

No. 20-01620

IN THE
SUPREME COURT OF THE UNITED STATES

John D Britt — PETITIONER
(Your Name)

VS.

Louis DeJoy, Postmaster General — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☐ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

☒ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

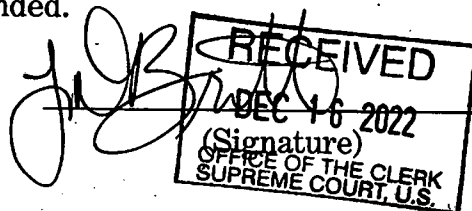
☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____

_____, or

☐ a copy of the order of appointment is appended.



**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Johnn Beth, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>1600 approx</u>	\$ _____	\$ _____	\$ _____
Self-employment	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Gifts	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Alimony	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Child Support	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ <u>1600 approx</u>	\$ _____	\$ _____	\$ _____

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Baltimore Medical System	3500 3501 Sinclair Ln Baltimore MD	5-2019 to present	\$ 16.00 Approx
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Ø			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ _____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
Checking & Savings	\$ 250	\$
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value _____

☐ Other real estate
Value _____

☒ Motor Vehicle #1
Year, make & model RAV 4 2017
Value 15,000 -

☐ Motor Vehicle #2
Year, make & model _____
Value _____

☐ Other assets
Description _____
Value _____

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money

Amount owed to you

Amount owed to your spouse

James C. Butt

\$200,000 + - PA
back child support

\$ _____

\$ _____

\$ _____

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name

Relationship

Age

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

You

Your spouse

Rent or home-mortgage payment
(include lot rented for mobile home)

\$ 900 -

\$ _____

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,
water, sewer, and telephone)

\$ 90 monthly

\$ _____

Home maintenance (repairs and upkeep)

\$ _____

\$ _____

Food

\$ 100 - wk

\$ _____

Clothing

\$ 10 - wk

\$ _____

Laundry and dry-cleaning

\$ 25 - wk

\$ _____

Medical and dental expenses

\$ 0

\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>130-month</u>	\$ <u>0</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>50-month</u>	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ _____	\$ _____
Installment payments		
Motor Vehicle	\$ <u>420 mon</u>	\$ _____
Credit card(s)	\$ <u>75 monthly</u>	\$ _____
Department store(s)	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☒ Yes ☐ No

If yes, how much? \$15000⁰⁰

If yes, state the attorney's name, address, and telephone number:

Dan COV 410-254-7000
PO Box 545 410-330-3551-mobile
Emmitsburg 21727

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☒ Yes ☐ No

If yes, how much? Approx 500⁰⁰ so far

If yes, state the person's name, address, and telephone number:

Hampstead Library 300
Ups -

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I gave 99% of my retirement to my Attorney.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 13 Dec 2022, 20 22

Jacobus Butth
(Signature)

REASONS FOR GRANTING THE PETITION

I am or was a postal Clerk who loved my job & my customers. I enjoyed coming to work most days.

I tore my right shoulder rotator cuff. Waited until it was accepted by Workers Comp. then had the surgery. The same as I did with my carpel tunnel surgeries on both my ~~hands~~ hands.

My co worker of more than 10 yrs. was envious & quite spiteful. I never understood why.

Other Financial Assistance I was a single mother raising 4 children alone, with no working 6 days a week. The postmasters that worked in the Emmitsburg office were understanding & considerate of this.

I don't know why Mrs. Alcorn & Ms Whetzel wanted me out of the office. All I do know is it is unjust. Even if a action was misconceived to be "aggressive".

Although - being handed letters happens quite frequently in a post office. - Nothing I did warranted being terminated with - A note on my terminate record - Form 50 -

I had only returned to work less than 6 months from surgery - 8 months later Ms Whetzel gets my job.

So far every court have dismissed A part of my EEO-ADA Discrimination Claims - And Allowed this case to be appealed - When this case has yet to go to discovery & be heard out. Please Allow this to happen. Thank You.
JBW 10/1

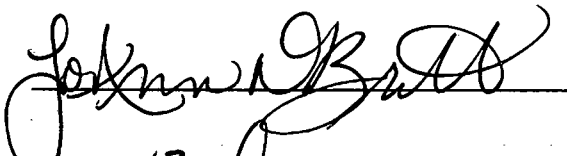
Losing my career at the post office
has had a profoundly negative effect on my life
as well as the lives of my children.

Please allow this case to be heard.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Date: 13 Dec 2022

Dear Your Honours;

My name is JoAnn Britt. I am appealing the 4th Circuit Court of Appeals Decision. I am sending this appeal to myself.

I previously had counsel. Dan Cox who withdrew from representing me when he decided to run for the governor of Maryland.

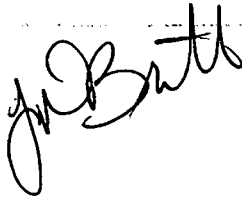
I am kindly requesting that you make allowances for the "imperfections" of this appeal. I have tried to meet all the specifications.

This appeal is addressing that I was a 12 year career employee who was wrongfully terminated from the United States Post Office. While under a protected status (ADA) . The assumed Officer In Charge, used the "Emergency Placement Policy" for me to be removed. Just under 6 month prior I returned to work from having surgery on my right shoulder, because of a work related injury. I had a Limited Duty Contract that allowed me to return to working 45 hours a week, 6 days a week with restrictions.

Within this appeal you will find statements, signed and dated affidavits of my accuser whom I worked side by side with for my 12 year career. As well as the previous post master, also the assumed officer in charge, and myself.

Thank you for taking the time to read, review and address this matter in your court.

Respectfully,

A handwritten signature in black ink, appearing to read 'JoAnn Britt', written in a cursive style.

JoAnn Britt

EX-

20-01620

IN THE

Supreme Court of the United States

JoAnn D Britt

V.

Louis DeJoy-
Postmaster General

On Petition for Writ of Certiorari
To The United States COurt of Appeals
For the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

JoAnn Britt
15302 Hanover Pk
Apartment 1N
Upperco MD 21156
(240) 315-3290

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Source: Wikipedia

ON HEARING EN BANC - PUBLISHED

United States Court of Appeals for the Fourth Circuit.

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SUPREME COURT
Clerk of the United States
Washington DC 20543

APPEAL OF
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20.1620

JOANN D BRITT

Plaintiff- Appellant

V,

LOUIS DEJOY,

Postmaster General

Defendant- Appellee

J. Britt

15302 Hanover Pk Apt 1N

Upperco, MD 21155

240-315-3290

JmdBritt72@gmail.com

Represented by:

Rebecca AnnKoch

US Attorney's Office

District of Maryland

36 S Charles St 4th Fl

Baltimore MD 21201

410.209.4800

Fax:410.962.2310

Email:rebecca.koch@usdoj.gov

Appeal against the United States Court of Appeals for the Fourth Circuit, and the
United States District Court for the District of Maryland, at Baltimore.

(1:19-cv-00401-RDB)

PER CURIAM:

I -JoAnn Britt am appealing the Fourth Circuit Court of Appeals decision to dismiss without prejudice of Britt's retaliation claim. Britt is asking the COURTS to please hear her case against the UNITED STATES POST OFFICE for wrongfully being placed on emergency placement as well as terminating Britts employment of approximately 15 years while under a protected status with limited duty work restrictions and a modified duty contract between the Department of Labor, the Postal Service and myself. (Signed and dated 16th Nov 2016)

Why not have the UNITED STATES POST OFFICE inform Britt of why she was Terminated? Because to this day- Britt Still Doesn't Know why she lost her job- over something that happens routinely in the post office The Fourth Circuit Court agrees with the district court claiming that Britt's claims fall short of plausibility- yet all Britts claims are accurate, factual and truthful, all of this harassment had taken place AFTER Britt's return to work from shoulder surgery. Britt has no reprimands or forms of discipline in her employment record.

Age, hostile work environment, discrimination, and wrongful termination while under a protected status,as well as retaliation.

All are valid truthful claims. Britt Never Claimed that they were the "SOLE" reason for Her Termination. But in conjunction they most definitely are.

AND I Ask the Court - THEN PLEASE BY ALL MEANS- Explain Britt's Termination?

Because there was NO ALLEGED ALTERCATION with Alcorn. That warranted such a severe consequence. (Unless you consider handing letters to someone an altercation.)

Why do all Britt's claims fall short in the eyes of the Court?

Why not allow this case to be heard and move forward to Discovery.

As of February 11th - thru April 14th 2017

Amanda Whetzel - supposed OIC- it was made clear after my termination that Amanda never officially completed the Form 1723, therefore forfeiting any management authority in the Emmitsburg Post Office. She was having issues at her assigned office in Walkersville MD - The MPOO Patrick Curren, put Amanda into the Emmitsburg Post Office until as such time Emmitsburg was assigned a Postmaster. Amanda was having financial difficulties paying her custody attorney is what she explained to Hope V

Alcorn and I several times shortly after her (Amanda) arrival in Emmitsburg on February 11th 2017. Amanda transferred into a vacant position at the Emmitsburg Post office in October of 2017. Left open due to my termination.

(Emmitsburg Post Office only has 2 clerks)

Hope V Alcorn, Retired from the Postal Service September 2017.

On Thursday, April 13th 2017, Amanda had informed me that I needed to go home earlier than Britts' schedule read. -

I- Britt- informed Amanda of a regular written out schedule and showed Amanda my Modified Limited Duty contract working restrictions and work schedule.

Amanda stated that, "I don't care. Go home"..

On Friday April 14th, 2017 - Hope V Alcorn reached across herself with her right hand to hand me letters- I went to grip the letters with my left hand reaching across myself to do so. And she didn't let go of the letters.(And so happened- said event)- that Britt was placed on Emergency placement for.

Hope V Alcorn stood by my side- shoulder to shoulder for a 1/2hr to 45 minutes after this took place. -

I-Britt was then told to leave the office by Amanda.(I found out later that Patrick Curren the MPOO & Post Master of Westminster Post Office - Told Amanda to put me out of the office on Emergency Placement-) I was very shocked and surprised by this since it was morning and there was still mail to put up and work to be done.

I was given no explanation and left . I went to my car and messaged my Union Rep Curt Kreitzer 911- He called me and I explained that I had no clue as to why Amanda had me leave on a Friday with work to be done. He (Curt) explained that he would call me back- Curt said he would call Amanda - then call me back- Curt called me back and explained that Amanda was putting me on "Emergency Placement" I- Britt explained to Curt that the Policy says that BOTH people are to leave the office. And the Postal Inspectors are to be called. This didn't happen.

I Britt believe I have been denied Due Process- throughout the years.

I have a right to face my accusers

I have a right to know why I was put on emergency placement .

I have a right to know why after 15 years of loyal service to the

United States Postal Service, that I was terminated, under a protected status.

I have a right to be heard- and have yet to be since 2017.

The District court as well as the Fourth Circuit Court of Appeals claim that my case had failed to state a plausible claim on any count of discrimination. (Definition of Plausible - having an appearance of truth or reason; seemingly worthy of approval or acceptance credible; believable.)

I will provide this court with evidence and documentation showing wrongful termination, the unjustified implantation of the Emergency Placement Policy that was not utilized correctly.

As well as EEO affidavit statements by the "OIC and my coworker of 15 years that contradict themselves.

PREFACE:

:

Emmitsburg Post Office is a small facility with 6-7 postal employees.

Britt Successfully worked for the United States Postal Service for 15 years, side by side with Hope V Alcorn. (accuser)

1. Americans with Disabilities Act - Exhibit-

- Britt returned to work under a protected class- with a work related injury.

- Premier Orthopedics Functional Capacity Evaluation done on 11.21.2019

2. Wrongful Termination: Exhibit -

- Per the Collective bargaining agreement between the American Postal Workers Union and the United States Postal Service-
- Article 16 Discipline Procedures

There are alternatives to being terminated. Per the Contract

Section 1- Principles of Discipline-

"Discipline should be CORRECTIVE in nature Rather than Punitive."

Section 2- Discussion- Discussion of this type shall be held in private.....

Section 3 -Letter of Warning - A letter of warning is a disciplinary notice in writing..

Section 4- Suspension of 14 days or Less

Section 5- Suspensions of more than 14 days or Discharge.

Section 6- Indefinite Suspension Crime Situation

Section 7- Emergency Procedure

Section 8- Review of Discipline- "In no case may a supervisor impose suspension OR DISCHARGE upon an employee unless the proposed disciplinary action by the supervisor has first been reviewed and concurred in by the designee.

3. Emergency Placement Policy - Exhibit

Article 16.7 Emergency Procedure -Exhibit

"An employee may be immediately placed on an off duty status by employer but remain on rolls where the allegation involves intoxication- pilferage failure to observe safety rules & regulations, or cases where retaining the employee on duty may result in damage to the US Postal Service Property, loss of mail or funds, or where the employee may be injurious to self or others - The employee shall remain on the rolls (non pay status) until disposition of the case has been had."

-States that "Removal for Violation of Zero Tolerance Policy/ Improper conduct"

(this is defamation of Britts loyal years of employment to the USPS, and work ethic)

4. Offer of Modified Assignment: 16th Nov 2016- Exhibit

This contract was accepted and agreed upon by Britts Workers Compensation attorney, the Department of Labor, the United States Postal Service representative, and the injured party JoAnn Britt. This allowed Britt to return to working 45 hours in a 6 day work week with medical restrictions being accommodated.

(EEO Affidavits)

1 - Age:

Amanda Whetzel was 32 yo; 10+ years Britt's junior.. Amanda transferred into the position created when Whetzel terminated Britt earlier that year.

(and had no previous experience in a management position)

2. - Hostile work environment: -

Hope Vickie Alcorn was resentful that Britt had filed for workers

compensation for both carpal tunnel as well as bone spurs and a torn rotator cuff (Rt shoulder) injuries. Alcorn didn't file for workers compensation and initially used her own health insurance and sick leave to have her carpal tunnel surgery; and then later had a recurrence. Due to Alcorn being obliged to work outside her regular scheduled hours, with the opportunity to earn overtime pay. Alcorn throughout Britts 15 years of service seemed to believe Britt received special treatment from management..

Britts' removal gave Amanda Whetzel the opportunity to gain additional hours as well as overtime income, to fund the custody case she had going on at this time.

Britt was out 5 months with her shoulder surgery recovery. From June 2016- November 2016.

Britt returned to work under a protected status and doctors care on the 16th of November 2016.

2A- Britt had requested several times- "OIC" Amada Whetzel to please have Alcorn stop

telling customers that: "SHE (Britt) was the reason Emmitsburg Post Office didn't have a

Postmaster." Which was slander, and untrue.

3 - Retaliation:

Britt's co-workers portrayed annoyance and were resentful of Britt's Limited Duty Modified work Assignment. Alcorn even stated to Britt "Why don't you just leave? You can't do your job anyway."

3A- Britt was mandated to do work outside her work restrictions, given by her physician. Which jeopardized the proper healing of Britts shoulder. Usually on Saturdays, when Alcorn would leave prior to her

Scheduled time - and Alcorn would complete an unapproved Annual leave slip, without prior approval by management - and would leave for the remainder of the day-

Leaving Britt to complete dangerous lifting of heavy mail as well as moving equipment.

This mandated work was well beyond -Britt's DOL Limited Duty work Restrictions.

3B- Britt was placed on Emergency Placement for allegedly "grabbing letters".

The handing of mail between coworkers as well as customers was a regular occurrence.

"The Emergency Placement" policy was not implemented or followed per policy guidelines.

For example: The policy states that BOTH parties are to leave the office immediately!!

Britt was the only one made to leave a ½ hr to 45 minutes after the alleged event took place.

The "OIC" Amanda Whetzel having no authority or management experience - (the Form 1723 was never completed giving Amanda Whetzel management authority in Emmitsburg Post Office)

Amanday Whetzel used the Emergency Placement Policy without knowing why or how to implement it.

WHEN Britt was told to leave the office on a Monday morning- Britt had NO idea why

She was being told to leave the Emmitsburg Post Office. Nothing out of the ordinary had taken

place. Britt was placed on Emergency Placement on April 14th 2017. Less than 5 months after

returning to work.

*** THIS ALLEGED "EMERGENCY PLACEMENT" ALLEGATION
TARNISHES BRITTS FORM 50 which is a permanent record ***

4.- Denied 15 minute break- Since working at the Emmitsburg Post Office - Britt has always had a challenge to be accommodated to take her 15 minute break. - With every manager that came in when the issue was brought to their attention it would be fixed for a week or two- then coworkers -Alcorn- would not accommodate the break time - and cover the counter and customers.
This complaint was never addressed or corrected..

Every act of discrimination was to try to get Britt to quit so that Amanda Whetzel to take Britts place in the Emmitsburg Post Office.- Which happened after Britt was terminated. This would have benefited Amanda Whetzel- since she needed to justify overtime to cover attorney fees for her custody court case which was in process at the time of Britts removal. Giving Whetzel opportunity to earn the Over time she needed and eventually transfer into Emmitsburg Post office Replacing Britt.

4A - OIC- Officer In Charge- Contradictory to Amanda Whetzel's statements, She was never officially the Officer in Charge of Emmitsburg Post Office. The PS

Form 1723 was never completed, signed or dated giving her management authority in the Emmitsburg Post Office.

Per the Arbitration Proceedings and collective bargaining agreement between the American Postal workers union and the US Post Service section 16 Discipline Procedures written out are several alternatives and consequences for warranted disciplinary behaviors.

Britt was NOT informed as to the cause of being placed on Emergency Placement. Britt was NOT informed of the "OIC" Amanda Whetzels decision to terminate her employment.

Britt was NOT informed by the Supporting Official as to the reason to support Britts employment termination.

SUPPORTING DOCUMENTS WILL BE ATTACHED

Pg 3 Parg 3 of 4th Circuit Appeal brief 9.14.22

The court states that after an administrative review the Postal Service found that Britt failed to state a prima facie case of Disability Discrimination. (The court indicates that there was an administrative review done by the post office ? I am unaware of such review.)

The Post Office was fully aware of Britt's Workers Compensation Status. On Thursday April 13th 2017 when supposedly OIC Amanda Whetzel insisted that Britt leave work early and sent her home even after Britt showed Amanda her

Limited Duty Contract with work restrictions as well as work schedule. Whetzel replied that "I don't care! Go home" .

And then the very next morning, when said "altercation" took place- that is **routine** and **ordinary** becomes an "Event" to have Britt placed on Emergency Placement- that lead to end of her 15 year career. Causing hardships on her 4 children- tarnishing her permanent record (form 50)- loss of medical benefits for 3 of her children and herself. Ect ect.

Whetzel was in Emmitsburg just over 2 months (Feb 11th- April 14th 2017) before exaggerating and fabricating said event into an ALTERATION to justify - Placing Britt on Emergency Placement and Firing her. Obtaining opportunity and justifying additional work hours, to gain over time so she could pay her attorney.

Age Discrimination at the time termination with work restrictions Whetzel was and is 10 years Britts junior.

A hostile work environment was apparent when Britt returned from surgery on her right shoulder. Britts co co-worker of 15 years had a preconceived notion that Britt received special treatment in the office. Hope V Alcorn worked side by side with Britt for 15 years. Alcorn being the "senior clerk" in the office, seemed to be bossy and judgemental of others in the office. Alcorn consistently verbalized her disdain for the "special treatment" she thought Britt received.

Alcorn never filed for workers compensation for her bilateral carpal tunnel. Alcorn used her own medical insurance and sick leave to have the surgery and time to recover.

Alcorn was resentful of Britt when Britt filed for workers compensation to address both her carpal tunnel surgery as well as Britts work injury to her right shoulder. Workers Compensation allowed Britt to not use her own resources to address and recover from these injuries, Alcorn never applied for Workers Compensation to address her injuries.

In Alcorns' EEO affidavit she indicates that she had not witnessed any harassment by management toward Britt- when it was herself who was doing the harassment.

Alcorn indicates that she being "senior regular clerk" in the office had a regular schedule, But that Britt came in "Whenever she wanted with none or very little confrontation from any postmaster." Alcorn in these statements alone showed jealousy and disdain for Britt.

(Alcorn's statement is included in the Exhibits)

The court explains that the "complaint must contain sufficient factual matter, accepted as true, "to state a claim to relief that is plausible on its face". If this case was permitted to move forward to discovery it would be proven that there is evidence showing every claim is factual. But does not solely stand alone as in Sole Reasoning, but in conjunction with each other at the time of "Said Event" - IF Britt was misled, or ill advised to include the subsequent charges as they applied at the time, the Britt will consider overlooking them.

Pg 5 of 4th circuit appeal brief A

Britt was factually terminated from her 15 year career under false pretenses made by a displeased, resentful jealous coworker Alcorn. Alcorn exaggerated a

routine happenstance to Whetzel presenting an opportunity to obtain her personal objective, to afford her attorney. By fabricating an exaggerated event and using the "Emergency Placement Policy" claiming Britt was a threat to herself and or her coworkers; to afford Whetzel the opportunity of working additional hours as well as replacing Britt in the Emmitsburg Office.

The court claims that this is mere speculation that this occurred due to her disability. Nor does Britt explain how the "alleged" resentment and harassment is linked to her dismissal.

The alleged resentment and harassment is directly linked to Britt's dismissal due to the exaggerated presumed "altercation" with Alcorn. Who claims in her statement that she has no idea as to why Britt was placed on Emergency Placement or fired. Alcorn was angry, annoyed and galled about Britts restrictions and disabilities.

The ridicule and harassment from Alcorn after Britt returned to work created a hostile work environment. This was also documented by another employee, a carrier named Kelly Mills. Even after Britts termination.. When ridicule and harassment are continuous for months I would venture to say that it is no longer considered "sporadic incidents" but warrants attention and at the very least a conversation. None of which either Post Master Darr or "OIC" Whetzel would address with Alcorn.

Patrick Curran, the MPOO at the time, represented the Post Office. In advising Whetzel to Place Britt on Emergency Placement and then Terminate her employment.

Then stating to Britt " I thought your workers compensation claim was over?" Britt replied "No I just returned to work in November." at the Mediation held in November of 2017. Management is and was fully aware that Britt returned to work under a protected status. As well as being aware that Britt had filed an EEO against her employer since Britt's mail was delivered to the same Post Office she was employed at. Then came the Letter of Removal.

The court claims that too much time had passed between filing for workers compensation in 2012 and termination in 2017- Britt poses to the court that that was how long it took to have the claim for a work related injury to be accepted and to have a surgery scheduled in 2016.

During the 19 day separation Britt relied heavily on her Union Representative to resolve the matter and return her to work. The notice of removal could not be issued until the Preliminary Disciplinary Interview was completed. Britt reached out to the USPS Employee Assistance Program where they advised to call and file for and EEO investigation. Since the Post office was being uncooperative in communications with the APWU representative. Which Britts union representative Curt Kreitzer was expecting to be present.

The defendants were quite aware of the fact that Britt was filing an EEO Complaint since all Britts mail was delivered to her Post Office Box at the Emmitsburg Post Office.

The court has affirmed the district court's dismissal with prejudice of Britt's disability and age discrimination claims as well as her hostile work environment claim. The 4th circuit also affirms the district court's dismissal without prejudice of Britt's retaliation claim.

The whole 4 month experience was nothing short of harassment, demeaning comments, sly remarks and judgements.

Throughout the reading of this whole decision it is apparent that the courts downplay the actions of Britt's coworkers as isolated inconsequential incidents. Leaving the burden of proof on Britt to prove the allegations she claims in the EEO file. Yet there is NO BURDEN OF PROOF ON THE POSTAL SERVICE to VALIDATE Britt's TRUE Cause for Terminating her 15 year CAREER right after her returning from surgery caused by a work related injury. Yet they are accurate and truthful. Starting upon the Britt's return to work as of the 16th of November 2016 thru the time she was placed on Emergency Placement on the 14th of April and then terminated on the 11th of May 2017.

There has been no investigation, or proof of what took place between Alcorn and Britt warranted any kind of drastic discipline. That an inexperienced clerk Whetzel placed in an assumed "Officer In Charge" management position without having knowledge or authority to implement the Emergency Placement Policy in the proper manner. How and why is it that a discussion never took place between Britt and the supporting official as to what took place?

Does the speculative exaggeration of a routine occurrence really call for the termination of a 15 year loyal and hard working employee? With no other recourse but to terminate her ?

Do the policies of the APWU contract mean nothing? That they can be discarded and not even implemented in this or any case?

This whole state of affairs has nearly destroyed a career employee's life - not to mention the lives of her children and grandchildren. Marking her permanent record - her form 50 prevented her from ever obtaining other government employment by defacing her name claiming that she was placed on "Emergency Placement."

Britt claims to have been denied her 15 minute break. Well, this has been an on going issued for 15 years, since it was never afforded or made available- For Britt to get a break Alcorn had to work the front counter, which Alcorn disdained doing- except when certain customers came in

So Britt only took necessary breaks to address what needed to be addressed at the time.

From the time Britt returned to work on Nov 16th 2016- Every Saturday work was mandatory- Working with Alcorn was trying, since Alcorn would leave Britt with Mandatory work outside the limitations of her limited duty restrictions. Alcorn would complete a "unapproved" leave slip and leave prior to the end of her scheduled shift. Leaving Britt to complete mandatory work alone. Lifting - moving heavy equipment- repeatedly reaching above her right shoulder ect..

Yet the court claims that this is mere speculation, when in fact Alcorn was made fully aware of Britts working limitations and clearly did not concern herself with reasonable accommodations, or consideration. Alcorn may falsely indicate that she was unaware of anything pertaining to Britts restrictions but in an office of only 6 people they need to be aware of the medical restrictions of coworkers.

Britt prior to her shoulder injury would do the best she could to accommodate Alcorn and her lack of sincerity and her continuously "bending the rules" to accommodate her own lack of wanting to work her schedule. As well as making a conscious decision to leave Britt with hazardous work which jeopardized Britts right shoulder recovery, and were well outside her work restriction parameters, indicated by her doctor. This is a direct result of Britt returning to work under a protected status. With work restrictions due to her work related injury.

Britt's age discrimination claim is valid to the extent that Whetzel who terminated Britt's career ultimately replacing Britt in the Emmitsburg office 6 months after terminating Britt is in fact 10 years younger than Britt.

If this case were permitted to go to discovery there would be testimony of the fact that Whetzel had challenges in the previous offices she worked in. And was wanting to transfer to another office.

Britt was informed by a representative at the EEO office that all claims should be included that were present and factual at the time of termination. This includes the age factor of Whetzel. Who had obtained personal gain from Britts termination. As well as Britt's position in the Emmitsburg Post office.

Please review the attached documentation.

Please allow this case to be heard.

This wrongful termination and injustice has had a profound impact on my life
as well as my childrens lives.

Please let my case be heard.

Thank you for your time and consideration in this matter.

Respectfully,

JoAnn Britt

EX

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-1620

JOANN D. BRITT,

Plaintiff - Appellant,

v.

LOUIS DEJOY, Postmaster General,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
Richard D. Bennett, Senior District Judge. (1:19-cv-00401-RDB)

Argued: September 22, 2021

Decided: September 14, 2022

Before WILKINSON and WYNN, Circuit Judges, and FLOYD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ARGUED: Daniel Lewis Cox, COX LAW CENTER, LLC, Baltimore, Maryland, for Appellant. Rebecca Ann Koch, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee. **ON BRIEF:** Robert K. Hur, United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joann Britt appeals the district court's dismissal of her employment-discrimination, hostile-work-environment, and retaliation claims against her former employer, the United States Postal Service. Because Britt's complaint failed to state a plausible claim on any count, we affirm the district court's dismissal.

I.

On February 23, 2012, after over ten years of working for the Postal Service in Emmitsburg, Maryland, Britt filed for workman's compensation and disability due to a shoulder injury. Sometime later, Britt underwent surgery on her right shoulder. Britt returned to her post at Emmitsburg in November 2016 with a "workman's compensation Modified Assignment" issued by the U.S. Department of Labor. J.A. 6.¹ The "Modified Assignment" governed Britt's work hours and included weight-lifting restrictions.

Upon her return to work, Britt claims she was "subjected to harassment, discrimination[,] and retaliation." J.A. 6. She alleges that she was constantly denied her fifteen-minute breaks and was assigned work prohibited by her Modified Assignment. She was also forced to complete additional duties outside of the Modified Assignment, including "dangerous lifting of heavy mail," due to a coworker's unapproved leave. *Id.* Moreover, her limited duties allegedly caused resentment among her coworkers, particularly Hope Victoria Alcorn, who was required to work "outside her regular hours" to accommodate Britt. J.A. 7.

¹ Citations to the "J.A." refer to the Joint Appendix filed by the parties in this appeal.

Beyond mere resentment, Britt alleges that the Acting Postmaster, Eric Darr, “mocked [her] for her disability,” once asking her “why don’t you go and get a job at a doctor’s office” in reference to her frequent doctor appointments. J.A. 6. Britt further claims that her coworkers told approximately ten customers that Britt was “the reason that the [Emmitsburg] post office did not have a postmaster because no one wanted to work in that office because of her.” *Id.*

The tipping point, however, arose on April 14, 2017, when Britt was placed on emergency leave without pay due to allegedly “false allegations” of an altercation with Alcorn, in which Britt forcibly tugged or grabbed letters out of Alcorn’s hand. J.A. 8. After being “unlawfully” placed on leave, Britt filed an Equal Employment Opportunity (“EEO”) complaint against Darr, Alcorn, and another coworker, Amanda Whetzel. *Id.* On May 22, 2017, Britt “received back in her mail a stamped draft of her . . . EEO complaint of discrimination.” *Id.* “Immediately after” that piece of mail was delivered, Britt was issued a Notice of Removal from the Post Service, citing the altercation with Alcorn. *Id.*

After an administrative review, the Postal Service found that Britt failed to state a *prima facie* case of discrimination. Britt responded by filing a complaint in federal court, alleging (1) disability discrimination under the Rehabilitation Act, 29 U.S.C. § 794, (2) age discrimination under the Age Discrimination in Employment Act, 29 U.S.C. § 633a, and (3)(a) a hostile-work-environment and (3)(b) retaliation claim resulting from her workman’s compensation filing and EEO complaint. The district court dismissed Britt’s complaint under Federal Rule of Civil Procedure 12(b)(6) because it failed to “present enough evidence to prove a *prima facie* case” of discrimination. *Britt v. Brennan*, No. CV

RDB-19-0401, 2020 WL 1701711, at *3 (D. Md. Apr. 8, 2020). Counts (1)–(3)(a) were dismissed with prejudice, while Count 3(b) was dismissed without prejudice. *Id.* at *7. Britt timely appealed.

In September 2021, a panel of this Court heard oral argument, but questioned whether this Court had jurisdiction to hear Britt’s appeal. The Court, sitting en banc, held that we do, and returned the merits of Britt’s appeal to this panel for decision. *Britt v. DeJoy*, 45 F.4th ___, 2022 WL 3590436, at *7 (4th Cir. Aug. 17, 2022) (en banc).

II.

We review de novo a district court’s grant of a motion to dismiss for failure to state a claim. *See Paradise Wire & Cable Defined Benefit Pension Plan v. Weil*, 918 F.3d 312, 317 (4th Cir. 2019); Fed. R. Civ. P. 12(b)(6). When considering a Rule 12(b)(6) motion to dismiss, “we must accept the factual allegations of the complaint as true and construe them in the light most favorable to the nonmoving party.” *Rockville Cars, LLC v. City of Rockville*, 891 F.3d 141, 145 (4th Cir. 2018). We may also “consider documents attached to the complaint or the motion to dismiss ‘so long as they are integral to the complaint and authentic.’” *Id.* (quoting *Kensington Volunteer Fire Dep’t, Inc. v. Montgomery Cnty.*, 684 F.3d 462, 467 (4th Cir. 2012)).

To survive a 12(b)(6) motion to dismiss, the “complaint must contain sufficient factual matter, accepted as true, ‘to state a claim to relief that is *plausible* on its face.’” *Id.* at 145 (emphasis added) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). To be plausible, the complaint must contain sufficient factual allegations to “allow[] the court to

draw the reasonable inference that the defendant is liable for the misconduct alleged.”² *Paradise Wire*, 918 F.3d at 317 (quoting *Iqbal*, 556 U.S. at 678). Britt’s complaint falls well short of this standard for each of the alleged claims.

A.

We turn first to Britt’s Rehabilitation Act claim. Section 504 of the Rehabilitation Act provides that “[n]o otherwise qualified individual . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity . . . conducted by . . . the United States Postal Service.” 29 U.S.C. § 794(a).

Britt failed to plausibly state a claim under this statute as she did not allege facts demonstrating that she was dismissed “solely by reason of her . . . disability.” *Id.* (emphasis added). To wit, while she claims that she was denied fifteen-minute breaks and forced to complete additional work outside the bounds of her Modified Assignment due to a coworker’s unapproved leave, she offers nothing more than mere speculation that this

² Critically, “‘an employment discrimination plaintiff need not plead a prima facie case of discrimination’ to survive a motion to dismiss.” *Bing v. Brivo Sys., LLC*, 959 F.3d 605, 616 (4th Cir. 2020) (quoting *Swierkiewicz v. Sorema N. A.*, 534 U.S. 506, 515 (2002)), *abrogated on other grounds by Britt*, 45 F.4th ___, 2022 WL 3590436. Instead, a plaintiff need only allege facts sufficient to “to satisfy the elements of a cause of action created by that statute.” *McCleary-Evans v. Md. Dep’t of Transp., State Highway Admin.*, 780 F.3d 582, 585 (4th Cir. 2015).

The district court therefore erred in requiring Britt to “prove a *prima facie* case” of harassment and discrimination under the burden-shifting rule of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *Britt*, 2020 WL 1701711, at *3; *see id.* at *4–6. However, “we may affirm the dismissal despite the district court’s erroneous analysis if the complaint fails under the ordinary rules for assessing sufficiency.” *Holloway v. Maryland*, 32 F.4th 293, 298–99 (4th Cir. 2022).

occurred *due* to her disability. Nor does she explain how the alleged resentment and harassment linked back to her dismissal. Thus, she fails to plausibly allege that she was “subjected to discrimination” at work “solely by reason of her disability.”

B.

Britt’s age-discrimination claim suffers from similar deficiencies. The Age Discrimination in Employment Act provides that “personnel actions” affecting federal employees aged 40 and older “shall be made free from any discrimination based on age.” 29 U.S.C. § 633a(a).

Although Britt falls within the covered age range, her amended complaint offers nothing but wholesale speculation linking her age to her dismissal. Britt argues that the Postal Service “sought to constructively discharge [her] because of her age”—she was 45 at the time—“because [a] coworker[, Whetzel,] . . . who is 10 years younger than her, wanted her employment position.” J.A. 10. But the only factual allegations offered in support of this claim are that (1) Whetzel—who already worked at the same office—was hired into Britt’s position six months after she was terminated, and (2) Whetzel would benefit from the increased hours. These facts cannot support a reasonable inference that the Postal Service terminated Britt’s employment because of her age and not the altercation with Alcorn. *See Bing v. Brivo Sys., LLC*, 959 F.3d 605, 617 (4th Cir. 2020) (holding that the plaintiff’s alleged facts about his termination could not plausibly state a claim of racial discrimination, particularly where he “specifically alleged a non-racial reason for the termination”), *abrogated on other grounds by Britt*, 45 F.4th ___, 2022 WL 3590436. The

district court, therefore, appropriately dismissed this claim as too speculative and conclusory to withstand a motion to dismiss.

C.

The district court also properly dismissed Britt's third claim regarding a hostile work environment. To establish a hostile-work-environment claim, a plaintiff "must demonstrate that the alleged conduct: 1) was unwelcome; 2) resulted because of her gender, disability, or prior protected activity; 3) was sufficiently severe or pervasive to alter the conditions of her employment; and 4) was imputable to her employer." *Pueschel v. Peters*, 577 F.3d 558, 564–65 (4th Cir. 2009) (internal quotation marks omitted).

Here, Britt's factual assertions fall short of plausibly alleging a "severe and pervasive" abusive working environment. To determine whether the challenged conduct "was objectively 'severe or pervasive,'" we look "'at all the circumstances,' including 'the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance.'" *E.E.O.C. v. Sunbelt Rentals, Inc.*, 521 F.3d 306, 315 (4th Cir. 2008) (quoting *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 23 (1993)).

Britt's only factual allegations in support of her hostile-work-environment claim are that (1) she was often denied her fifteen-minute breaks; (2) she was made to work other staff's hours and lift boxes heavier than permitted by her Modified Assignment; (3) she faced resentment from her coworkers; (4) she was once told by Darr to find a job at a doctor's office; (5) her coworkers told ten customers that her office did not have a postmaster because no one wanted to work with her; (6) Alcorn would refuse to help her

at the mail counter; and (7) through all these activities, Alcorn and Darr tried to “intimidate [her] into quitting.” *Britt*, 2020 WL 1701711, at *5. But, as the district court observed, even taken in the light most favorable to Britt, these facts amount to nothing more than “sporadic incidents,” “none of which were extremely serious,” and none of which rise to the level of “severe or pervasive” conduct. *Id.*; cf. *Edmonson v. Potter*, 118 F. App’x 726, 730 (4th Cir. 2004) (per curiam) (finding no hostile work environment where a Postal Service worker claimed her “light duty work . . . fostered an atmosphere of resentment . . . among her co-workers”).

D.

Finally, Britt argues that the Postal Service unlawfully retaliated against her for seeking workers’ compensation and later filing an EEO complaint. To make out a retaliation claim under the Rehabilitation Act, a plaintiff must allege “(1) engagement in a protected activity; (2) adverse employment action; and (3) a causal link between the protected activity and the employment action.” *Coleman v. Md. Ct. of Appeals*, 626 F.3d 187, 190 (4th Cir. 2010).

As an initial matter, Britt challenges the district court’s conclusion that the only “protected activity” that Britt engaged in was her filing of an EEO complaint, and not her filing for workers’ compensation. *Britt*, 2020 WL 1701711, at *6. Notably, this Court has previously held that “[f]iling a workers’ compensation claim is not something that is covered by the ADA” and therefore is not a protected act under the ADA’s anti-retaliation provision, 42 U.S.C. § 12203(a). *Reynolds v. Am. Nat’l Red Cross*, 701 F.3d 143, 154 (4th Cir. 2012). “The ADA and Rehabilitation Act generally are construed to impose the same

requirements due to the similarity of the language of the two acts.” *Baird ex rel. Baird v. Rose*, 192 F.3d 462, 468 (4th Cir. 1999). And the Rehabilitation Act incorporates the ADA’s anti-retaliation provision. *See Pearlman v. Pritzker*, 564 F. App’x 716, 718 (4th Cir. 2014) (per curiam); 29 U.S.C. § 794(d). It would seem to logically flow, then, that “[f]iling a claim for workers’ compensation does not constitute protected activity under . . . the Rehabilitation Act[.]” *Lanza v. Postmaster Gen. of the U.S.*, 570 F. App’x 236, 241 (3d Cir. 2014).

Moreover, even if this activity was protected, Britt failed to plausibly allege causation. A causal connection can be demonstrated by “show[ing] that ‘the adverse act bears sufficient temporal proximity to the protected activity,’” showing “the existence of facts that ‘suggest[] that the adverse action occurred because of the protected activity,’” or a combination thereof. *Smith v. CSRA*, 12 F.4th 396, 417 (4th Cir. 2021) (quoting *Roberts v. Glenn Indus. Grp., Inc.*, 998 F.3d 111, 123 (4th Cir. 2021)). Britt failed to proffer any link between her claim for workers’ compensation and her termination other than mere speculation.³ And too much time passed between Britt’s filing for worker’s compensation in 2012 and her termination in 2017 to establish a plausible causal link based on temporal proximity alone. *Roberts*, 998 F.3d at 127 (explaining that, “absent other evidence of a

³ Britt also seemingly suggests that her limited-duty status and weightlifting restrictions were “protected activities” under the Rehabilitation Act. Even assuming that is true, she has not provided any connection, beyond speculation, between those activities and her termination. *See Reynolds*, 701 F.3d at 154 (rejecting a plaintiff’s retaliation claim even though the plaintiff’s supervisor required him to “move items in excess of [his lifting] limitation,” since even assuming it met the first two prongs of the retaliation test, he failed to allege facts supporting a causal nexus).

causal relationship, [even] a lapse of two months between the protected activity and the adverse action is sufficiently long so as to weaken significantly the inference of causation” (internal quotation marks omitted)).

Britt’s remaining retaliation claim also fails to plausibly allege a causal link between the protected activity—filing an EEO complaint—and the adverse employment action—her dismissal. As the district court pointed out, Britt’s amended complaint never alleges *when* she filed her EEO complaint. *Britt*, 2020 WL 1701711, at *6. However, an EEO inquiry report attached to the motion to dismiss suggests that Britt first contacted the EEO office on May 3, 2017.⁴ So, nineteen days separated her initial contact with the EEO and her receipt of her Notice of Removal on May 22. This temporal proximity leans in favor of Britt but falls short of alleging a plausible causal link for two reasons.⁵

First, Britt had *already* been on unpaid leave for nearly three weeks before she contacted the EEO office. *Cf. Francis v. Booz, Allen & Hamilton, Inc.*, 452 F.3d 299, 309 (4th Cir. 2006) (“Where timing is the only basis for a claim of retaliation, and gradual adverse job actions began well before the plaintiff had ever engaged in any protected activity, an inference of retaliation does not arise.” (quoting *Slattery v. Swiss Reinsurance Am. Corp.*, 248 F.3d 87, 95 (2d Cir. 2001))). Britt was put on unpaid leave for the

⁴ Neither party challenges the district court’s consideration of the Postal Service’s Notice of Removal or EEO Inquiry Report as documents “integral” to the amended complaint. *Britt*, 2020 WL 1701711, at *2.

⁵ *Cf. Miller v. Md. Dep’t of Nat. Res.*, 813 F. App’x 869, 879 (4th Cir. 2020) (per curiam) (noting that temporal proximity of less than a month “weigh[ed] heavily” in support of concluding that [a]ppellant pled facts establishing causation,” *especially where the appellant “pled more than mere temporal proximity to establish causation”* (emphasis added)).

altercation with Alcorn on April 14, and that altercation ultimately became the cited reason for her termination. *Cf. id.* (noting, in the context of a summary judgment action, that the fact that “[t]he actions that led to [the plaintiff’s] probation and termination began *before* her protected activity” undermined a claim of retaliatory animus).

Second, her complaint fails to plausibly plead that Defendants were actually aware of her EEO complaint at the time they issued her Notice of Removal. Such knowledge may not be necessary to survive a motion to dismiss in every single case. *E.g., Miller v. Md. Dep’t of Nat. Res.*, 813 F. App’x 869, 878–79 (4th Cir. 2020) (per curiam) (holding that a plaintiff need not show the actual decision maker had knowledge of the protected activity to survive a motion to dismiss, but highlighting that the appellant’s supervisors knew of his need for accommodations and denied them, and that they subsequently made false accusations against him). But the lack of a plausible allegation of knowledge surely undermines any charge of causality between the protected activity and the adverse employment action. *Cf. Amis v. Mayorkas*, No. 21-1544, 2022 WL 1090252, at *2 (4th Cir. Apr. 12, 2022) (per curiam) (affirming dismissal of a retaliation claim where the plaintiff “[did] not allege when he engaged in prior protected activity” and did not allege that the decision makers were aware of his participation in protected activity); *Clark Cnty. Sch. Dist. v. Breeden*, 532 U.S. 268, 273 (2001) (discussing “cases that accept mere temporal proximity between *an employer’s knowledge* of protected activity and an adverse employment action as sufficient evidence of causality to establish a *prima facie* case” (emphasis added)).

Instead, she suggests in her Opening Brief that we infer that, because Defendants worked at the Post Office, they must have seen a (sealed) piece of mail delivered to her from the EEO office, recognized it as a complaint against them, and immediately retaliated against her for it by, within hours, preparing and filing a notice of removal. Opening Br. at 15. Even if we could conclude that these inferences fairly arise from the thin allegations in her complaint—which state merely that “immediately after delivery” of her EEO complaint “by the same individuals the complaint was against,” Britt “was issued a notice of removal”—they are dispelled by the fact that the Notice of Removal is dated May 19, 2017. J.A. 8; *see* J.A. 54–55. That is three days *before* the placement of her EEO draft complaint in her mailbox. She does not allege that Defendants mendaciously backdated the Notice of Removal to create the appearance that it was *not* in retaliation for her EEO complaint. Given the dearth of relevant facts, there is no plausible inference that retaliatory animus caused Britt’s termination.

The factual allegations contained within the complaint as to Britt’s retaliation claim therefore fail to “raise a right to relief above the speculative level.” *McCleary-Evans v. Md. Dep’t of Transp., State Highway Admin.*, 780 F.3d 582, 585 (4th Cir. 2015) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

III.

For the aforementioned reasons, we affirm the district court’s dismissal with prejudice of Britt’s disability and age-discrimination claims as well as her hostile-work-environment claim. We also affirm the district court’s dismissal without prejudice of Britt’s retaliation claim.

AFFIRMED

**Additional material
from this filing is
available in the
Clerk's Office.**