



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

[REDACTED]
Matt B.,¹
Complainant,

v.

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

Request No. 2024000746

Appeal No. 2022003662

Agency No. 1F-841-0005-22

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2022003662 (September 28, 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).

On December 2, 2021, Complainant filed an EEO complaint alleging that the Agency discriminated against him on the bases of race (Iranian/Persian), national origin (Middle Eastern), religion (Baha'i), disability (anxiety, depression), and in reprisal for prior protected EEO activity when:

1. On October 10, 2021, management questioned Complainant about his Family and Medical Leave Act (FMLA) leave and threatened to put him on Emergency Placement or send him for a Fitness for Duty Exam; and

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.

2. On October 14, 2021, management singled Complainant out by providing him with ELM Provision 67.21.

The Agency dismissed an additional claim alleging that the Agency did not allow him and his witnesses official time to perform official EEO activity pursuant to 29 C.F.R. § 1614.107(a)(8) as it alleged dissatisfaction with the processing of a prior EEO complaint. The Agency referred the claim to the Agency official responsible for the quality of complaints processing in accordance with EEO Management Directive 110.

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 Equal Employment Opportunity Commission Administrative Judge (AJ). In accordance with Complainant's request, the Agency issued a final decision pursuant to 29 C.F.R. § 1614.110(b). The decision found that the Agency articulated legitimate, nondiscriminatory reasons for its actions and concluded there was no evidence in the record to support Complainant's assertions of discriminatory animus. Complainant subsequently appealed the Agency's decision.

In EEOC Appeal No. 2022003662 (Sept. 28, 2023), the Commission affirmed the Agency's final order. In finding in favor of the Agency, the Commission found that the Agency was proper in dismissing Complainant's official time claim pursuant to § 1614.107(a)(8). As for the merits of the complaint, the Commission found that the Agency provided legitimate, nondiscriminatory reasons for its actions and that Complainant did not provide evidence that the Agency's proffered reasons were pretext for discrimination.

We have reviewed the various arguments raised by Complainant in the instant request for reconsideration. However, we can find no basis to disturb the Commission's prior decision. Complainant presents arguments which were previously raised and considered or could have been raised during the original appeal. The Commission emphasizes that a request for reconsideration is not a second appeal. 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. Thus, we conclude that Complainant has not presented any persuasive evidence to support reconsideration of the Commission's decision.

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. 2022003662 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

January 29, 2024

Date