



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

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]  
Jarvis M.,<sup>1</sup>  
Complainant,

v.

Louis DeJoy,  
Postmaster General,  
United States Postal Service  
(Headquarters),  
Agency.

Appeal No. 2024005099

Agency No. 6U-540-0006-24

DECISION

Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated July 29, 2024, dismissing 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 following reasons, we AFFIRM the Agency's decision to dismiss the complaint.

ISSUE PRESENTED

The issue presented is whether the Agency properly dismissed the complaint for untimely EEO Counselor contact.

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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 worked as a District Sales Manager at the Agency's North Houston District Sales Office in Houston, Texas. Believing the Agency subjected him to discrimination, Complainant initiated EEO contact on May 4, 2024.

On July 29, 2024, Complainant filed a formal complaint alleging the Agency subjected him to discrimination on the basis of disability (mental and physical) when on March 11, 2024, he was subjected to constructive discharge and forced to apply for medical retirement when:

1. In July 2018, Complainant's request for annual leave was denied.
2. On unspecified dates, Complainant's Director devalued his decisions as a manager and imposed her will over his, which undermined his ability to lead effectively and created an atmosphere of marginalization and disrespect.
3. On unspecified dates, Complainant was denied reasonable accommodation for flexible working hours and the options for telework were denied or ignored.
4. On unspecified dates, Complainant was denied reasonable accommodation when his requests for specific ergonomic accommodations were not addressed.
5. In February 2024, Complainant was subjected to an unnecessary four-week training period, unlike his peers, who only received two days of training.
6. Upon Complainant's return to work on February 19, 2024, he was required to work in the office daily, while other managers were allowed to telework.
7. From February 19, 2024, through March 11, 2024, Complainant was given an excessive workload, requiring him to work from early morning until late evening.
8. In March 2024, Complainant was given an unjust performance evaluation.

On August 29, 2024, the Agency issued a final decision, dismissing the formal complaint, pursuant to 29 C.F.R. § 1614.107(a)(2), for untimely EEO Counselor contact. In its decision, the Agency determined that Complainant initiated EEO contact on May 4, 2024, which was 54 days after date of the last alleged discriminatory event. The instant appeal followed.

### CONTENTIONS ON APPEAL

On appeal, Complainant concedes missing the 45-day limitation period for EEO Counselor contact but attributes encountering significant obstacles causing the delay. Specifically, Complainant experienced ongoing medical conditions, caregiving responsibilities for his son with disabilities, and financial constraints in retaining legal representation. Complainant also claims that he did not reasonably suspect discrimination until late March 2024, because the “cumulative stress, the effects of medication, and the hostile work environment” significantly impaired his ability to fully comprehend the gravity of the situation.

Additionally, Complainant attributes his untimeliness to technical difficulties with the efile.usps.gov system. According to Complainant, the Agency’s system would not allow him to upload attachments that contained special characters, such as apostrophes in the file name. As proof, Complainant provides a screenshot of a file that he uploaded on September 23, 2024, for an unspecified EEO case, nearly a month after the Agency issued its final decision in the instant matter.

The Agency opposes the appeal and asserting Complainant failed to initiate timely EEO Counselor contact.

### 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. Dep’t of the Treas., 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

Complaints of discrimination must be brought to the attention of an EEO Counselor within 45 days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 days of the effective date of the action. 29 C.F.R. § 1614.105(a)(1). Our regulation requires the Agency to dismiss complaints that fail to comply with the applicable time limits. 29 C.F.R. § 1614.107(a)(2).

However, we note that EEOC regulation at 29 C.F.R. § 1614.105(a)(2) allows the Agency or the Commission to extend the time limit when the complainant shows that he or she was not notified of the time limits and were not otherwise aware of them, that he or she did not know and reasonably should not have known that the discriminatory matter or personnel action occurred, that despite due diligence, he or she was prevented by circumstances beyond his or her control from contacting the EEO Counselor within the time limits, or for other reasons considered sufficient by the Agency or the Commission.

Here, by Complainant's own admission, he failed to timely initiate EEO contact within 45 days of alleged incidents of discrimination. He does not argue that he was unaware of the applicable time frame. Instead, he claims incapacitating health, difficulty with the Agency's e-filing system, caregiving responsibilities, and challenges in obtaining legal representation as reasons for the delay in initiating EEO contact. While we certainly understand Complainant's challenges, we note that the Commission has consistently held, in cases involving physical or mental health difficulties, that an extension is warranted only where an individual is so incapacitated by his condition that he is unable to meet the regulatory time limits. See Davis v. U.S. Postal Serv., EEOC Request No. 05980475 (August 6, 1998). Claims of incapacity must be supported by medical evidence of incapacity. As Complainant has not provided any persuasive evidence of his claimed medical incapacity, we find no grounds to excuse his untimely filing on this basis. Moreover, while we are sympathetic to Complainant's claim of financial hardship and need to care for his disabled son, we do not find these reasons constitute adequate justification for his untimely filing. See Peggie T. v. Americorps, EEOC Appeal No. 2023004081 (Dec. 20, 2023) (declining to toll time limit based on need to care for severely ill child, as complainant failed to show that she herself was incapacitated during the relevant period), req. for recons. den., EEOC Request No. 2024001866 (Apr. 8, 2024)

Complainant also claims that he did not reasonably suspect discrimination until late March 2024, because the “cumulative stress, the effects of medication, and the hostile work environment” significantly impaired his ability to fully comprehend the gravity of the situation. However, we find Complainant’s claimed lack of knowledge to be unpersuasive. Indeed, our review of Complainant’s own timeline, contained in his appellate brief, reveals that Complainant accused his Supervisor of harassment as early as October 2023 and specifically attributed his decision to go on extended leave under the Family and Medical Leave Act (FMLA) on March 11, 2024, to his Supervisor’s alleged retaliatory animus. Based on our review of Complainant’s timeline, we find that Complainant should have reasonably suspected discrimination no later than March 11, 2024.

Additionally, we considered whether the 45-day limitation period can be extended based on Complainant’s allegations in claims 3 and 4. We note that the Commission has long held that “because an employer has an ongoing obligation to provide a reasonable accommodation, the failure to provide such accommodation constitutes a violation each time the employee needs it.” EEOC Compliance Manual, Section 2, “Threshold Issues”, at 2-73, EEOC Notice 915.003 (July 21, 2005).

However, even under this standard, we find that Complainant failed to adequately allege an ongoing denial of reasonable accommodation. While the Agency framed Complainant’s allegations in claims 3 and 4 as denial of reasonable accommodation claims, we find no evidence that Complainant requested the accommodations listed in claims 3 and 4. To the contrary, while our review of the record reveals that Complainant sought clarification from management regarding the Agency’s telework policy, the record does not demonstrate that Complainant requested flexible working hours, the option for telework or an ergonomic accommodation.<sup>2</sup> As Complainant never requested these accommodations, we find that the regulatory timelines for initiating EEO contact cannot be extended due to an ongoing failure to accommodate.

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<sup>2</sup> Based on our review of the record, it appears that Complainant only requested leave as reasonable accommodation. The Agency’s Reasonable Accommodation Committee approved his reasonable accommodation request of leave (full use of accrued leave, then Leave Without Pay) on May 16, 2024.

As for Complainant's claimed difficulty in using the Agency's e-file system, we find that Complainant's inability to upload a document on September 23, 2024, does not excuse his failure to initiate EEO contact within 45 days of incidents of discrimination in March 2024.

### CONCLUSION

Accordingly, we AFFIRM the Agency's final decision dismissing Complainant's complaint.

### 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)

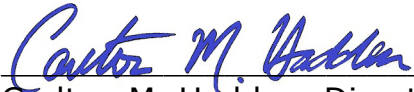
You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department 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 24, 2025

Date