



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

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]  
Johnathon M,<sup>1</sup>  
Complainant,

v.

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

Appeal No. 2025000881

Agency No. 1F-731-0086-24

**DECISION**

Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated November 18, 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 properly dismissed pursuant to 29 C.F.R. § 1614.107(a)(1) for failure to state a claim.

**ISSUES PRESENTED**

The issue presented is whether the Agency properly dismissed the complaint pursuant to 29 C.F.R. § 1614.107(a)(1).

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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

On October 29, 2024, Complainant, Supervisor Distribution Operations, filed a formal EEO complaint alleging discrimination based on national origin<sup>2</sup> (Hispanic), color (white), sex (male), age (61), and in reprisal for prior protected EEO activity when on July 26, 2024, after Complainant allegedly told the Plant Manager that Complainant wanted to end his detail due to personal reasons and return to his supervisor position, the Plant Manager allegedly yelled at Complainant and stated that as long as he was the Plant Manager Complainant would never be promoted to a manager's position.

On November 18, 2024, the Agency dismissed the complaint pursuant to 29 C.F.R. §1614.107(a)(1) for failure to state a claim. First, the Agency reasoned that Complainant was not subjected to an adverse action. Second, the Agency reasoned that while Complainant was displeased about the alleged behavior, the conduct was not sufficiently severe or pervasive to alter the conditions of his employment. The instant appeal followed.

### CONTENTIONS ON APPEAL

Neither Complainant nor the Agency submits a statement or brief on 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. The Commission should construe the complaint in the light most favorable to the complainant and take the complaint's allegations as true. Thus, all reasonable inferences that may be drawn from the complaint's allegations must be made in favor of the complainant.

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<sup>2</sup> The original claim identified Hispanic as a race; however, Commission precedent identifies Hispanic as a national origin.

### ANALYSIS

EEOC Regulation 29 C.F.R. § 1614.107(a)(1) provides, in part, that an agency shall dismiss a complaint, or portion thereof, that fails to state a claim. An agency shall accept a complaint from any aggrieved employee or applicant for employment who believes that he or she has been discriminated against by that agency because of race, color, religion, sex, national origin, age or disabling condition. 29 C.F.R. § 1614.103; §1614.106(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. See Complainant v. Dep't of the Air Force, EEOC Request No. 05931049 (Apr. 21, 1994); Complainant v. United States Postal Serv., EEOC Appeal No. 2019000974 (Apr. 26, 2019).

In Harris v. Forklift Sys., Inc., 510 U.S. 17, 21 (1993), the Supreme Court reaffirmed the holding of Meritor Sav. Bank F.S.B. v. Vinson, 477 U.S. 57, 67 (1986), that harassment is actionable if it is sufficiently severe or pervasive to alter the conditions of the Complainant's employment. Thus, not all claims of harassment are actionable. 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 Complainant v. Dep't of Health and Human Serv., EEOC Request No. 05940327 (Sept. 20, 1994); Walker v. Ford Motor Co., 684 F.2d 1355 (11th Cir. 1982); Marvin D. v. United States Postal Serv., EEOC Appeal No. 0120171622 (June 26, 2017).

We find that Complainant is not aggrieved as a result of Supervisor-1's alleged statement. Nothing in the record indicates that Complainant suffered any harm or loss with respect to a term, condition, or privilege of employment for which there is a remedy. Nor do we find that this incident would reasonably likely deter an individual from engaging in protected activity. Regarding the harassment aspect of the claim, we find the conduct alleged, specifically, a single incident of yelling including a threat to not promote Complainant in the future, is not sufficiently severe or pervasive to alter the conditions of Complainant's employment. As such, the Agency appropriately dismissed the complaint for failing to state a claim.

### CONCLUSION

Accordingly, the Agency's decision dismissing the 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 13, 2025

Date