

**CASE DIGEST:** *U.S. DOD, Ohio Nat'l Guard*, 71 FLRA 829 (2020) (Member Abbott concurring, in part; Chairman Kiko dissenting)

This case concerned allegations that the Ohio National Guard's communications to bargaining-unit employees (technicians) that the Agency was not bound by either the Federal Service Labor-Management Relations Statute (the Statute) or the parties' expired collective-bargaining agreement and subsequent actions violated the Statute. An FLRA Administrative Law Judge (the Judge) found that the Authority had jurisdiction over the Agency and that the Agency violated § 7116(a)(1), (5), and (8) of the Statute. On exceptions, the Agency argued that the Judge erred in various factual findings and legal conclusions. Finding that the exceptions did not establish that the Judge erred in his factual findings or legal conclusions, the Authority adopted the Judge's decision and order and denied the Agency's exceptions.

Member Abbott wrote separately to concur with the determination that the Authority had jurisdiction to enforce the Statute here; nonetheless, he observed that the Chairman's concerns regarding the exercise of Federal authority over a state officer such as the Adjutant General were well-founded.

Chairman Kiko dissented on the ground that the Ohio Adjutant General—a state officer—and his department are beyond the reach of the Authority's unfair-labor-practice jurisdiction. Because the Ohio Adjutant General is appointed by Ohio's governor, paid from Ohio's treasury, and obligated by the U.S. Code to perform his duties in accordance with the laws of Ohio, Chairman Kiko would have concluded that Congress did not intend for him to be treated as a federal agency under the Statute. She would have overruled previous Authority precedent to the contrary.

This case digest is a summary of an 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.