

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NITRO CONSTRUCTION SERVICES

and

Cases 09–CA–313196
09–CA–323836

ROBERT DARREN BRUMFIELD

ORDER DENYING MOTION FOR RECONSIDERATION
AND TO REOPEN THE RECORD

The Charging Party’s motion for reconsideration of the Board’s Decision and Order reported at 374 NLRB No. 120 (2026), and to reopen the record, is denied.¹ The Charging Party has not identified any material error or demonstrated extraordinary circumstances warranting reconsideration under Section 102.48(c)(1) of the Board’s Rules and Regulations. Nor has the Charging Party identified any basis, under that same section, why the record should be reopened.²

JAMES R. MURPHY, CHAIRMAN

DAVID M. PROUTY, MEMBER

SCOTT A. MAYER, MEMBER

Dated, Washington, D.C., October 5, 2026.

¹ To the extent that the Charging Party seeks to expand upon the General Counsel’s theory of the case, such arguments are impermissible. See *Hobby Lobby Stores, Inc.*, 363 NLRB 1965, 1965 fn. 2 (2016) (“It is well settled that a charging party cannot enlarge upon or change the General Counsel’s theory of a case.”). In addition, arguments that the parties did not raise before the judge or the Board are waived and therefore cannot serve as a basis for granting reconsideration or reopening the record under Sec. 102.48(c)(1) of the Board’s Rules and Regulations. See Sec. 102.46(a)(1)(ii) and (f); see also *H&M Int’l Transportation*, 363 NLRB 1861, 1861 (2016) (deeming issues not previously urged to have been waived).

² The Charging Party’s request to reopen the record and for a rehearing are based on arguments that the Board fully considered and rejected in the underlying decision. See 374 NLRB No. 120, slip op. at 2 fn. 5 (2026) (denying the Charging Party’s December 13, 2024 motion to reopen the record); see also *Raven Government Services*, 336 NLRB 991, 992 (2001) (denying motion for reconsideration to the extent the moving party’s motion attempted to relitigate issues), *enfd.* 315 F.3d 499 (5th Cir. 2002). Accordingly, the Charging Party has not established a basis for reopening the record.