



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

[REDACTED]
Darla W,¹
Complainant,

v.

Pete Buttigieg,
Secretary,
Department of Transportation
(Federal Aviation Administration),
Agency.

Request No. 2024003353

Appeal No. 2023003890

Hearing No. 410-2023-00122X

Agency No. 2022-29440-FAA

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Darla W. v. Department of Transportation, EEOC Appeal No. 2023003890 (April 1, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2023004056 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

During the relevant time, Complainant worked for the Agency as a Management and Program Analyst, FG-0343-12, with the Air Traffic Services (ATS), Resources Management Group at the Agency's Mission Support Services facility in College Park, Georgia.

On June 3, 2022, Complainant filed an EEO complaint alleging that the Agency discriminated against her on the bases of race, age, and in reprisal for prior protected EEO activity when on January 6, 2022, she became aware that she was not selected for the FG-13, Air Traffic Services Training position.

Following an investigation by the Agency into the complaint, Complainant requested a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ). However, she subsequently withdrew her request. Thereafter, the AJ remanded the matter to the Agency for the issuance of a final decision. The Agency issued a final decision, concluding that Complainant failed to prove that the Agency subjected her to discrimination as alleged. Complainant appealed.

In Appeal No. 2023003890, the Commission affirmed the Agency's final order, finding no discrimination. The instant request for reconsideration from Complainant followed.

CONTENTIONS ON REQUEST

On request, Complainant primarily argues the merits of her complaint.

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

We have reviewed the submissions by Complainant in support of the instant request for reconsideration. However, we determine that there is no reason to disturb the Commission's prior decision. As already noted, Complainant primarily argues the merits of her complaint in support her request for reconsideration. These contentions either were or could have been raised below. 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. 2023003890 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

November 25, 2024
Date