

[NOT FOR PUBLICATION-NOT TO BE CITED AS PRECEDENT]

United States Court of Appeals For the First Circuit

No. 01-2212

SANDRA C. DONATO,
Plaintiff, Appellant,

v.

SHEILAH F. MCCARTHY,
Defendant, Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW HAMPSHIRE

[Hon. Steven J. McAuliffe, U.S. District Judge]

Before

Lynch, Circuit Judge,
Campbell and Stahl, Senior Circuit Judges.

Sandra C. Donato on brief pro se.
R. Matthew Cairns and Ransmeier & Spellman on brief for
appellee.

March 5, 2002

Per Curiam. Plaintiff Sandra C. Donato appeals a judgment of the district court granting summary judgment in favor of defendant-appellee Sheilah F. McCarthy. We have reviewed the parties' briefs and the record below. Upon our review, we conclude that summary judgment was correctly granted. We affirm the district court judgment, essentially for the reasons stated in the district court's order dated July 17, 2001.

Appellee McCarthy did not submit a separately filed motion pursuant to Fed. R. App. P. 38. Her request, recited in the final paragraph in her brief, that we direct Donato to pay attorney's fees and costs for filing a frivolous appeal is denied. "A party may not invoke Rule 38 by a reference in his brief." In re I Don't Trust, 143 F.3d 1, 4 (1st Cir. 1998).

Affirmed.