

**OCB AWARD NUMBER: 2508**

**SUBJECT:** Arb Summary #2508  
**TO:** All Advocates  
**FROM:** Megan Schenk  
**OCB GRIEVANCE NUMBER:** DPS-2015-01266-1  
**DEPARTMENT:** Public Safety  
**UNION:** OSTA  
**ARBITRATOR:** Jack Buettner  
**GRIEVANT NAME:** Vic Wolfe  
**MANAGEMENT ADVOCATE:** Heidi Marshall  
**UNION ADVOCATE:** Herschel Sigall  
**ARBITRATION DATE:** December 8, 2015  
**DECISION DATE:** February 19, 2016  
**DECISION:** Denied  
**CONTRACT SECTIONS:** 19  
**OCB RESEARCH CODES:** 118.01 – Discipline in General; 118.251 – Violation of Post Orders, Policies or Procedures

**HOLDING:** Grievance **DENIED**. The Employer had just cause to remove the Grievant where the Grievant had an extensive disciplinary history, and 3 investigations showed that the Grievant did not follow procedures during two traffic stops.

**Facts:** Grievant was employed as a Trooper for approximately 15 years. Grievant was removed from his position for violating two work rules: Performance of Duty and Compliance to Orders. The charges stemmed from the findings in 3 investigations in which the Grievant was the subject. The first investigation found that the Grievant seized a knife during a traffic stop and failed to return it and that there were operational deficiencies during an OVI arrest. The second investigation found that the Grievant failed to file two citations, causing one to be dismissed and another to be refiled. The third investigation found that the Grievant failed to follow proper protocol in collecting a urine sample from a female suspected of OVI. Prior to these incidents, the Grievant had been given 10 verbal reprimands, 8 written reprimands, 1 fine, and 9 suspensions.

**The Employer argued:** Grievant was terminated for just cause. The Grievant's performance of his job duties exhibited numerous operational deficiencies. The Grievant has an extensive disciplinary history and the Employer has tried to correct the Grievant's behavior with a performance improvement plan and through the Early Intervention Program, but the Employer's efforts have not had a lasting impact.

**The Union argued:** Grievant was wrongfully terminated. The cited infractions are minor and the Employer is trying to stockpile them against the Grievant to make for termination. Also, the post Commander has a personal conflict with the Grievant.

**The Arbitrator found:** The Employer had just cause to terminate the Grievant. The incidents involving the knife and the ticket citations do not amount to blatant work rule violations. However, the Grievant did clearly violate the work rules in his mishandling of 2 OVI traffic stops and the collection of a urine sample. Given the Grievant's work record, the termination was appropriate.