



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

[REDACTED]
Coralee H.,¹
Complainant,

v.

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

Request No. 2024004295

Appeal No. 2023002777

Hearing No. 460-2022-00162X

Agency No. IRS-22-0297-F

DECISION ON REQUEST FOR RECONSIDERATION

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Coralee H. v. Dep't of the Treasury, EEOC Appeal No. 2023002777 (June 27, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2023002777 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

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.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Revenue Officer at the Agency's Small Business and Self-Employed (SB/SE) Division in Houston, Texas.

On April 12, 2022, Complainant filed a formal complaint alleging that the Agency discriminated against her on the bases of race (African American), sex (female), disability (mental and physical), age (over 40), and in reprisal for prior protected EEO activity (prior EEO activity) when, on February 10, 2022, her Territory Manager denied her request for reassignment as a reasonable accommodation.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of her right to request a hearing before an EEOC Administrative Judge (AJ). Complainant requested a hearing. The Agency subsequently filed a motion for summary judgment, which Complainant opposed.

Over Complainant's objections, the AJ found that the record was sufficiently developed for summary judgment and that Complainant failed to identify any genuine issue of material fact warranting a hearing. According to the AJ, Complainant's medical documentation did not support her need for reassignment as a reasonable accommodation, as there were alternate accommodations that would effectively enable her to perform the essential functions of her Revenue Officer position. The AJ also determined that there was no evidence demonstrating Complainant was subjected to discrimination based her other alleged bases. The Agency ultimately issued a final order implementing the AJ's decision.

Complainant appealed this order to the Commission, arguing that the Agency failed to provide a reasonable accommodation and that she established that the Agency's asserted legitimate, nondiscriminatory reasons were pretextual. Furthermore, Complainant argued that a hearing was warranted to resolve credibility issues.

In EEOC Appeal No. 2023002777 (June 27, 2024), the Commission found that Complainant did not establish any genuine issues of material fact. In affirming the Agency's final order, the Commission noted that the Agency offered Complainant alternate accommodations, including an ergonomic assessment of her home workstation and to accommodate her lifting restriction. However, Complainant declined the offered alternate

accommodations. The Commission determined that Complainant failed to show that the offered alternate accommodations were ineffective and emphasized that Complainant was not entitled to her accommodation of choice. Furthermore, the Commission determined that Complainant's request for reassignment to a new supervisor did not constitute a viable request for reasonable accommodation.

The Commission also analyzed the complaint under the legal standard for disparate treatment and found that the Agency had legitimate, nondiscriminatory reasons for denying Complainant's request for reassignment, namely that the Federal Occupational Health Consultant determined that Complainant could be accommodated in her current Revenue Officer position. As Complainant failed to offer any persuasive evidence of pretext, the Commission concluded that her allegation of disparate treatment was without merit.

The instant request followed.

CONTENTIONS ON REQUEST

In requesting reconsideration, Complainant reiterates that she was denied reassignment as reasonable accommodation and treated differently than similarly situated employees outside of her protected classes. She also submitted documents that were not included in the underlying record.

The Agency opposes the request.

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, as Complainant's contention that she was

denied reassignment as reasonable accommodation and treated differently than similarly situated employees outside of her protected classes, was previously raised and rejected in the initial appeal.

While Complainant also submitted new documents in support of her request, we note that new evidence 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) (citing Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110) (Aug. 5, 2015)). Further, the Commission emphasizes that a request for reconsideration is not a second appeal. 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.

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. 2023002777 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

December 2, 2024

Date