



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

[REDACTED]  
Joel P,<sup>1</sup>  
Complainant,

v.

Christine Wormuth,  
Secretary,  
Department of the Army,  
Agency.

Appeal No. 2024002941

Agency No. ARMEADE19JAN01158

Hearing No. 531-2021-00454X

**DECISION**

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from a final decision (FAD) by the Agency dated April 29, 2024, finding that it was in compliance with the terms of the settlement agreement into which the parties entered. See 29 C.F.R. § 1614.402; 29 C.F.R. § 1614.504(b); and 29 C.F.R. § 1614.405.

**ISSUES PRESENTED**

Whether the agency was in breach of the settlement agreement entered into by the parties.

**BACKGROUND**

At the time of events giving rise to this complaint, Complainant worked as a Specimen Controller (Forensic). Believing that the Agency subjected him to

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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.

unlawful discrimination, Complainant contacted an Agency EEO Counselor to initiate the EEO complaint process. However, after a formal complaint was filed and a hearing requested, Complainant and the Agency entered into a settlement agreement on September 29, 2023 to resolve the matter. Subsequently, the assigned EEOC Administrative Judge dismissed this matter on October 10, 2023, pursuant to the settlement agreement reached by the parties. The settlement agreement provided, in pertinent part, that:

- (3c) The Agency will rescind and cancel the March 25, 2019, personnel action terminating Complainant's employment during the probationary period and replace the action with one reflecting a voluntary resignation for personal reasons with an effective date of March 25, 2019. The rescinded termination notice, and any documentation referring or relating to the rescinded termination notice, will be permanently removed from Complainant's official personnel file (OPF). The replacement SF-50 reflecting a voluntary resignation will state "Voluntary resignation for personal reasons" in the Remarks section. As soon as possible after this Agreement is ratified by all parties, but in any event, no later than ten (10) business days after this Agreement is ratified by all parties, the Agency's local offices will submit a request for the personnel action. Complainant and his attorney acknowledge that CHRA and OPM handle personnel action processes. Complainant acknowledges the timing of actual completion of the personnel action is controlled by CHRA and OPM and not the Army. The Agency will provide notification and copies of the uploaded documents to the Complainant as soon as practicable upon completion of the OPF revisions. The parties understand this does not implicate, nor is the Agency agreeing, to restore leave, assume any TSP liability for agency contributions, leave reinstatement nor back pay requirement, or incur any other financial liability for this discharge administrative adjustment from termination to voluntary resignation for personal reasons.

By letter to the Agency dated April 15, 2024, Complainant alleged that the Agency was in breach of the settlement agreement and requested that the Agency implement its terms. Specifically, Complainant alleged that the Agency failed to update his employment status as agreed upon, resulting in his denial of subsequent employment opportunities.

In its April 29, 2024 FAD, the Agency concluded that it fully complied with term 3c of the settlement agreement and provided evidence of compliance to Complainant, and that evidence of the updated records was provided to Complainant on November 29, 2023.

### CONTENTIONS ON APPEAL

Complainant argues that the Agency is still in breach of the settlement agreement. Complainant also asserts that the Agency's *purported* delay in updating his employment status from termination to "clean and clear resignation" is retaliatory. The Agency asks that we affirm its final decision finding compliance.

### 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

EEOC Regulation 29 C.F.R. § 1614.504(a) provides that any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. The Commission has held that a settlement agreement constitutes a contract between the employee and the Agency, to which ordinary rules of contract construction apply. See Herrington v. Dep't of Def., EEOC Request No. 05960032 (December 9, 1996). The Commission has further held that it is the intent of the parties as expressed in the contract, not some unexpressed intention, that controls the contract's construction. Eggleston v. Dep't of Veterans Affairs, EEOC Request No. 05900795 (August 23, 1990).

In ascertaining the intent of the parties with regard to the terms of a settlement agreement, the Commission has generally relied on the plain meaning rule. See Hyon O v. U.S. Postal Serv., EEOC Request No. 05910787 (December 2, 1991). This rule states that if the writing appears to be plain and unambiguous on its face, its meaning must be determined from the four corners of the instrument without resort to extrinsic evidence of any nature. See Montgomery Elevator Co. v. Building Eng'g Servs. Co., 730 F.2d 377 (5th Cir. 1984).

In the instant case, we find no breach of the settlement agreement. The record reflects that the Agency provided the corrected SF50s to Complainant's counsel on November 29, 2023 via e-mail and, on April 8, 2024, via an e-mail to Complainant and the assigned AJ along with a screenshot of the eOPF that confirms the removal was converted in Complainant's employment records to a resignation.

#### CONCLUSION

Accordingly, we AFFIRM the Agency's finding of compliance in this matter.

#### 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).

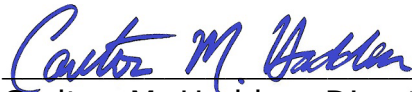
#### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (S0124)

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

November 12, 2024

Date