

CASE DIGEST: *U.S. Dep't of VA, John J. Pershing VA Med. Ctr.*, 72 FLRA 656 (2021)
(Member Abbott concurring; Chairman DuBester dissenting in part)

In a discipline case, the Arbitrator exceeded his authority by considering charges that were not sustained by the Agency and the grievant's Whistleblower Protection Act (WPA) claim, when both were outside of the stipulated issue.

Member Abbott concurred in the decision, but wrote separately to highlight that the Authority's Regulations do not universally demand that a party's exception be automatically dismissed for failing to raise the specific argument below. Additionally, he noted that arbitrators should be hesitant to disturb discipline when a chosen penalty falls within the range established by an agency's table of penalties.

Chairman DuBester dissented in part, finding that the Arbitrator did not exceed his authority by addressing whether the Agency's disciplinary action violated the WPA.

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.