



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

████████████████████
AI W.,¹
Complainant,

v.

Steven T. Mnuchin,
Secretary,
Department of the Treasury
(Bureau of Engraving and Printing),
Agency.

Appeal No. 2019003974

Agency No. BEP-15-1117-F

DECISION

Complainant filed a timely appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's final order dated April 17, 2019, implementing the dismissal by an Administrative Judge (AJ) of the formal 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.

BACKGROUND

During the period at issue, Complainant worked as a Plate Printer at the Agency's Western Currency facility in Fort Worth, Texas.

On April 6, 2015, Complainant filed the instant formal complaint. Complainant claimed that the Agency subjected him to discrimination based on national origin and in reprisal for prior EEO activity when, beginning on or about February 5, 2015, Agency management interfered with his Office of Workers' Compensation (OWCP) claims, including accusing him of falsifying documents in connection with his workers' compensation claims; subjecting him to an

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.

unwarranted internal investigation of his workers' compensation claims; and threatening him with disciplinary actions.

On September 27, 2015, Complainant requested a hearing before an EEOC AJ (Hearing Request No. 450-22016-00040X). On April 10, 2019, the AJ issued a document entitled "Order Dismissing Hearing Request and Order Returning Complaint to Agency for Final Agency Decision." The AJ found that the proper forum for Complainant to raise his claims was with the OWCP, and not with the Agency, and found that the subject complaint should therefore be dismissed as a collateral attack on the OWCP process.

On April 17, 2019, the Agency issued a Final Order indicating that it had reviewed the AJ's conclusion and decision, and determined that it will full implement the AJ's dismissal.

The instant appeal followed.

ANALYSIS AND FINDINGS

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 (September 22, 1994); Lingad v. U.S. Postal Service, EEOC Request No. 05930106 (June 24, 1993). The proper forum for Complainant to have raised his challenges to actions which occurred during the OWCP process is within that process itself. It is inappropriate to now attempt to use the EEO process to collaterally attack actions which occurred through the OWCP process. The Agency properly issued a final order implement dismissal of the instant formal complaint for failure to state a claim.

The Agency's final order implementing the dismissal of the formal complaint by an AJ is **AFFIRMED**.

STATEMENT OF RIGHTS - ON APPEAL

RECONSIDERATION (M0617)

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. A party shall have **twenty (20) calendar days** of receipt of another party's timely request for reconsideration in 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). All requests and arguments must be submitted to the Director, Office of Federal Operations, Equal Employment Opportunity Commission. Complainant's request may be submitted via regular mail to P.O. Box 77960, Washington, DC 20013, or by certified mail to 131 M Street, NE, Washington, DC 20507. 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 agency's request must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). 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 (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

August 20, 2019

Date