



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

[REDACTED]
Bonny R.,¹
Complainant,

v.

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

Request No. 2024005199

Appeal No. 2022003943

Hearing No. 410-2021-00131X

Agency No. 1K-302-0019-20

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Bonny R. v. U.S. Postal Serv., EEOC Appeal No. 2022003943 (Aug. 19, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2022003943 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 Level 6 Postal Support Employee (PSE) Mail Processing Clerk at the Agency's Atlanta, Georgia Processing and Distribution Center. Complainant filed an EEO complaint alleging that the Agency discriminated against her on the bases of disability (physical) and in reprisal for prior protected EEO activity when:

1. On August 19, 2019, the supervisor threatened her when he stated he was going to take her off the clock and told her to go home, he did not need her;
2. On October 16, 2019, although she was preapproved to remain at work in the small package sorting system (SPSS) operation, her supervisor gave her instructions to get off the clock;
3. On October 29, 2019, while on lunch in the breakroom, her supervisor questioned her about her break in front of her coworkers and stated that he was going to verify her response;
4. Beginning on November 4, 2019, her supervisor removed her higher level 7 clock rings, and she did not receive compensation for the higher level work performed;
5. On December 12, 2019, she was told to get off the clock;
6. On December 26, 2019, she was not allowed to work in her area;
7. On unspecified date(s), she was not allowed to work in her area;
8. On unspecified date(s), her work hours were reduced to four hours per day; and
9. On unspecified date(s), she was not afforded the opportunity to work overtime.

Following an investigation, Complainant requested a hearing before an EEOC Administrative Judge (AJ). The AJ issued a summary judgment decision in favor of the Agency concluding that Complainant failed to prove discrimination or reprisal as alleged. Thereafter, the Agency issued a final order fully implementing the AJ's decision. Complainant appealed without submitting any arguments or contentions in support.

In the appellate decision, the Commission affirmed the Agency's final order. The Commission determined that the Agency articulated legitimate, nondiscriminatory reasons for its actions. For example, Supervisor-1 directed Complainant to clock out on October 16, 2019, because her medical restrictions limited Complainant to working eight hours per day. Supervisor-1 deleted Complainant's higher-level clock rings on November 4, 2019, because Supervisor-3 did not realize that it was not a higher-level assignment.

The Agency adjusted Complainant's hours on November 12, 2019, based on her new five-pound lifting restriction and the limited amount of work available that would not violate her restriction. Regarding Complainant not being allowed to work in "her area," PSE clerks like Complainant did not have a set bid assignment, so the Agency assigned her work within her restrictions. Supervisor-1 told Complainant to go home on December 12, 2019, because she was only scheduled to work four hours per day based on the availability of work within her five-pound restriction. Supervisor-1 changed Complainant's schedule on December 26, 2019, because PSE clerks did not have a set bid schedule and based on the volume of mail, she was not needed at 5:00 p.m.

The Commission concluded that Complainant failed to show that the Agency's reasons for its actions were pretextual. Additionally, the Commission determined that the alleged incidents were insufficiently severe or pervasive to establish a hostile work environment. As a result, the Commission found that Complainant was not subjected to discrimination, reprisal, or a hostile work environment as alleged.

The instant request for reconsideration from Complainant followed.

CONTENTIONS ON REQUEST

In her request, Complainant argues that she was not allowed to participate in discovery during the hearing process and that genuine issues of material fact remained in dispute. Accordingly, Complainant argues that summary judgment was inappropriate.

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 submission 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 did not submit any argument in support of her initial appeal. Further, Complainant raises little argument to support her request for reconsideration. Complainant presents arguments which were previously raised and considered or could have been raised during the original appeal.

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.

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. 2022003943 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

January 8, 2025

Date