



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Office of Federal Operations**

**P.O. Box 77960**

**Washington, DC 20013**

[REDACTED]  
George V.,<sup>1</sup>  
Complainant,

v.

Lloyd J. Austin III,  
Secretary,  
Department of Defense  
(Defense Logistics Agency),  
Agency.

Appeal No. 2021004531

Agency No. DLAN-21-0104

**DECISION**

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision dated July 12, 2021, dismissing his complaint alleging 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., and the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 et seq.

**BACKGROUND**

At the time of events giving rise to this complaint, Complainant worked as a Material Examiner & Identifier at the Agency's Defense Logistics Distribution facility in Susquehanna, Pennsylvania.

On June 11, 2021, Complainant filed a formal complaint alleging that the Agency subjected him to discrimination on the bases of race (African American), color (Black), and disability when, on March 1, 2021, the Agency began payroll deductions for Federal Employee Health Benefits.

The Agency dismissed the Complainant's complaint, pursuant to 29 C.F.R. § 1614.107(a)(1), for failure to state a claim. In doing so, the Agency found that the complaint was a collateral attack on the proceedings of another forum, specifically, the administrative process of the Debt

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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.

Collection Act. In addition, the Agency dismissed Complainant's complaint for not following timelines delineated in 29 C.F.R. § 1614.107(a)(2).

The instant appeal followed.

### ANALYSIS AND FINDINGS

At issue is whether the Agency properly dismissed the complaint for failure to state a claim, on the basis that it was a collateral attack on the proceedings of another forum, specifically, the Debt Collection Act. The Commission has held that an employee cannot use the EEO complaint process to lodge a collateral attack on another proceeding. See Wills v. Department of Defense, EEOC Request No. 05970596 (July 30, 1998); Kleinman v. U.S. Postal Service, EEOC Request No. 05940585 (Sept. 22, 1994); Lingad v. U.S. Postal Service, EEOC Request No. 05930106 (June 25, 1993). A claim that can be characterized as a collateral attack, by definition, involves a challenge to another forum's proceeding, such as a grievance process, the workers' compensation process, or state or federal litigation. See Fisher v. Department of Defense, EEOC Request No. 05931059 (July 15, 1994). In addition, the Commission has no jurisdiction to interfere with monetary disputes involving an agency of the United States government and a debtor. Any claimed debt must be resolved through the administrative process of the Debt Collection Act. See 31 U.S.C. § 3711 et. seq.

In the instant case, Complainant asserts that the Agency took payroll deductions for Federal Employee Health Benefits. The proper forum for Complainant to challenge the propriety of the collection process and validity of his debt is through the administrative process of the Debt Collection Act. See Baughman v. Department of Army, EEOC Appeal No. 01900865 (February 26, 1990). As such, we find the Agency properly dismissed Complainant's complaint for failure to state a claim because it raises a matter that is outside the Commission's jurisdiction.

As mentioned, the Agency also dismissed Complainant's complaint for not following timelines delineated in 29 C.F.R. § 1614.107(a)(2). Because we find that the complaint should be dismissed for other reasons, we do not need to consider alternative grounds for dismissal.

### CONCLUSION

Accordingly, the Agency's final decision dismissing Complainant's complaint is AFFIRMED.

### 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).

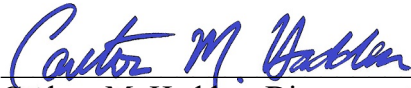
#### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (S0610)

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:



Carlton M. Hadden, Director  
Office of Federal Operations

January 10, 2022

Date