



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

[REDACTED]
Bret B.,¹
Complainant,

v.

David A. Wright,
Chairman,
Nuclear Regulatory Commission,
Agency.

Request No. 2025000460

Appeal No. 2024003367

Agency No. NRC-006-24

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2024003367 (Oct. 7, 2024). For the following reasons, the Commission DENIES the request.

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024003367 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

On January 31, 2024, Complainant filed a formal EEO complaint alleging that the Agency discriminated against him on the basis of sex (male) when, on February 12, 2024, [the Agency] revoked his job offer of student intern due to his failure to register with the Selective Service System.

Complainant had applied for a summer internship with the Agency. Following an interview in December 2023, Complainant stated that he was contacted and informed that he had been tentatively selected for an internship in the Office of Administration's Acquisition Management Division. He was told that, after he filled out the OF-306 Declaration for Federal Employment form and completed some other paperwork, he would receive a final offer. On February 12, 2024, the Agency revoked his conditional job offer.

The Agency issued a decision dismissing the complaint pursuant to 29 C.F.R. 1614.107(a)(3). The Agency found that Complainant had filed a civil action regarding the same claim in the United States District Court for the Northern District of California (5:23-cv-03018-NC).

Complainant appealed. In the appellate decision, the Commission affirmed the Agency's dismissal. The Commission reasoned that his EEO complaint and civil action complaint both raised the same sex-based claim regarding his intentional refusal to register for the Selective Service System and the Agency's revocation of the summer internship. Accordingly, the Commission affirmed the dismissal because he had filed a civil action.

Complainant filed the instant request for reconsideration.

CONTENTIONS ON REQUEST

Complainant argues that the Commission erroneously conflated the allegations in the complaints and wrongly concluded that the two complaints raised the same claim. Complainant contends that the Commission failed to address the textual arguments made against the Agency's reading of the regulations. Accordingly, Complainant requests that the Commission grant his request for reconsideration.

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. Nevertheless, we can find no basis to disturb the Commission's prior decision. Complainant presents no new arguments which were not previously raised and considered. The Commission is not required to address the merits of his complaint where the record undisputably shows that he had brought this same challenge to a United States District Court. In order to not waste resources and to grant due deference to the authority of the federal district court, we find that the dismissal was proper. See Von E. v. Dep't of the Treasury, EEOC Appeal No. 2020004947 (Feb. 17, 2022).

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

Therefore, 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. 2024003367 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 13, 2025
Date