



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

[REDACTED]  
Billie S.,<sup>1</sup>  
Complainant,

v.

Merrick B. Garland,  
Attorney General,  
Department of Justice  
(Federal Bureau of Investigation),  
Agency.

Appeal No. 2022002502

Hearing No. 570-2018-00622X

Agency No. FBI-2017-00283

**DECISION**

On April 5, 2022, Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission), pursuant to 29 C.F.R. § 1614.403(a), from the Agency's March 7, 2022, final order concerning his equal employment opportunity (EEO) complaint alleging 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 Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq.

**BACKGROUND**

At the time of events giving rise to this complaint, Complainant worked as a Human Resources Specialist at the Agency's Human Resources Division, FBI Headquarters in Washington, D.C.

On August 31, 2017, Complainant filed an EEO complaint alleging that the Agency discriminated against him on the bases of sex (male), disability, and reprisal for prior protected EEO activity under Section 501 of the Rehabilitation Act of 1973 when his supervisor subjected him to a hostile work environment.

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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.

Complainant alleged, among other things, he was berated, bullied, insulted, and regularly singled out during team meetings, his regular day off was modified and eventually eliminated; he was made to provide medical documentation for absences less than three days; the Agency denied his request for a reasonable accommodation, and on May 30, 2018, he was removed from federal service.

When the Agency did not assign an investigator to investigate the complaint in a timely manner, Complainant filed a request for a hearing before an EEOC Administrative Judge (AJ) and a motion for sanctions. The AJ assigned to the case found that sanctions in the form of default judgment were warranted for the Agency's failure to comply with the requirements of 29 C.F.R. §1614.108(f) and timely process the investigation of Complainant's complaint. The AJ noted that the Agency took 417 days to complete its investigation, which was 237 days after the regulatory deadline expired and found that the Agency failed to provide sufficient reason for the delay. The AJ therefore issued default judgment against the Agency on February 23, 2021.

Thereafter, pursuant to the AJ's order, Complainant filed a Preliminary Relief statement, seeking compensatory damages and equitable relief. The AJ found that Complainant did not establish a prima facie case of discriminated based on sex, disability, or reprisal. The AJ concluded, however, that Complainant was still entitled to an award of compensatory damages and awarded Complainant \$800 in compensatory damages, as well as attorney's fees in the amount of \$30,149.20. The AJ also ordered the Agency to provide training, consider discipline for the responsible management officials, and post a notice. The Agency subsequently issued a final order adopting the AJ's default judgment and accepting the AJ's award of compensatory damages and attorney's fees.

The instant appeal from Complainant followed.

### CONTENTIONS ON APPEAL

On appeal, Complainant first argues that the AJ erred in finding that Complainant did not establish a prima facie case. He then contends the AJ's award of compensatory damages should be increased to \$300,000 to compensate Complainant for the significant emotional and physical harm he suffered as a result of the Agency's actions and that he should also be awarded interest on the award, taxes, back pay, future medical expenses, the restoration of leave, rescission of the Leave Restriction letters, issuance of a successful performance rating for the 2017 performance period, and reinstatement to a comparable position.

In response, the Agency argues that the AJ correctly found that Complainant could not establish a prima facie case. The Agency also contends that the AJ properly awarded Complainant \$800 in compensatory damages in light of Complainant's failure to establish a prima facie case.

### ANALYSIS AND FINDINGS

In rendering this appellate decision, we must scrutinize the AJ's legal *and* factual conclusions, and the Agency's final order adopting them, de novo. See 29 C.F.R. § 1614.405(a) (stating that a "decision on an appeal from an Agency's final action shall be based on a de novo review . . ."); see also Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9, § VI.B. (Aug. 5, 2015) (providing that an administrative judge's determination to issue a decision without a hearing, and the decision itself, will both be reviewed de novo).

Here, neither party challenge the AJ's default judgment as a sanction for the Agency's failure to comply with EEOC regulations and its untimely completion of the investigation. Therefore, the default judgment against the Agency is summarily affirmed and will not be discussed further in this decision. Rather, this appeal concerns the remedies Complainant is entitled to.

#### *Prima Facie Case*

Although the AJ found Complainant entitled to an award of compensatory damages, we will address Complainant's argument that the AJ erred in finding he did not establish a prima facie case because we find that the AJ's finding affected the amount awarded in compensatory damages. "After deciding to issue a default judgment for a complainant, an AJ needs to determine if there is "evidence that satisfies the court" that establishes the complainant's right to relief. One way to show a right to relief is to establish the elements of a prima facie case." Adkins v. Fed. Deposit Ins. Corp., EEOC Appeal No. 0720080052 (Jan. 13, 2012) (citing Royal v. Dep't of Veterans Affs., EEOC Request No. 0520080052 (Sept. 25, 2010); Matheny v. Dep't of Justice, EEOC Request No. 05A30373 (Apr. 21, 2005)). Even if Complainant failed to establish the elements of a prima facie case in either complaint, the absence of such a finding would not preclude Complainant's right to relief on a default judgment. Michale v. Dep't of the Interior, EEOC Appeal No. 0120143043 (Apr. 20, 2018) (A complainant may be entitled to compensatory damages as a prevailing party despite failure to establish a prima facie case of discrimination). In other words, establishing a prima facie case is not the only way to entitle a complainant to relief.

The effect of default judgment against the Agency is a finding of discrimination in favor of Complainant. Montes-Rodriguez v. Dep't of Agric., EEOC Appeal No. 0120080282 (Jan. 12, 2012), req. for recon. den'd, EEOC Request No. 0520120295 (Dec. 20, 2012). Consequently, even if Complainant failed to establish a prima facie case, the Commission still has the inherent power to protect its administrative processes from abuse by any party and must ensure that both complainants and agencies follow its regulations. Id. citing Lomax v. Dep't of Veterans Affs., EEOC Appeal No. 07A40125 (Oct. 12, 2006) (awarding complainant non-pecuniary compensatory damages without indicating whether the record supported a finding of discrimination after issuing a default judgment against the agency as a sanction for the agency's failure to conduct a timely investigation).

Here, we agree with Complainant that the AJ erred in finding that Complainant did not establish a prima facie case. The AJ appears to have focused on whether the Agency articulated legitimate, nondiscriminatory reasons for its actions, rather than on the actual standard of whether Complainant presented “facts that, if unexplained, reasonably give rise to an inference of discrimination, i.e., that a prohibited consideration was a factor in the adverse employment action.” Wes S. v. Office of Personnel Mgmt., EEOC Appeal No. 0120182043 (Jan. 14, 2020).

We find that Complainant did establish a prima facie case because of the statements in the record from Complainant’s coworkers that Complainant was singled out repeatedly by his supervisor and subjected to harsher treatment. Complainant stated that he was constantly singled out for negative treatment, including that female coworkers were permitted to go out for breakfast after meetings, take unlimited breaks during the day, and take long lunches, whereas his breaks and lunch times were strictly monitored. See Report of Investigation (ROI) at 100-102, 105-106.

Complainant’s assertions of his being constantly singled out is supported by numerous statements from his coworkers. One of Complainant’s coworkers stated that the supervisor publicly and harshly criticized Complainant alone at numerous staff meetings in a way “that appeared intended to dress [Complainant] down and embarrass him in front of his team,” and that the supervisor criticized Complainant for his lunch breaks, start time, and interrupted his conversations with others to demand work product when she did not behave similarly with any other employees. See Complainant’s Relief Statement, Ex. 1. A female coworker agreed, stating that the supervisor singled Complainant out, publicly embarrassing Complainant in staff meetings when the supervisor did not do so with anyone else, and that the supervisor repeatedly made disparaging comments about Complainant while not doing so with other employees and accused him of preying on women and otherwise having a problem with women.<sup>2</sup> See Complainant’s Relief Statement, Ex. 2. Another female coworker stated that the supervisor regularly shared details about Complainant’s personal and professional life, such as his commuting with his wife, his medical issues, and his concerns about the supervisor with the rest of the team while not doing the same with any other employee. See ROI at 206-209. The female coworker further stated that although she, another coworker, and Complainant had their regular day off eliminated at one point, later, her regular day off was restored while Complainant’s was not. See ROI at 208.

We also specifically find that Complainant established a prima facie case of disability discrimination due to his supervisor’s apparent perception that Complainant had a disability, in spite of the supervisor’s statement that she did not actually become aware that Complainant had a disability until she learned that he had filed a request for a reasonable accommodation.

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<sup>2</sup> We note that there is no evidence in the record to support the supervisor’s disparaging comments about Complainant having problems with women or somehow preying on them.

We note that a complainant may establish a prima facie case that he is an individual with a disability by showing that he was regarded as having an impairment that substantially limits one or more life activities. See 29 C.F.R. §1630.2(g) (emphasis added); see also Maxima R. v. U.S. Postal Serv., EEOC Appeal No. 2020005074 (May 3, 2022). In this case, Complainant stated, and the supervisor confirmed, that in April 2017, she provided Complainant with the paperwork in order to request a reasonable accommodation. See ROI at 114; 131. We find that this is sufficient to indicate that the supervisor regarded Complainant as having a disability, regardless of her actual knowledge. We further note that there is evidence in the record to establish a prima facie case that Complainant was denied a reasonable accommodation because while Complainant was not entitled to reassignment to a different supervisor, Complainant later suggested an alternate accommodation of light duty status. See ROI at 477-78. The record does not indicate that the Agency responded to Complainant's request for an alternate accommodation, which led Complainant to starting the process for disability retirement. See ROI at 484-86.

While we acknowledge that the record does not support that all of the alleged incidents of harassment occurred, such as the denial of training or Complainant being marked Absent Without Leave, we find that there is sufficient evidence in the record that Complainant was subjected to other incidents of harassment from which a discriminatory motive may be inferred and as such, Complainant did establish a prima facie case.

#### *Nonpecuniary Compensatory Damages Award*

Nonpecuniary losses are losses that are not subject to precise quantification, i.e., emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character and reputation, injury to credit standing, and loss of health. See Enforcement Guidance: Compensatory and Punitive Damages Available under § 102 of the Civil Rights Act of 1991, EEOC Notice No. 915.302 at 10 (July 14, 1992). There is no precise formula for determining the amount of damages for non-pecuniary losses except that the award should reflect the nature and severity of the harm and the duration or expected duration of the harm. See Loving v. Dep't of the Treasury, EEOC Appeal No. 01955789 (Aug. 29, 1997). The Commission notes that nonpecuniary compensatory damages are designed to remedy the harm caused by the discriminatory event rather than punish the Agency for the discriminatory action. Furthermore, compensatory damages should not be motivated by passion or prejudice or be "monstrously excessive" standing alone, but should be consistent with the amounts awarded in similar cases. See Ward-Jenkins v. Dep't of the Interior, EEOC Appeal No. 01961483 (Mar. 4, 1999).

Evidence from a health care provider or other expert is not a mandatory prerequisite for recovery of compensatory damages for emotional harm. See Lawrence v. U.S. Postal Serv., EEOC Appeal No. 01952288 (Apr. 18, 1996) (citing Carle v. Dep't of the Navy, EEOC Appeal No. 01922369 (Jan. 5, 1993)).

Objective evidence of compensatory damages can include statements from Complainant concerning his emotional pain or suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character or reputation, injury to credit standing, loss of health, and any other non-pecuniary losses that are incurred as a result of the discriminatory conduct. Id.

We agree with Complainant that the AJ's award of \$800 was inadequate. We find, however, that contrary to Complainant's request for \$300,000 in compensatory damages, an award of \$125,000 is more appropriate to compensate Complainant for the emotional and physical distress he suffered due to the Agency's discriminatory actions. Complainant stated that he suffered from pre-existing hypertension and hypertensive cardiovascular disease for which he had been prescribed medications but that due to his supervisor's treatment of him, his physical conditions were severely exacerbated so that his prescription dosage was increased. See Complainant's Relief Statement, Ex. 20; ROI at 405. He further asserted that as a result of the supervisor's publicly berating him at a staff meeting, at one point, he experienced intense chest pains and had to be rushed to the emergency room. See Complainant's Relief Statement, Ex. 20. He was also diagnosed with stress-related anxiety and depression, suffered panic attacks, and developed trichotillomania (hair pulling disorder) so that he pulled his hair when he was feeling anxious resulting in bald spots and Complainant's decision to shave off his hair, including his eyebrows, to keep from pulling it out. See ROI at 405-407; Complainant's Relief Statement, Ex. 16. Complainant also stated that due to the Agency's discriminatory treatment, he went from being an outgoing, happy person to someone who was withdrawn and anxious, severely impacting his relationship with his wife, so that they had frequent arguments and eventually sought marital counseling from their pastor. See Complainant's Relief Statement, Ex. 20. He further asserted that due to his inability to work from the exacerbation of his physical conditions and the Agency's terminating his employment, he and his wife were forced to declare bankruptcy, which made his credit score plummet. See Complainant's Relief Statement, Ex. 20. Complainant also submitted numerous letters from his physicians and from mental health professionals confirming his diagnoses and that they were due to the stress he was under at work. See Complainant's Relief Statement, Exs. 3-9.

We find that an award of \$125,000 properly reflects the duration and severity of the emotional harm Complainant suffered and also compensates Complainant for the additional aggravation of his physical conditions as a result of the Agency's actions. Moreover, we find that the award is consistent with similar cases where the Agency's conduct has caused lasting mental and emotional harm, affecting Complainant's enjoyment of life both in and out of work. See Felipa A. v. U.S. Postal Serv., EEOC Appeal No. 2022000547 (July 11, 2022) (affirming an AJ's award of \$125,000 where the complainant suffered from depression, anxiety, sleeplessness, paranoia, PTSD, and loss of interest in her usual life activities); Edie R. v. U.S. Postal Serv., EEOC Appeal No. 0120160784 (May 10, 2018) (affirming an AJ's award of \$125,000 where the complainant suffered from PTSD, including panic attacks, nightmares, and crying); Donita B. v. Dep't of Vet. Affs., EEOC Appeal No. 0120160410 (Oct. 18, 2017) (increasing an AJ's award to \$125,000 where the complainant suffered from depression, anxiety, stress, insomnia, disassociation, crying

spells, social isolation, damage to her professional reputation, withdrawal from relationships, and nightmares).

Accordingly, considering the nature, duration, and severity of Complainant's emotional harm and with reference to damage awards reached in comparable cases, we find Complainant is entitled to an award of \$125,000 in non-pecuniary compensatory damages.

#### *Other Equitable Remedies*

On appeal, Complainant also argues that he is also entitled to other equitable remedies, including reinstatement, backpay, the restoration of his sick leave, rescission of his Leave Restriction letters, and issuance of a successful performance rating. We reject Complainant's argument. While we do not condone the Agency's conduct in this matter, we do not find that Complainant is entitled to reinstatement or to any of other equitable remedies which would accompany an offer of reinstatement because the evidence in the record indicates that Complainant's doctors have deemed him to be medically disabled and unable to work.<sup>3</sup> See ROI at 484-86; Complainant's Relief Statement, Exs. 9; 11. We also note that with respect to the other requested equitable remedies, such as the issuance of a successful performance rating, the AJ found that the evidence in the record indicated that there were issues with Complainant's performance. We do not find that the record supports Complainant's entitlement to all other equitable remedies as it is not clearly established that the discrete actions were, in fact, motivated by discriminatory animus.

#### CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we MODIFY the Agency's final order and remand the matter in accordance with the Order below.

#### ORDER (D0617)

The Agency is ordered to take the following remedial actions:

1. Nonpecuniary, Compensatory Damages. Within 60 days of the date this decision is issued, the Agency shall pay Complainant \$125,000 in nonpecuniary, compensatory damages.

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<sup>3</sup> This is especially so where the record contains numerous statements from Complainant's physicians noting that Complainant's various physical ailments make any exposure to stress particularly inadvisable. The Commission has repeatedly held that complainants are not entitled to a stress-free environment as a form of reasonable accommodation and therefore, we cannot find that Complainant is medically able to work. See Erika H. v. Dep't of the Army, EEOC Appeal No. 2020005141 (Aug. 24, 2022).

2. Attorney's Fees. To the extent the Agency has not already done so, within 60 days of the date this decision is issued, the Agency shall pay Complainant \$30,149.20 in attorney's fees.
3. Discipline. To the extent the Agency has not already done so, within 120 days of the date this decision is issued, the Agency shall consider taking disciplinary action(s) against the management officials identified as being responsible for the unlawful discrimination perpetrated in this case. The Commission does not consider training to be a disciplinary action. The Agency shall report its decision to the Commission. If the Agency decides to take disciplinary action, it shall identify the action taken. If the Agency decides not to take disciplinary action, it shall set forth the reason(s) for its decision not to impose discipline.
4. Training. To the extent it has not already done so, within 90 days of the date this decision is issued, the Agency shall provide a minimum of 16 hours of live training to its EEO managers and staff regarding their responsibilities concerning case processing and ensuring that investigations are completed timely. We note that we are not convinced by the Agency's statement in its final order that it may satisfy its training obligation merely by ensuring that its existing annual EEO training is updated to address the specific topics listed by the AJ. We therefore strongly encourage the Agency to provide additional training in addition to the existing annual EEO training. We also strongly encourage the Agency to provide at least six (6) hours of training to the supervisors and managers in the Human Resources Division at the Headquarters in Washington, D.C. to ensure that they become aware, and continue to be aware, of their obligations, responsibilities, and rights under both Title VII and the Rehabilitation Act, including the right to work in an environment free from discrimination and harassment based on sex, disability, and reprisal for EEO activity. The Agency may contact our Training and Outreach Division for Assistance in obtaining the necessary training via <https://www.eeoc.gov/federal-sector/federal-training-outreach>.
5. Posting Notice. To the extent it has not already done so, within 30 days of the date this decision is issued, the Agency is ordered to post a notice in accordance with the paragraph below entitled "Posting Order."

The Agency is further directed to submit a report of compliance in digital format as provided in the statement entitled "Implementation of the Commission's Decision." The report shall be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Further, the report shall include supporting documentation verifying that the corrective actions have been implemented.



POSTING ORDER (G0617)

The Agency is ordered to post at its FBI Headquarters copies of the attached notice. Copies of the notice, after being signed by the Agency's duly authorized representative, shall be posted **both in hard copy and electronic format** by the Agency within 30 calendar days of the date this decision was issued, and shall remain posted for 60 consecutive days, in conspicuous places, including all places where notices to employees are customarily posted. The Agency shall take reasonable steps to ensure that said notices are not altered, defaced, or covered by any other material. The original signed notice is to be submitted to the Compliance Officer as directed in the paragraph entitled "Implementation of the Commission's Decision," within 10 calendar days of the expiration of the posting period. The report must be in digital format, and must be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

ATTORNEY'S FEES (H1019)

If Complainant has been represented by an attorney (as defined by 29 C.F.R. § 1614.501(e)(1)(iii)), she/he is entitled to an award of reasonable attorney's fees incurred in the processing of the complaint. 29 C.F.R. § 1614.501(e). The award of attorney's fees shall be paid by the Agency. The attorney shall submit a verified statement of fees to the Agency -- **not** to the Equal Employment Opportunity Commission, Office of Federal Operations -- within thirty (30) calendar days of receipt of this decision. The Agency shall then process the claim for attorney's fees in accordance with 29 C.F.R. § 1614.501.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and §1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

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.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

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).

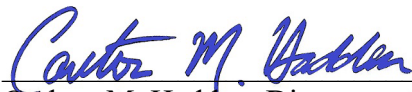
#### COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (T0610)

This decision affirms the Agency's final decision/action in part, but it also requires the Agency to continue its administrative processing of a portion of your complaint. 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 on both that portion of your complaint which the Commission has affirmed and that portion of the complaint which has been remanded for continued administrative processing. 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 your appeal with the Commission, until such time as the Agency issues its final decision on your complaint. 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

November 21, 2022

Date