



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

██████████
Brandon D,¹
Complainant,

v.

Michelle King,
Acting Commissioner,
Social Security Administration,
Agency.

Request No. 2024004624

Appeal No. 2024002239

Agency No. NY-23-0250-SSA

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2024002239 (July 15, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024002239 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

BACKGROUND

During the relevant time, Complainant was an applicant for employment at the Agency's Area 1 facility in New York, New York.

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.

Complainant filed a formal complaint, claiming that the Agency discriminated against him based on disability (avascular necrosis in the hip and depression) and in reprisal for prior protected EEO activity when, on November 16, 2022, Complainant was notified of his nonselection for the position of Claims Specialist, GS-0105-07, advertised under Vacancy Announcement Number DEU-11475316-22 ROII-036.

After an investigation, the Agency provided Complainant with a copy of the report of investigation (ROI) and notice of his right to request a hearing before an EEOC Administrative Judge. When Complainant did not request a hearing within the time frame provided in 29 C.F.R. § 1614.108(f), the Agency issued a final decision pursuant to 29 C.F.R. § 1614.110(b). The decision concluded that Complainant failed to prove that the Agency subjected him to discrimination as alleged. Complainant appealed.

In EEOC Appeal No. 2024002239, the Commission affirmed the Agency's finding of no discrimination. We specifically found that the Agency articulated a legitimate, nondiscriminatory reason for its actions. The Agency explained that Complainant was never referred for consideration because his responses to the Competency Assessment Interview Process (CAIP) were unfocused and did not sufficiently demonstrate the competencies of customer service, interpersonal skills, and communication. Complainant's poor performance in the screening interview was reflected in the contemporaneous comments of both the District Manager and Assistant District Manager on the CAIP evaluation form. We noted that outside of his own speculation and bare assertions, Complainant failed to rebut the Agency's legitimate, nondiscriminatory reason or offer any evidence which could establish discriminatory animus. The instant request for reconsideration from Complainant followed.

CONTENTIONS ON REQUEST

Complainant offers little in the instant request other than repeating earlier arguments and expressing his dismay with the outcome of prior EEO complaints. The Agency asks that we deny 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 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 raises little argument to support his request for reconsideration. We emphasize 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 § 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.

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. 2024002239 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 20, 2025

Date