



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

[REDACTED]  
Josiah M.,<sup>1</sup>  
Complainant,

v.

Louis DeJoy,  
Postmaster General,  
United States Postal Service,  
Agency.

Request No. 2020004028

Appeal No. 2019003865

Hearing No. 520-2017-00547X

Agency No. 4B-060-0146-16

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Josiah M. v. U.S. Postal Serv., EEOC Appeal No. 2019003865 (Feb. 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).

In his underlying complaint, Complainant, a Carrier Technician at the Agency's facility in Holyoke, Massachusetts, claimed that he was subjected to discrimination on the basis of his disability (Post-Traumatic Stress Disorder, Anxiety) when since June 15, 2016, his requests to transfer from the Holyoke Post Office were denied.

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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.

Following an investigation, Complainant requested a hearing before an EEOC Administrative Judge (AJ). The AJ assigned to the matter dismissed the hearing request and remanded the complaint to the Agency for issuance of a final decision. The Agency issued a final decision wherein it determined that no discrimination occurred. The Agency found that Complainant was not a qualified individual with a disability based on documentation that Complainant was not able to work during the period at issue. The Agency further found under a disparate treatment analysis, even assuming *arguendo* that Complainant established a *prima facie* case of disability, the Agency articulated legitimate, nondiscriminatory reasons for its actions which Complainant failed to establish was pretext for discrimination. As a result, the Agency found that Complainant was not subjected to discrimination as alleged.

On appeal, the Commission affirmed the Agency's final decision finding that no discrimination occurred. We found that Complainant failed to establish a *prima facie* case of disability discrimination. We determined that Complainant was not a qualified individual with a disability during the period in question because he did not show that he was able to perform the essential functions of his position, with or without accommodation. Thus, we concluded that Complainant would not be eligible for the reasonable accommodation of reassignment.

In his request for reconsideration, Complainant expresses his disagreement with the previous decision and reiterates arguments previously made on appeal. The Commission emphasizes that a request for reconsideration is not a second appeal. 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. The Commission finds that the other arguments raised by Complainant in the instant request for reconsideration were largely raised in his previous appeal, fully considered, and rejected. Moreover, the Commission finds that Complainant has not presented any evidence to support reconsideration of the Commission's finding that he failed to show that he was subjected to discrimination.

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. 2019003865 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 (P0610)

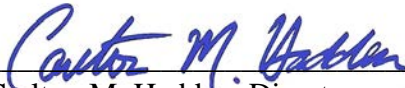
This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision.

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:

  
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Carlton M. Hadden, Director  
Office of Federal Operations

October 6, 2020

Date