



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

[REDACTED]  
Princess B.,<sup>1</sup>  
Complainant,

v.

Antony J. Blinken,  
Secretary,  
Department of State,  
Agency.

Appeal No. 2020001227

Hearing No. 570-2014-01339X

Agency No. DOS-0045-14

**DECISION**

Complainant filed a timely appeal, pursuant to 29 C.F.R. § 1614.403, from the Agency's October 23, 2019 final order concerning an equal employment opportunity (EEO) complaint alleging 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., and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq.

At the time of events giving rise to this complaint, Complainant was employed by the Agency as a Financial Management Specialist, GS-11, at the Agency's Bureau of the Comptroller and Global Financial Services in Charleston, South Carolina.

On December 27, 2013, Complainant filed an EEO complaint alleging discrimination by the Agency on the bases of national origin (Slovak), disability (legally blind),<sup>2</sup> and reprisal for prior protected EEO activity under Title VII of the Civil Rights Act of 1964 Section 501 of the Rehabilitation Act of 1973 when:

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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.

<sup>2</sup> For purposes of this decision the Commission assumes, without finding, that Complainant is an individual with a disability. 29 C.F.R. § 1630.2(g)(1).

1. On August 8, 2013, Complainant was not selected for a Financial Analyst position (Vacancy announcement No. SVA/RM-2013-0012); and
2. On August 8, 2013, Complainant was not selected for a Financial Analyst position (Vacancy announcement No. SVA/RM 2013-0011).

After its investigation into the complaint, the Agency provided Complainant with a copy of the report of investigation and notice of right to request a hearing before an Equal Employment Opportunity Commission (EEOC or Commission) Administrative Judge (AJ). Complainant timely requested a hearing. The Agency submitted a motion for a decision without a hearing. The AJ subsequently issued a decision by summary judgment in favor of the Agency.

The Agency issued its final order adopting the AJ's finding that Complainant failed to prove discrimination as alleged. The instant appeal followed.

The Commission's regulations allow an AJ to grant summary judgment when he or she finds that there is no genuine issue of material fact. 29 C.F.R. § 1614.109(g). An issue of fact is "genuine" if the evidence is such that a reasonable fact finder could find in favor of the non-moving party. Celotex v. Catrett, 477 U.S. 317, 322-23 (1986); Oliver v. Digital Equip. Corp., 846 F.2d 103, 105 (1st Cir. 1988). A fact is "material" if it has the potential to affect the outcome of the case. In rendering this appellate decision, we must scrutinize the AJ's legal and factual conclusions, and the Agency's final order adopting them, *de novo*. See 29 C.F.R. § 1614.405(a)(stating that a "decision on an appeal from an Agency's final action shall be based on a de novo review..."); see also Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO-MD-110), at Chap. 9, § VI.B. (as revised, August 5, 2015)(providing that an administrative judge's determination to issue a decision without a hearing, and the decision itself, will both be reviewed *de novo*).

In order to successfully oppose a decision by summary judgment, a complainant must identify, with specificity, facts in dispute either within the record or by producing further supporting evidence and must further establish that such facts are material under applicable law. Such a dispute would indicate that a hearing is necessary to produce evidence to support a finding that the agency was motivated by discriminatory animus. Here, however, Complainant has failed to establish such a dispute. Even construing any inferences raised by the undisputed facts in favor of Complainant, a reasonable fact-finder could not find in Complainant's favor.

We note in this regard that Complainant argues that a member of the interview panel (IP: "American") "reacted viscerally" to comments Complainant made during the interview concerning Complainant's country of birth, and that IP's reaction constitutes evidence of discrimination based on national origin. Specifically, Complainant averred that she inadvertently said "my country" when discussing her work experience in Slovakia, and she also indicated that the banking system in Slovakia was more advanced than in the US because in Slovakia people did not use paper checks, but instead "processed exclusively electronic fund transfers to vendors and employees for many years."

Complainant maintains that she made such comments in response to being asked during the interview if she had any experience with electronic fund transfers.

Following a review of the record, and construing any inferences in favor of Complainant, we find that the facts as alleged by Complainant do not establish that IP harbored discriminatory animus towards Complainant's national origin, or that her non-selection was based on her national origin. Instead, the record established that any negative feelings IP may have had towards Complainant stemmed from her understanding of Complainant's comments, comments IP viewed as displaying insufficient loyalty towards the United States. Had Complainant not made the specific statements, there is no basis to believe IP would have "reacted viscerally," despite having, according to Complainant, full knowledge of Complainant's national origin. In sum, the evidence indicates that IP "reacted viscerally" to Complainant's comments, and not to Complainant's national origin. While Complainant may understandably feel that IP completely misunderstood her comments, we note that IP's misunderstanding of the comments does not establish that she harbored any animus towards Complainant's protected bases.

Upon careful review of the AJ's decision and the evidence of record, as well as the parties' arguments on appeal, we conclude that the AJ correctly determined that the preponderance of the evidence did not establish that Complainant was discriminated against by the Agency as alleged.

Accordingly, we AFFIRM the Agency's final order adopting the AJ's decision.

**STATEMENT OF RIGHTS - ON APPEAL**  
**RECONSIDERATION (M0920)**

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that 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 for reconsideration must be filed with EEOC's Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration**. A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within 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).

Complainant should submit his or her request for reconsideration, and any statement or brief in support of his or her request, via the EEOC Public Portal, which can be found at <https://publicportal.eeoc.gov/Portal/Login.aspx>

Alternatively, Complainant can submit his or her request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files his or her request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the 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)

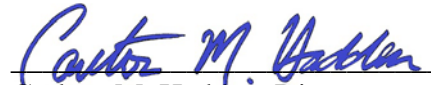
You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department 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

March 30, 2021  
Date