



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

[REDACTED]  
Annice F.,<sup>1</sup>  
Complainant,

v.

Douglas A. Collins,  
Secretary,  
Department of Veterans Affairs,  
Agency.

Appeal No. 2024001591

Agency No. 20DR-0005-2021103259

**DISMISSAL OF APPEAL**

Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's March 10, 2023, final decision 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. For the following reasons, the Commission DISMISSES Complainant's appeal.

**ISSUE PRESENTED**

The issue presented is whether Complainant's appeal is subject to dismissal, pursuant to 29 C.F.R. § 1614.409, for raising the same claim as set forth in a civil action she filed.

**BACKGROUND**

During the relevant time, Complainant worked as a Management Analyst at the Agency's Central Office in Washington, D.C.

---

<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.

On June 8, 2021, Complainant filed an EEO complaint alleging that the Agency subjected Complainant to a hostile work environment on the bases of race (African-American), sex (female), and in reprisal for prior protected EEO activity under Title VII of the Civil Rights Act of 1964 when:

1. On March 25, 2021, Complainant reported to Supervisory Management Analyst that she was receiving sexually explicit text messages from an unknown source, and Supervisory Management Analyst did not issue Complainant a new government cell phone until May 20, 2021.
2. On April 6, 2021, during Complainant's mid-year review:
  - a. Supervisory Management Analyst informed Complainant that she was being removed from her position along with her analytical duties and was being reassigned to the Office of Information Security and would have responsibility for administrative duties.
  - b. Supervisory Management Analyst placed comments in Complainant's mid-year evaluation, which suggested she was at "fault for the cause of workplace relationship issues."
  - c. Supervisory Management Analyst asked Complainant psychological-social questions that were not related to her evaluation review and/or work assignments.
3. On May 10, 2021, Complainant learned that her new administrative duties far exceeded the administrative assignments of other staff members; and her work was closely scrutinized.

After an investigation, Complainant requested a final agency decision. The Agency issued a final decision finding Complainant failed to prove the Agency had subjected her to discrimination as alleged. Complainant appealed and in Joan V. v. Dep't of Veterans Affairs, EEOC Appeal No. 2022002963 (Apr. 20, 2023), the Commission reversed the Agency's final decision concerning claim 1 regarding sexually explicit text messages but affirmed the Agency's finding of no discrimination with respect to all remaining claims. The Commission ordered the Agency to, among other things, conduct a supplemental investigation on the issue of Complainant's entitlement to compensatory damages and issue a final decision, with appeal rights to the Commission, on the issue of compensatory damages. Complainant then timely requested that the Commission reconsider its decision in EEOC Appeal No. 2022002963.

While that request for reconsideration was pending, the Agency issued a decision on November 11, 2023 regarding compensatory damages.

In its decision, the Agency awarded Complainant \$25,973.00 in compensatory damages for the non-pecuniary losses that were proven to have been proximately caused by the discrimination that occurred. Complainant timely filed the instant appeal.

While the instant appeal was pending, the Commission issued a decision denying Complainant's request for reconsideration of EEOC Appeal No. 2022002963 finding that the request failed to meet the criteria of 29 C.F.R. § 1614.405(c). Joan V. v. Dep't of Veterans Affairs, EEOC Request No. 2023003300 (Mar. 28, 2024).

On February 13, 2025, Complainant filed a civil action (1:25-cv-00752-MHC-JEM) in the United States District Court for the Northern District of Georgia (Northern Division).

### ANALYSIS

EEOC Regulation 29 C.F.R. § 1614.409 provides:

Filing a civil action under § 1614.407 or § 1614.408 shall terminate Commission processing of the appeal. A Commission decision on an appeal issued after a complainant files suit in district court will not be enforceable by the Commission. If private suit is filed subsequent to the filing of an appeal and prior to a final Commission decision, the complainant should notify the Commission in writing.

Accordingly, the Commission will dismiss a pending appeal under these circumstances to prevent a complainant from simultaneously pursuing both administrative and judicial remedies on the same matters, wasting resources, and creating the potential for inconsistent or conflicting decisions, and in order to grant due deference to the authority of the federal district court. See, e.g., Wayne C. v. Dep't of Veterans Affairs, EEOC Appeal No. 2020002855 (Oct. 6, 2020); Bart L. v. Dep't of Agriculture, EEOC Appeal Nos. 2020000098, 2020000100 (Mar. 10, 2021); Von E. v. Dep't of the Treasury, EEOC Appeal No. 2020004947 (Feb. 17, 2022).

Following a review of Civil Action No. 1:25-cv-00752-MHC-JEM, the Commission has determined that the above-referenced civil action raises the same claims as the EEO complaint currently on appeal, including a request for compensatory damages.

## CONCLUSION

Accordingly, EEOC Appeal No. 2024001591 must be, and is, DISMISSED.

### 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)

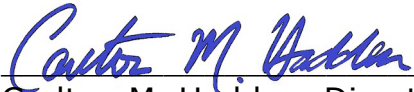
You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department 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 20, 2025

Date