



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

[REDACTED]
Jeffrey R.,¹
Complainant,

v.

Louis DeJoy,
Postmaster General,
United States Postal Service,
(Pacific Area),
Agency.

Request No. 2022000178

Appeal No. 2020002824

Agency No. 4F-967-0006-12

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Jeffrey R. v. USPS, EEOC Appeal No. 2020002824 (September 13, 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 relevant time, Complainant worked for the Agency as a City Letter Carrier in Honolulu, Hawaii. On October 22, 2012, and December 13, 2012, Complainant filed two separate formal complaints alleging discrimination based on disability, as well as unlawful retaliation for prior protected activity, when Complainant was denied reasonable

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.

accommodations which resulted in the inability to perform the duties of his position and the reduction and elimination of his work hours.

In Jeffrey R. v. U.S. Postal Serv., EEOC Appeal No. 0120180058 (Sept. 6, 2019), the Commission concluded that the Agency had violated the Rehabilitation Act by delaying its response to Complainant's request for reasonable accommodations. To remedy the finding of discrimination, the Commission ordered the Agency to determine the amount of backpay owed to Complainant between the period of January 25, 2012 to April 22, 2015 and pay Complainant the assessed backpay to the extent it was not mitigated by a related arbitrator's award in a grievance filed by Complainant on the same matter. The Commission also ordered the Agency to conduct a supplemental investigation into Complainant's entitlement to compensatory damages and award Complainant the amount determined. See id.

In accordance with the Commission's order, the Agency conducted a supplemental investigation and awarded \$807.00 in pecuniary compensatory damages. Regarding non-pecuniary compensatory damages, the Agency determined that Complainant was entitled to an award of \$35,000.

In EEOC Appeal No. 2020002824, we modified the Agency's final decision, by awarding \$5,151,60 in past pecuniary compensatory damages, and \$140,000.000 in non-pecuniary compensatory damages.

In the instant request for reconsideration, Complainant through counsel, argues that the amount of compensatory damages, although increased in the prior appellate decision, remains an inadequate remedy. We have carefully considered Complainant's arguments and note that the prior decision extensively analyzed this issue, and its computation is clearly supported by the record. We note that there is considerable replication of the arguments on damages raised in the instant request, as made on appeal below. 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. 2020002824 remains the Commission's decision, including its Order. There is no further right of administrative appeal on the decision of the Commission on this request.

ORDER

Within sixty (60) calendar days from the date this decision is issued, to the extent the Agency has not done so already, the Agency shall pay Complainant:

1. \$5,151.60 in past pecuniary compensatory damages.
2. \$140,000.00 in nonpecuniary compensatory damages.

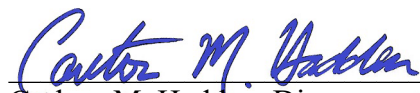
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0610)

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

March 21, 2022
Date