



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]  
Lelah T,<sup>1</sup>  
Complainant,

v.

Janet L. Yellen,  
Secretary,  
Department of the Treasury  
(Internal Revenue Service),  
Agency.

Appeal No. 2024003383

Agency No. IRS-24-0511

**DECISION**

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's final decision dated April 25, 2024, dismissing a formal complaint of unlawful 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 reason discussed below, we affirm the Agency's final decision dismissing the formal complaint.

**ISSUES PRESENTED**

Whether the Agency's final decision properly dismissed Complainant's formal complaint for failure to state a claim, pursuant to C.F.R. 29 C.F.R. § 1614.107(a)(1).

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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.

### BACKGROUND

During the relevant time, Complainant worked for the Agency as an Offer-In-Compromise Examiner, GS-11 in Memphis, Tennessee.

On March 25, 2024, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination based on race (African-American) and sex (female) when:

1. On March 5, 2024, and February 28, 2024, the Internal Revenue Service (IRS), garnished Complainant's paycheck after she received an erroneous salary increase that caused an overpayment of wages from October 12, 2008 through, November 19, 2022;
2. On several dates, Complainant was subjected to various acts of harassment including but not limited to the following:
  - a. On January 1, 2024, the IRS withheld Complainant's tax refund totaling \$6,442.00;
  - b. On June 1, 2023, the IRS began garnishing Complainant's paycheck; and
  - c. On February 23, 2023, the Agency's Human Resources Specialists denied Complainant's request to cancel debt Complainant owed, due to an overpayment of salary.

In the instant final decision, the Agency dismissed the formal complaint for failure to state a claim. The Agency reasoned that the incidents of debt collection relate to claims under the Debt Collection Act, and such actions are not within the scope of the EEO complaint process.

The instant appeal followed.

### STANDARD OF REVIEW

The Agency's decision to dismiss a complaint is subject to de novo review by the Commission, which requires the Commission to examine the record without regard to the factual and legal determinations of the previous decision maker and issue its decision based on the Commission's own assessment of the record and its interpretation of the law. 29 C.F.R. § 1614.405(a).

The Commission should construe the complaint in the light most favorable to the complainant and take the complaint's allegations as true. See Cobb v. Department of the Treasury, EEOC Request No. 05970077 (March 13, 1997). Thus, all reasonable inferences that may be drawn from the complaint's allegations must be made in favor of the complainant.

### CONTENTIONS ON APPEAL

Complainant presents a variety of submissions, in essence asserting that her union provided her no assistance regarding the matters raised in the subject claims, and that her wages were improperly subjected to garnishment.

### ANALYSIS

An agency shall accept a complaint from any aggrieved employee or applicant for employment who believes that he or she has been discriminated against by that Agency because of race, color, religion, sex, national origin, age or disabling condition. 29 C.F.R. §§1614.103, 106(a). The Commission's federal sector case precedent has long defined an "aggrieved employee" as one who suffers a present harm or loss with respect to a term, condition, or privilege of employment for which there is a remedy. Diaz v. Dep't of the Air Force, EEOC Request No. 05931049 (Apr. 21, 1994). The regulation at 29 C.F.R. § 1614.107(a)(1) provides, in relevant part, that an agency shall dismiss a complaint that fails to state a claim.

In her formal complaint, Complainant alleges that she has been subjected to harassment with respect to the garnishment of her wages. Complainant indicates that after receiving an erroneous step increase in her pay, Complainant's bi-weekly pay has been garnished \$599.00 as repayment. Complainant contends that the Agency has failed to assist her in resolving the matter which was caused by the Agency's overpayment of her salary. The record includes letters of demand from the IRS regarding debts owed by Complainant for salary overpayment.

The Agency correctly determined that Complainant's claims are governed under the Debt Collections Act. Challenges to an agency's actions under the Debt Collection Act are not within the scope of the EEO complaint process. Baughman vs. Department of Army, EEOC Appeal No. 01900865 (February 26, 1990); Amato v. Department of the Army, EEOC Request No. 0520070240 (July 18, 2007).

The Debt Collection Act, 31 U.S.C. 3711 et seq. mandates that monetary disputes involving an agency of the United States government and any claimed debtor must be resolved through the provisions of the Debt Collection Act.

The Commission has previously held that challenges to agency's actions under the Debt Collection Act are not within the scope of the EEO complaint process and the Commission's jurisdiction. Complainant v. United States Postal Service, EEOC Request No. 0520150017 (March 9, 2015). The proper forum for complainant to challenge the appropriateness of the collection process and validity of her debt is through the administrative process of the Debt Collection Act. Here, as Complainant is essentially alleging violations of the Debt Collection Act, the Commission determines that her allegations are not within the scope of its jurisdiction, and therefore fail to state a claim.

#### CONCLUSION

The Agency's final decision dismissing Complainant's complaint is AFFIRMED for the reason discussed above.

#### 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

December 5, 2024  
Date