



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

[REDACTED]
Jeremy S.,¹
Complainant,

v.

Mark Averill,
Acting Secretary,
Department of the Army,
Agency.

Request No. 2025000065

Appeal No. 2024003186

Hearing No. 550-2023-00210X

Agency No. ARCESF22MAY02498

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision Jeremy S. v. Dep't of the Army, EEOC Appeal No. 2024003186 (Sept. 4, 2024). For the following reasons, the Commission DENIES the request.

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024003186 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

During the period at issue, Complainant worked as an Engineer Technician at the Agency's U.S. Army Corps of Engineers San Francisco District in the Operations and Readiness Division at Lake Sonoma in Geyserville, California.

On May 26, 2022, Complainant initiated contact with an EEO Counselor. On July 19, 2022, Complainant filed a formal EEO complaint alleging that the Agency subjected him to discrimination on the basis of disability when, on February 1, 2020, Complainant was separated from the Engineer Technician, GS-0802 position, by his supervisor of Operations and Readiness Division for the San Francisco District within the U.S. Army Corps of Engineers in San Francisco, California.

Following an investigation, Complainant requested a hearing before an EEOC Administrative Judge (AJ). However, the AJ granted the Agency's motion and dismissed the complaint on the grounds Complainant failed to timely contact an EEO counselor. Thereafter, the Agency issued a final order implementing the AJ's decision. Complainant appealed without argument.

In the appellate decision, the Commission affirmed the Agency's final order dismissing the complaint finding Complainant did not provide sufficient evidence showing that the 45-day contact period should be tolled. The instant request for reconsideration from Complainant followed.

CONTENTIONS ON REQUEST

Complainant contends that he submitted evidence with his formal complaint that demonstrated his inability to be aware of the 45-day deadline for contacting an EEO counselor and that the period should be tolled.

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. Complainant presents numerous arguments which 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. 2024003186 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 5, 2025
Date