



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

[REDACTED]  
Sabrina R.,<sup>1</sup>  
Complainant,

v.

Antony Blinken,  
Secretary,  
Department of State,  
Agency.

Request No. 2024003662

Appeal No. 2023001017

Hearing No. 570-2020-00837X

Agency No. DOS-0193-19

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Sabrina R. v. Department of State, EEOC Appeal No. 2023001017 (April 29, 2024). For the reasons discussed below, Complainant's request for reconsideration is denied.

**ISSUE PRESENTED**

Whether Complainant's request for reconsideration of EEOC Appeal No. 2023001017 meets the criteria detailed in 29 C.F.R. § 1614.405(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.

## BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a President's Emergency Plan for AIDS Relief (PEPFAR) Deputy Coordinator, GS-13, at the U.S. Embassy in Kingston, Jamaica.

On May 8, 2019, Complainant filed an EEO complaint alleging that the Agency subjected her to discrimination based on her race (African-American) when:

1. On February 25, 2019, her contract with USAID was terminated; and
2. She was subjected to a hostile work environment, characterized by but not limited to heightened scrutiny, false allegations, and multiple unnecessary counselings, as recently as January 25, 2019.

Following an investigation by the Agency into the claims, Complainant requested a hearing before an EEOC Administrative Judge (AJ). The Agency filed a motion for summary judgment, and Complainant filed her opposition<sup>2</sup>. The AJ granted the motion and issued a summary judgment decision in favor of the Agency. The AJ found that Complainant had failed to specifically rebut any of the Agency's proffered facts, instead making conclusory statements. The AJ found there were no genuine issues of material fact and adopted the Agency's Motion for Summary Judgment in full. He noted that assuming *arguendo* Complainant had proved her *prima facie* case of discrimination, she had failed to establish pretext, presenting only unsubstantiated claims of discrimination without evidence to link her protected categories to the Agency's actions. Similarly regarding her claim of hostile work environment, the AJ found the actions were neither severe, pervasive, nor sufficiently chilling to state a claim of hostile work environment. Thereafter, the Agency issued a final order fully implementing the AJ's summary judgment decision. Complainant appealed.

The prior appellate decision, EEOC Appeal No. 2023001017, affirmed the Agency's final order implementing the AJ's decision. The Commission found that Complainant had failed to establish a *prima facie* case of disparate treatment based on race because she had not identified similarly situated employees not in Complainant's protected groups were treated differently under similar circumstances, and the record did not contain any evidentiary link between Complainant's membership in the protected class and the adverse employment action.

---

<sup>2</sup> The Agency also filed a reply to Complainant's opposition.

Regarding Complainant's harassment claim, the Commission found that Complainant failed to demonstrate that there was a basis for imputing liability to the Agency, noting that counselings, the RSO investigation, and RSO's home visit to retrieve embassy property did not rise to the level of harassment. The instant request for reconsideration from Complainant followed.

### CONTENTIONS ON REQUEST

In her request, Complainant asserts she has evidence that the appellate decision involved a clearly erroneous interpretation of material fact or law and that she has supporting evidence that the appellate decision will have a substantial impact on policies, practices, or operations of the agency. In support of this, Complainant raises new arguments that she was assigned additional work and had to work overtime while white employees were not subjected to similar workloads. Complainant does not identify these employees. She further contends she received inadequate training, additional coding work, and negative performance reviews. She also reiterates arguments made previously at the summary judgment stage and in her prior appeal. Complainant asserts that the Agency's explanations for the actions taken against her lack validity and are unsupported by substantial evidence. She states that comparative evidence and statistical proof demonstrate discriminatory motives, while violations of Department of State anti-harassment policies further corroborate the claims. She does not identify the comparative evidence and statistical proof on which she is relying.

The Agency contends that Complainant's request should be denied because she has not identified any error in the underlying appellate decision; she simply disagrees with it. The Agency states that the AJ's decision was grounded in the record evidence and applied the law to the facts correctly and the Commission's decision concluded as much. The Agency further contends that Complainant does not identify any substantial impact to Agency operations that would result from the Commission's decision.

### 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 reiterates arguments she previously made on appeal and provides no evidence to warrant the granting of her request. She did not specify the mistakes of law or fact that she believes were made and she did not identify the specific evidence she believes establishes this. The AJ and our prior decision properly found that Complainant failed to establish her claim of disparate treatment based on race because that other than her bare assertions, Complainant failed to establish the requisite link between her race and the Agency's actions. She did not show that she was treated differently than similarly situated coworkers outside of her protected classes, nor did she otherwise establish an evidentiary link between her protected class and the adverse action taken. Complainant identified that Supervisor had compared Complainant to Supervisor's dog, saying that Complainant needed to follow instructions. Complainant noted Supervisor's dog is black. Beyond that, Complainant made only conclusory assertions that she was targeted because of her race or statements that those who allegedly made the statements explicitly denied making in their sworn statements. Therefore, she failed to establish a prima facie case of disparate treatment based on race. Likewise, the evidence does not support a claim for harassment or hostile work environment, as the allegedly harassing conduct taken by the Agency amounted to routine supervision.

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 § VII.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.

To the extent Complainant makes new allegations of discrimination in support of her claim, these claims are not properly before us.

The Commission has held that a party may not raise new claims for the first time in a request for reconsideration. See Colleen M. v. Social Security Admin., EEOC Request No. 0520160017 (Feb. 11, 2016); De Kelaita v. U.S. Postal Serv., EEOC Request No. 05A40785 (Jun. 4, 2004). In addition, arguments and/or evidence presented for the first time in a request for reconsideration cannot be considered. See Orval T. v. Dep't of the Navy, EEOC Request No. 2020004014 (Nov. 19, 2020), citing Sierra P. v. U.S. Postal Serv., EEOC Request No. 0520170104 (Mar. 9, 2017) (“[t]he presentation of new evidence is not one of the stated grounds for reconsideration.”).

### 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. 2023001017 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 2, 2025

Date