



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

[REDACTED]  
April T.,<sup>1</sup>  
Complainant,

v.

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

Request No. 2024004100

Appeal No. 2023001248

Agency No. IRS-21-0703-F

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in April T. v. Department of the Treasury, EEOC Appeal No. 2023001248 (May 30, 2024).

**ISSUE PRESENTED**

Whether Complainant's request for reconsideration of EEOC Appeal No. 2023001248 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

**BACKGROUND**

At the time of the events giving rise to this complaint, Complainant worked as a Customer Service Representative in the Accounts Management

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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.

Operation at the Agency's Wage and Investment Center in Kansas City, Missouri.

On November 30, 2021, Complainant filed an equal employment opportunity (EEO) complaint alleging that the Agency discriminated against her on the bases of race (African American), disability (high blood pressure, impaired vision, and heart and back problems), and in reprisal for prior protected EEO activity under Title VII of the Civil Rights Act of 1964 and Section 501 of the Rehabilitation Act of 1973 when:

1. Complainant's request for Emergency Paid Leave (EPL) was denied and she was charged absent without leave (AWOL) from June 11, 2021 through July 3, 2021, and was charged a combination of AWOL, leave without pay (LWOP), and/or sick leave from August 2, 2021 through September 30, 2021.
2. Complainant's request for EPL was denied and she was charged AWOL from July 5, 2021 through July 30, 2021.
3. Beginning on October 1, 2021, Complainant's request for advanced sick leave under the Family Medical Leave Act (FMLA) was denied and she was charged a combination of AWOL, LWOP, and/or sick leave.

The Agency issued a final decision concluding that Complainant failed to prove that the Agency subjected her to discrimination as alleged in claim 1 and dismissing claims 2 and 3. Complainant appealed the final Agency decision to the Commission, and in our prior appellate decision we affirmed the Agency's final decision finding no discrimination.

In our prior decision, we found that the Agency articulated a legitimate, nondiscriminatory reason for the adverse action in claim 1 and that Complainant failed to prove by a preponderance of the evidence that the proffered reasons were pretext for discrimination. We found that Complainant elected to proceed with claim 2 under a negotiated grievance procedure that permitted allegations of discrimination and was appropriately dismissed.<sup>2</sup> Regarding claim 3, we found that the Agency properly dismissed the claim as a collateral attack on the FMLA process which is governed by the U.S. Department of Labor.

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<sup>2</sup> EEOC Regulation 29 C.F.R. § 1614.107(a)(4) requires dismissals when an election is made to pursue the negotiated grievance procedure.

### CONTENTIONS ON REQUEST

First, Complainant contends that the parties reached a settlement agreement during informal mediation but that the Agency failed to comply with that agreement. Second, Complainant repeats arguments raised during her initial appeal to the Commission.

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

We have reviewed the submissions by Complainant in support of the instant request for reconsideration. We determine that there is no reason to disturb the Commission's prior decision. 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. Specifically, Complainant failed to present evidence of a negotiated settlement agreement.

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. 2023001248 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:



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Carlton M. Hadden, Director  
Office of Federal Operations

November 13, 2024  
Date