



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

██████████ a/k/a
Dallas D.,¹
Complainant,

v.

Alejandro Mayorkas,
Secretary,
Department of Homeland Security
(U.S. Secret Service),
Agency.

Request No. ██████████

Appeal No. ██████████

Hearing No. ██████████

Agency No. ██████████

DECISION ON REQUEST FOR RECONSIDERATION

Complainant timely requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in EEOC Appeal No. ██████████ (October 22, 2020). 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 period, Complainant was an applicant for a position at the Agency's Office of Technical Development and Mission Support in Washington, D.C. Complainant filed a formal complaint alleging that the Agency discriminated against him when it failed to hire him for the position of Information Technology Program Manager (GS-2210-15) pursuant to vacancy number TEC-AS166-13-MP.

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.

The Commission's prior appellate decision affirmed the Agency's final order implementing the EEOC Administrative Judge's (AJ) decision by summary judgment in favor of the Agency, finding no discrimination.

In his request for reconsideration, Complainant argues that the previous decision erred in its development of the record and interpretation of the facts. Complainant further alleges in his request for reconsideration that the AJ prejudiced him by not holding a hearing. Complainant continues to contend that he was discriminated against with respect to the administration of a polygraph examination relating to his application for Agency employment.

Addressing Complainant's contention that he was prejudiced by the AJ's failure to hold a hearing, we note that the Commission's regulations allow an AJ to issue a decision by summary judgment when he or she finds that there is no genuine issue of material fact. We have reviewed the Commission's prior decision, which made an express determination on this issue, finding that the AJ properly issued a summary judgment. Specifically, the AJ properly determined that there was no genuine issue of material fact in this case. 29 C.F.R. §1614.109(e)(3). We find no reason to disagree with the AJ's finding that complainant failed to set forth sufficient facts showing that there was a genuine issue still in dispute. The AJ's decision indicates that the AJ considered all of the evidence of record, including Complainant's objections and supporting exhibits, and concluded that no genuine issue of material fact was presented.

Moreover, we find that in his request for reconsideration, Complainant has presented many of the same arguments he raised during the original appeal. We emphasize that a request for reconsideration is not a second appeal to the Commission. See EEO MD-110, Ch. 9, § VII.A. 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. [REDACTED] remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request.

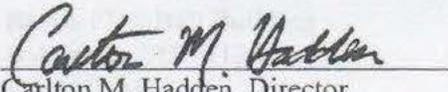
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0610)

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

February 23, 2021
Date



CERTIFICATE OF MAILING

For timeliness purposes, the Commission will presume that this decision was received within five (5) calendar days after it was made available to the parties. I certify that on the date below this decision was provided to the following recipients via the means identified for each recipient:

[REDACTED]

Via U.S. Mail

Thomas Gagliardo
6401 Security Boulevard
Room 1720 Ball Building
Baltimore, MD 21235
Via U.S. Mail

Director, Office of Equal Employment Opportunity
United States Secret Service
Communications Center/EEO
Via FedSEP

February 23, 2021
Date


Compliance and Control Division