



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

[REDACTED]  
Bart L.,<sup>1</sup>  
Complainant,

v.

Megan J. Brennan,  
Postmaster General,  
United States Postal Service  
(Headquarters),  
Agency.

Appeal No. 2020002912

Agency No. 6H-000-0001-20

**DECISION**

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated February 3, 2020, dismissing his 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.

**BACKGROUND**

At the time of events giving rise to this complaint, Complainant was a former Forensic Computer Analyst with the Agency. Complainant resigned on May 27, 2017.

On December 30, 2019, Complainant filed a formal complaint alleging that the Agency subjected him to discrimination on the bases of race (Caucasian), sex (male), and reprisal for prior protected EEO activity under Title VII of the Civil Rights Act of 1964 when, on July 11, 2019, an Agency Representative attempted to intimidate Complainant and his witnesses by questioning and making statements made during a hearing on Complainant's prior EEO cases.

The Agency dismissed the complaint, pursuant to 29 C.F.R. § 1614.107(a)(1), for failure to state a claim. The instant appeal followed.

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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.

### ANALYSIS AND FINDINGS

29 C.F.R. § 1614.107(a)(8) provides that the Agency shall dismiss a complaint that alleges dissatisfaction with the processing of a previously filed complaint. These types of complaints are commonly referred to as “spin off” complaints, and they do not state an independent claim.

To the extent that Complainant is alleging in the current complaint that the Agency Representative attempted to intimidate him and his witnesses, we agree that it does not state a claim. We find it is appropriately viewed as a “spin-off complaint” subject to dismissal under 29 C.F.R. § 1614.107(a)(8). Complainant should have raised any claims regarding the processing of a complaint or the actions and testimony of individuals while that complaint is being processed, such as with the AJ, and not in a new complaint. According to EEOC’s Management Directive (MD-110) at 9-16, such claims should be processed as part of the original complaint. If a final Agency decision is issued on a complaint where a complainant has an issue with its processing, he or she may also raise the concerns in an appeal.

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

### STATEMENT OF RIGHTS - ON APPEAL RECONSIDERATION (M0617)

The Commission may, in its discretion, reconsider the decision in this case if the Complainant or the Agency submits a written request containing arguments or evidence which 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 to reconsider, with supporting statement or brief, must be filed with the Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. A party shall have **twenty (20) calendar days** of receipt of another party’s timely request for reconsideration in 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). All requests and arguments must be submitted to the Director, Office of Federal Operations, Equal Employment Opportunity Commission. Complainant’s request may be submitted via regular mail to P.O. Box 77960, Washington, DC 20013, or by certified mail to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, the request to reconsider shall be deemed timely filed if it is received by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604. The agency’s request must be submitted in digital format via the EEOC’s Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). The request or opposition must also include proof of service on the other party.

Failure to file within the time period will result in dismissal of your request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. Any supporting documentation must be submitted with your 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(c).


COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (S0610)

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 his or her 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:

  
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Carlton M. Hadden, Director  
Office of Federal Operations

August 13, 2020  
Date