



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

[REDACTED]
Donna A.,¹
Complainant,

v.

Christine Wormuth,
Secretary,
Department of the Army,
Agency.

Request No. 2021002891

Appeal No. 2020001435

Hearing No. 570-2015-00539X

Agency No. ARCEHECSA14FEB00475

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. 2020001435 (March 16, 2021). 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).

At the time of events giving rise to this complaint, Complainant was employed by the Agency as a Management Analyst, GS-0343-14, in the Agency's Resource Management Manpower Force Analysis Division in Washington, D.C.

On May 13, 2014 (and subsequently amended), Complainant filed an EEO complaint alleging that the Agency discriminated against her on the bases of race (African American), sex (female), color ("dark"), and in reprisal for prior protected EEO activity when:

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.

1. Complainant was subjected to a hostile work environment as evidenced by:
 - a. From January 26, 2014, through February 8, 2014, while on temporary duty (TDY) to Huntsville, Alabama, her supervisor (S1) humiliated, bullied, and yelled at her and threatened her with a poor performance evaluation;
 - b. In 2013, S1 increased her workload as compared to her white peers and on unspecified dates, berated her for incorrect submission of her Flexible Schedule although she used the same schedule as her co-worker;
 - c. On June 24, 2014, S1 gave her a cellulite reduction brochure which depicted a thin, white-complexioned woman; and
 - d. On or about July 1, 2014, her supervisor sent her a “friend” request via Facebook.
2. Complainant was subjected to reprisal when:
 - a. On February 8, 2017, Complainant learned that S1 had sent her a Facebook friend request;
 - b. On February 9, 2017, upon checking the permission settings on her computer, Complainant discovered that S1 had full access to her Outlook calendar, which included location and subject of appointments, after S1’s access had been removed in or about the first week of December 2016; and
 - c. On February 15 and 17, 2017, Complainant observed that updates on her computer were being sent to a folder with S1’s name. leading her to believe that her computer was under S1’s surveillance.

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 summary judgment. 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. Complainant appealed.

In EEOC Appeal No. 2020001435, the Commission concluded that the evidence of record fully supported the AJ’s decision that Complainant’s allegations of discrimination had not been proven.

In her request for reconsideration of that decision, Complainant essentially repeats the same arguments made and considered during her original appeal. We emphasize that a request for reconsideration is not a second appeal to the Commission. See EEO MD-110, Ch. 9, § VII.A. 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.

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. 2020001435 remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request.

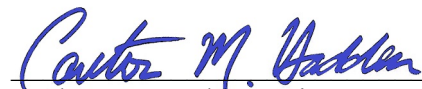
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0610)

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:



Carlton M. Hadden, Director
Office of Federal Operations

September 2, 2021
Date