

CASE DIGEST: *U.S. DOD, U.S. Marine Corps Air Ground Combat Ctr., Twentynine Palms, Cal.*, 71 FLRA 173 (2019) (Member DuBester dissenting).

This case concerned an arbitrator's jurisdiction to resolve a grievance seeking a promotion and backpay for the grievant's performance of duties allegedly outside of her position description and of a higher grade. The arbitrator found that she could hear the merits of the grievance pertaining to a violation of the parties' agreement though exclude issues pertaining to classification. The Authority found that the agency's exceptions were interlocutory, but because the grievance raised a plausible jurisdictional defect, review was warranted. As demonstrated by the requested remedy, the essential nature of the grievance was classification. Therefore, the Authority found 5 U.S.C. § 7121(c)(5) barred the grievance and set aside the interim award.

Member DuBester dissented, finding that the grievance, when read in its entirety, did not concern a classification matter within the meaning of § 7121(c)(5) of the Statute. Because he found that the Agency's interlocutory exceptions to the Arbitrator's interim award did not demonstrate that the award had a plausible jurisdictional defect, he would have dismissed 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.