



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

[REDACTED]
Abe K.,¹
Complainant,

v.

Kristi Noem,
Secretary,
Department of Homeland Security
(Transportation Security Administration),
Agency.

Appeal No. 2023000152

Hearing No. 570-2022-00156X

Agency No. HS-TSA-01147-2021

DECISION

Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission), pursuant to 29 C.F.R. § 1614.403(a), from the Agency's September 8, 2022, final order concerning his 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., Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq., and the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 et seq. For the following reasons, we AFFIRM the Agency's final order.

¹ 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.

ISSUES PRESENTED

The issues presented are: (1) whether the AJ's grant of summary judgment in favor of the Agency was appropriate, or whether genuine disputes of material fact exist that require a hearing; and (2) whether the Agency's final order properly found that Complainant was not subjected to discrimination on the bases of disability (physical), age (over 40), and in reprisal for prior protected EEO activity in the selection process.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Federal Air Marshal at the Agency's Field Operations facility in East, Miami.

Believing that he had been subjected to discrimination, Complainant initiated contact with an Equal Employment Opportunity (EEO) Counselor on April 23, 2021. On June 30, 2021, Complainant filed a formal EEO complaint alleging that the Agency discriminated against him on the basis of age (over 40) when:²

1. on April 9, 2021, management did not select Complainant for a Federal Air Marshal (FAM) position, advertised under Vacancy Announcement Number (VAN) FAM-NY-21-805295- J2; and
2. on April 15, 2020, management did not select Complainant for Supervisory Federal Air Marshal (SFAM) position, under vacancy announcement number FAM-MIA-19-677276-J2A;
3. on August 18, 2020, management did not select Complainant for an Assistant Special Agent In-Charge (ASAC) position, under vacancy announcement number FAM-HQ-CS-20-726699-J2;
4. on August 18, 2020, management did not select Complainant for a SFAM position, under vacancy announcement number FAM-SOCD-20-727037-J2;

² For ease of reference, we refer to the claims in the same chronological order as the Agency. We also note that in his initial EEO complaint, he did not raise any bases other than age.

5. on August 18, 2020, management did not select Complainant for a FAM position, under vacancy announcement number FAM-HQ-FLIGHT-OPS-20-729015-J2; and
6. on November 18, 2020, management did not select Complainant for a SFAM position, under vacancy announcement number FAM-ORLANDO-20-764361-J2.

On July 15, 2021, the Agency accepted claim 1 for investigation, but dismissed claims 2 to 6 pursuant to 29 C.F.R. § 1614.107(a)(2), finding Complainant's contact with the EEO Counselor to be untimely.

On June 20, 2021, Complainant amended his complaint to add the following claim: that he was discriminated against on the bases of disability (physical), age (over 40), and in reprisal for prior protected EEO activity when:

7. on July 29, 2021, management did not select Complainant for a Supervisory Federal Air Marshall position under VAN FAM-WASH-21-001048-J2.

The investigation into claims 1 and 7 revealed the following pertinent information.

For J-Band vacancy announcements, the Agency's Office of Human Capital generated a Referral List, which consisted of the top 10 candidates. The Referral List would then be sent to the Supervisory Air Marshal in Charge over the field office in which the vacancy was. The Supervisory Air Marshal in Charge would then provide the local Leadership Promotion Panel (Panel) with the Top 5 as recommendations for selection. The Panel consisted of one person from each division: Operational Management Division, Flight Operations Division, Field Operations Division, and the Director's Office. The panel served as the selecting official for the vacancies. Report of Investigation (ROI) at 81; 96; 349.

Claim 1

Complainant was included in the top 10 referral list for the Federal Air Marshal vacancy under VAN FAM-NY-21-805295-J2. ROI at 90. The Supervisory Air Marshal in Charge, who was the Referring Official (Official 1), did not have a working relationship with Complainant and was unaware of his protected classes.

Official 1 stated that he considered Complainant but ultimately did not recommend Complainant for further consideration because he found five other individuals who were a better fit based on the needs of the local office, the candidates' resumes, and the candidates' familiarity with the New York field office, or its sister office in New Jersey. Official 1 explained his reasons for advancing five candidates: Candidate 1 had previously worked in the New York field office and served in acting SFAM duties; Candidate 2 served as a FAM Advisor at the Agency's Administrator's Office and could provide invaluable insight as to the inner workings of the Administrator's Office; Candidate 3 had supervisory and New York field office experience; Candidate 4 served as an immigration agent in the New York District Office; and Candidate 5 had served in a supervisory role similar to an FAM/SFAM. Official 1 noted that Complainant's resume did not indicate experience with New York or its sister office, or that Complainant had the requisite supervisory experience that he was seeking. ROI at 89

In response to Official 1's statement, Complainant noted his 20 years of law enforcement experience, two graduate degrees, completion of relevant trainings, and experience supervising multiple employees and conducting tasks such as hiring, evaluating, payroll, and training. Complainant also noted that he was from New York and attended college in New York. Additionally, Complainant asserted that he had Visible Intermodal Prevention and Response (VIPR) experience at the Joint Coordination Center, where he was responsible for reviewing, approving, and assisting with the coordination of the local VIPR operations across the country, including in New York. ROI at 80.

Complainant also believed that his age was a factor because in a prior non-related vacancy, in which he was not selected, he was informed by a supervisor that management wanted to go with a younger person. ROI at 60.

Complainant's resume listed a variety of certifications obtained from trainings held in Atlantic City, New Jersey. His certifications included a Carbine Rifle 16-hour Training Program in August 2018; a 40-hour Instructor Development Course in February 2015; a 40-hour Visible Intermodal Preventative Response Team Course in December 2013; and a Preventative Radiological Nuclear Detecting Training in November 2013. Complainant's resume, however, did not indicate any working experience in the New York or New Jersey area. Complainant noted that his VIPR experience encompassed New York, but this was not indicated on his resume. ROI at 143-146.

Claim 7

Complainant was included on the top 10 referral list for promotion under Vacancy Announcement No. VAN FAM-WASH-21-001048-J2. The Supervisory Air Marshal in Charge (Official 2) identified the best qualified candidates and submitted the five best qualified individuals for consideration. While Official 2 acknowledged that Complainant was qualified, Official 2 explained that Complainant did not have the experiences he was seeking when recommending candidates. Official 2 stated that he was looking for individuals with supervisory experience, extensive experience in stakeholder interactions, and good problem solvers. Official 2 explained his reasons for advancing five candidates: Candidate 1 had acting SFAM experience, was an Agency representative and subject matter expert at the Terrorist Screening Center and on counterterrorist issues, and had a variety of field office experiences; Candidate 2 had FAM experience, was a field training officer, and worked for an independent airport liaison unit which required engagement with a wide variety of law enforcement agencies; Candidate 3 served as training officer, certified intelligence officer, and had extensive experience engaging with Congress and joint chiefs; Candidate 4 was a supervisor, experienced in airport assessments in the Federal Deck Officer program, and a section chief that lead Agency training center efforts; and Candidate 5 had supervisory and demonstrated project management experience. Official 2 stated that he did not recommend Complainant because his resume did not demonstrate the first-line squad supervisory experience he was seeking. Official 2 denied making any decisions based on Complainant's protected classes or EEO activity. ROI at 110.

Complainant challenged the Agency's characterization of his qualifications. He asserted that he scored in the top ten highest J-Band test scores, and it would have been impossible for him not to make the final list for every position he applied for. Complainant argued that he was not considered for the position because Official 2 knew that he had a medical condition and probably assumed that he would be medically retiring. Additionally, he believed management was aware of his EEO activity and held animosity towards him for filing EEO complaints. While Complainant conceded the selectees were highly qualified, he argued that his experience and education eclipsed those of the selectees. ROI at 71.

Post Investigation

At the conclusion of the investigation, the Agency provided Complainant with a copy of the ROI and notice of his right to request a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ). Complainant timely requested a hearing.

On January 20, 2022, Complainant sought reconsideration of the Agency's dismissal of claims 2 to 6 with the AJ. Complainant noted that he had previously challenged the Agency's framing of his claims, to no avail, but that his claims should have been accepted under a theory of hostile work environment. Shortly after, the Agency responded requesting that the AJ deny Complainant's motion to amend. In a Case Management Order, the AJ determined that each of the claims were properly dismissed for untimely EEO Counselor contact. Additionally, the AJ found that there were no allegations or evidence that the discrete events were part of a pattern of harassment. The AJ declined to reinstate the dismissed claims.

The Agency submitted a motion for a decision without a hearing. The Agency argued that even assuming Complainant established a prima facie case of discrimination, it had established legitimate, nondiscriminatory reasons for its actions. Regarding claim 1, Complainant was included in the Referral List. The Referring Official (Official 1) was unaware of the candidates' protected classes and was primarily seeking candidates who were familiar with New York and the adjacent law enforcement community and operations. Ultimately, Official 1 did not refer Complainant because his resume did not reflect the skills and experiences he was seeking, such as experience working with the New York law enforcement community or its sister office in Newark, New Jersey, or sufficient supervisory experience.

Regarding claim 7, Complainant was included in the Referral List. The Referring Official (Official 2) was seeking candidates with a broad level of knowledge and experience in enterprise-level initiatives in information coordination such as special mission coverages, transitioning the workforce to non-flight duties, and experience in the broader organizational-wide communication and business initiatives. Ultimately, Official 2 did not refer Complainant because his resume did not reflect the skills and experiences he was seeking, such as first-line squad supervisory experience.

The Agency argued that while Complainant believed he was subjected to discrimination and retaliation, his belief was not supported by the record, and he failed to prove by a preponderance of the evidence that management's legitimate, nondiscriminatory and nonretaliatory reasons were pretext for discrimination or retaliation.

Complainant filed a response and opposed the Agency's motion on the grounds that he satisfied his burden of demonstrating a prima facie case. Complainant argued that the Agency had not convincingly offered legitimate nondiscriminatory reasons, and because there were genuine issues of material fact that needed to be established at a hearing. In sum, Complainant argued that summary judgment was not appropriate, and argued that a hearing should be held.

Over Complainant's objections, the AJ issued a detailed decision, without a hearing, on August 8, 2022. The AJ found that even if Complainant established a prima facie case of discrimination, the Agency articulated legitimate, nondiscriminatory reasons for not referring Complainant, namely that Complainant simply did not have the skills or experience that the management officials were seeking at the time. While the AJ acknowledged that Complainant had relevant experience in the field, the AJ ultimately found Complainant's specific experience did not meet the skills and experience being sought for the positions. Furthermore, the AJ found that even assuming the officials were aware of Complainant's protected status, there was no evidence indicating that the action at issue had anything whatsoever to do with Complainant's protected classes or EEO activity.

The Agency subsequently issued a final order adopting the AJ's finding that Complainant failed to prove that the Agency subjected him to discrimination as alleged. The instant appeal followed.

CONTENTIONS ON APPEAL

On appeal, regarding the procedural dismissals, Complainant asserts that the AJ improperly affirmed the Agency's dismissal for untimely EEO Counselor contact. Complainant argues that the claims should have been accepted under a theory of hostile work environment given the frequency of the non-selections. Complainant acknowledges that he would not be entitled to specific relief related to the untimely raised non-selections but argues that the incidents are evidence that the accepted non-selections were discriminatory in nature.

He contends that he should have been allowed to offer the dismissed non-selections as background evidence to support his hostile work environment claim.

Regarding the merits, Complainant also contends that the AJ erred in issuing a decision without a hearing in favor of the Agency. In short, Complainant contends that there are genuine questions of credibility with the AJ's decision, particularly given the AJ's reliance on the Agency's representation of the facts, failure to address the credibility issues of Agency witnesses, and not adequately explaining the rationale or analysis for how the decision was reached. For example, he asserts that despite the Agency's arguments, he had demonstrated experience in the New York area, and supervisory experience. Complainant contends that the AJ simply accepted the Agency's representations without consideration of his arguments.

In response, the Agency asserts that the dismissed non-selection claims were properly dismissed for untimely EEO Counselor contact. Regarding the merits of the complaint, the Agency asserts that it articulated legitimate, non-discriminatory reasons for the remaining two claims, which Complainant fails to rebut and demonstrate as pretext for prohibited discrimination. The Agency opposes the appeal and urges the Commission to affirm its final order implementing the AJ's decision.

STANDARD OF REVIEW

As this is an appeal from a decision issued without a hearing, the Agency's decision is subject to de novo review by the Commission. 29 C.F.R. § 1614.405(a). See Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614, at Chapter 9, § VI.A. (Aug. 5, 2015) (explaining that the de novo standard of review "requires that the Commission examine the record without regard to the factual and legal determinations of the previous decision maker," and that EEOC "review the documents, statements, and testimony of record, including any timely and relevant submissions of the parties, and . . . issue its decision based on the Commission's own assessment of the record and its interpretation of the law").

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. (Aug. 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*).

ANALYSIS

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 factfinder could not find in Complainant’s favor.

Untimely EEO Counselor Contact

EEOC Regulation 29 C.F.R. § 1614.107(a)(2) provides, in relevant part, that the Agency shall dismiss a complaint that fails to comply with the applicable time limits contained in 29 C.F.R. § 1614.105. EEOC regulation at 29 C.F.R. §1614.105(a)(1) requires that complaints of discrimination be brought to the attention of the EEO Counselor within 45 days of the alleged discriminatory event, or the effective date of an alleged discriminatory personnel action.

The Commission has adopted a “reasonable suspicion” standard (as opposed to the “supportive facts” standard) to determine when the limitation period is triggered under the EEOC Regulations. See 29 C.F.R. § 1614.105(a)(2); Hilda A. v. Dep’t of Vet. Affs., EEOC Appeal No. 2020000832 (Jan. 31, 2020); Ball v. U. S. Postal Serv., EEOC Request No. 05880247 (July 6, 1988). Thus, the limitations period is not triggered until a complainant reasonably should have suspected discrimination, but before all the facts that would support a charge of discrimination have become apparent.

Here, the record discloses that Complainant initiated EEO Counselor contact on April 23, 2021. The dismissed claims ranged from April 2020 to November 2020, well over a year prior to his contact. Complainant argues that the incidents were improperly dismissed because the claims should have been accepted under an overall pattern of harassment and/or used as background evidence. We disagree. As the AJ has previously found, there is no indication that the discrete events were part of pattern of harassment connected to Complainant's protected classes or EEO activity, nor were there sufficient reasons provided to extend the time limit.

Disparate Treatment

A claim of disparate treatment is examined under the three-part analysis first enunciated in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973). For a complainant to prevail, they must first establish a prima facie case of discrimination by presenting facts that, if unexplained, reasonably give rise to an inference of discrimination, *i.e.*, that a prohibited consideration was a factor in the adverse employment action. McDonnell Douglas, 411 U.S. at 802, n. 13; Furnco Construction Corp. v. Waters, 438 U.S. 567 (1978).

In order to establish a prima facie case of discrimination, a complainant must show: (1) they are a member of a protected group; (2) they were subjected to an adverse employment action; and (3) they were treated less favorably than other similarly situated employees outside of their protected groups. We note that, although a complainant bears the burden of establishing a "prima facie" case, Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 252-53 (1981), the requirements are "minimal," St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 506 (1993), and complainant's burden is "not onerous." Burdine, 450 U.S. at 253.

For a claim of reprisal, a complainant must show that: (1) they were engaged in a protected activity; (2) the agency was aware of the protected activity; (3) subsequently, they were subjected to adverse treatment by the agency; and (4) a nexus exists between the protected activity and the adverse treatment. Whitmire v. Dep't of the Air Force, EEOC Appeal No. 01A00340 (Sept. 25, 2000). A complainant can also establish a prima facie case of reprisal by presenting facts that, if unexplained, reasonably give rise to an inference of discrimination. Shapiro v. Social Sec. Admin., EEOC Request No. 05960403 (Dec. 6, 1996) (citing McDonnell Douglas, 411 U.S. at 802).

The burden then shifts to the agency to articulate a legitimate, nondiscriminatory reason for its actions. Burdine, 450 U.S. at 253. Once the agency has met its burden, the complainant bears the ultimate responsibility to persuade the fact finder by a preponderance of the evidence that the agency acted on the basis of a prohibited reason. Hicks, 509 U.S. at 507.

We find that Complainant failed to establish a prima facie case of discrimination, as he did not persuasively establish a causal nexus between his protected classes and the alleged discriminatory acts. Additionally, we find that Complainant has not established a prima facie case of discrimination based on reprisal. While he engaged in protected activity, the record does not demonstrate that the relevant management officials were aware of such activity. Based on the record, we find that Complainant failed to demonstrate a nexus between his protected EEO activity and the adverse treatment.

Furthermore, we find that the Agency articulated legitimate, nondiscriminatory reasons for its actions. The Agency articulated that Complainant, while qualified and referred in the top 10, did not possess the skills and/or experience sought for either position to be recommended for further consideration. In contrast, management officials detailed why the individuals that were further advanced were recommended for further consideration. Complainant argued extensively that the provided reasons were pretext for discrimination.

Indicators of pretext include discriminatory statements or past personal treatment attributable to those responsible for the personnel action that led to the filing of the complaint, comparative or statistical data revealing differences in treatment across various protected-group lines, unequal application of Agency policy, deviations from standard procedures without explanation or justification, or inadequately explained inconsistencies in the evidentiary record. Mellissa F. v. U.S. Postal Serv., EEOC Appeal No. 0120141697 (Nov. 12, 2015).

In arguing pretext, Complainant asserted that familiarity with the New York area law enforcement was not listed on the vacancy announcement in claim 1. Moreover, even if it were, Complainant noted that he was from New York, attended college in New York, and had VIPR experience at the Joint Coordination Center. Complainant noted that he was responsible for reviewing, approving, and assisting with the coordination of local VIPR operations across the country, including in New York.

As for his alleged lack of supervisory experience, Complainant asserted that his resume clearly demonstrated that he had relevant skills and experience and clearly should have been advanced further in the selection process.

We ultimately find no evidence that Complainant's protected classes or EEO activity were factors in either Official 1 or Official 2's decisions not to recommend Complainant's application for consideration. As detailed by Official 1 and Official 2, Complainant's resume failed to convey that he had the experience and familiarity with the New York/New Jersey law enforcement, and/or the kind of supervisory experience sought after.

Additionally, we note that despite his contentions, Complainant's resume does not indicate the working experience with the New York or New Jersey area law enforcement that he claimed he had. Complainant noted that his VIPR experience encompassed New York, but this is not indicated on his resume. ROI at 143-146. Aron W. v. U.S. Postal Serv., EEOC Appeal No. 2022005092 (Nov. 6, 2024) (complainant was not recommended for further consideration because he failed to adequately convey his skills and experience). In contrast, Official 1 and Official 2 detailed why the referred candidates were recommended, noting specific attributes on each candidates resume that made him/her stand out.

Without proof of a demonstrably discriminatory motive, the Commission will not generally second-guess the Agency's personnel decisions. see Chavez v. U.S. Postal Serv., EEOC Appeal No. 0120055246 (Jan. 5, 2007); see also Carson v. Bethlehem Steel Corp., 82 F.3d 157, 159 (7th Cir. 1982) (noting that "the question is not whether the employer made the best, or even a sound, business decision; it is whether the real reason [was discriminatory]").

At all times, the ultimate burden remains with Complainant to demonstrate by a preponderance of the evidence that the Agency's reasons were not the real reasons and that the Agency acted on the basis of discriminatory animus. Complainant failed to carry this burden.

CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we AFFIRM the Agency's final order.

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).

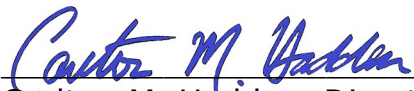
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (S0124)

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 4, 2025
Date