



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

[REDACTED]
Adriene B.,¹
Complainant,

v.

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

Appeal No. 2023002043

Agency No. 4J-630-0123-22

DECISION

On February 14, 2023, 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 January 30, 2023 final decision 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. For the following reasons, the Commission AFFIRMS the Agency's final decision.

ISSUE PRESENTED

Whether the Agency's final decision properly found that Complainant was not subjected to discrimination or a hostile work environment as alleged.

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.

BACKGROUND

Complainant worked as the Customer Services Manager, EAS-20, at the Town and Country Branch Office in Chesterfield, Missouri. On July 18, 2022, Complainant filed an EEO complaint in which she alleged that the Agency discriminated against her and subjected her to a hostile work environment on the bases of race (African American), sex (female), and color (Black) when:

1. Since May 2021, Complainant alleged she has been forced to work understaffed without any assistance;
2. Beginning on or about April 10, 2022, and ongoing, Complainant has been required to work outside of her medical restrictions 60 hours per week and at times seven to twelve days straight;
3. On or about April 13, 2022, Complainant became aware her access to computer applications was revoked while she was out on sick leave;
4. On or about May 2, 2022, Complainant became aware someone else was allowed to use her office and her office door lock was changed while she was out on sick leave;
5. Beginning on or about May 3, 2022, and continuing, Complainant alleged she has been treated disrespectful, unprofessional and with no regard to her position as the Manager of Customer Services;
6. On or about May 17, 2002, Complainant's work schedule was changed;
7. On or about July 15, 2022, Complainant was required to change her approving manager for access to computer applications;
8. On an unspecified date, Complainant was not selected for the Postmaster position at the Festus Post Office;
9. On an unspecified date(s), Complainant alleged on two separate occasions, she was not afforded the opportunity to detail in the

Officer-in-Charge position at the Chesterfield/Town and Country Post Office; and

10. On an unspecified date, Complainant alleged she was forced to work when she was sick with COVID-19 and offered no assistance.

Complainant identified the following individuals as the responsible management officials:

- The Post Office Operations Manager (POOM)
- The Officer in Charge since April 11, 2022 (OIC1)
- The Postmaster (PM)
- The Officer in Charge who provided assistance to Complainant during one week in October 2021 and another week in April 2022 (OIC2)

Investigative Report (IR) 447, 541.

Allegation (1): Complainant alleged that each post office station is allotted three EAS supervisors and a postmaster. She stated that at the time, in her station, it was just herself and two EAS supervisors. She did not specify a time frame beyond "since May 2021." She acknowledged that OIC2 was sent over when one of the EAS supervisors was out sick but did not specify when. IR 158-59. When Complainant was asked why she believed that her race, color, and sex were factors, she gave a one-word answer to all three questions: "Yes." IR 160-61.

The POOM responded that she was responsible only for staffing the postmaster position and that it was the postmaster's responsibility to meet an office's staffing needs. IR 389-90. When asked whether she responded to Complainant's request for additional staff, the POOM replied that an OIC was put in place in the postmaster's absence.

Allegation (2): Complainant averred that since OIC1's arrival on April 11, 2022, she had been required to work outside of her medical restrictions. In particular, she stated that she was required to work up to 60 hours per week and sometimes seven to twelve days straight. She asserted that the POOM required her to work outside of her restrictions. IR 162-63. When asked why she believed that her race, color, and sex were factors, Complainant again gave a one-word answer to all three questions: "Yes." IR 165-66.

The POOM denied that Complainant ever reported directly to her and stated that documentation of medical restrictions would normally go to Complainant's postmaster or OIC. IR 394. OIC1 responded that not only had Complainant not worked outside of her medical restrictions during his time supervising her, but he expressly prohibited her from doing so. IR 450-57.

Allegation (3): Complainant claimed that on April 13, 2022, she became aware that the POOM and OIC1 had revoked her access to certain computer applications while she was out on sick leave. She admitted, however, that some of her access was restored on May 4, September 7, and September 8, 2022. IR 167, 169. When asked why she believed that her race, color, and sex were factors in the revocation of her computer privileges, Complainant replied that no other EAS had their access suspended when they were out on leave, that when a previous postmaster was out sick her access was not revoked, and that the POOM "tends to cater to the males a bit more." IR 170.

The POOM and OIC1 averred that Complainant had made entry errors into the Agency's time and attendance system by calling in for Family and Medical Leave Act in excess of 15 days. OIC1 also stated that he requested that the POOM not restore her access until she returned to duty. OIC1 further noted that Complainant had sent some "very unprofessional communication" to him while she was off duty, and that to his knowledge, full access had been restored, but was not sure of the dates on which that restoration had occurred. IR 403-05, 408-09, 459-64.

Allegation (4): Complainant claimed that on May 3, 2022, she became aware that someone else was allowed to use her office and her office door lock was changed while she was out on sick leave between April 8 and May 2, 2022. She stated that OIC1 was responsible and that the POOM was aware of the situation. IR 171-72. When asked why she believed that her race, color, and sex were factors in this incident, Complainant replied that she had never known this to have been done to any other manager out on FMLA leave, and that OIC1 abuses his authority and tries to intimidate women especially. IR 175.

The POOM denied involvement and referred the investigator to OIC1. IR 410. OIC1 averred that no one had used Complainant's office while she was on leave, but that Complainant had employee files and other important information locked inside the office that management needed access to.

OIC1 also stated that when necessary, the office could be used for meetings or interviews. In addition, he stated that no other management officials in the installation had an office aside from the Postmaster. IR 466-71. When asked to describe the reason, if any, that Complainant's office door locks were changed while she was on leave, OIC1 replied:

No one used the office while [Complainant] was on sick leave. [Complainant] had employee files and vacation selections for carriers locked in the office that management needed access to. Also, as the Acting postmaster I needed access to all offices in the facility for administrative purposes. However, if necessary the office may be used for meetings such as pre-disciplinary interviews, meetings with the unions or used by visiting headquarters employees conducting audits.

IR 467-68. This was the same answer, verbatim, that OIC1 gave when the investigator asked him about whether other employees were allowed to use Complainant's office while she was on sick leave. IR 467.

Allegation (5): Complainant averred that since May 3, 2022, she had been treated disrespectfully and unprofessionally, with no regard to her position as the Customer Services Manager. She identified five particular incidents:

- Between April and May 2022, a Delivery Support Specialist was allowed to take charge of the Town and Country Branch Office without Complainant being consulted on the matter.
- On April 11, 2022, OIC2 removed Complainant as the manager for the Town and Country Branch Office employees' computer access.
- On unspecified dates in June 2022, OIC1 dealt directly with Town and Country Branch Office supervisors' schedules without contacting or coordinating with Complainant.
- On October 11, 2021, OIC2 interfered with Complainant's attempt to staff the Town and Country Branch Office.
- On October 27, 2021, Complainant was stopped from imposing corrective action on a subordinate employee.

IR 176, 418. When asked why she believed that her race and color were factors in her allegation regarding being treated disrespectfully, Complainant replied that her race and color were not related to this claim. When asked why she believed her sex was a factor she answered, "yes," but did not elaborate. IR 180.

The POOM stated that she was not aware of any of these incidents. IR 418. OIC1 responded that prior to his arrival in April 2022, he was made aware of serious allegations concerning Complainant's conduct in the workplace. In particular, he stated that Complainant was the subject of a grievance from the American Postal Workers Union, that he had spoken with three supervisors who stepped down from their positions because of how Complainant treated them, and that there were allegations of mistreatment made against Complainant by a fourth EAS supervisor. IR 474-45. In addition, OIC1 pointed out that Complainant refused to work the floor, stating that she was a manager, to which OIC1 replied that everyone, including himself, was required to work the floor when necessary. IR 475. OIC2 responded that she did not have Complainant's computer access role and that she was unaware of the situation regarding office staffing on October 11, 2021. In addition, OIC2 averred that Complainant appeared upset that people were there to assist her, but that she accepted OIC2's help in October 2021. IR 543-45, 549.

Allegation (6): Complainant alleged that between May 17 and July 2022, the POOM and OIC1 changed her work schedule from Mondays – Fridays, 8:00 a.m. to 4:00 p.m. with Saturdays and Sundays off to Tuesdays – Saturdays, 5:00 a.m. to 1:00 p.m. with Sundays and Mondays off. IR 181-83. When asked why she believed that her race and sex were factors in her schedule change, Complainant asserted that the POOM was aware of the changes and did not do anything about it, and that no other managers worked on Saturdays unless they wanted to. When asked why she believed that her sex was a factor, she left the question blank. IR 184-85.

The POOM stated that OIC1 was responsible for making schedule changes. IR 421. OIC1 averred that the change was necessary in order to ensure that all of the delivery routes from the Town and Country Branch Office were covered and that there had been several delivery failures prior to the change being made. IR 477-79.

Allegation (7): Complainant averred that on July 15, 2022 or September 20, 2022, she was required to change her approving manager for access to computer applications. IR 185-87.

When asked why she believed that her race and color were factors in this incident, Complainant replied, "doesn't apply." When asked why she believed that her sex was a factor, she replied, "Not as of yet, but maybe in the future." IR 188-89.

When asked to respond to Complainant's allegation that her approving manager for access to computer applications was changed, the POOM answered, "NA" to all the questions concerning that allegation. IR 424-27.

Allegation (8): Complainant alleged that on an unspecified date, the POOM declined to select her for the postmaster position at another post office. She stated that a white male selectee was not competitively selected but instead took a lateral to get into the position. She maintains that she should have been identified as qualified and referred for an interview. IR 189-93. When asked why she believed that she was better qualified than the selectee, she replied that she was not sure but should nevertheless have been given the opportunity to interview. IR 193. When the investigator asked Complainant why she believed that her race and color were factors in the nonselection, Complainant replied, "Yes." And when asked why she believed that her sex was a factor, she answered, "Maybe, because most of [the POOM's] promotions at the time they were all white males; I only know of one female [who was promoted] but she was white too." IR 193-94.

The POOM confirmed that she was the management official responsible for making the selection and that the position in question was approved for a downgrade prior to any information being posted about the matter. IR 427. The record indicates that the selectee for the position was originally an EAS-22 Postmaster and was approved for a voluntary reassignment to a lower-graded position, the EAS-21 Postmaster position at issue. The Agency's policies allow management to make noncompetitive, voluntary reassignments for employees to a lower level at any time in the selection process.

Allegation (9): Complainant alleged that on two occasions, she was not afforded detail opportunities for the OIC position at the Town and Country Branch Office. The openings occurred when the postmaster went off the clock in April 2022 and after she, Complainant, returned from leave on May 3, 2022. IR 194. She stated that the POOM had detailed her into the OIC position the last time the Postmaster was out sick, but did not specify the time frame. IR 195. She further averred that one did not normally apply for such details and that she should have been given a detail opportunity because she was already an EAS-20 manager. IR 195-96.

When asked to describe the facts and circumstances that led to her not being afforded the OIC detail, Complainant responded that she was being investigated but knew nothing about the purpose or scope of the investigation. IR 196. When asked why she believed that her race and color were factors in her not being detailed to the OIC position, Complainant responded, "No." When asked the same question in connection with her sex, Complainant replied, "Yes, because she [the POOM] tends to favor men. IR 199.

The POOM averred that she was the management official responsible for detailing an OIC to the Town and Country Branch Office, and that she assigned OIC2, a white female, to that detail on March 28, 2022, and OIC1, a black male, on April 9, 2022, where he had remained. IR 433. When asked to describe the process she followed in choosing who to detail, the POOM replied, "the same for any OIC position – knowledge, skills, and demonstrated ability." IR 433. POOM stated that she did not put Complainant in charge of the office during the absence of the regular Postmaster because the office was under an active investigation which also involved Complainant. POOM added that each OIC that she put in place took the initiative to recruit and bring their own EAS staff with them to assist them on the detail assignments. By contrast, POOM stated Complainant never took any initiative to solicit any assistance or help in the office despite knowing they were short EAS employees. IR 84.

Allegation (10): Complainant claimed that on January 12 and 13, 2022, she was forced to work when she was sick with COVID-19 and was offered no assistance. She identified the POOM as the responsible management official, asserting that the POOM was aware that she was not feeling well and neither offered assistance nor do anything else to help her. IR 200-10. When asked why she believed that her race, color, and sex were factors, Complainant replied that other units with non-black management received help with no problem and the POOM tends to favor men over women. IR 202-03.

The POOM asserted that she was not the management official responsible for staffing the Town and Country Branch Office. IR 438.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the investigative report and notice of her right to request a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ). When Complainant did not request a hearing within the time frame provided in 29 C.F.R. § 1614.108(f), the Agency issued a final decision pursuant to 29 C.F.R. § 1614.110(b).

In that decision, the Agency concluded that Complainant failed to prove that management subjected her to discrimination as alleged.

CONTENTIONS ON APPEAL

On appeal, Complainant states that she was unaware of an email correspondence that was sent out in November 2022. Complainant appears to be referencing the report of investigation. Complainant further states that she is in the process of finding other representation since she did not feel that her representative was working in her best interests.

STANDARD OF REVIEW

As this is an appeal from a decision issued without a hearing, pursuant to 29 C.F.R. § 1614.110(b), 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”).

ANALYSIS

As an initial matter, we note that Complainant appears to be claiming on appeal that she did not receive the report of investigation and notice of right to a hearing. The record indicates that on November 25, 2022, these documents were emailed to Complainant’s representative’s email address and Complainant's email address of record, and the sender received a receipt that delivery was complete. Complainant has not presented any evidence to show that the email was not received.

Disparate Treatment

To prevail in a disparate treatment claim, Complainant must satisfy the three-part evidentiary scheme fashioned by the Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

Complainant must initially establish a prima facie case by demonstrating that she was subjected to an adverse employment action under circumstances that would support an inference of discrimination. Furnco Constr. Corp. v. Waters, 438 U.S. 567, 576 (1978). Proof of a prima facie case will vary depending on the facts of the particular case. McDonnell Douglas, 411 U.S. at 804 n.14. The burden then shifts to the Agency to articulate a legitimate, nondiscriminatory reason for its actions. Tex. Dep't of Cmty. Affairs v. Burdine, 450 U.S. 248, 253 (1981). To ultimately prevail, Complainant must prove, by a preponderance of the evidence, that the Agency's explanation is pretextual. Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 120 S. Ct. 2097 (2000); St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 519 (1993).

To establish a prima facie case of discrimination, a complainant must show that: (1) she is a member of a protected group; (2) she suffered an adverse employment action; and (3) the circumstances give rise to an inference of discrimination. We note that, although a complainant bears the burden of establishing a "prima facie" case, Burdine, 450 U.S. at 252-53, the requirements are "minimal," Hicks, 509 U.S. at 506 (1993), and complainant's burden is "not onerous." Burdine, *supra* at 253.

As to allegation (1), OIC2 was sent by the POOM to the Town and Country Branch Office when one of the EAS supervisors was on sick leave. Regarding allegation (2), contrary to Complainant's assertion that OIC1 made her work outside of her medical restrictions, OIC1 expressly prohibited her from doing so. Concerning allegation (3), the record does establish that Complainant's computer access privileges were temporarily revoked. With respect to allegation (4), although there was no independent confirmation of the lock on Complainant's office door being changed, OIC1 indicated that he had opened Complainant's office. With regard to allegation (5), we accept as true Complainant's assertions that she was left out of the decision-making process with respect to matters that arose in the Town and Country Branch office and that management intervened on several decisions she attempted to make decisions. As to allegation (6), OIC1 did make changes to her schedule. Regarding allegation (7), Complainant did not explain why a change of her access approval manager was an adverse employment action. Concerning allegation (8), the Agency chose to hire for the position noncompetitively. With respect to allegation (9), the POOM did not deny that she had turned down Complainant's requests for the two detail opportunities in question. With regard to allegation (10), the POOM denied that she was responsible for staffing decisions below the level of postmaster, but did not directly contradict Complainant's assertion that she was forced to work while sick with COVID.

It is thus not clear that with respect to allegations (1), (2), (6), and (7) an adverse employment action ever occurred. Furthermore, Complainant has not established that any similarly situated employees outside of her protected classes were treated more favorably. There is no other evidence otherwise raising an inference of discrimination.

Notwithstanding, the Agency articulated legitimate, nondiscriminatory reasons for its actions. Burdine, supra. As to allegation (1) the POOM asserted that when the Postmaster was out on sick leave, OIC was sent to the Town and Country Branch Office to provide assistance. Regarding allegation (2), as noted above, OIC1 denied that he made Complainant work extra hours or outside of her medical restrictions. Concerning allegation (3), OIC1 explained that he revoked Complainant's access privileges because of the entry errors Complainant had made into the time and attendance system while she was on FMLA leave. With respect to allegation (4), OIC1 stated that he had to obtain important personnel information that was stored in Complainant's locked office. With regard to allegation (5), OIC1 stated that Complainant had been the subject of a grievance and several complaints by subordinate supervisors. As to allegation (6), OIC1 stated that he changed Complainant's schedule in order to ensure adequate route coverage. Regarding allegation (7), the POOM replied, "not applicable" when asked about a change in the manager who approved Complainant's access to office computer applications. Concerning allegation (8), as noted previously, the postmaster position was filled by placing the selectee noncompetitively into the position upon the selectee's acceptance of a voluntary downgrade.

With respect to allegation (9), the POOM replied that with respect to the OIC details, she followed the same procedures that she always followed when choosing who to detail. POOM noted that the OICs she selected did not call her expecting her to do the work for them, unlike Complainant. Among other reasons for not selecting Complainant, POOM stated that the office was under investigation and that several employees quit and refused to go back because of the way they were treated by Complainant. With regard to allegation (10), the POOM denied any responsibility for staffing the Town and Country Branch Office or any other post office.

Complainant now 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, supra. Pretext can be demonstrated by showing such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the Agency's proffered legitimate reasons for its action that a reasonable fact finder could rationally find them unworthy of credence.

Larraine D. v. Dep't of Defense, EEOC Appeal No. 2022002980 (Oct. 27, 2022). 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, unequal application of Agency policy, deviations from standard procedures without explanation or justification, and inadequately explained inconsistencies in the evidentiary record. Tammy S. v. Dep't of the Army, EEOC Appeal No. 2021000578 (May 5, 2022).

The evidence of discriminatory motive on the part of the named management officials consisted entirely of her own affidavit testimony, with no corroborating evidence at all. We note that with respect to allegations (1), (2), (5), and (8), when asked why she believed that she had been discriminated against, she simply answered "yes" without responding to the question. IR 160-61, 165-66, 180, 183. As to allegations (5), (6), (7), and (9), Complainant either admitted that discrimination was not a factor or left the question blank. IR 180, 184-85, 188-89, 199. Concerning allegations (8), (9), and (10), which involved the POOM, Complainant asserted, without substantiation, that the POOM tended to favor men over women. IR 193-94, 199, 202-03. Complainant also asserted that no other EAS employee was treated the way she was, that OIC1 abused his authority and tried to intimidate female employees, and that the POOM knew about OIC1's changes to her schedule and did nothing about it. IR 170, 175, 184-85. Beyond these vague, conclusory, and unsubstantiated statements, Complainant has presented neither affidavits, declarations, or unsworn statements from witnesses other than herself, nor documents which undermine or contradict the explanations provided by the POOM, OIC1 or OIC2. She has likewise not presented any documentary or testimonial evidence other than her own affidavit which would cause us to question the truthfulness of these management officials as witnesses, or which tends to establish the existence of at least one of the indicators of pretext listed above.

As Complainant chose not to request a hearing, the Commission does not have the benefit of an Administrative Judge's credibility determinations after a hearing; therefore, the Commission can only evaluate the facts based on the weight of the evidence presented. Micki C. v. Soc. Sec. Admin., EEOC Appeal No. 2022004926 (Aug. 19, 2024) citing Complainant v. Dep't of Veterans Affairs, EEOC Appeal No. 0120130623 (Sept. 16, 2015). And the weight of that evidence is not sufficient to establish that the POOM, OIC1, OIC2, or any other management official was motivated by unlawful considerations of Complainant's race, color, or sex in connection with any of her allegations of discrimination.

Moreover, to the extent that Complainant is alleging that she was subjected to a hostile environment, we find that under the standards set forth in Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993) Complainant's claim of a hostile work environment must fail. See Enforcement Guidance on Harris v. Forklift Systems, Inc., EEOC Notice No. 915.002 (Mar. 8, 1994). A finding of a hostile work environment is precluded by our determination that Complainant failed to establish that any of the actions taken by the Agency were motivated by discriminatory animus. Micki C., supra citing Oakley v. U.S. Postal Serv., EEOC Appeal No. 01982923 (Sept. 21, 2000). As a result, the Commission finds that Complainant was not subjected to discrimination or a hostile work environment as alleged.

CONCLUSION

Based on a thorough review of the record and the contentions on appeal, we AFFIRM the Agency's final decision

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).

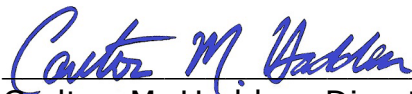
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (S0124)

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

December 10, 2024
Date