Co., 130 F.3d 302, 305 (8th Cir. 1997) (per curiam order) (appeal is frivolous when result is obvious or when appellant's argument is wholly without merit).
