



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

[REDACTED]  
Lashawna L.,<sup>1</sup>  
Complainant,

v.

Christopher T. Hanson,  
Chair,  
Nuclear Regulatory Commission,  
Agency.

Request No. 2024000353

Appeal No. 2021003426

Agency No. NRC1801

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Lashawna L. v. Nuclear Regulatory Commission, EEOC Appeal No. 2021003426 (Sept. 29, 2023). 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).

The record indicates that on January 19, 2018, Complainant filed her complaint alleging that the Agency discriminated against her on the bases of race, sex, age, and in reprisal for prior EEO activity under Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 when she was subjected to harassment by her supervisor and others.

The Agency issued a decision on January 15, 2019, finding no discrimination as alleged. Complainant appealed and the Commission, in EEOC Appeal No. 2019002093 (Sept. 22, 2020), affirmed the Agency decision in part and reversed in part.

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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.

Specifically, the Commission found that Complainant established she had been subjected to harassment by her immediate supervisor but failed to establish that discrimination or reprisal occurred with regard to the actions of others beside that supervisor. As part of the remedies, the Agency was ordered to conduct a supplemental investigation into Complainant's claims for compensatory damages and attorney's fees and costs.

The Agency issued a decision on March 30, 2021, regarding Complainant's claim for compensatory damages. The Agency stated that Complainant's attorney's fees had been calculated and reimbursed in a separate memo to the attorney. The Agency also stated that it would pay Complainant \$17,083.01 in pecuniary damages (i.e., \$345.00 for legal consultation fee; \$800.00 for contract closeout training course; \$14,998.50 for hospital visits; \$219.81 and \$550.70 for counseling sessions with two medical providers; and \$169.00 for blood work by a clinic) and \$25,000.00 in nonpecuniary, compensatory damages.

The Agency denied the following remedies requested by Complainant: 539 hours of reimbursed sick leave; a promotion to Grade 13, Step 9 position; \$180,723.00 in lost wages; \$9,321 for not serving as a Team Lead, Grade 14; \$176,000.00 for future lost wages and loss of future earning capacity; and \$180,000.00 for loss of future annuity. Complainant appealed the Agency's decision. Complainant did not file an appeal brief. The Agency filed Agency's Opposition to Complainant's Appeal of Compensatory Damages. The Commission affirmed the Agency's decision in EEOC Appeal No. 2021003426.

In her instant request, Complainant contends that she previously submitted a brief dated June 1, 2021, to the Commission and submits a copy of that brief for the first time in the instant request. Our careful review of Commission records shows no such appeal brief was filed prior to the instant request. Nevertheless, for the sake of argument only, even if we treat the brief as timely filed in EEOC Appeal No. 2021003426, we find it would not alter our decision in EEOC Appeal No. 2021003426.

In her appeal brief, Complainant argued that the Agency improperly denied her request for reimbursement of 539 hours of sick leave and lost wages, and she was not properly compensated for the emotional distress caused by the discrimination (without providing a specific amount). In her appeal brief, Complainant included her medical records and statements from herself, her fiancé, and parents, which were already provided to the Agency in its determination of compensatory damages and also reviewed by the Commission on appeal. The Commission previously found that the award of \$25,000.00 for nonpecuniary, compensatory damages (for Complainant's lack of sleep, headaches, chest and abdominal pain, depression, and nausea resulted from the discrimination based on statements from her, her fiancé, and parents) was consistent with amounts awarded in similar cases.

The Commission also found that Complainant failed to establish entitlement of other awards denied by the Agency (i.e., 539 hours of reimbursed sick leave, a promotion, and lost wages).<sup>2</sup>

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. 2021003426 remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request. We shall restate the Order issued in EEOC Appeal No. 2021003426.

### ORDER

To the extent that it has not already done so, the Agency shall, within 90 calendar days of the issuance of this decision, pay Complainant \$25,000.00 in nonpecuniary, compensatory damages and \$17,083.01 in pecuniary damages.

### IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and § 1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

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<sup>2</sup> Despite her request in her appeal brief, Complainant was not entitled to attorney's fees associated with the appeal since she was not successful in challenging the Agency's determination of compensatory damages on appeal.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

COMPLAINANT’S RIGHT TO FILE A CIVIL ACTION (R0124)

This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency or filed your appeal with the Commission. 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 his or her 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. **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

January 29, 2024  
Date