



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

[REDACTED]
Charlene S.,¹
Complainant,

v.

Denis R. McDonough,
Secretary,
Department of Veterans Affairs,
Agency.

Request No. 2024003496

Appeal No. 2024000876

Agency No. 2004-659-2023-152167

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Charlene S. v. Dep't of Veterans Affairs, EEOC Appeal No. 2024000876 (April 15, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024000876 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

BACKGROUND

Complainant, a former employee of the Agency filed a formal EEO complaint alleging that the Agency discriminated against her and subjected her to a

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.

hostile work environment on the bases of disability and in reprisal for prior protected EEO activity when:

1. In 2022, Complainant was blacklisted in the Agency's Integrated Enterprise Workflow Solution (VIEWS) which maintained her personal identifiable information (PII) and documents related to her prior EEO complaints;
2. On March 23, 2023, the EEO Manager interfered with Complainant representing another employee in the EEO process;
3. On April 17, 2023, an EEO Assistant and the Union President interfered with Complainant representing an employee for mediation;
4. On May 16, 2023, a Vocational Rehabilitation Counselor ceased communication and assistance with Complainant in the Veterans Readiness and Employment Program (VR&E); and
5. On August 4, 2023, the Vocational Rehabilitation Counselor informed Complainant that her case was closed within the VR&E Program.

The Agency dismissed the complaint for failure to state a claim. The Agency reasoned that Complainant was terminated from federal service on May 15, 2020, and the incidents alleged occurred nearly three years after her termination. Complainant appealed.

In the appellate decision, the Commission affirmed the Agency's dismissal of the complaint for failure to state a claim. As to allegation (1), the Commission found that Complainant failed to specify a harm or loss with respect to a term, condition, or privilege regarding the Agency's record-keeping system. Concerning allegations (2) and (3), the Commission found that having a representative in an EEO proceeding is not a term, condition, or privilege for that representative, but rather for the employee being represented. Regarding allegations (4) and (5), the Commission found that participants in the VR&E Program were beneficiaries of that program, not employees of the Agency, and that Complainant had not alleged a harm or loss with respect to a term, condition, or privilege of employment.

Complainant filed the instant request for reconsideration.

CONTENTIONS ON REQUEST

In her request for reconsideration, Complainant argues that due to the Agency's ability to manipulate and control the VR&E Program, the Agency interfered with Complainant's participation in that program. Complainant also maintains that the Agency blacklisted her in a manner that prevented her from obtaining employment elsewhere.

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 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 numerous arguments which were previously raised and considered or could have been raised during the original appeal.

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. She has not provided any arguments that address the criteria for reconsideration. Rather, she merely attempts to relitigate her appeal on its merits.

CONCLUSION

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. 2024000876 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 8, 2025

Date