



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]  
Broderick D,<sup>1</sup>  
Complainant,

v.

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

Appeal No. 2024003848

Agency No. 4E940001324

**DECISION**

Complainant timely appealed to the Equal Employment Opportunity Commission ("EEOC" or "Commission"), from the Agency's May 8, 2024 dismissal of his complaint of unlawful employment discrimination in violation of Section 501 of the Rehabilitation Act of 1973 ("Rehabilitation Act"), as amended, 29 U.S.C. § 791 et seq. For the reasons discussed below, the Commission AFFIRMS the Agency's decision.

**ISSUE PRESENTED**

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

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<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 was employed by the Agency as a Carrier Technician, Q-02, for the San Rafael Main Post Office in San Rafael, California.

On April 12, 2024, Complainant filed a Formal EEO Complaint alleging that the Agency subjected him to discrimination, including a hostile work environment, on the basis of physical disability (visually impaired, diabetes). The Agency framed the claim as follows:

On or about October 23, 2023, Postmaster told Complainant that he knew Complainant was having trouble with his medication but that he (Postmaster) had to treat Complainant equally to all other workers, and Complainant was not meeting 18@8 work standards to return to the office by 8:00 PM.

In his Formal EEO Complaint, Complainant explained that while the alleged incident in Claim 1 “seems so simple and small...this was a horrible experience that has stuck with me since that morning.” Complainant previously disclosed to Management that he has diabetes, and that he has a vision disability that impacts his ability to case mail within normal time frames for routes he is not familiar with. Complainant contends that Postmaster’s comment concerned casing times, and that his medication and diabetes symptoms were irrelevant to his visual impairment and ability to case mail. Complainant felt that by unnecessarily referring to his disability, Postmaster “was driving home some sort of threat.” Moreover, if Postmaster was truly treating him “equally” he would not have mentioned Complainant’s disabilities at when addressing his casing time.

In addition to causing a hostile work environment, Complainant alleges that Postmaster’s comment constitutes a *per se* violation of the Rehabilitation Act because. By sharing his knowledge of Complainant’s medical condition on the workroom floor, where coworkers could hear him, Postmaster violated Complainant’s medical privacy.<sup>2</sup>

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<sup>2</sup> Complainant also alleges that Postmaster violated the Health Insurance Portability and Accountability Act (“HIPAA”). Matters concerning HIPAA are enforced by the Department of Health and Human Services' Office of Civil Rights, and therefore fall outside the Commission’s jurisdiction. See Agustin L. v. Dep’t of Veterans Affairs, EEOC Appeal No. 020161494 (Jun. 21, 2016).

The Agency dismissed the matter pursuant to 29 C.F.R. § 1614.107(a)(1), for failure to state a claim. Specifically, the Agency reasoned that Complainant's single allegation of harassment was not sufficiently severe or pervasive to state an actionable claim of employment discrimination.

### CONTENTIONS ON APPEAL

In support of his appeal, Complainant submitted a copy of the complaint file, including the narrative statement he provided as his Formal EEO Complaint.

The Agency did not file a response 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

#### *Hostile Work Environment*

Under the regulations set forth at 29 C.F.R. Part 1614, an agency shall accept a complaint from an aggrieved employee or applicant for employment who believes that they have 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 (April 21, 1994). If complainant cannot establish that they are aggrieved, the agency shall dismiss a complaint for failure to state a claim. 29 C.F.R. § 1614.107(a)(1).

The Commission has held that where, as here, a complaint does not challenge an agency action or inaction regarding a specific term, condition, or privilege of employment, the claim of harassment may survive if it alleges conduct that is sufficiently severe or pervasive to alter the conditions of the complainant's employment. See Harris v. Forklift Systems, Inc., 510 U.S. 17, 23 (1993). It is well settled that, unless the conduct is very severe, a single incident or a group of isolated incidents will not be regarded as creating a discriminatory work environment. See James v. Dep't of Health & Human Servs., EEOC Request No. 05940327 (Sept. 20, 1994).

In the present case, Complainant alleges a single incident that, by his own account of events, did not result in disciplinary action or otherwise alter the conditions of his employment. Other than Complainant's bald assertion, there is nothing to indicate that Postmaster's comment was a "threat." While Complainant was clearly offended by the comment, it is still insufficient to state a viable hostile work environment claim.

#### *Disclosure of Confidential Medical Information*

Section 102(d) of the Americans with Disabilities Act and by extension Section 501(g) of the Rehabilitation Act, prohibit the disclosure of medical information, except in certain limited situations. See Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, EEOC Notice No. 915.002 (Oct. 17, 2002) (describing the limited exceptions to the medical confidentiality requirements); Titus v. Dep't of Homeland Sec., EEOC Appeal No. 0120102384 (Apr. 17, 2013). The Commission has previously stated that the disclosure of "medical information pertaining to appellant in a manner that did not conform to the conditions prescribed in [the Commission's regulations pertaining to confidentiality of medical records] is "a *per se* violation of the Rehabilitation Act and no showing of harm beyond the violation would be necessary for appellant to state a claim." Valle v. United States Postal Serv., EEOC Request No. 05960585 (Sept. 5, 1997).

The Commission views documentation or information about an individual's diagnosis or symptoms as confidential medical information. See 29 C.F.R. § 1630.14(c); Becki P. v. Dep't of Veterans Affairs, EEOC Appeal No. 2019004451 (Sept. 29, 2020). As such, improper disclosure would constitute a violation of the Rehabilitation Act. Id.

For instance, the Commission found *per se* violation of the Rehabilitation Act when, during a shift meeting, a manager allegedly stated the complainant's name, medical diagnosis, and workers' compensation status. Harriet M. v. United States Postal Serv., EEOC Appeal No. 2022004903 (Feb. 28, 2023). The Commission also found a *per se* violation of the Rehabilitation Act where a supervisor disclosed that a complainant was absent due to a condition involving "stomach pain," to an individual who was not in the complainant's supervisory chain and was not on a need-to-know basis regarding the complainant's condition. Jade B. v. Soc. Sec. Admin., EEOC Appeal No. 2023003875 (Jan. 31, 2024).

However, disclosure of confidential medical information does not violate the Rehabilitation Act where supervisors and managers need to be informed of necessary restrictions on the work duties of the employee or that an accommodation is necessary. See 42 U.S.C. § 12112(d); 29 C.F.R. § 1630.14(c)(1); Latonya F. v. Dep't of Agric., EEOC Appeal No. 0120161314 (Aug. 23, 2017).

In his Formal EEO Complaint, Complainant recounts that before the alleged discriminatory event, he returned from his route after the 8:00 pm cut off time. According to Complainant, any time a mail carrier returns late, the PM Supervisor, morning supervisor, and Postmaster are required to draft a report explaining the late return. For the report, Complainant disclosed to his immediate supervisors that he was on a new medication for his diabetes, which resulted in him taking additional bathroom breaks throughout the day. Complainant did not tell Postmaster directly about his medication issue, but his immediate supervisors told Postmaster, and it was disclosed in the report. The report is not provided in the record.

Postmaster's comment about Complainant "having trouble with his medication" that could impact Complainant's ability to return at 8:00 pm constitutes confidential medical information under the Rehabilitation Act. Nevertheless, Postmaster's comment falls squarely within the limited exceptions for disclosure. Complainant does not claim that the medical information was improperly stored, or that anyone outside his supervisory chain or without a need-to-know was informed about his disability. Although Complainant speculates that someone could have overheard Postmaster talking to Complainant, there is no evidence that this occurred.

### CONCLUSION

The Agency's final decision dismissing Complainant's complaint is AFFIRMED.

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 (S0124)

You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. 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. If you file a request to reconsider and also file a civil action, **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

February 25, 2025  
Date