



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

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Connie H.,<sup>1</sup>  
Complainant,

v.

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

Request No. 2024004294

Appeal No. 2023002218

Agency No. 4C-080-0095-20

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Connie H. v. U.S. Postal Service, EEOC Appeal No. 2023002218 (June 26, 2024).

**ISSUE PRESENTED**

Whether Complainant's request for reconsideration of EEOC Appeal No. 2023002218 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

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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

Complainant, a Postal Support Employee Sales and Service/Distribution Associate at the Neptune Post Office in Neptune, New Jersey, filed a formal EEO complaint alleging that the Agency discriminated against him and subjected him to a hostile work environment on the bases of age (59) and in reprisal for prior protected EEO activity when:

1. on or around April/May 2020, co-workers and the Postmaster made fun of Complainant; and
2. on May 22, 2020, Complainant was issued a Letter of Separation.

Following an investigation, Complainant requested a hearing before an EEOC Administrative Judge (AJ). The AJ issued a summary judgment decision in favor of the Agency finding that Complainant was not subjected to discrimination or reprisal as alleged. The Agency issued a final order fully adopting the AJ's decision. Complainant appealed.

In the appellate decision, the Commission affirmed the final order. The Commission determined that the Agency articulated legitimate, nondiscriminatory reasons for its actions. Specifically, following a 30-day evaluation and complaints from co-workers, it was determined Complainant failed to meet the requirements of the position and was issued a Letter of Separation on May 22, 2020. Co-workers and supervisors at the facility noted Complainant was combative to colleagues, unwilling to assist others, and failed to follow instructions or participate in trainings.

Complainant failed to meet his ultimate burden of establishing by a preponderance of the evidence that the termination was a pretext for discrimination on his protected basis. Finally, with respect to his hostile work environment claim, the Commission determined that the alleged incidents were insufficiently severe or pervasive and that there was no evidence that the conduct at issue was based on discriminatory or retaliatory animus. As a result, the Commission found that Complainant was not subjected to discrimination, reprisal, or a hostile work environment as alleged.

### CONTENTIONS ON REQUEST

In his request for reconsideration, Complainant reiterates arguments previously raised and addressed in our previous decision. Complainant denies that he was a “rogue employee” and argues that the Agency violated its own policies in terminating him. Accordingly, Complainant requests that the Commission grant his request for reconsideration.

### STANDARD OF REVIEW

EEOC Regulations provide that the Commission may, in its discretion, grant a request to reconsider any previous Commission decision issued pursuant to 29 C.F.R. § 1614.405(a), where the requesting party demonstrates 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. See 29 C.F.R. § 1614.405(c).

### ANALYSIS

We have reviewed Complainant's submission in support of the instant request for reconsideration. However, we can find no basis to disturb the Commission's prior decision. Complainant presents arguments which were previously raised and considered or could have been raised during the original appeal. We acknowledge Complainant's contentions that the evidence supports his discrimination and reprisal claims. However, Complainant's assertions do not sufficiently prove that the Commission misinterpreted or ignored critical facts that would alter the outcome. We find the record insufficient to establish a prima facie case of disparate treatment. Complainant failed to identify similarly situated comparators who were treated more favorably. The Agency also articulated legitimate, nondiscriminatory and nonretaliatory reasons for its actions. We find, just as the appellate decision found, that Complainant has presented no persuasive evidence demonstrating that the conduct at issue was based on discriminatory or retaliatory animus or that the Agency's reasons for its actions were pretext for unlawful discrimination or reprisal.

The Commission emphasizes that a request for reconsideration is not a second appeal. Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), Chap. 9 § VI.A (Aug. 5, 2015); see, e.g., Lopez v. Dep't of Agric., EEOC Request No. 0520070736 (Aug. 20, 2007).

Rather, a reconsideration request is an opportunity to demonstrate that the appellate decision involved a clearly erroneous interpretation of material fact or law, or will have a substantial impact on the policies, practices, or operations of the Agency. Complainant has not done so here. Thus, we conclude that Complainant has not presented any persuasive evidence to support reconsideration of the Commission's decision.

### CONCLUSION

After reviewing the previous decision and the entire record, the Commission finds that the request fails to meet the criteria of 29 C.F.R. § 1614.405(c), and it is the decision of the Commission to DENY the request. The decision in EEOC Appeal No. 2023002218 remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request.

### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0124)


This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. 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.

### 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:

  
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Carlton M. Hadden, Director  
Office of Federal Operations

November 12, 2024  
Date