



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

[REDACTED]
Cythia Q.,¹
Complainant

v.

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

Appeal No. 2024004656

Agency No. 4B-200-0168-24

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's final decision dated July 16, 2024, dismissing a formal 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. For the reasons set forth below, we REVERSE the Agency's final decision dismissing Complainant's complaint.

ISSUE 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).

¹ 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

During the period at issue, Complainant was a PTF Sales and Service Distribution Associate at the Agency's Post Office in Rock Hall, Maryland.

On April 8, 2024, Complainant requested pre-complaint processing. Informal efforts at resolution were not successful.

On June 18, 2024, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination based on sex and reprisal for prior protected EEO activity. In her formal complaint, Complainant provided a narrative wherein she asserted that she has been subjected to "extreme verbal abuse," and that a supervisor would "continuously curse" at her. Complainant stated further that the supervisor would walk about the office with his pants and undergarments around his thighs; and that when Complainant repeatedly requested that he pull his pants up, he would laugh at her. Complainant stated further that she sought assistance from a variety of parties, to no avail.

On July 16, 2024, the Agency issued a final decision. The Agency determined that the formal complaint was comprised exclusively of the following two claims:

- 1) On February 27, 2024 the Postmaster made rude comments and glared at Complainant; and
- 2) In March 2024 and April 9, 2024, the Postmaster made threatening remarks to Complainant.

The Agency dismissed the formal complaint, pursuant to 29 C.F.R. § 1614.107(a)(1), for failure to state a claim.

The instant appeal followed.

CONTENTIONS ON APPEAL

On appeal, Complainant argues that the Agency improperly dismissed her complaint for failure to state a claim. Complainant reiterates her contention that she was subject to hostile work environment harassment because of her sex. Complainant claims that she was subjected to constant harassment by her Postmaster and management treated her less favorably.

Complainant alleges that management officials did not take her complaint seriously. Complainant further argues that she continues to suffer harm resulting from the harassment as her Postmaster's behavior worsened, the indecent exposure continued, the verbal and mental abuse continued, and the Postmaster then refused to let her take leave from work to go to counseling. Complainant further contends that she reached out to Postmaster's two officials which they claimed to have addressed the harassment, but nothing has changed. Finally, Complainant contends, in pertinent part, that four other female clerks have filed EEO complaints and grievances against the Postmaster and nothing has been done.

The Agency provides no 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

Under the regulations set forth at 29 C.F.R. § 1614, an agency shall accept a complaint from an aggrieved employee or applicant for employment who believes 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 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. Department of the Air Force, EEOC Request No. 05931049 (Apr. 21, 1994). If the 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).

"A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the complainant can prove no set of facts in support of the claim which would entitle the complainant to relief. Thus, a claim of harassment...should not be dismissed for failure to state a claim where the complainant has made factual allegations which, when construed in the light most favorable to the complainant, i.e., when considered together and treated as true, are sufficient to state a claim." See Cobb v. Department of the Treasury, EEOC Request No. 05970077 (March 13, 1997).

Thus, the Agency improperly dismissed Complainant's complaint by limiting the scope of Complainant's harassment claim to two separate incidents occurring from February through April, 2024. We disagree with the manner in which the formal complaint has been identified. We view the alleged purported incidents referenced above collectively and determine that Complainant has set forth an actionable claim of harassment. Because Complainant raises a hostile work environment claim, all alleged harassing incidents must be considered.

Complainant has raised a clear, comprehensive list of alleged ongoing harassing incidents by the Postmaster – her direct supervisor – as far back as November 2021. Complainant contends that she was subject to constant sexual and nonsexual harassment. We note specific recitations by Complainant states in her formal complaint, such as Postmaster stating "Shut up or I'll have your job", and "You should know your place in the world as a woman." She states on appeal, moreover, that the supervisor told her that he was "untouchable," and that Complainant's husband must not have shown Complainant "her place in the world."

A fair reading of Complainant's formal complaint, the related EEO counseling report, and the brief on appeal, makes it *expressly* clear that Complainant has not merely raised the two matters addressed in the instant final decision. Instead, she has raised a claim of ongoing harassment. The Commission has previously held that an Agency should not ignore the "pattern aspect" of a complainant's claims and define the issues in a piecemeal manner where an analogous theme unites the matters complained of. Meaney v. Department of the Treasury, EEOC Request No. 05940169 (November 3, 1994). By alleging a pattern of harassment, Complainant has stated a cognizable claim under the EEOC regulations. See Cervantes v. USPS, EEOC Request No. 05930303 (November 12, 1993).

CONCLUSION

The Agency's final decision dismissing the formal complaint is REVERSED for the reasons discussed above. The case is REMANDED to the Agency for further processing in accordance with the ORDER below.

ORDER (E0224)

The Agency is ordered to process the remanded claims (defined as a harassment claim) in accordance with 29 C.F.R. § 1614.108. The Agency shall acknowledge to the Complainant that it has received the remanded claims **within thirty (30) calendar days** of the date this decision was issued. The Agency shall issue to Complainant a copy of the investigative file and also shall notify Complainant of the appropriate rights **within one hundred fifty (150) calendar days** of the date this decision was issued, unless the matter is otherwise resolved prior to that time. If the Complainant requests a final decision without a hearing, the Agency shall issue a final decision **within sixty (60) days** of receipt of Complainant's request.

As provided in the statement entitled "Implementation of the Commission's Decision," the Agency must send to the Compliance Officer: 1) a copy of the Agency's letter of acknowledgment to Complainant, 2) a copy of the Agency's notice that transmits the investigative file and notice of rights, and 3) either a copy of the complainant's request for a hearing, or a copy of the final agency decision ("FAD") if Complainant does not request a hearing.

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

February 4, 2025

Date