



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

[REDACTED]
Rosamaria F.,¹
Complainant,

v.

James E. McPherson,
Acting Secretary,
Department of the Navy,
Agency.

Request No. 2020003073

Appeal No. 0120181068

Agency No. DON-17-00030-01579

DISMISSAL OF REQUEST FOR RECONSIDERATION

On March 16, 2020, the Agency requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 0120181068 (February 14, 2020). 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).

On March 2, 2020, Complainant filed a civil action (identified as civil action 1:20cv610) in the United States District Court for the District of Columbia.² The Agency notified the Commission about the civil action filed by Complainant on April 11, 2020. The record discloses that the claims raised therein are the same as those raised in the instant complaint. The regulation found at 29 C.F.R. § 1614.409 provides that the filing of a civil action “shall terminate Commission processing of the appeal.”

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.

² The Court’s electronic docket reflects that the civil action is still pending as of November 5, 2020.

Commission regulations mandate dismissal of the EEO complaint under these circumstances so as to prevent a complainant from simultaneously pursuing both administrative and judicial remedies on the same matters, wasting resources, and creating the potential for inconsistent or conflicting decisions, and in order to grant due deference to the authority of the federal district court. See Stromgren v. Dep't of Veterans Affairs, EEOC Request No. 05891079 (May 7, 1990); Sandy v. Dep't of Justice, EEOC Appeal No. 01893513 (Oct. 19, 1989); Kotwitz v. U.S. Postal Serv., EEOC Request No. 05880114 (Oct. 25, 1988). Accordingly, it is the decision of the Commission to DISMISS the Agency's request for reconsideration. See 29 C.F.R. § 1614.409; see also Jones v. Dep't of Defense, EEOC Request No. 05980497 (May 6, 1999).

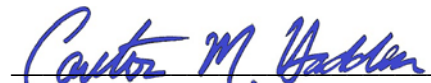
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0610)

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 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.

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 9, 2020
Date