



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

[REDACTED]
Shantay H.,¹
Complainant,

v.

Denis R. McDonough,
Secretary,
Department of Veterans Affairs
(Veterans Health Administration),
Agency.

Request No. 2024005161

Appeal No. 2024002604

Agency No. 2004-565-2024-156659

DECISION ON REQUEST FOR RECONSIDERATION

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Shantay H. v. Department of Veterans Affairs, EEOC Appeal No. 2024002604 (Sept. 4, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024002604 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 Peer Specialist, GS-0312-09, at the Agency's Fayetteville VA Medical Center facility in Fayetteville, North Carolina.

On February 21, 2024, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination and a hostile work environment on the basis of disability (mental illness) when on January 8, 2024, the Chief of Behavior Health ignored Complainant's email when Complainant reported a verbal altercation that occurred on December 14, 2023, with the Acting Behavior Health Chief.

The Agency ultimately dismissed this claim pursuant to 29 C.F.R. § 1614.107(a)(1) for failure to state a claim, finding that Complainant did not suffer a harm or loss with respect to a term, condition, or privilege of her employment, nor was the action in the claim sufficiently severe or pervasive enough to alter her position of employment. Complainant appealed this decision to the Commission, arguing that the alleged altercation affected her employment, as it exacerbated her preexisting mental health disability and caused her to experience insomnia and nightmares.

In EEOC Appeal No. 2024002604 (Sept. 4, 2024), the Commission affirmed the Agency's final decision. While the Commission acknowledged that Complainant may have felt upset by the incident, the Commission nevertheless agreed with the Agency's rationale for dismissing the complaint pursuant to § 1614.107(a)(1). The instant request followed.

CONTENTIONS ON REQUEST

In requesting reconsideration, Complainant largely reiterates the same contentions that she raised in her initial appeal.

The Agency opposes the appeal and argues that Complainant failed to demonstrate that the appellate decision involved a clearly erroneous interpretation of material fact or law, or would have a substantial impact on the policies, practices, or operation of the Agency.

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 largely presents contentions that were fully considered in the initial appeal. The Commission emphasizes that a request for reconsideration is not a second appeal. See 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. 2024002604 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)

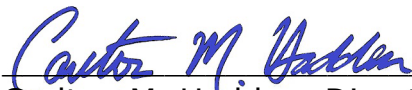
This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. 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

November 12, 2024

Date