



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

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[REDACTED]  
[REDACTED] States Postal Service  
(Field Areas and Regions),  
Agency.

Appeal No. 2021004340

Agency No. 1C-291-0013-21

**DECISION**

Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated June 23, 2021, dismissing her complaint of unlawful 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. The Commission accepts the appeal in accordance with 29 C.F.R. § 1614.405.

**BACKGROUND**

At the time of events giving rise to this complaint, Complainant worked as a Mail Processing Clerk, GS 06 at the Agency's Columbia Processing & Distribution Center in Columbia, South Carolina. On June 1, 2021, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination on the bases of race (African-American), sex (female), and reprisal for prior protected EEO activity under Title VII of the Civil Rights Act of 1964 when:

1. in January 2021, she was addressed openly by management on the workroom floor to convey that she would be issued a write-up for coming back from lunch late and removing her from automation;
2. on March 11, 2021, her leave request was 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.

3. on March 19, 2021, she was written up because her book bag was not clear;
4. on March 31, 2021, her bereavement leave was denied;
5. on April 8, 2021, her COVID leave was denied;
6. on May 2, 2021, her change of schedule was revoked;
7. on unspecified dates, she was charged leave without pay (LWOP) and absent without leave (AWOL); and,
8. on unspecified dates, she was assigned a machine by herself.

On June 23, 2021, the Agency issued a decision dismissing the complaint. Specifically, the Agency reasoned that the complaint was filed beyond the fifteen-day limitation.

#### CONTENTIONS ON APPEAL

Complainant argues on appeal that her complaint was timely filed, or alternatively, that the time limit should be extended. Specifically, she contends that she did not receive the Agency decision until May 17, 2021, when she returned home from being out of town. Because the document stated that receipt would be assumed within five days of issuance and there was no confirmation of issuance, Complainant asserts she had until June 2, 2021 to timely file the complaint. Additionally, Complainant describes unsuccessful efforts to mail the complaint on May 30, 2021. When she was able to mail the complaint on May 31, 2021, a holiday, the filing was not postmarked until June 1, 2021.

The Agency submits no arguments on appeal.

#### ANALYSIS AND FINDINGS

EEOC Regulation 29 C.F.R. § 1614.106(b) requires the filing of a complaint with an appropriate agency official within 15 calendar days after the date of receipt of the notice of the right to file a formal complaint. An agency shall dismiss a complaint or a portion of a complaint that fails to comply with the 15-day time limit contained in 29 C.F.R. § 1614.107(a)(2), unless the agency extends the time limits in accordance with 29 C.F.R. § 1614.604(c). Under 29 C.F.R. § 1614.604(c), this time limit is subject to waiver, estoppel, and equitable tolling.

The record discloses that the Notice of Right to File a Formal Complaint (hereinafter “Notice”) was delivered to Complainant’s address of record on May 14, 2021. Specifically, a copy of a USPS “Tracking and Reporting” form states that the Notice was “Delivered, left with Individual” at 11:49 on May 14, 2021. Therefore, the fifteen-day limit expired on May 29, 2021. As correctly noted in the Agency’s decision, since that was a Saturday the due date moved to the next business day, Monday, May 31, 2021. However, the Agency failed to acknowledge that

May 31, 2021, was Memorial Day, a federal holiday. EEOC Regulation 29 C.F.R. § 1614.604(d) provides that in calculating time periods the first day counted shall be the day after the event and the last day shall be included “unless it falls on a Saturday, Sunday, or *Federal Holiday*, in which case the period is extended to include the next business day” (emphasis added). Therefore, Complainant’s June 1, 2021 complaint was timely filed.

### CONCLUSION

The Agency’s decision to dismiss the complaint was improper and is REVERSED. The complaint is REMANDED to the Agency in accordance with the Order below.

### ORDER (E0610)

The Agency is ordered to process the remanded claims in accordance with 29 C.F.R. § 1614.108. The Agency shall acknowledge to the Complainant that it has received the remanded claims **within thirty (30) calendar days** of the date this decision becomes final. The Agency shall issue to Complainant a copy of the investigative file and also shall notify Complainant of the appropriate rights **within one hundred fifty (150) calendar days** of the date this decision becomes final, unless the matter is otherwise resolved prior to that time. If the Complainant requests a final decision without a hearing, the Agency shall issue a final decision **within sixty (60) days** of receipt of Complainant’s request.

A copy of the Agency’s letter of acknowledgment to Complainant and a copy of the notice that transmits the investigative file and notice of rights must be sent to the Compliance Officer as referenced below.

### IMPLEMENTATION OF THE COMMISSION’S DECISION (K0610)

Compliance with the Commission’s corrective action is mandatory. The Agency shall submit its compliance report within thirty (30) calendar days of the completion of all ordered corrective action. The report shall be submitted to the Compliance Officer, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 77960, Washington, DC 20013. The Agency’s report must contain supporting documentation, and the Agency must send a copy of all submissions to the Complainant. If the Agency does not comply with the Commission’s order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission’s order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled “Right to File A Civil Action.” 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated. See 29 C.F.R. § 1614.409.

## STATEMENT OF RIGHTS - ON APPEAL

### RECONSIDERATION (M0610)

The Commission may, in its discretion, reconsider the decision in this case if the Complainant or the Agency submits a written request containing arguments or evidence which 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 to reconsider, with supporting statement or brief, must be filed with the Office of Federal Operations (OFO) within thirty (30) calendar days of receipt of this decision or within twenty (20) calendar days of receipt of another party's timely request for reconsideration. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at 9-18 (Nov. 9, 1999). All requests and arguments must be submitted to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 77960, Washington, DC 20013. In the absence of a legible postmark, the request to reconsider shall be deemed timely filed if it is received by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604. The request or opposition must also include proof of service on the other party.

Failure to file within the time period will result in dismissal of your request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. Any supporting documentation must be submitted with your 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).

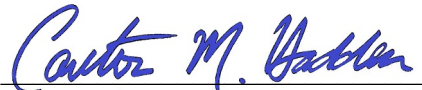
### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0610)

This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court within ninety (90) calendar days from the date that you receive this decision. In the alternative, you may file a civil action after one hundred and eighty (180) calendar days of the date you filed your complaint with the Agency, or filed your appeal with the Commission. 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. 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:



Carlton M. Hadden, Director  
Office of Federal Operations

October 18, 2021

Date