



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

**[REDACTED]**  
Chuck C.,<sup>1</sup>  
Complainant,

v.

Deb A. Haaland,  
Secretary,  
Department of the Interior  
(Bureau of Reclamation),  
Agency.

Request No. 2024004714

Appeal No. 2024002299

Agency No. DOI-BOR-23-0195

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2024002299 (July 8, 2024). For the following reasons, we DENY Complainant's request.

**ISSUES PRESENTED**

The issues presented are whether Complainant's request for reconsideration of EEOC Appeal No. 2024002299 is timely; and whether it 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 an Electrician at the Agency's Grand Coulee Power Station in Coulee Dam, Washington. Complainant alleged discrimination based on his disability (physical), and in reprisal for prior protected EEO activity when in 2014, he was denied a reasonable accommodation, and thereby, forced to retire.

Complainant initially filed a mixed-case appeal before the Merit Systems Protection Board (MSPB),<sup>2</sup> but his appeal was dismissed for lack of jurisdiction because his decision to retire was voluntary. Complainant filed a petition for review before the Commission. In Chuck C. v. Department of the Interior, EEOC Petition Number 2023001033 (January 31, 2023), the Commission found that Complainant's claims were "non-mixed" and ordered the Agency to process his case accordingly.

Complainant filed his formal complaint with the Agency on June 19, 2023. The Agency dismissed his complaint as untimely. Complainant appealed through his non-attorney representative. The appellate decision affirmed the Agency's dismissal. The discriminatory event was alleged to have occurred on October 14, 2014, and Complainant did not file his appeal before the MSPB until October 11, 2016, approximately two years later, which was well past his 45-day deadline. Complainant did not provide sufficient justification for a waiver, estoppel, or equitable tolling of the timeline for initial EEO contact. The appellate decision noted that Complainant did not allege that he was unaware of his time limits, and the Agency provided affidavits that posters were prominently displayed showing the 45-day deadline. Chuck C. v. Dep't of the Interior, EEOC Appeal No. 2024002299 (Jul. 8, 2024).

The instant request for reconsideration from Complainant followed.

### CONTENTIONS ON REQUEST

Complainant's representative requested an extension through August 26, 2024. However, neither Complainant nor his representative submitted any supporting arguments for his request.

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<sup>2</sup> A mixed-case appeal is an appeal filed with the MSPB alleging that an appealable action was effected, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, disability, age, or genetic information. 29 C.F.R. § 1614.302(a)(2).

The Agency opposes the request. As an initial matter, the Agency asserts that the request is untimely and should be dismissed. The appellate decision was dated July 8, 2024, and Complainant's representative did not file the instant request until August 9, 2024, while noting that she received the decision on July 13, 2024. However, this was after Complainant's 30-day deadline. The Agency further argues that Complainant has not shown a clearly erroneous interpretation of material fact or law, or that the decision will have a substantial impact on the policies, practices, or operations of the Agency, and it requests that the Commission 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

#### *Timeliness of Request*

The Agency requests that the Commission dismiss the request as untimely. Complainant's non-legal representative filed the request on August 9, 2024, and she stated that she received the appellate decision on July 13, 2024. EEOC regulation provides that a party may request reconsideration of an appellate decision within 30 days of receipt. Id. When a complainant is represented by an attorney, the time frame of receipt of an official correspondence shall be calculated from the receipt of the required document by the complainant's attorney. 29 C.F.R. § 1614.605(d).

Here, Complainant's representative is not an attorney, and as such, the deadline should be calculated from the date of Complainant's receipt, but the representative did not disclose this date. When mailing appellate decisions, the Commission includes a certificate of service presuming that the decision was received within five (5) calendar days of the date of the decision. The appellate decision was mailed on July 8, 2024, and it is presumed that Complainant received it by July 13, 2024.

The 30-day deadline from July 13, 2024, is August 12, 2024, and Complainant's request was submitted on August 9, 2024. Since the request was filed before August 12, 2024, we will consider it timely.

### *Request for Reconsideration*

We determine that there is no reason to disturb the Commission's prior decision. Complainant raised no arguments to support his request for reconsideration. A request for reconsideration is not a second appeal to the Commission. Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614, 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.

EEOC regulation requires that complaints of discrimination should be brought to the attention of the EEO counselor within forty-five (45) days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within forty-five (45) days of the effective date of the action. 29 C.F.R. § 1614.105(a)(1). In addition, the date on which the person filed his or her appeal with MSPB shall be deemed to be the date of initial contact with the counselor. 29 C.F.R. § 1614.302(b). The record shows that Complainant filed his appeal before the MSPB on October 11, 2016, alleging that his retirement in October 2014 was involuntary. Complainant's initial contact was not timely within 45 days, and the Agency's dismissal was appropriate.

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. 2024002299 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 25, 2024

Date