

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges

WASHINGTON, D.C. 20424-0001

HEADQUARTERS, FORCES COMMAND FORT MCPHERSON, GEORGIA Respondent and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1759 Charging Party	Case No. AT-CA-70042

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.26(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.26© through 2423.29, 2429.21 through 2429.25 and 2429.27.

Any such exceptions must be filed on or before **OCTOBER 30, 1997**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
607 14th Street, NW, 4th Floor
Washington, DC 20424-0001

ETELSON
Judge

JESSE

Administrative Law

Dated: September 30, 1997
Washington, DC

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges

WASHINGTON, D.C. 20424-0001

MEMORANDUM

DATE: September 30, 1997

TO: The Federal Labor Relations Authority

FROM: JESSE ETELSON
Administrative Law Judge

SUBJECT: HEADQUARTERS FORCES COMMAND, FORT MCPHERSON,
GEORGIA

Respondent

and

Case No. AT-

CA-70042

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 1759

Charging Party

Pursuant to section 2423.26(b) of the Rules and Regulations, 5 C.F.R. § 2423.26(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcript, exhibits and any briefs filed by the parties.

Enclosures

FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges

WASHINGTON, D.C. 20424-0001

HEADQUARTERS, FORCES COMMAND FORT MCPHERSON, GEORGIA Respondent and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1759 Charging Party	Case No. AT-CA-70042

Richard S. Jones, Esquire
Counsel For the General Counsel

Robin B. Allen, Esquire
Counsel For the Respondent

Gerald A. Walsh, Executive Vice President
Counsel For the Charging Party

Before: JESSE ETELSON
Administrative Law Judge

DECISION

Dorothea Daggett, an exceptionally well qualified employee occupying a position at the GS-5 level, had the cooperation of her hierarchal superiors in seeking an adjustment of her GS grade to reflect the duties she was performing, which they thought to be commensurate with a higher grade. A plan for which they sought approval would have raised Daggett first to the GS-7 level and later to the

GS-9 level. After several years' efforts in this direction appeared to have sunk into a black hole of bureaucratic torpor, Daggett filed a grievance. This succeeded only to the extent of bringing matters to a head. The results did not conform with what Daggett, with her superiors' previous encouragement, had expected. The Charging Party (the Union) then filed an unfair labor practice charge concerning Respondent's conduct following the filing of the grievance.

The Regional Director for the Atlanta Region of the Federal Labor Relations Authority (the Authority) issued a complaint alleging that Respondent violated sections 7116(a) (1) and (2) of the Federal Service Labor-Management Relations Statute (the Statute) by transferring Daggett's job duties to military personnel, by changing her performance rating official, and by denying her request to attend a training course, all because Daggett filed the grievance. The complaint also alleges that Respondent committed independent violations of section 7116(a) (1) of the Statute by telling Daggett that she could lose her job if she continued with the grievance and by telling her supervisor that Daggett was a "non-team player" and that her position would be reclassified at no greater than the GS-7 level.

A hearing in this proceeding was held in Atlanta, Georgia, on July 15, 1997. Counsel for the General Counsel and for Respondent filed post-hearing briefs. The following findings are based on the record as a whole, the briefs, my observation of the witnesses, and my evaluation of the evidence.

Findings of Fact

I. Background

A. Daggett's Position in Respondent's Operation

Headquarters, Forces Command, is a United States Army component headquarters and an operational component that provides Army forces "to meet the unified command OPLANS force requirements" (Ag. Exh. B). Respondent is composed of five sections. One section, designated "G3," is otherwise known either as the Directorate of Operations, the Operations Division (Ag. Exh. I) or the Operations Center (Tr. 165). Its mission is the deployment of troops and equipment in time of major military operations throughout the world. Within G3 are five branches, one being the Current Operations Branch.

Dorothea Daggett was a GS-5 secretary in the personnel office, within "J1," in one of Respondent's other sections,

in 1991, when she was detailed to the administrative "cell" within the G3 Current Operations Branch. She remained on this detail until the end of 1994, when she was given a permanent assignment in that component at the GS-5 level.

B. Early Efforts to Upgrade Daggett

In the course of her 1991-1994 detail, Daggett assumed responsibilities of an administrative nature that her job description as a GS-5 secretary did not encompass. Her supervisor in G3, Lieutenant Colonel (LTC) Norman LaBrecque, then Chief of the Current Operations Branch, undertook to have Daggett's position designated as a GS-7 "Crisis Action Team Specialist." On February 28, 1994, LTC LaBrecque signed an annual "Civilian Performance Rating" for Daggett, in which he described her as "the best of four Administrative Specialists assigned to the FORSCOM Crisis Action Team (CAT)/Operations Center" (GC Exh 7, Encl. 2).

This rating was countersigned by LTC Stephen Runals, then Chief of the Operations Division, as the "reviewing official," on the same date. On March 1, 1994, it was signed by Colonel William Lynch as "approving/SES rating official." However, when Daggett's copy was returned to her, the information originally submitted in the box for "position title and number, pay plan, series and grade/level" had been whited out and, substituted for "Administrative Specialist Crisis Action Team" or "Crisis Action Officer" at the GS-7 level, was "Secretary (Typing) GS-318-5/5." (Tr. 45-46, 51-52, GC Exh. 7, Encl. 2.) This substitution, whose authorship remains obscure, appears to have reflected Daggett's official position and grade during the rating period. However, the substitution did not alter the raters' description of Daggett, in the box provided for "element rating explanation," as "the best of four Administrative Specialists"

LTC LaBrecque then attempted a "52 action that would rewrite [Daggett's] job description" (Tr. 52).¹ This effort was unsuccessful, apparently for administrative reasons (Tr. 52-53), and Respondent's Chief of Personnel, in whose shop Daggett still officially worked, decided to abolish her position and put her on the "displaced list." LTC Runals offered her a permanent position in G3. Daggett understood that she would be placed in a position that, pursuant to a draft of a "5, 7, 9 developmental plan," would advance her

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A Standard Form 52-B is a "Request for Personnel Action" (GC Exh. 7, Encls. 9, 10, 11-12). It is described elsewhere in the record as a request for either a desk audit or a review for classification (Tr. 204-05, 285).

from the GS-5 level to GS-7 and then to GS-9. LTC Runals showed Daggett a draft of a "Table of Distribution and Allowance" (TDA) that included a position for an information specialist, Grade GS-9, in the "301" series, and told her that, since she had been performing the duties of such a position for the past three years, he was offering it to her. (Tr. 55-56, 100, GC Exh. 8.)²

Daggett testified that the paperwork that was returned to her after she had accepted the new position duplicated the job description and the GS-5 classification that she had held as a secretary in the personnel shop, and that in December 1994 or January 1995 she and LTC LaBrecque took the matter up with Veronica (Ronnie) Ross, a management analyst in G3, who had been involved in processing the paperwork and had presented it to Daggett. Daggett testified that Ross told them that, as a "displaced person," Daggett had to be rehired in the identical position she had left, but that in 90 days Ross would "correct it to reflect the job I was performing." (Tr. 62.) Ross denied having any conversation with Daggett during this period or any knowledge of a "5, 7, 9" plan proposed for her until October 1995 (Tr. 235-36).

C. Some of the Further Efforts: 1995 - May 1996

No corrective action was taken in 90 days, and LTC LaBrecque submitted another request for personnel action to get the "5, 7, 9" plan implemented. No action was taken on this request. Military operations in Somalia and Haiti, as well as other operations, kept the staff unusually busy during this period, and Daggett understood that "administrative type stuff kind of fell through the cracks."

In May 1995, LTC LaBrecque was succeeded as Chief of the Current Operations Branch by LTC Frederick Gisler. Gisler had been the Deputy Branch Chief and was familiar with Daggett's situation. He and Daggett, with the approval

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A TDA is basically a personnel authorization list (Tr. 57). Before it becomes "approved," "final," or "official," it may be called an "interim," "proposed," or a "working" TDA. A TDA does not identify individuals with the slotted positions. When a position is authorized by a TDA, that position is classified and the classification becomes the grade level for the position (Tr. 215). The "301" series of positions encompasses occupations of an "analytical and research evaluative type," as compared with "303" series positions, which are considered clerical and administrative, having "less responsibility in terms of the type of analysis and research skills that are required" (Tr. 252-53, Ag. Exh. G p.1).

of Division Chief Runals and in consultation with Dorothy Coles, a staffing specialist on Respondent's civilian personnel division staff (Tr. 129, 155-56, 267), submitted a revised "5, 7, 9" job description for the purpose of securing approval of such a developmental plan. Gisler understood Ronnie Ross to have told him in May or June of 1995 that Louis Sokowski, then Deputy Director for Operations, G3, and the person responsible for reviewing all civilian personnel actions (Tr. 203), had approved the developmental position. Gisler further understood Ross to have reported that Daggett would be promoted to GS-7 in a matter of 90 days, and that after a year "we would go for the [GS-]9." (Tr. 153, GC Exh. 2 p.3.)³

Still, nothing happened. According to Sokowski, he had signed a Form 52 requesting the civilian personnel office to "do a classification of a series" (Tr. 204-05). What became of that request remains a mystery.

Colonel David Cowan replaced LTC Runals as Chief of the Operations Division (and LTC Gisler's superior) in June 1995. Gisler brought Daggett's situation to Col. Cowan's attention and secured his approval to take further steps to put her on something like the "fast track program" that was available, on the military side, for noncommissioned officers. Cowan signed some paperwork in connection with a "5, 7, 9" plan, apparently in October 1995 (Tr. 157, 166, GC Exh. 2 p.3, GC Exh. 7 encl. 10).

Ronnie Ross received this paperwork and consulted with Sally Cleckner, a personnel staffing specialist in the civilian personnel office, and Marsha Lantz, another staffing specialist (Tr. 206, 236). Ross was informed, and reported to LTC Gisler, that Daggett's duties did not qualify her to go up to the 301 series, but that she could be placed in a GS-6 computer assistant position (Tr. 236, GC Exh. 2 p. 3). After discussing this suggestion with Daggett, Gisler informed Ross that such a position did not fit Daggett's duties and that she would not accept it (Tr. 109-10, 236, GC Exh. 2 p.4).

Next, or at least soon afterward, LTC Gisler requested a "desk side audit" (GC Exh. 7 encl. 12). Ms. Ross returned the request and told Gisler that desk audits could no longer be performed. Gisler confronted Ross and Sokowski, her supervisor, about this. Ross responded that she thought the

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LTC Gisler believed that, as Daggett testified, Ross had given Daggett and LTC LaBrecque a similar 90-day assurance in January 1995 (GC Exh. 2 p.2). However, the source of Gisler's information about that conversation is not revealed.

request (which was in writing, and specified "Desk Side Audit,") was for a "position review," and that she had not known what Gisler was "talking about." In any event, the request was denied. (Tr. 66-67, GC Exh. 2 p.4.) Although both Ross and Sokowoski testified, neither controverted this account of the incident.

Gisler requested another meeting with Sokowoski and Ross. Such a meeting was held in March 1996. Staffing specialists Cleckner and Lantz were also present. Gisler left the meeting with the impression that it had been established that Daggett was misclassified and that the necessary paperwork to reclassify her into the 301 series would be expedited (GC Exh. 2 p. 4). He so informed Daggett (Tr. 67). Sokowoski, however, testified that the advice given at the meeting was that Daggett could not be classified into the 301 series (Tr. 206). Neither Cleckner nor Lantz testified.

On April 15, 1996, Gisler signed as "rater" and Col. Cowan countersigned as "senior rater," Daggett's annual evaluation report (GC Exh. 7 encl. 13). Daggett's official "position" is described as "Secretary (Office Automation) GS 318 - 5/8." The report assigns Daggett the highest possible rating on each of the four applicable rating factors and an overall performance rating of "1," the highest of three ratings in the "successful" category. (A "4" rating means "fair" and "5" means "unsuccessful.") The form contains a line on which the raters are asked whether the employee's position description is correct. An "x" was inserted in the box indicating "no." Written, among other things, in a space for "Bullet Comments (*Performance/Potential*)," was the comment, "Groom for managerial positions; promote immediately."

On April 18, Gisler conducted a routine counseling session with Daggett (GC Exh. 2 p.5). His record of the counseling indicates, under "key points made," two items: (1) "Team building efforts"; and (2) "Ultimately responsible for Admin section" (GC Exh. 10). At their counseling session, Gisler gave Daggett a copy of a chart entitled "Current OPS Branch[,] Proposed," dated August 21, 1995. The chart (attached to GC Exh. 10 as introduced), shows six sections under "Chief[,] LTC Gisler." One of these sections is labeled "Admin Cell," and lists five positions. First on the list is "Ms. Daggett, GS07[,] Stf Act Asst." The next three positions, slotted for noncommissioned officers (military), are shown as being vacant at the time the chart

was prepared. The fifth position is shown as being occupied by "Ms. Rawlins, GS06[,] Stf Act Asst."4

Daggett testified that Gisler, in discussing the goals for the coming year during their counseling session, told her that, in order to be considered an exceptional employee "and to fulfill the requirements of my job description," he expected her "to continue to work on . . . team building within the Admin Section and that I was ultimately responsible for the section." According to Daggett, Gisler told her that he considered her to be the "team leader" for the section and that she was "in charge" of the others in the section. Daggett testified that, although she was still a GS-5, Gisler told her that he was confident that she would "get the 7" indicated on the chart and that, after a year, she would be promoted to a GS-9 and "then be able [officially] to rate these people as well as supervise them and give the input to him at the current time as the 7." (Tr. 86-90, 106-07, 114.)

Gisler, in his testimonial version, characterized Daggett as being "in charge of the Reserve Component for Argumentation Staff for Admin" (Tr. 141). Neither the meaning of the named component nor the significance of being "in charge" of it in relation to other section employees was explained. However, in a written chronology, Gisler reported that he informed Daggett at the counseling session that she was "ultimately in charge of the administration section" and that "as soon as the classification mess was cleared up she would have the responsibilities that came with her duties (GC Exh. 2 p.5).

Col. Cowan denied any knowledge of Daggett being made a "team leader," and noted that the "team" to be led (at the time in question) would have consisted only of Ms. Rawlins. However, Cowan more or less acknowledged that Gisler "had plans," which Cowan did not necessarily endorse, to put Daggett "in charge" of Rawlins. (Tr. 175.)

On April 19, Gisler nominated Daggett for a \$1,300 performance award and Cowan signed the form as the "approving authority." Although Daggett later received a monetary award as described below, the record does not reveal what became of the April 19 "Nomination and Approval."

Early in May 1996, Ronnie Ross, in response to an inquiry by Gisler about the status of the reclassification, proposed a reclassification to Staff Action Assistant,

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"Stf Act Asst" is apparently an abbreviation for "Staff Action Assistant" (Tr. 60).

Series 303, GS-6 (Tr. 237-38, GC Exh. 2 p.4). Daggett rejected this proposal and decided that she had no further alternative but to file a grievance (Tr. 67-68, 131, GC Exh. 2 p.4).

D. Concurrent Developments
Concerning Reorganization

As noted above, a "proposed" organizational chart for the Current Operations Branch, dated August 21, 1995, had placed Daggett in a GS-7 "Stf Act Asst" slot, at the head of the list of positions in the "Admin Cell." Who, if anyone, had concurred in that proposal remains unknown, but, as indicated, LTC Gisler gave Daggett a copy of the chart in April 1996.

Meanwhile, however, on November 21, 1995, Major General James Hill, Director of Operations, G3, had been "tasked" with restarting a process of reorganization, or "reengineering" that had begun in 1994 (Tr. 169-170, Ag. Exh. B). General Hill presented this directive to the G3 division chiefs, including Col. Cowan, who, after a recommendation for restructuring G3 had been approved, began in January 1996 to work with his branch chiefs and senior noncommissioned officers to "build positions" around the approved structure (Tr. 171-72). It was understood that the "reengineering organization" was to be completed by October 1996 (Tr. 295).

Discussions among these branch officials included the subject of merging two "cells" within the Current Operations Branch, "administrative" and "information management," and of placing a military officer in charge of the new unit. LTC Gisler opposed the militarization of this position, but Col. Cowan had his executive officer, LTC Richard Thompson, who supported it, prepare an organizational table listing Captain (David) Wray, whom Cowan envisioned as the head of the merged "cells," as an "Opns Stf Off." The organizational table listed Daggett as a GS-5 "Stf Action Asst." That table (Ag. Exh. D) was submitted to a "command group" for approval in April 1996. (Gisler: Tr. 137-39, 149-150; Cowan: Tr. 171-74, 179-182, 190-91; Thompson: Tr. 287-92, 295-96.)

II. The Grievance and Events Following

A. Initiation and Step One

Daggett presented her grievance, in the form of a package of materials, to Union Executive Vice President Gerald Walsh on May 17, 1996. The main body of the

grievance consists of a 3-page narrative of events followed by allegations that Daggett was denied her "rightful promotions to GS7 and GS9" by a failure to classify her position properly, and that she was the victim of a prohibited false statement when she was told that "there was no such thing as a Desk Side Audit." The final section of the grievance lists the actions Daggett would like to result from the grievance. They are: (1) back pay compensation for "performing GS9 duties"; (2) retroactive reclassification in the 301 series; (3) "GS7 grading" as of April 8, 1995; and (4) "GS9 grading" as of April 8, 1996.

Gisler, as Daggett's first-line supervisor, heard the first step of the grievance on May 22. He met with Daggett and Walsh and indicated that he supported her promotion but that, in the circumstances, he did not believe he had the authority to resolve the grievance. Therefore, he arranged for a meeting at the second step with Mr. Sokowoski as the presiding management official.

B. Step Two and Alleged Threat

After one false start, Daggett, with Walsh as her representative, and Sokowoski, with other management support, including Gisler, met on June 3, for the purpose of resolving

the grievance. Among those speaking for management was Ronnie Ross. Ross illustrated her understanding of the situation presented by Daggett's request for relief by using an example.

According to Ross (as I understand her testimony), the substance of her statement was that, while Daggett wanted to be non-competitively promoted to a higher grade, there were other staff action assistants of equal grade who could compete. As a case in point, Ross explained that a GS-12 vacancy had occurred in the Plans Division of "DCSOPS," but that the position could not be filled with a local person or a "merit promotion" person because an employee from Fort Buchanan, Puerto Rico, who was on the "Priority Placement Program candidate list" or the "stopper list" had to be offered the position. Ross testified that she told Daggett that she wanted to explain to her what could happen if her position was advertised. That is, "[p]erhaps someone from the Priority Placement Program could come and take that position from you if they were more qualified," and, in that light, that there was a possibility that Daggett could end up as a displaced employee. (Tr. 239-40.) Ross also testified that Staffing Specialist Marsha Lantz, who attended the June 3, meeting to provide technical assistance

to Mr. Sokowoski, nodded her head in agreement with Ross's statement (Tr. 244).

Walsh, Daggett, and Gisler testified about Ross's statement on behalf of the General Counsel. The way they heard it, Ross said that Daggett, if she continued with the grievance, could lose her job to the employee from Fort Buchanan (Tr. 31-32, 44, 74, 111-12, 132-33, GC Exh. 2 p.6).

This meeting resulted in an agreement, on Sokowoski's suggestion, for a desk audit of Daggett's duties.

C. Erosion of Support for Daggett

On the "evening" of the day of the step two meeting (June 3), Mr. Sokowoski phoned Col. Cowan's office and reached LTC Thompson. Thompson relayed to Gisler the message that Gisler should understand that he was a member of management, not Daggett's advocate. Either before or after Sokowoski's call (compare Tr. 133-35 and Tr. 217), he and Gisler had a conversation in which Sokowoski challenged Gisler's advocacy of a GS-9 for Daggett in the face of what Sokowoski believed to be Col. Cowan's decision to promote her only to the GS-7 level. Sokowoski told Gisler that his advocacy of a GS-9 at that point "bordered on insubordination." (Tr. 217-18, 221-24.) However, Cowan testified that Sokowoski called him to make sure that Cowan supported Gisler's position, and that Cowan told Sokowoski, "I had no problem with the 5, 7, 9, if that is . . . a route to go" (Tr. 187-88).

Later in the day of his conversation with Sokowoski, Gisler informed Cowan that Sokowoski had asked him if Cowan still supported promoting Daggett to GS-9 and that Gisler had answered that Cowan did. Gisler then asked Cowan whether he did support that promotion, because, Gisler told Cowan, he was concerned about having have "put words in [Cowan's] mouth." Cowan's answer, as characterized by Gisler, was, "No, I'm still supportive that she is still doing the work of it and we need to take care of her if she is performing the duties of a GS-9 and we can find a way to get her through working within the system to make it happen." (Tr. 134-35.)

Within the following few days, however, Cowan told Gisler, "I don't think that [Daggett] needs to be a GS-9; I think a GS-7 will satisfy the requirement" (Tr. 135). Either during the same conversation or the next day, after Gisler "challenged him on it," Cowan told Gisler that Daggett was not a "team player." Gisler's unassisted recollection at the hearing was that Cowan may or may not

have linked the "team player" statement with their discussion of the promotion to GS-7 or GS-9. However, Gisler adopted a statement he had written three months earlier, in a narrative provided to the Union, indicating that Cowan made both statements during the same conversation. (Tr. 142-44, GC Exh. 2 p.7).

Cowan testified that he had told Gisler, at least once, that Daggett was a "non-team player." Cowan did not place this conversation in a specific time frame, but testified that this statement was based on allegations of ongoing problems between Daggett and one or more noncommissioned officers in the administrative cell (Tr. 176-78).

In the same period in which Gisler and Cowan were discussing Daggett's promotion, and while her grievance was pending, their debate about reorganizing the administrative cell and placing a captain in charge of the merged cells continued. Daggett testified that, the day after the June 3 grievance meeting, Gisler told her that Cowan had told Gisler to inform Daggett that she "was going to be replaced with a captain no matter what the desk audit showed." Daggett further testified that Gisler "had mentioned to me that he was told I was a non-team player and that was one of the reasons why the decision was made." (Tr. 76.)

D. The Desk Audit

Carolyn White is a personnel management specialist employed in the Civilian Personnel Office and is assigned as a classification specialist to the G3 directorate. White was supposed to have attended the June 3 grievance meeting but missed it because of another commitment. Ronnie Ross informed White that a desk audit had been requested as a result of the meeting, and that the Civilian Personnel Office was supposed to conduct it. White checked with Labor Relations Officer Billy A. (Alan) Wall, who appears to have attended the grievance meeting. She then undertook the audit with the understanding that she was supposed to conduct such audits when requested by G3 (Tr. 209-210, 239, 269-274).

White followed her normal procedures for a desk audit of Daggett's duties. On June 6, she went to Daggett's workplace and interviewed her (Tr. 77, 255-57). Their interview was interrupted once or twice by calls for Daggett's services, and White observed the work that Daggett performed during those interruptions (Tr. 257). According to White's notes, their interview lasted two hours (Ag. Exh. G p.2).

During the interview, Daggett informed White that Staffing Specialist Dorothy Coles had been consulted when the 5, 7, 9 developmental plan was being drafted. White spoke with Coles, who told her that she had found the draft position description to be consistent with a GS-9 but had not discussed the job duties with Daggett. (Tr. 267-69, 271-72, Ag. Exh. H.)⁵

On June 14, White interviewed LTC Gisler as Daggett's supervisor (Tr. 257, Ag. Exh. G p.6). She completed her analysis by preparing a draft of a "Factor Evaluation System Position Evaluation Statement," containing a "summary" box in which she entered "GS-7," in the space indicated for "grade conversion" (Ag. Exh. G p.7). On the same day, White sent a memorandum to Sokowski and Ross. White reported that she found Daggett to be eligible for a non-competitive promotion to GS-6 and to have met the "qualification requirements" for GS-7, because she had, since January 1995, "effectively performed" duties that White evaluated as GS-6 duties. However, White also concluded that Daggett had not met the "eligibility (time-in-grade) requirements" for GS-7 because she had not "completed one (1) year of service at the GS-6 level." White noted that Daggett "would meet the time-in-grade requirements if she had been officially assigned to the GS-6 duties in Jan 95." (Ag. Exh. H.)

E. Resumption of Efforts to Resolve the Grievance

Some time after White interviewed Daggett for the audit, but before she submitted the June 14 memorandum mentioned above, Sokowski asked her to report also on Daggett's eligibility for back pay and on other possible approaches for settling the grievance (Tr. 274-77). White's memorandum includes a brief general discussion of the criteria for back pay eligibility and the availability of a retroactive promotion, but reaches no conclusions and makes no recommendations with respect to Daggett on these issues.

The grievance parties and representatives met again on June 17. Daggett was informed of the results of the desk audit. She protested the absence in the audit report of some job duties of which she had informed White, but was told that this meeting was not for the purpose of discussing the audit. Sokowski then made a proposal to settle the grievance. He offered to promote Daggett to GS-7 and award her back pay under a formula that involved some period of GS-6 pay and some period of GS-7 pay. Daggett accepted this

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A desk audit, unlike a job description, focuses on the actual duties the employee is performing (Tr. 284-85).

offer, on the condition that certain appeal rights would be retained. This condition was apparently agreed to, and the parties left the meeting with an understanding that the grievance had been settled. (Tr. 34, 78-79, 136, 207-08, GC Exh. 2 p.7.)

Sokowoski had promised to provide the paperwork to formalize the settlement the following day, but a Mr. Conklin, on the staff of the Deputy Chief of Staff for Personnel and Information Management, advised him that, under a ruling by the Comptroller General, back pay could not be provided (Tr. 208, 226-27). Labor Relations Officer Wall informed Mr. Walsh of this (Tr. 35). Then Sokowoski offered an award of \$2,500 in lieu of back pay and Daggett accepted it. Although there was no formal settlement of the grievance, and it may technically have been raised to the third step, it was not processed further. (Tr. 35-36, 80-81, 123-24, 208, 210-14.)

*F. Reorganization Implemented;
Related Developments*

At a point in time that has not been established in the record, Col. Cowan made a final decision to adopt the recommendation, previously discussed with his subordinates, to merge the administrative and information management cells and to place Captain Wray in charge of the merged unit (Tr. 137, 150, 173, 179-82, 190-91, 295-96.)⁶ LTC Gisler informed Daggett of this decision on August 22. It became effective the same day and resulted in Wray becoming Daggett's first line supervisor, in place of Gisler, and the person with primary responsibility for rating her performance. (Tr. 137, 299, GC Exh. 2 p.8.) Gisler remained as the branch chief and became Daggett's second line supervisor.

The following day, August 23, Carolyn White submitted and both Wray, as approving supervisor of the job content, and Sokowoski, as the official approving White's classification of the position, countersigned a new job description for Daggett. The classification incorporated the results of White's desk audit of Daggett's position. Her position was now titled, "Crisis Action Team Support

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While this merger had been contemplated as part of a proposal that Cowan had submitted to a "command group" for approval in April 1996 (see part I.C., above), and there was no specific evidence about such approval, the record suggests that Gisler continued to question the proposal and that it remained with Cowan to make or at least to recommend changes.

Assistant" and was placed in the 303 series at GS-7. (Tr. 262-63, GC Exh 9, Ag. Exh. I.)

Daggett had been performing certain administrative duties for which Captain Wray was responsible, although LTC Gisler had delegated them to Daggett when he was her first line supervisor. When Wray assumed this position he relied on Daggett to teach him how to perform these duties (Tr. 142).⁷ Thus, Wray immediately assumed some of the duties Daggett had performed under Gisler, but Gisler observed that, within a week, Daggett was anticipating the need for certain tasks and resuming their performance (Tr. 142). According to Daggett, however, Wray reassigned certain of her duties to other staff members (Tr. 84-85)⁸

G. Denial of Training Request

Daggett's duties under Gisler included training people who were sent in to augment the staff of the Operations Center. They were sometimes thrown into tasks for which they had no preparation. Daggett therefore took advantage of opportunities to attend training programs to acquire the skills to train these people quickly, one-on-one. (Tr. 94-95.)

On January 22, 1997, Daggett submitted a request to attend a commercially-provided seminar on "How to Overcome Negativity in the Workplace," at a cost of \$99. The request form contained a box in which to enter "Training Objectives (Benefits to be derived by the Government)." Daggett's entry was: "To gain the skill required to overcome the negativity in the work environment brought on by multiple causes to include the tension of reorganization." Daggett also discussed with LTC Gisler her reason for wanting to attend this seminar, which was to help her "to work through the stresses" that she felt were causing her to suffer from physical problems after what she saw as a drastic change of attitude toward her after she filed the grievance. (Tr. 94-97, GC Exh. 12.)

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Among his "Key Points Made" at a September 26 routine counseling session with Daggett, Wray wrote, "Train me in the Basics of your job" (GC Exh 11, 4th pg.).

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Captain Wray testified that Daggett continued to perform all of the duties specified in the job description that was given to her when Wray arrived, and that he had not removed any duties from her. However, Wray, having arrived almost simultaneously with the new job description, was not in a position to testify about duties that Daggett may have performed unofficially under Gisler.

Captain Wray returned the request to Daggett on January 23 with a note stating: "Don't think we can justify this one. I ran it through the LTC w/o any comment to see if he had the same reaction & he did. Sorry, CPT Wray." (Tr. 94-98, GC Exh. 12.) Captain Wray testified and Daggett confirmed that it was Gisler who denied the request (Tr. 303, 98).

A Ms. Banks who is apparently Gloria Banks, shown on a "working TDA" to be a staff action assistant to Col. Cowan (Ag. Exh J), and described by Daggett as the division secretary, was allowed to attend that seminar (Tr. 95). Daggett has applied for and been approved for other training courses since Wray became her supervisor, including courses that were not specifically related to the duties she was performing at the time she applied (Tr. 99, 308).

III. Credibility Resolutions

The disputed evidentiary facts, insofar as they are material, go directly only to the allegation of an unlawful statement by Ross and indirectly to some of the other allegations to the extent that they might provide a clearer understanding of the background to the actions taken. I shall attempt first to resolve the disputed background issues.

A. Ross's "90-day" Promise to Daggett

Daggett testified that when, after accepting a permanent position in G3 with what she understood to be a "5, 7, 9" plan, she received a job description that merely duplicated her previous job description, she and LTC LaBrecque confronted Ronnie Ross and that Ross promised to "correct it to reflect the job [Daggett] was performing" in 90 days (Tr. 62). Ross denied this (Tr. 235-36). I credit Daggett that there was a conversation of the general nature that she described. I credit this because: (1) I found Daggett to be a highly credible witness who, in my judgment, would not consciously have made up such a story; (2) Daggett's memory of the incident is trustworthy because she was following the course of her travails closely; and (3) since Gisler was convinced that Ross had made such a promise (GC Exh. 2 p.2), I infer that either Daggett or LaBrecque told him about it, probably no later than around the time the 90 days had expired and Gisler replaced LaBrecque. However, I note that even in Daggett's version the promised correction did not imply more than an unspecified result that depended on an evaluation of Daggett's job duties.

B. *March 1996 Gisler-Sokowoski-Ross Meeting*

Staff specialists Cleckner and Lantz also attended this meeting, which Gisler had requested in order to expedite the matter of Daggett's promotion and reclassification. Gisler believed that he left the meeting with an assurance that the reclassification would be expedited and that Lantz would do the necessary paperwork as soon as her schedule, which was represented to be "very busy," would allow (GC Exh. 2 p.4). Gisler reported this to Daggett, who understood it to mean that her job would be reclassified as a 301 series GS-9 but that she first needed a year at the GS-7 level (Tr. 67). Sokowoski did not remember the meeting as Gisler did, and thought Gisler had been told that Daggett's job did not fit into the 301 series (Tr. 206).

I believe both of these to be honest impressions of what occurred at that meeting. Although Sokowoski may have had a motive for shading the truth, the record as a whole persuades me that Gisler was not given a firm commitment that Daggett would be reclassified into the 301 series. On the other hand, I infer that something was said to encourage Gisler in the belief that something positive would be done. Perhaps it was bureaucratic double talk, or what we used to call (and now has achieved the status of an entry in *Webster's Third New International Dictionary*) a "snow job," but this is only speculation. In any event, this meeting formed part of a pattern of failure by the military and civilian people involved to communicate to each other their respective understandings of what was required to resolve this issue or, to the extent they understood, to interact in any constructive way to address the impasse. It is not in my province to allocate blame for this.

C. *Ross's Statements at June 3 Grievance Meeting*

Ross's explanation of what might happen if Daggett's position had to be advertised was taken by Daggett, Walsh, and Gisler to mean that Daggett could lose her job if she continued with her grievance. Ross conceded that, included in her explanation, was a warning that Daggett could become a "displaced employee" (Tr. 240). While I credit Ross's denial that she said that Daggett could lose her job if she pursued the grievance (Tr. 244-45), the warning did convey the idea that a result of the grievance might be to put her job at risk. Moreover, Ross testified that her statement about the employee from Fort Buchanan was "misconstrued" (Tr. 239, 243). I take this as more or less of a concession at least that something she said could have been interpreted to mean that the Fort Buchanan employee

might be able to compete successfully for Daggett's job if, as a result of her pursuit of the grievance, her job had to be advertised. Ross suggested the unlikelihood of anyone believing that a GS-12 employee would take the position of a GS-5 (Tr. 243). However, it is far from clear that Ross ever explained that the Fort Buchanan employee was a GS-12. Moreover, the position that was the subject of the grievance was a GS-7/9. Thus, while I am unable to determine exactly what words Ross used, or to place her remarks precisely in context, the above findings will have to serve as the basis for analysis of their legal implications.

Discussion and Conclusions

I. Alleged Coercive Statements

A. Ross's Statement

Ross made no direct threat that management would take any action against Daggett if she pursued her grievance. Nor was Ross a management official herself. However, her statement was made in the presence of Sokowoski and of staffing specialists whose opinions carried authoritative weight in the circumstances and at least one of whom, Lantz, signified agreement with Ross. Therefore, her statement was readily attributable to management.

The problem with Ross's explanation of the possible consequences of Daggett's pursuit of the grievance is that, having raised the specter of job loss, a consequence to which employees may reasonably be expected to be particularly sensitive--especially during a period of "reengineering"--Ross failed to make sufficiently clear that the risk of job loss was not attributable to the grievance. Whatever exact words Ross used, she left the impression that the risk was related to pursuit of the grievance. At least that was the inference that Daggett, Walsh, and Gisler drew from her remarks. The question, then, is whether it was reasonable to draw that inference. *See Department of the Air Force, Scott Air Force Base, Illinois*, 34 FLRA 956, 962 (1990).

Ross insists that she related the risk to the necessity to advertise the position. However, the "advertising" scenario was her own creation. The remedy requested in the grievance was a reclassification of Daggett's existing job. Ross's premise that the position would have to be advertised (although unquestioned by the staffing specialists at the meeting) appears to have been erroneous (GC Exh. 5). This error does not, by itself, make her remarks coercive. What does so is the creation of the impression that pursuit of

the grievance might result, directly or indirectly, in a very serious loss despite the fact that, even if one or more resolutions of the grievance might have put Daggett's job at risk, it was clearly within the parties' power to resolve it in a way that would avoid that risk. Creating the impression that one's exercise of a protected right will have adverse consequences is held to be unlawful interference under the Statute when the offending respondent is a union. *American Federation of Government Employees, Local 987, Warner Robins, Georgia*, 35 FLRA 720, 724-25 (1990). No reason that agency respondents should be treated differently suggests itself.

In conclusion, the implied inevitability of the risk as explained by Ross was an unnecessary and chilling message. However innocent in intention, Ross's remarks were reasonably susceptible to the coercive inference that pursuit of the grievance would endanger her job security. Her remarks therefore violated section 7116(a)(1) of the Statute.⁹

B. Cowan's "Non-team Player" and Related Remarks

The allegation regarding these remarks suffers from some technical problems. The first is that the complaint attributes them to Sokowoski, not Cowan. Assuming that, despite the Authority's relatively strict policies regarding "due process," *Bureau of Prisons, Office of Internal Affairs, Washington, D.C. and Phoenix, Arizona*, 52 FLRA 421, 431 (1996), I may properly consider this allegation based on the evidence that Cowan made these remarks, a more serious problem is that the remarks were made by one supervisor to another, and there is no allegation that they were made for the purpose of being relayed to Daggett or to any other statutory employee. Nor does the opening statement by Counsel for the General Counsel provide any indication that the allegation is addressed to the communication of these remarks to Daggett. However, in his post-hearing brief, Counsel for the General Counsel argues that Respondent independently violated section 7116(a)(1) by telling Daggett, after she filed the grievance, that she was not a team player, that her position would never be classified higher than a GS-7, and that a military person could do her

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Were this a case where the consequence being risked was relatively minor, further analysis might be necessary to determine whether there is a threshold below which, in all the other circumstances, "coercion" would be too strong a word to describe the response reasonably attributable to an employee.

job better and would be brought in to perform her significant duties.

I can see no way to entertain the issues as newly framed in the brief without totally disregarding *Bureau of Prisons*, which demands that, in circumstances such as these, "any doubts about due process be resolved in favor of the respondent." Therefore, taking the complaint allegation, as modified to attribute the statements to Cowan, I conclude that the statements made to Gisler have not been shown to interfere with, restrain, or coerce any employee.

II. Alleged Section 7116(a)(1) and (2) Discrimination

A. Transfer of Duties and Changing Rating Official

The overwhelming mass of the evidence in this case goes to Respondent's failure to honor what Daggett and Gisler regarded as its commitment to place Daggett in a 5, 7, 9 developmental plan. Yet the unfair labor practice allegation goes not to that but to the reassignment of supervisors and duties. The demise of the 5, 7, 9 plan stands only as part of the background for the alleged discrimination.

The fate of the efforts of Daggett's successive military supervisors to have the necessary steps taken to promote her to a position they felt would reflect more accurately her actual duties and abilities is indeed a sad one. Yet the General Counsel's portrait of Col. Cowan as having supported these efforts until Daggett filed her grievance, and then having turned against her, is an oversimplified picture of Cowan and the situation in which he found (or had placed) himself. Rather than moving in one direction and then suddenly changing courses, Cowan had been moving in two directions at once, and, I conclude, sacrificed Daggett's interests to those of the organization once he became convinced that it would be difficult if not impossible to accommodate a GS-9 position for her with the reorganization plan that others were urging him to implement. Gisler, perhaps realizing sooner than Cowan that Daggett's 5, 7, 9 developmental plan was at least potentially in conflict with the plan to merge the two cells under a military officer, persistently opposed the military officer assignment.

Timing is often an important factor in cases of alleged discrimination. Here, it appears that Cowan approved the merger plan (subject to review higher in his command) in

April 1996, before Daggett filed her grievance. While he continued to support her developmental plan until after the June 3 step two grievance meeting, there is every indication that at least until that time he saw no conflict between that plan and the proposed reorganization. As noted above, Respondent's failure to implement the developmental plan is not the alleged unfair labor practice. What must be determined, rather, is the motivation for placing Daggett under Captain Wray and removing some of her duties. The General Counsel's theory seems to be that the motivation was in large part to punish Daggett for filing the grievance, by placing her in a position that would prevent her from achieving the results she sought from that grievance, principally her promotion to GS-9.

A *prima facie* showing of unlawful discrimination under section 7116(a)(2) of the Statute is made by establishing that an employee's protected activity was a motivating factor in the agency's treatment of that employee.

Letterkenny Army

Depot, 35 FLRA 113, 118 (1990) (*Letterkenny*).¹⁰ Even if the General Counsel establishes a *prima facie* case, an agency will not be held to have violated section 7116(a)(2) if it can demonstrate, by way of an affirmative defense, that: (1) there was a legitimate justification for its action; and (2) the same action would have been taken even in the absence of protected activity. *Id.*

Here, with respect to the decision to assign Daggett to Captain Wray as her immediate supervisor and, thereby, her performance rating official, the decision was made, at least tentatively, before Daggett engaged in any protected activity. While Daggett's grievance was in progress, Gisler continued, unsuccessfully, to get Cowan to change his mind. The only hint that Cowan's failure to change his mind was motivated by her grievance was his statement to Gisler that she was not a team player. Cowan and Gisler had previously discussed Daggett's problems with other staff members. Gisler testified credibly that he did not know whether Cowan's comment was related to those problems or to the grievance.

There is evidence in the record that would support either interpretation of Cowan's comment, or the conclusion

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I have previously questioned the necessity that the protected activity that motivated the alleged discriminatory treatment be activity by the alleged discriminatee. However, the Authority has not responded to that point, and it does not affect the disposition of this case.

that he was referring to both. I am unable to read his mind in this respect, and have some doubt that he was clear in his own mind about what he meant, but I find that resolution unnecessary. At most, if the "non-team" player remark signified that Daggett had lost favor with Cowan because of her grievance, it might be permissible to infer the basis for a *prima facie* showing of discrimination, despite the fact that the post-grievance action was nothing more than a reaffirmation of an earlier decision. However, the Authority finds it unnecessary to decide whether a *prima facie* showing has been made if it finds that the agency has established its affirmative defense. See *United States Air Force Academy, Colorado Springs, Colorado*, 52 FLRA 874, 879 (1997).

In my view, with respect to the assignment of Daggett's supervisor, the facts supporting and those militating against a finding that there has been a *prima facie* showing are more evenly balanced than were those pertinent to the issue in *Air Force Academy* on which the Authority declined to make a determination. Thus, as I find, for the reasons implicit in the discussion above and summarized below, that Respondent has established its affirmative defense, I find this to be an appropriate case in which to follow that course, and make no *prima facie* determination on that assignment.

Whatever the merits or faults of the merger plan, including the assignment of Captain Wray to head the merged unit, I am persuaded that the plan's implications for the organization were of far greater concern to Col. Cowan than its effect on Daggett. That is, whether the decision to proceed with the plan after Daggett pursued the grievance was wise or not, it was reached because of considerations of greater significance to Cowan than any pique that might be attributed to him as a result of the grievance. Nor am I persuaded that either Sokowski or any other civilian manager or employee influenced him against Daggett because of the grievance, so as to affect his determination of the most appropriate way to "reengineer" his division.¹¹ In short, I find that the reorganization of the Current Operations Branch that resulted in Daggett's being placed under Captain Wray was based on a "legitimate justification" as that term is used in *Letterkenny*, and would have occurred even in the absence of protected activity.

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While there were hints of hostility toward Daggett among some administrative-type employees, the evidence suggesting such hostility exhibited itself before she engaged in any protected activity.

The allegation that Daggett's job duties were transferred to military personnel because of her grievance falls away at an earlier stage of the *Letterkenny* analysis. The complaint attributes these transfers to Gisler and Cowan. There is no direct evidence that either Gisler or Cowan transferred any of Daggett's duties. Rather, the evidence indicates that any removal of her duties was Wray's doing. If it is inferred that Cowan was resentful of Daggett for filing the grievance, one might suspect that he directed Gisler or Wray to transfer her duties as part of the plan of retaliation suggested by the General Counsel. However, even if an inference of hostility is drawn, there is nothing but speculation to lead to the conclusion that Cowan did so. As for Gisler, who despite his military position and his admonishment against being Daggett's advocate remained her supporter to the end, it would be ludicrous to conclude that he, independently, took any action that was designed to harm her.

Even if the complaint is read broadly enough to encompass actions by Wray, there is no evidence that he did anything except to assume the duties that he believed to constitute the responsibilities of his new position. Not having shared the same working relationship with Daggett that Gisler did, and having a lower level of responsibilities than Gisler, Wray took over some of the duties Gisler had entrusted to Daggett but that exceeded those within her job description. As Gisler credibly testified, however, Daggett soon resumed some of the duties that Wray had undertaken when he arrived. Apparently, Wray also re-allocated some of Daggett's other duties to others within the newly merged unit. There was also credible evidence that the total workload of the branch had diminished. What the record lacks is any persuasive link between the transfer of Daggett's duties and her grievance as a motivating factor.

B. Denial of Training Request

The complaint alleges that Wray denied Daggett's request to attend the seminar on "How to Overcome Negativity in the Workplace." The credible evidence indicates that it was Gisler, not Wray, who denied the request. Moreover, there is no indication that Wray, any more than Gisler, was motivated to retaliate against Daggett for filing the grievance that, by the time of this training request, had long been resolved. Nor is there evidence that Cowan had a hand in this denial.

The General Counsel portrays this denial as an extension of the removal of some of Daggett's duties. However, there is no evidence of the relationship between the "Negativity" seminar and Daggett's duties, current or former, including her role in training other employees. Daggett's purpose in requesting to attend the seminar was personal. She discussed her request with Gisler and did not suggest to him, as far as the record shows, that she believed the seminar would serve the same purpose as the kinds of training programs to which she had been sent in the past. In fact, Daggett continued to be permitted to attend other training sessions.

Under the circumstances existing when Daggett made this particular request, it would have been compassionate to grant it. Arguably, it would also have been a good idea, from a "human resources" or an employee relations perspective, to offer Daggett this opportunity to gain some insight in how to cope with the negative factors in her situation. That is not the same, however, as saying that the reason for the denial was retaliatory, or was part of a retaliatory action. I conclude that the General Counsel has not made a *prima facie* showing of discrimination under the Statute.

The Remedy

Since the only violation I have found is the implied threat by Ross, the traditional remedies would be a cease-and-desist order and the posting of an appropriate notice. With regard to the notice, the General Counsel requests that it be posted not only at the Respondent's facilities at Fort McPherson, but also at Fort Gillam, a post approximately 13 miles from Fort McPherson, where bargaining unit employees also represented by the Union are located. Where a single coercive statement is made to an individual employee, in circumstances having no demonstrated impact on the employees of another facility, I do not find a requirement that the notice be posted at other facilities where bargaining unit employees are located to be warranted. It is not unusual in the Federal sector for bargaining units to be nationwide. If notices were routinely required to be posted "bargaining unit wide," even the most localized and least momentous unfair labor practices would require nationwide postings whenever they occurred within such units. That would be difficult to defend as a practice consistent with the requirements of an effective and efficient Government.

The General Counsel also requests, in connection with Ross's coercive remarks, that she be ordered to receive training in labor-management relations. This nontraditional

remedy seems unwarranted here. While I have found that Ross spoke with insufficient consideration of the coercive effect of her message, I believe that she is perfectly capable of responding appropriately to the findings in this case without special training. That remedy would not be "reasonably necessary . . . to 'recreate the conditions and relations' with which the unfair labor practices interfered," to deter future violative conduct, or otherwise "to effectuate the policies of the Statute." See *F.E. Warren Air Force Base, Cheyenne, Wyoming*, 52 FLRA 149, 161 (1996).

Consistent with the above conclusions, I recommend that the Authority issue the following order.

ORDER

Pursuant to section 2423.29 of the Federal Labor Relations Authority's Regulations and section 7118 of the Federal Service Labor-Management Relations Statute (the Statute), Headquarters, Forces Command, Fort McPherson, Georgia, shall:

1. Cease and desist from:
 - (a) Making statements to employees to the effect that their jobs could be at risk if they pursue grievances.
 - (b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their rights assured by the Statute.
2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Post at its facilities where bargaining unit employees are located copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Commanding Officer and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(b) Pursuant to section 2423.30 of the Authority's Regulations, notify the Regional Director of the Atlanta Region, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

All remaining allegations of the complaint are dismissed.

Issued, Washington, D.C., September 30, 1997.

JESSE ETELSON
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that Headquarters, Forces Command, Fort McPherson, Georgia, violated the Federal Service Labor-Management Relations Statute and has ordered us to post and abide by this notice.

We hereby notify bargaining unit employees that:

WE WILL NOT make statements to employees to the effect that their jobs could be at risk if they pursue grievances.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

(Activity)

Date: _____ By: _____
(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with its provisions, they may communicate directly with the Regional Director, Atlanta Regional Office, Federal Labor Relations Authority, whose address is: Marquis Two Tower, Suite 701, 285 Peachtree Center Avenue, Atlanta, GA, 30303 and whose telephone number is: (404) 331-5212.

CERTIFICATE OF SERVICE

I hereby certify that copies of this DECISION issued by JESSE ETELSON, Administrative Law Judge, in Case No. AT-CA-70042, were sent to the following parties:

CERTIFIED MAIL, RETURN RECEIPT NOS.

CERTIFIED

Richard Jones, Esquire
Federal Labor Relations Authority
Marquis Two Tower, Suite 701
285 Peachtree Center Avenue
Atlanta, GA 30303

P600-695-447

Robin Allen, Esquire
Staff Judge Advocate Office
1537 Hardee Avenue, SW.
Ft. McPherson, GA 30330

P600-695-448

Gerald Walsh, Esquire
AFGE, Local 1759
P.O. Box 625
Morrow, GA 30260

P600-695-449

REGULAR MAIL:

John Sturdivant, President
AFGE, AFL-CIO
80 F Street, NW.
Washington, DC 20001

Dated: September 30, 1997
Washington, DC