



January 26, 2010

### **OFFICE OF GENERAL COUNSEL WINS PRECEDENT SETTING DECISION IN FLRA CASE**

In a landmark decision, the FLRA recently held that the Air Force committed an unfair labor practice when it discharged two employees who tested positive for drugs. The Federal Labor Relations Authority ruled that the removals violated contract provisions which provide that employees can not be removed while they were undergoing drug rehabilitation. Assistant General Counsel Judy Galat, an attorney in AFGE's Office of General Counsel, handled the case for employees at AFGE Local 2924 (Davis-Monthan Air Force Base) in Arizona.

Most significant in the Authority's ruling is that the remedy will include make-whole relief, including reinstatement, for the employees who were named in the ULP complaint as well as a notice and posting. This decision reverses a long-held assumption that precludes the FLRA from offering individual adverse action relief to employees to correct disciplinary actions which could have been appealed through a negotiated grievance procedure or to the Merit System Protection Board (MSPB).

### **AFGE FILES TO HELP TSO MEMBER GET HIS JOB BACK**

AFGE filed in US District Court this week seeking justice and employment for Ricky Brooks, a former STSO from Milwaukee, Wisconsin. Specifically, AFGE has asked the Court to require the Transportation Security Administration (TSA) to reinstate Mr. Brooks during an appeal as required by EEOC regulation. Additionally, AFGE has asked the Court to require the EEOC to enforce its regulation requiring relief during the appeal process. In 2003, Ricky Brooks was unlawfully fired in retaliation for previously protected EEO activity and filed a complaint against the TSA.

On September 29, 2009, after many years of fighting, an EEOC administrative judge ordered the TSA to reinstate Mr. Brooks to a TSO position. The Agency appealed this decision. EEOC regulation requires an agency to reinstate a complainant, or pay salary without restoration to the complainant, during the appeal process. However, the TSA has refused to follow this EEOC regulation and the EEOC has refused to enforce its regulation. Therefore, AFGE has asked the Court to require the TSA and EEOC to perform their duty owed to Mr. Brooks. The government has 60 days to reply to the Complaint. Assistant General Counsel Gony Goldberg is handling the case.

**WE REPRESENT YOU!!**

The AFGE Legal Representation Program works for our members!! Legal Rights Attorney Matthew Milledge just won \$40,000 for one member in a confidential settlement and helped another member at West Point Military academy get his job back. Dozens of AFGE members have received back pay settlements through the program. Up to \$2,000 of all fees recovered is returned to unions and councils. For more information about the Legal Rights Fund program go to [www.afge.org/representation](http://www.afge.org/representation).

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