

CASE DIGEST: *DOJ, Federal BOP, U.S. Penitentiary McCreary, Pine Knot, Ky.*, 71 FLRA 538 (2020) (Member DuBester concurring)

An FLRA Administrative Law Judge (the Judge) found that the Agency committed an unfair labor practice (ULP) under § 7116(a)(1) and (5) of the Federal Labor-Management Relations Statute (the Statute) when it denied the Union's attorneys access to the prison lobbies for observing shift changes to gather information in connection with pending grievances. In its exceptions, the Agency argued that the Judge denied it due process by sustaining the charges on a theory not argued at the hearing and that the Judge's decision violated the management right to determine internal security practices. The Authority found that the Agency was afforded adequate notice by the General Counsel's complaint, that the Agency had a reasonable opportunity to litigate the issues at the hearing, and that the surrounding circumstances demonstrated that the Agency violated the Statute by preventing the Union's attorneys from observing shift changes at the Agency's lobbies. Accordingly, the Authority denied the Agency's exceptions.

Member DuBester concurred with the Decision to adopt the Judge's recommended decision and to deny the Agency's exceptions.

This case digest is a summary of a decision issued by the Federal Labor Relations Authority, with a short description of the issues and facts of the case. Descriptions contained in this case digest are for informational purposes only, do not constitute legal precedent, and are not intended to be a substitute for the opinion of the Authority.