



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

[REDACTED]  
Aida E,<sup>1</sup>  
Complainant,

v.

Stephen Ehikian,  
Acting Administrator,  
General Services Administration,  
Agency.

Appeal No. 2022002972

Hearing No. 570-2021-01151X

Agency No. GSA-20-CO-AK-0001

DECISION

On May 3, 2022, Complainant filed an appeal, pursuant to 29 C.F.R. § 1614.403(a), from the Agency's March 22, 2022 final order concerning her equal employment opportunity (EEO) complaint alleging 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 Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq. For the following reasons, the Commission AFFIRMS the Agency's final order.

At the time of events giving rise to this complaint, Complainant worked as a GS-15, Equal Employment Manager assigned to the Office of Civil Rights (OCR) Mission Delivery Office, Complaint Processing Branch.

On June 22, 2020, Complainant filed a formal complaint alleging that the Agency subjected her to hostile workplace discrimination on the bases of

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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.

race (African-American), disability (physical), and reprisal for prior protected EEO activity when:

1. In July 2019, the Agency demoted Complainant from a Director to a Branch Chief;
2. In February 2020, the Agency *purportedly* subjected Complainant to harassment when the following occurred:
  - a. The Agency did not initiate the interactive process when Complainant requested a reasonable accommodation;
  - b. The Agency delayed responding to Complainant's reasonable accommodation request for three weeks;
  - c. On February 19, 2020, the Associate Administrator, OCR, responded "If you did not like it, leave" when Complainant opposed *purported* discrimination of a co-worker;
3. About March 2020, the Agency denied Complainant's sick leave request;
4. On March 9, 2020, the Agency issued Complainant a Letter of Reprimand for opposing the *purported* discrimination in February; and
5. On June 25, 2020, the Agency, without notice, disconnected Complainant's Agency account after advising her it would be connected until July 3, 2020.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of her right to request a hearing before an EEOC Administrative Judge (AJ). Complainant requested a hearing. The AJ issued a Notice of Proposed Summary Judgment ("Notice") informing the parties that she had determined the case may be appropriate for summary judgment in favor of the Agency. The Agency filed its Response to the Notice, but Complainant did not respond. Subsequently, the AJ issued a summary judgment decision in favor of the Agency on February 10, 2022.

The AJ noted that although Complainant alleges the Agency discriminated against her in July 2019 when it demoted her from a Director to a Branch Chief, the undisputed record shows Complainant was realigned, effective December 22, 2019, from the position of GS-15, Equal Employment Management assigned to the Office of Civil Rights EEO Program Division to the position of GS-15, Equal Employment Manager assigned to the OCR Mission Delivery Office, Complaint Processing Branch. As explained by the OCR Associate Administrator, the entire Civil Rights Office was restructured, set to begin on October 1, 2019, to address ineffective supervisor/manager to employee ratios, following a program review. As a result, Complainant's position was changed but her duties and grade remained unchanged. Next, although Complainant alleges the Agency failed to initiate the interaction process or timely respond to her request for a reasonable accommodation, the undisputed record shows Complainant did not submit an accommodation request. Rather, as explained by Complainant's supervisor, Complainant mentioned she had a sore wrist and/or arm in a meeting on February 4, 2020, but never provided additional information. Subsequently, on February 12, 2020, Complainant's supervisor approved Complainant's request to telework so that Complainant could attend a medical appointment to diagnose whether she had carpal tunnel. Thereafter, on February 19, 2020, the undisputed record shows Complainant's supervisor approved Complainant's request for situational telework and provided Complainant with a reasonable accommodation request form. The supervisor stated that she asked Complainant to let her know if she needed to pursue a reasonable accommodation, but Complainant did not respond or submit the form. Moreover, the Reasonable Accommodation Coordinator stated she attempted to contact Complainant to discuss the reasonable accommodation process, but Complainant neither followed up with her nor her immediate supervisor. Likewise, regarding Complainant's claim that the Agency denied her sick leave request in March 2020, the undisputed record shows that Complainant's History of Absences and Leave Requests contains no denials of sick leave in or about March 2020. Finally, Complainant has not rebutted the Agency's articulation that she was issued a Letter of Reprimand on March 9, 2020, for 1) failure to follow supervisory instructions and 2) lacking candor in her communications with the OCR Deputy Associate Administrator. The AJ noted that the remainder of Complainant's allegations of a hostile work environment, neither individually nor collectively and taken as true, rise to the level of severity or pervasiveness necessary to state a claim of actionable harassment. Rather, they are the ordinary tribulations of the workplace.

Moreover, the record is devoid of evidence that any of the incidents alleged by Complainant resulted from a discriminatory or retaliatory animus. Nor did Complainant provide any reason to suspect such an animus other than her own speculation.

In her appeal submissions, Complainant mainly asserts that the AJ failed to consider all of her proffered evidence. Complainant maintains that she is a victim of retaliatory harassment.

The Commission's regulations allow an AJ to grant summary judgment when he or she finds that there is no genuine issue of material fact. 29 C.F.R. § 1614.109(g). An issue of fact is "genuine" if the evidence is such that a reasonable fact finder could find in favor of the non-moving party. Celotex v. Catrett, 477 U.S. 317, 322-23 (1986); Oliver v. Digital Equip. Corp., 846 F.2d 103, 105 (1st Cir. 1988). A fact is "material" if it has the potential to affect the outcome of the case. In rendering this appellate decision we must scrutinize the AJ's legal and factual conclusions, and the Agency's final order adopting them, *de novo*. See 29 C.F.R. § 1614.405(a)(stating that a "decision on an appeal from an Agency's final action shall be based on a de novo review..."); see also Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO-MD-110), at Chap. 9, § VI.B. (as revised, August 5, 2015)(providing that an administrative judge's determination to issue a decision without a hearing, and the decision itself, will both be reviewed *de novo*).

We find the record in the present case was fully developed. While Complainant asserts on appeal that she provided evidence that would materially change the outcome in this matter, we disagree. Having reviewed the entire record before us, we do not find an abuse of discretion by the AJ in both her consideration and analysis of pertinent evidence.

In order to successfully oppose a decision by summary judgment, a complainant must identify, with specificity, facts in dispute either within the record or by producing further supporting evidence, and must further establish that such facts are material under applicable law. Such a dispute would indicate that a hearing is necessary to produce evidence to support a finding that the agency was motivated by discriminatory animus. Here, however, Complainant has failed to establish such a dispute. Even construing any inferences raised by the undisputed facts in favor of Complainant, a reasonable fact-finder could not find in Complainant's favor.

Upon careful review of the AJ's decision and the evidence of record, as well as the parties' arguments on appeal, we conclude that the AJ correctly determined that the preponderance of the evidence did not establish that Complainant was discriminated against by the Agency as alleged.

As the AJ correctly noted, and as detailed above, Complainant has not shown that she was a target of discriminatory animus. The record reflects that Complainant was never denied reasonable accommodation. The Agency explained its reasons for issuing Complainant a letter of reprimand, and its justification does not evidence discriminatory animus. Concerning all of the above claims, Complainant's allegations of harassment are based on either legitimate, nondiscriminatory management decisions, Agency policy, or constitute nothing more than ordinary workplace occurrences. Beyond repeated conjecture, Complainant has not shown that she was subjected to a hostile work environment based upon her claimed bases.

We find Complainant failed to show that the alleged actions were based on discriminatory animus. Moreover, Complainant failed to show that the Agency subjected her to a hostile work environment based upon her claimed bases.

Accordingly, we AFFIRM the Agency's final order fully implementing the AJ's decision finding no discrimination.

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:



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Carlton M. Hadden, Director  
Office of Federal Operations

March 5, 2025

Date