



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

[REDACTED]  
Alejandrina L.,<sup>1</sup>  
Complainant,

v.

Douglas A. Collins,  
Secretary,  
Department of Veterans Affairs,  
Agency.

Request No. 2024003712

Appeal No. 2024001505

Agency No. 200P-691-2023-153471

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Alejandrina L. v. Department of Veterans Affairs, EEOC Appeal No. 2024001505 (Apr. 29, 2024). For the following reasons, the Commission DENIES Complainant's request.

**ISSUE PRESENTED**

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024001505 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

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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 as a Medical Support Assistant, GS-4, at the Agency's West Los Angeles Medical Center in Los Angeles, California.

On October 11, 2024, Complainant filed an equal employment opportunity (EEO) complaint alleging that the Agency discriminated against her based on race and age when, on March 15, 2023, she was terminated during a probationary period.

The Agency issued a final order dismissing the complaint pursuant to 29 C.F.R. § 1614.107(a)(2) for untimely EEO Counselor contact. The Agency found that Complainant initiated contact with the EEO Counselor on August 1, 2023, which it determined was beyond the 45-day timeframe from the date of the alleged discriminatory act. Complainant appealed the Agency's final order to the Commission, but she did not file a statement or brief in support of the appeal. The Commission's appellate decision affirmed the Agency's dismissal, finding that Complainant did not initiate EEO Counselor contact until almost four months after her termination became effective on March 15, 2023. The instant request for reconsideration from Complainant followed.

### CONTENTIONS ON RECONSIDERATION

Complainant argues that the Agency misled the Commission during the appeal by failing to provide information regarding Complainant's prior contact with the EEO office and her appeal to the Merit Systems Protection Board (MSPB). Complainant maintains that she initiated contact with an EEO Counselor on March 17, 2023, and had an initial interview with the EEO Counselor on March 23, 2023. In support, she provides copies of emails between herself, her union representative, and the EEO Counselor reflecting those dates. Complainant also notes that she filed an appeal with the MSPB on March 26, 2023, appealing her termination. The MSPB ultimately dismissed the appeal for lack of jurisdiction, and Complainant maintains that the Agency failed to comply with 29 C.F.R. § 1614.302(b) by not then processing her complaint as a non-mixed case. In light of the evidence she presents on reconsideration, Complainant argues that her EEO Counselor contact should have been considered timely on several grounds.

Complainant's brief also includes a declaration from her attorney, who was retained to assist Complainant with the instant request for reconsideration.

Complainant's attorney concedes that the evidence in the attached exhibits was available during the appeal, but he claims that Complainant expressed to him that she did not produce them in the appeal because she did not have legal representation and that the appeal was filed by Complainant's union representative, who was not a licensed attorney. Complainant's counsel apologizes that Complainant did not produce the information on appeal but believes the Agency was in possession of the evidence during the appeal process.

The Agency contends that Complainant's request fails to meet the criteria detailed in 29 C.F.R. § 1614.405(c).

#### 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

At the outset, we note that Complainant provides documentation in her request for reconsideration that was not included in the prior appeal file. Complainant does not argue that these new materials were not reasonably available to her during the appeal. We note that new evidence that was previously available generally will not be accepted in a request for reconsideration. See Houser v. Dep't of Homeland Sec., EEOC Request No. 0520110548 (Oct. 7, 2011).

We have reviewed the various arguments raised by Complainant in the instant request for reconsideration. However, we find no basis to disturb the Commission's prior decision. Complainant presents arguments that could have been raised during the original appeal, but, as we have already noted, she failed to do so. Although Complainant seeks to explain this by arguing that her union representative filed the appeal and that she did not have legal representation during the appeal process, a complainant is responsible for proceeding with the complaint at all times, whether or not she has a representative. 29 C.F.R. § 1614.605(e). The Commission emphasizes that 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.

### 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. 2024001505 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)

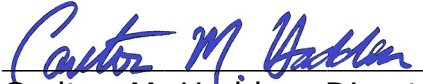
This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. 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

February 10, 2025

Date