



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Office of Federal Operations**  
**P.O. Box 77960**  
**Washington, DC 20013**

[REDACTED]  
Ronnie R.,<sup>1</sup>  
Complainant,

v.

Louis DeJoy,  
Postmaster General,  
United States Postal Service  
(Field Areas and Regions),  
Agency.

Appeal No. 2024003698

Agency No. 1F-441-0166-24

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated May 14, 2024, dismissing his complaint of unlawful employment discrimination in violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq. and the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 et seq. Upon review, the Commission finds that Complainant's complaint was improperly dismissed pursuant to 29 C.F.R. § 1614.107(a)(1) for failure to state a claim.

ISSUES PRESENTED

Whether the Agency's final decision properly dismissed Complainant's formal complaint for failure to state a claim pursuant to 29 C.F.R. § 1614.107(a)(1).

---

<sup>1</sup> This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

### BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Mail Handler, O4M, Tour 2 at the Agency's Columbus PDC facility in Columbus, OH. On April 23, 2024, Complainant filed a formal complaint alleging that the Agency subjected him to discrimination on the bases of race (African-American), religion (Not Specified), color (Not Specified), and age (Not Specified) when:

On May 14, 2024, the Agency issued a final decision dismissing the complaint for failure to state a claim based on the following assessment of the claim:

On April 23, 2024, a coworker threatened and called the complainant a derogatory racial slur in front of his supervisor.

The Agency's final decision dismissed Complainant's complaint for failure to state a claim. The Agency reasoned that the coworker's statement in front of their supervisor was neither sufficiently severe nor pervasive enough to state a claim of discriminatory harassment. The Agency also reasoned that Complainant did not allege he received an adverse employment action.

The instant appeal from Complainant followed.

### CONTENTIONS ON APPEAL

Complainant did not submit a statement or brief in support of his appeal. The Agency did not submit a statement or brief in opposition to Complainant's appeal.

### STANDARD OF REVIEW

The Agency's decision to dismiss a complaint is subject to de novo review by the Commission, which requires the Commission to examine the record without regard to the factual and legal determinations of the previous decision maker and issue its decision based on the Commission's own assessment of the record and its interpretation of the law. 29 C.F.R. § 1614.405(a). The Commission should construe the complaint in the light most favorable to the complainant and take the complaint's allegations as true. See Cobb v. Department of the Treasury, EEOC Request No. 05970077 (March 13, 1997). Thus, all reasonable inferences that may be drawn from the complaint's allegations must be made in favor of the complainant.

### ANALYSIS

An agency shall accept a complaint from any aggrieved employee or applicant for employment who believes that he has been discriminated against by that agency because of race, color, religion, sex, national origin, age, or disability. 29 C.F.R. §§ 1614.103, .106(a). The Commission's federal sector case precedent has long defined an "aggrieved employee" as one who suffers a present harm or loss with respect to a term, condition, or privilege of employment for which there is a remedy. Diaz v. Dep't of the Air Force, EEOC Request No. 05931049 (Apr. 21, 1994). The regulation set forth at 29 C.F.R. § 1614.107(a)(1) provides, in relevant part, that an agency shall dismiss a complaint that fails to state a claim.

We note at the outset that the Agency mischaracterized Complainant's claim. A fair reading of the record reveals that Complainant alleged discriminatory hostile work environment harassment when:

On April 23, 2024, when Complainant's coworker called him a "crybaby ass nigger" and threatened to "knock his ass out" in front of his supervisor, during work hours and while at the work facility.

In order for a claim of harassment to be actionable, the Commission has held that, if sufficiently severe, a single incident involving offensive comments about a federal employee's protected bases may in fact state a claim or support a finding of discrimination under EEO law, even in the absence of a traditional adverse employment action such as a non-selection or discipline. Brooks v. Dep't of the Navy, EEOC Request No. 05950484 (Jun. 25, 1996). Notably, the incident may be sufficiently severe even when no slurs or epithets were used. See Gamboa v. United States Postal Service, EEOC Request No. 05890633 (Aug. 31, 1989) (single incident where complainant's supervisor ordered her to change locations in a meeting room instead of allowing her to lip-read, thus embarrassing her for her hearing impairment, was sufficiently severe to constitute a claim under the Rehabilitation Act for disability discrimination); Yabuki v. Dep't of the Army, EEOC Request No. 05920778 (June 4, 1993) (single incident where supervisor remarked disparagingly that Japanese people would own the country and declared that it was 'because of [complainant],' was sufficiently severe to constitute race and national origin discrimination).

The Commission has also considered the context in which the comment was made and whether the language used has historically discriminatory roots. See Brooks, EEOC Request No. 05950484 (noting that “highly-charged” epithets like the n-word “dredge up the entire history of racial discrimination in this country”); Core v. U.S. Postal Serv., EEOC Appeal No. 01960887 (Sept. 8, 1998) (noting that the statement ‘I wish I were a slave-driver,’ as directed towards two Black women, “was clearly intended to reference and conjure up a dark time in our nation’s history when Black people were enslaved and did not enjoy the legal status and protections of Caucasian individuals.”); Lashawna C. v. Dep’t of Labor, EEOC Appeal No. 0720160020 (Feb. 10, 2017) (where a Jewish complainant’s supervisor sent her an email referring to himself as working “like a Hebrew slave,” the comment “made light of the long and painful history of Jewish persecution and genocide” and “the fact that [the supervisor] may have intended his comment to be a joke or a cliché does not soften the offense any more here than it would if he had uttered an equally offensive racial slur.”).

Here, we find that the agency minimized the significance of the single derogatory racial slur and the racial and historical significance of the “n-word” such that even a single use, may be sufficient to state a claim of racial harassment. Therefore, we find that Complainant has made a sufficient claim of hostile work environment discrimination.

### CONCLUSION

Accordingly, the Agency's final decision dismissing Complainant's complaint is vacated. The complaint is hereby remanded to the Agency for further processing in accordance with this decision and the Order below.

### IMPLEMENTATION OF THE COMMISSION’S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and § 1614.502, compliance with the Commission’s corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency’s final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

STATEMENT OF RIGHTS - ON APPEAL  
RECONSIDERATION (M0124.1)

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that tend to establish that:

1. The appellate decision involved a clearly erroneous interpretation of material fact or law; or
2. The appellate decision will have a substantial impact on the policies, practices, or operations of the agency.

Requests for reconsideration must be filed with EEOC's Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration.** A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015).

Complainant should submit their request for reconsideration, and any statement or brief in support of their request, via the EEOC Public Portal, which can be found at

<https://publicportal.eeoc.gov/Portal/Login.aspx>

Alternatively, Complainant can submit their request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files their request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the request for reconsideration.** The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(f).

#### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0124)


This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency, or filed your appeal with the Commission. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by their full name and official title.

Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. **Filing a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests. Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:

  
\_\_\_\_\_  
Carlton M. Hadden, Director  
Office of Federal Operations

November 12, 2024  
Date