



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

[REDACTED]
Alden V,¹
Complainant,

v.

Rohit Chopra,
Director,
Consumer Financial Protection Bureau,
Agency.

Request No. 2023004432

Appeal No. 2022002340

Hearing No. 520-2021-00361X; 520-2022-00023X; 520-2022-00104X

Agency No. CFPB-0002-2022

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2022002340 (July 5, 2023).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2022002384 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

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

At the time of events giving rise to this complaint, Complainant worked as a Bank Examiner, 0570-CN-51, at the Agency's Northeast Region of Supervision, Enforcement and Fair Lending Division in Washington, D.C.

On September 11, 2020, Complainant filed an EEO complaint (CFPB-0025-2020) alleging discrimination and harassment based on race, national origin, sex, color, disability, age (40), and reprisal when:

1. From July 2020 to present, management disseminated Complainant's confidential and Personally Identifiable Information (PII) without authorization
2. Between July 2020 and August 2020, management sent Complainant work-related emails while he was on Family and Medical Leave Act (FMLA) leave;
3. On July 27, 2020, management issued Complainant a Performance-at-Risk Counseling Memorandum;
4. On unspecified dates in 2020, management micromanaged Complainant, interfered with Complainant's training for a scheduled exam; accelerated timeframes for Complainant to complete marginal tasks; sabotaged Complainant so that management could support claims of misconduct, leave abuse, and misuse of government property;
5. On unspecified dates in 2020, management in the Office of Human Capital (OHC), Employee and Labor Relations, gave managers unrestricted access to Complainant's complaints;
6. In or about September 2020, management failed to accommodate Complainant by delaying requested software updates;
7. Between September 2020 and October 2020, management berated Complainant for taking leave under the FMLA, restricted Complainant's ability to take FMLA leave, and restricted Complainant's ability to take COVID-19 administrative leave;
8. On September 14, 2020, management informed Complainant that the Agency would use the information available to address allegations in Complainant's OHC anti-harassment complaint, if information requested was not received from Complainant by the due date;
9. As of October 14, 2020, management failed to acknowledge or provide a receipt for Complainant's October 5, 2020, work-related injury;

10. On October 27, 2020, management issued Complainant a Notice of Proposed Removal;
11. On or about October 29, 2020, management restricted Complainant's ability to document his time accurately for pay period 22 in WebTA (time and attendance records);
12. On November 2, 2020, management made false and misleading statements in Complainant's 2020 performance evaluation;
13. On November 17, 2020, management deemed Complainant ineligible to participate in the Wounded Warrior Federal Leave Program; and
14. On November 23, 2020, management denied Complainant's request for copies of corrective/disciplinary action and investigative reports.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of his right to request a hearing before an EEOC Administrative Judge (AJ). Complainant requested a hearing, but subsequently withdrew the request. The AJ therefore remanded the matter to the Agency which issued a final decision (FAD) pursuant to 29 C.F.R. § 1614.110(b) finding that Complainant failed to prove that the Agency subjected him to discrimination as alleged. The Agency declined to address claim 10 because, once the Notice of Proposed Removal merged with the Agency's decision to remove Complainant (which became effective on December 7, 2020), the Agency determined that the claim was appealable to the Merit Systems Protection Board (MSPB). The Agency therefore accepted the removal claim (claim 10) as a mixed case and processed it as a separate complaint. The Agency subsequently issued a decision finding no discrimination as to Complainant's removal and provided Complainant with appeal rights to the MSPB. With regard to the remaining claims, the Agency found that the Agency articulated legitimate nondiscriminatory reasons for its actions and that Complainant failed to establish that such reasons were pretextual, and further found that Complainant failed to establish harassment.

Complainant filed a timely appeal, and in a decision dated July 5, 2023, we affirmed the FAD. See Alden V. v. Consumer Financial Protection Bureau, EEOC Appeal No. 2022002340.

CONTENTIONS ON REQUEST

Complainant contends that our July 2023 Decision failed to consider that the Agency “fabricated false evidence against me” and that the investigation “relied on the biased testimony of my former supervisor.” Complainant next contends that the Agency fragmented his complaint “by dismissing some . . . claims as untimely and failing to investigate others.” Complainant further contends that he provided evidence of pretext and retaliation which the appeal Decision “failed to consider.” In addition, Complainant contends that he showed that he was denied a reasonable accommodation and that the Agency promoted co-workers outside of his protected bases. Complainant next contends that the Decision “did not consider” the fact that the Agency denied him access to relevant records and witnesses. Complainant contends that he showed that the Agency official who removed him relied on information and recommendation from other officials who harbored discriminatory or retaliatory animus against him and that their animus should be imputed to the removing official. Finally, Complainant contends that the Decision did not analyze the claims under the appropriate legal framework and contradicted EEO precedent.

The Agency contends that Complainant’s Request fails to meet the standards for reconsideration and instead constitutes a second appeal. The Agency argues that Complainant seeks to show his disagreement with the Decision “without providing any evidence or argument that its conclusions were based on clearly erroneous misinterpretations of material facts or law.” Finally, the Agency contends that Complainant has not shown that the Decision will substantially impact the Agency’s policies, practices, of operations.”

STANDARD OF REVIEW

EEOC Regulations provide that the Commission may, in its discretion, grant a request to reconsider any previous Commission decision issued pursuant to 29 C.F.R. § 1614.405(a), where the requesting party demonstrates 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. See 29 C.F.R. § 1614.405(c).

ANALYSIS

Complainant raises the same arguments on request that he raised before the Agency and again on appeal before this Commission. While Complainant disagrees with the conclusions we reached, he has not shown that our Decision involved a clearly erroneous interpretation of material fact or law. With regard to the alleged fragmenting of his complaint, we note that the removal claim (claim 10) was properly determined to be a mixed case and the Agency issued a decision giving Complainant appeal rights to the MSPB. With regard to the claims that were dismissed, the record shows that Complainant failed to meet the applicable time limits.

We determine that there is no reason to disturb the Commission's prior decision. A request for reconsideration is not a second appeal to the Commission. Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), Chap. 9 §VI.A (Aug. 5, 2015); see, e.g., Lopez v. Dep't of Agric., EEOC Request No. 0520070736 (Aug. 20, 2007). Rather, a reconsideration request is an opportunity to demonstrate that the appellate decision involved a clearly erroneous interpretation of material fact or law, or will have a substantial impact on the policies, practices, or operations of the Agency. Complainant has not done so here.

After reviewing the previous decision and the entire record, the Commission finds that the request fails to meet the criteria of 29 C.F.R. § 1614.405(c), and it is the decision of the Commission to deny the request. The decision in EEOC Appeal No. 2022002340 remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request.

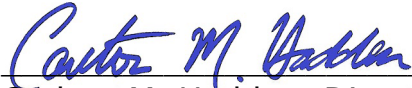
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0124)

This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. 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.

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

March 4, 2025

Date