



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

[REDACTED]  
Isaura A,<sup>1</sup>  
Complainant,

v.

Louis DeJoy,  
Postmaster General,  
United States Postal Service  
(Field Areas and Regions),  
Agency.

Appeal No. 2024004487

Agency No. 4B-270-0148-24

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's final decision dated June 25, 2024, dismissing her complaint of unlawful employment discrimination in violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq. For the reasons set forth herein, we MODIFY the Agency's final decision dismissing Complainant's complaint.

ISSUES PRESENTED

Whether the Agency's final decision properly dismissed Complainant's complaint for failure to state a claim.

BACKGROUND

During the period at issue, Complainant worked as a City Carrier at the Agency's facility in Kannapolis, North Carolina. On May 21, 2024, Complainant

---

<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.

filed a formal complaint alleging that the Agency subjected her to discrimination on the bases of race (African-American) and in reprisal for prior protected EEO activity (prior EEO case).

The Agency's final decision framed Complainant's claims in the following fashion:

1. On January 16, 2024, the Occupational Health Nurse contacted the Department of Labor/OWCP to conduct a hearing and review for her case.
2. On February 4, 2024, the Occupational Health Nurse shared her OWCP restrictions with management officials; and
3. On March 28, 2024, management offered her a job outside of the hours agreed upon in a grievance settlement.

The Agency dismissed Complainant's complaint for failure to state a claim. The Agency reasoned that claims (1)-(2) are within the jurisdiction of the Office of Workers' Compensation Program (OWCP) and that these matters should have been raised with the Department of Labor. Regarding claim (3), the Agency reasoned that this matter was a collateral attack on the grievance process.

#### CONTENTIONS ON APPEAL

On appeal, Complainant requests that we reverse the Agency's final decision dismissing her complaint. Regarding claim (1), Complainant asserts that this matter was not a collateral attack on the OWCP process because she was not contesting the adjudication of her OWCP claim. Regarding claim (3), Complainant asserts that this matter is not a collateral attack on the grievance process and that she is being treated differently from other carriers.

The Agency does not submit a statement or brief in opposition to Complainant's appeal.

#### STANDARD OF REVIEW

The Agency's decision to dismiss a complaint is subject to de novo review by the Commission, which requires the Commission to examine the record without regard to the factual and legal determinations of the previous decision maker and issue its decision based on the Commission's own assessment of

the record and its interpretation of the law. 29 C.F.R. § 1614.405(a). The Commission should construe the complaint in the light most favorable to the complainant and take the complaint's allegations as true. See Cobb v. Department of the Treasury, EEOC Request No. 05970077 (March 13, 1997). Thus, all reasonable inferences that may be drawn from the complaint's allegations must be made in favor of the complainant.

### ANALYSIS

As an initial matter, we find that the Agency's final decision properly framed claim (1). We find that the crux of claim (1) is that a named Agency official contacted Complainant's OWCP claims examiner and sought compensation information from her case "under the pretense of a hearing and decision review..." Complaint File at 15, 62.<sup>2</sup>

The Agency properly dismissed claim (1) for failure to state a claim. These matters fall within the jurisdiction of the OWCP process. The Commission has held that an employee cannot use the EEO complaint process to lodge a collateral attack on another proceeding. See Wills v. Dep't of Def., EEOC Request No. 05970596 (July 30, 1998); Kleinman v. U.S. Postal Serv., EEOC Request No. 05940585 (Sept. 22, 1994); Lingad v. U.S. Postal Serv., EEOC Request No. 05930106 (June 25, 1993). The proper forum for Complainant to have raised her challenges to actions which occurred during the OWCP process is within that forum itself.

Regarding claim (2), we find that the crux of claim (2) is Complainant is alleging that the Agency violated the Privacy Act by transmitting information on her compensation to various officials. Complaint File at 62. The Agency properly dismissed this claim. The Privacy Act, 5 U.S.C. § 522(g)(91), provides an exclusive statutory framework governing the disclosure of identifiable information contained in the federal systems of records. The Commission has held jurisdiction over alleged violations of the Privacy Act rest exclusively with United States District Courts. See Osborn v. U.S. Postal Serv., EEOC Appeal No. 05950654 (Feb. 15, 1996).

Regarding claim (3), to the extent Complainant is alleging that the Agency is not in compliance with a grievance settlement agreement, we find that the Agency properly dismissed this matter as a collateral attack on the grievance

---

<sup>2</sup> Our citations to the complaint file reference the page number of the pdf document before us on appeal.

process. Complainant asserts that, according to a grievance settlement, she was supposed to receive a job offer with a start time no earlier than 8:30 a.m.. However, she received a job offer starting at 7 a.m. Complaint File at 16. Thus, we find that this matter is a collateral attack on the grievance process. See Elenor S. v. U.S. Postal Serv., EEOC Appeal No. 2020001739 (Sept. 2, 2020) (affirmed Agency's dismissal of complainant's claim that the agency did not implement a grievance settlement agreement reasoning that it was a collateral attack on the grievance process). The proper forum for Complainant to have raised her challenges to actions which occurred during the grievance process is within that proceeding itself.

We find, however, that Complainant is also alleging, regarding claim (3), that she was treated differently than other carriers based on her protected classes regarding the number of hours of work she was provided. In an attachment to her formal complaint, Complainant stated "[a named Agency official] will only allow me to work 2.5 of the 4 hours I am capable of working within my restrictions. I feel this is disparate treatment, as management has allowed another carrier of white race,...to not only work her entire shift allowable with her restrictions, but she was allowed to answer phones, assist with the door for mail holds or package pick-ups...There are two black employees that are only working two hours and are only allowed to case mail."<sup>3</sup> Complaint File at 16.

The only questions for an agency to consider in determining whether a complaint states a claim are: (1) whether complainant is an aggrieved employee; and (2) whether complainant raises employment discrimination on a basis covered by EEO statutes. If these questions are answered in the affirmative, an agency must accept the complaint for processing regardless of its judgment of the merits. See Odoski v. Dep't of Energy, EEOC Appeal No. 01901496 (April 16, 1990). We find that this matter, Complainant alleging she was given fewer work hours based on her protected classes, states an actionable claim and was improperly dismissed by the Agency.

### CONCLUSION

Accordingly, we AFFIRM the Agency's dismissal of claims (1)-(2) and claim (3) to the extent that Complainant is alleging that the Agency was not in compliance with a grievance settlement agreement.

---

<sup>3</sup> Complainant also made this allegation in her EEO Contact Summary Form dated April 24, 2024. Complaint File at 64.

However, we REVERSE the Agency's dismissal of claim (3) regarding Complainant alleging that she was provided less hours of work based on her protected classes.

ORDER (E0224)

The Agency is ordered to process the remanded claims (portion of claim (3) alleging that Complainant was provided with fewer work hours based on protected classes) in accordance with 29 C.F.R. § 1614.108. The Agency shall acknowledge to the Complainant that it has received the remanded claims **within thirty (30) calendar days** of the date this decision was issued. The Agency shall issue to Complainant a copy of the investigative file and also shall notify Complainant of the appropriate rights **within one hundred fifty (150) calendar days** of the date this decision was issued, unless the matter is otherwise resolved prior to that time. If the Complainant requests a final decision without a hearing, the Agency shall issue a final decision **within sixty (60) days** of receipt of Complainant's request.

As provided in the statement entitled "Implementation of the Commission's Decision," the Agency must send to the Compliance Officer: 1) a copy of the Agency's letter of acknowledgment to Complainant, 2) a copy of the Agency's notice that transmits the investigative file and notice of rights, and 3) either a copy of the complainant's request for a hearing, or a copy of the final agency decision ("FAD") if Complainant does not request a hearing.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and § 1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a).

The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

STATEMENT OF RIGHTS - ON APPEAL  
RECONSIDERATION (M0124.1)

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that tend to establish 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.

Requests for reconsideration must be filed with EEOC's Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration.** A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015).

Complainant should submit their request for reconsideration, and any statement or brief in support of their request, via the EEOC Public Portal, which can be found at

<https://publicportal.eeoc.gov/Portal/Login.aspx>

Alternatively, Complainant can submit their request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files their request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the request for reconsideration.** The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(f).

#### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (T0124)

This decision affirms the Agency's final decision/action in part, but it also requires the Agency to continue its administrative processing of a portion of your complaint. 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 on both that portion of your complaint which the Commission has affirmed and that portion of the complaint which has been remanded for continued administrative processing. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency, or your appeal with the Commission, until such time as the Agency issues its final decision on your complaint. 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. If you file a request to reconsider and also file a civil action, **filing a civil action will terminate the administrative processing of your complaint.**

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 18, 2024

Date