



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

[REDACTED]  
Caroline P.,<sup>1</sup>  
Complainant,

v.

Pete Hegseth,  
Secretary,  
Department of Defense  
(Office of the Defense Inspector General),  
Agency.

Appeal No. 2024005157

Agency No. DOD-OIG-24-0005

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated August 21, 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. Upon review, the Commission finds that Complainant's complaint was properly dismissed pursuant to 29 C.F.R. § 1614.107(a)(1) for failure to state a claim.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as the Executive Director of the Missile Defense Agency. On July 5, 2024, Complainant filed a formal EEO complaint alleging that the Agency discriminated against her and subjected her to a hostile work environment on the bases of sex (female/sexual orientation) during an Agency Office of Inspector General (OIG) administrative inquiry and culminating with the

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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.

February 13, 2024 Report of Investigation which was published on the Agency's OIG Official Public Website. The OIG report included disclosures about Complainant, including "outrageous fabricated lies" and intimate details of Complainant's personal life from the prior 15 years.<sup>2</sup>

In a decision issued by the Department of the Treasury, the Agency dismissed Complainant's complaint for failure to state a claim pursuant to 29 C.F.R. § 1614.107(a)(1). The Agency determined that the complaint amounted to an impermissible collateral attack on the OIG proceeding. Accordingly, the Agency dismissed the complaint.

This appeal followed.

### CONTENTIONS ON APPEAL

On appeal, Complainant argues that the Agency erred in dismissing her complaint. Complainant contends that she was not given the same opportunity as heterosexual men to have her evidence published within the report. Complainant states that the discriminatory treatment of her caused her irreparable personal and professional harm. As a result, Complainant requests that the Commission reverse the Agency's dismissal decision.

### 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. Dep't of the Treasury, EEOC Request No. 05970077 (Mar. 13, 1997). Thus, all reasonable inferences that may be drawn from the complaint's allegations must be made in favor of the complainant.

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<sup>2</sup> Because this was deemed a conflict-of-interest case, the processing of both the informal and formal stages of the complaint were administratively handled by the EEO Office of the Department of the Treasury.

### ANALYSIS

The Commission has generally held that an employee cannot use the EEO complaint process to lodge a collateral attack on another adjudicatory proceeding, including an investigation by an agency's Inspector General's Office. Lamont C. v. Dep't of Homeland Sec., EEOC Appeal No. 2023000791 (Oct. 30, 2024) citing Complainant v. Nat'l Sec. Agency, EEOC Appeal No. 0120130732 (Feb. 11, 2014) (statements made in the course of an OIG investigation do not form the basis of an actionable claim because the proper forum for claims challenging actions taken during an OIG investigation is with the OIG, not the EEO process); 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 Commission has, however, in certain limited circumstances, found that claims alleging bias in the initiation of internal investigations may state a claim. See e.g. Bradley, Jr. v. Dep't of Homeland Sec., EEOC Appeal No. 0120112143 (January 19, 2012) (the initiation and processing of internal investigations for retaliatory motives state a viable claim). In Lamont C., the Commission stated that:

Complainant does not argue that the OIG investigation into him was initiated because of any discriminatory motive, only that the conduct of the investigators during the investigation itself was improper, challenging the merits of the questions they asked. The Commission has repeatedly stated that claims challenging actions taken during an OIG investigation are collateral attacks to the investigation and are, therefore, outside the purview of the EEO process.

Id., citing Augustine P. v. U.S. Postal Serv., EEOC Appeal No. 2022001767 (June 13, 2022). A clear reading of the record including the EEO Counselor's report and the formal complaint, reveals that Complainant is challenging the content of the OIG report as well as the manner in which the inquiry was conducted, not the motive of the individuals who requested the inquiry or those who conducted it. We therefore find that the Agency properly dismissed Complainant's complaint as a collateral attack on the OIG proceeding, which fails to state a justiciable claim.

### CONCLUSION

Accordingly, the Agency's final decision dismissing Complainant's complaint is AFFIRMED.

### 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 (S0124)

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. 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

February 13, 2025

Date