



**U.S. Department of Justice**  
**Complaint Adjudication Office**

EEOC No. 570-2017-00596X  
Agency Complaint No. FBI-2016-00199

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*4CON*  
*150 M Street, N.E.*  
*Room 6.1612*  
*Washington, DC 20530*

November 8, 2022

DEPARTMENT OF JUSTICE FINAL ORDER

in the matter of

██████████ v. Federal Bureau of Investigation

Based on a thorough review of the record in the above-referenced matter, the Department of Justice (Department) fully accepts the Administrative Judge's (AJ) decision regarding liability. The Department partially accepts the AJ's decision on relief, and fully accepts the AJ's decision regarding attorneys' fees/costs. Given the Department's disagreement with portions of the AJ's decision, the FBI is authorized to appeal the portions with which the Department disagrees, as documented below.

Liability

The Department has determined that substantial evidence exists to support the AJ's decision that the FBI subjected complainant to disparate treatment and a hostile work environment based on disability and reprisal with respect to complainant's claims. Thus, the Department accepts the AJ's decisions as to those claims, and the FBI may not appeal them.

Remedial Relief

Compensatory Damages: As discussed in the Memorandum Explaining the Final Order, substantial evidence in the record does not support the AJ's award of \$73,955.56 in pecuniary compensatory damages. The Department does not accept the AJ's findings on that issue, and the FBI is authorized to appeal that finding.

The Department has determined that there is substantial evidence to support the AJ's award of \$75,000.00 in non-

pecuniary compensatory damages. Thus, the Department accepts that decision, and the FBI is directed to implement that relief.

Equitable Relief: As discussed in the Memorandum Explaining the Final Order, the AJ's decisions regarding restoration of 840.5 hours of sick leave and calculating complainant's back pay at levels above a GS-9, Step 9 level are not supported by substantial evidence. Therefore, the Department does not accept the AJ's findings on those issues, and the FBI is authorized to appeal those findings.

Subject to the exceptions described above, the AJ's decisions regarding restoration of retirement benefits and back pay with the inclusion of complainant's used Leave without Pay are supported by substantial evidence. The Department therefore accepts those decisions, and the FBI is directed to calculate and implement the appropriate amount of back pay and all benefits, as described in the AJ's decision and subject to the exceptions described above.

Additional Relief: The AJ's decision to reinstate complainant to his former position or a substantially equivalent position in the Washington, D.C., office location in which he worked, or to award complainant front pay in lieu of reinstatement, is supported by substantial evidence. The record also supports the AJ's decisions to require the FBI to: (1) replace complainant's annual evaluation ratings for the 2014 and 2015 evaluation periods with an overall "Excellent" rating; (2) provide relevant FBI management officials with eight hours of EEO training on employment discrimination law, reprisal, disability discrimination, and the reasonable accommodation process; (3) revise relevant agency policies relating to reasonable accommodation requests and terminations to prevent future discrimination; and (4) post a notice of finding at the Washington, D.C., location in which complainant worked, as described in the AJ's decision. The Department accepts these decisions, and the FBI is ordered to implement that relief.

Attorneys' Fees: Substantial evidence supports the awards of fees and costs for the services provided by attorneys A. Marques Pitre and Michelle de Vera in the amount of \$85,815.46.

In all instances, the FBI will make every effort to implement the ordered relief within thirty days of the date of this decision, or within a reasonable amount of time thereafter as long as good cause supports such delay.

A handwritten signature in black ink that reads "C. Douglas Kern". The signature is written in a cursive style with a long horizontal stroke at the end.

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C. Douglas Kern  
Complaint Adjudication Officer