



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

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

v.

Louis DeJoy,  
Postmaster General,  
United States Postal Service  
(Field Areas and Regions),  
Agency.

Request No. 2021003583

Appeal No. 2020002804

Hearing No. 430-2017-00478X

Agency No. 4K270005717

**DECISION ON REQUEST FOR RECONSIDERATION**

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Trey M. v. U.S. Postal Service, EEOC Appeal No. 2020002804 (Apr. 26, 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).

During the period at issue, Complainant worked as a City Carrier, Q-01, at the Agency's Durham East Station in Durham, North Carolina.

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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.

On June 6, 2017, Complainant filed a formal EEO complaint claiming that the Agency discriminated against him based on race (African American), sex (male), and in reprisal for prior protected EEO activity arising under Title VII when he was subjected to harassment. Complainant's complaint included the following allegations:

1. on July 2, 2016, a co-worker (CW1) left a note indicating that she wanted to pursue a romantic relationship with Complainant;
2. on August 19, 2016, September 8, 13, and 19, 2016, Complainant has been harassed and threatened by the Supervisor and the Manager;
3. on August 19, 2016, September 8, 13, and 19, 2016, after reporting that Complainant was receiving unwanted text messages and/or notes and felt threatened, management failed to properly address the matter;
4. on August 19, 2016, September 8, 13, and 19, 2016, after contacting the Office of Inspector General (OIG) to report that Complainant received unwanted text messages and/or notes, and felt threatened, the OIG failed to properly address the matter;
5. on February 16, 2017, CW1 was assigned to assist Complainant on his route; and
6. on February 19 and 20, 2017, Complainant's personal vehicle was vandalized.

The Agency initially issued a final decision finding no discrimination. Complainant appealed. In EEOC Appeal No. 0120180781 (July 23, 2019), we reversed the Agency's decision. The Commission found that Complainant was discriminated against based on sex when he was sexually harassed by CW1 and Complainant was discriminated against based on reprisal when he was assigned to work with CW1 after he reported the sexual harassment. The Commission further found that Complainant was subjected to harassment from June 2016 through March 2017.

Consequently, the Agency was ordered to take the following remedial actions: (1) issued a decision on Complainant's right to compensatory damages; (2) provide eight hours of in-person interactive training for Supervisor 1, Supervisor 2, Manager SC, and Manager POO regarding hostile work environment and reprisal discrimination; (3) provide four hours of in-person interactive training for all members of the workforce at the Durham East Station within 90 days of the date of the decision; (4) provide eight hours of in-person interactive training for CW1 regarding hostile work environment in the workplace; (5) consider disciplining CW1; (6) provide reasons, in the event that the Agency decided not to impose any disciplinary actions against CW1; (7) consider disciplinary action against identified responsible management officials; and (8) the posting of a notice.

On November 6, 2019, the Agency issued a final decision on compensatory damages awarding Complainant \$7,500 in compensatory damages. The Agency, however, denied Complainant's request for restoration of 192 hours of sick or annual leave. Complainant's appeal followed.

On April 26, 2021, the Commission issued a decision in EEOC Appeal No. 2020002804 affirming the Agency's November 6, 2019 final decision on compensatory damages. The Commission also determined that the Agency complied with the posting and consideration of discipline requirements for CW1 specified in the 0120180781 Order.

In the instant request for reconsideration, Complainant, through counsel, disputes the Commission's determination that the Agency complied with the posting and training requirements in the 0120180781 Order.<sup>2</sup> Specifically, Complainant argues that the Agency failed to provide the four-hour training to all staff, failed to post the notice as required, and therefore, was not in compliance.<sup>3</sup> In issuing our prior decision in EEOC Appeal No. 2020002804, we carefully examined the evidence presented concerning the Agency's compliance with our previous order and were satisfied with the Agency's actions. We emphasize that a request for reconsideration is not a second appeal to the Commission. 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. 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. 2020002804 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.

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<sup>2</sup> Complainant does not dispute the Commission's determination on compensatory damages.


<sup>3</sup> The record indicates that the Agency submitted a "verification of training" document listing all employees who attended the four-hour training on specific dates. Additionally, the Agency submitted email correspondence confirming that the required notice was posted on the Agency's website for the required period. Aside from two sworn statements Complainant submits on appeal, Complainant does not submit any other documentation to refute the Commission's determination that the Agency has complied with the 0120180781 Order.

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

September 16, 2021  
Date