

U.S. DHS, U.S. CBP, Laredo, Tex., 71 FLRA 1069 (2020) (Member Abbott dissenting)

CASE DIGEST:

The Agency filed exceptions challenging the decision of the Administrative Law Judge, who found that the Agency committed an unfair labor practice (ULP) under 5 U.S.C. § 7116(a)(1) and (2) when a supervisor retaliated against a border patrol agent based on the agent's report of alleged wrongdoing by the supervisor. The Authority rejected the Agency's argument that § 7116(d) barred the ULP, finding that an earlier email from the Union representative to management did not constitute a grievance under the parties' negotiated grievance procedure. The Authority further found that the Judge did not err in determining that the General Counsel had established a prima facie case of discrimination under § 7116(a)(2), and that the Agency failed to rebut the prima facie case. Accordingly, the Authority denied the exceptions.

Member Abbott dissented concluding that the complaint was barred by § 7116(d), deficient and should have been dismissed. Member Abbott also noted that the alleged misconduct of the Agency should have been charged under § 7116(a)(4), not § 7116(a)(2).

This case digest is a summary of a decision and order 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.