

**CASE DIGEST:** *U.S. DOJ, Fed. BOP, Fed. Corr. Inst., Dublin Cal.*, 72 FLRA 343 (2021) (Member Abbott concurring; Chairman DuBester dissenting, in part)

In this case, the Arbitrator found the grievance timely filed and that the Agency violated the parties' agreement by not equitably distributing overtime. The Authority found that the Arbitrator's arbitrability finding failed, in part, to draw its essence from the parties' agreement. Accordingly, the Authority granted the Agency's essence exception, in part, and denied the remaining exceptions.

Member Abbott concurred, joining in the decision and order because it sufficiently demonstrated that the Authority reject the Agency's only merits-based exception to the Arbitrator's decision. However, Member Abbott wrote separately regarding the key onus of the parties to not sleep on their rights and to safeguard their own interests.

Chairman DuBester dissented, finding that the majority failed to defer to the Arbitrator's undisturbed factual findings. And he would find that, applying those factual findings, her procedural-arbitrability determination was a plausible interpretation of the parties' agreement.

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.