

CASE DIGEST: *U.S. Dep’t of VA, John J. Pershing VA Med. Ctr., Poplar Bluff, Mo.,*
72 FLRA 219 (2021) (Chairman DuBester concurring; Member Kiko
concurring)

In this case, the Authority considered the Union’s motion for reconsideration of the Authority’s decision in *U.S. Department of VA, John J. Pershing VA Medical Center (VA)*, 71 FLRA 1141 (2020) (then-Member DuBester dissenting). In *VA*, the Authority had concluded that the grievance was contrary to 38 U.S.C. § 7422 and not substantively arbitrable. However, the Authority granted the Union’s motion for reconsideration because it found that it erred in its legal conclusion when it held that the grievance was excluded from the negotiated grievance procedure pursuant to 38 U.S.C. § 7422(b). The Authority considered the merits of the Agency’s additional exceptions that were not considered in *VA*. The Authority denied in part, and dismissed, in part, the Agency’s exceptions.

Chairman DuBester agreed that the motion for reconsideration should be granted. He also agreed that the Agency’s exceptions should be denied in part, and dismissed, in part.

Member Kiko agreed with granting the motion for reconsideration because of the Agency’s failure to either obtain a § 7422 determination *or* argue that a previous § 7422 determination applied to the grievance.

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.