

#1270

IN THE MATTER OF ARBITRATION
BETWEEN
DISTRICT 1199/SEIU, AFL-CIO
AND
THE ADULT PAROLE AUTHORITY
OHIO DEPARTMENT OF REHABILITATION AND CORRECTIONS

Before: Robert G. Stein
Direct Appointment

Advocate for the UNION:

Janice D. Stephens, Administrative Organizer
DISTRICT 1199/SEIU, AFL-CIO
475 E. Mound Street
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Advocate for the EMPLOYER:

Cynthia Sovell-Klein
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Ohio Department of Administrative Services
106 N. High Street, 7th Floor
Columbus OH 43215

RELEVANT CONTRACT LANGUAGE/

RULES & REGULATIONS

ARTICLE 8 DISCIPLINE

8.2 Progressive Discipline

*The principles of progressive discipline shall be followed.
These principles usually include:*

- A. Verbal Reprimand*
- B. Written Reprimand*
- C. A fine in an amount not to exceed two (2) days pay
for discipline related to attendance only; to be
implemented only after approval from OCB*
- D. Suspension*
- E. Removal*

*The application of these steps is contingent upon the type
and occurrence of various disciplinary offenses.*

*The employee's authorization shall not be required for the
deduction of a disciplinary fine from the employee's paycheck.*

BACKGROUND

The Grievant in this matter is Bruce Bollon. Mr. Bollon was a Parole Officer with the Adult Parole Authority in the Department of Rehabilitation and Corrections (hereinafter referred to as "Employer"). Mr. Bollon served as a Parole Officer for some two and one-half years in the Employer's Canton Regional Office before he was terminated on March 1, 1997. Mr. Bollon was terminated for violation of **Work Rule #1**, Failure of Good Behavior; and **Work Rule #2**, Making obscene gestures or false or abusive statements toward or concerning another employee, supervisor or member of the

Mr. Bollon also held a position as an auxiliary Sheriff Deputy with Tuscarawas County. Following his conviction for telephone harassment, the Grievant was terminated from his position with the Sheriff's reserve unit.

The Grievant was convicted of telephone harassment on January 2, 1997. He was removed from his position with the Adult Parole Authority on February 12, 1997 for violation of the rules stated above. He had no previous discipline on his record at the time of his termination. The Union filed a grievance on February 20, 1997.

EMPLOYER'S POSITION

The Employer's position in this case is straight-forward. The Grievant was convicted of telephone harassment and admits to having done it. The Employer argues that the Grievant's actions were carefully planned and deliberate. He chose Ms. Cummins as his victim, devised a "game" of engagement and stalked her, asserts the Employer. The Employer argues the testimony of Ms. Cummins clearly demonstrates she was fearful of and intimidated by his actions and did not view them as a game.

In making the decision to terminate the Grievant, the Employer points out it assessed the ability of Mr. Bollon to continue in his position of Parole Officer in Stark and adjacent counties. The Employer insists on the involvement of law enforcement authorities and the court system in Mr. Bollon's arrest would severely impact his ability to perform his work in supervising paroles and providing credible pre-sentence recommendations to the court system in Stark and Tuscarawas Counties. The Employer

severity of the Employer's actions in light of the civil conviction of the Grievant. The Union asserts that the Grievant provided two and one-half (2 ½) years of loyal service to the Adult Parole Authority, had a good work record, and had never been disciplined.

The Union contends that at the time the Grievant was harassing Ms. Cummins he was under a great deal of personal stress (Union Ex. 2 and Grievant's testimony). The Union does not condone the Grievant's actions, but asks the Arbitrator to take these mitigating factors into consideration in evaluating this case. In the cases of other employees the Employer has considered the circumstances of employees who violate departmental rules and has issued progressive discipline in lieu of termination.

In particular, the Union points to the cases of Parole Officers Sensenstein and Lancaster and argues that these employees were treated in a less severe fashion than the Grievant for their violations of law involving the abuse of alcohol. In both of these cases parole officers committed civil offenses that discredited the Employer, yet these employees received suspensions rather than being terminated (see Carlisle testimony). The Union asserts the Grievant is the recipient of disparate treatment and should be treated the same as other parole officers.

The Union rejects the Employer's contention that the actions and conviction of the Grievant make it impossible for him to continue to effectively perform as a Parole Officer. The Union points out that the Grievant could be reassigned to another county and/or could have a caseload that excluded sex offenders.

The Union also raised the issue of Mr. Ron Briggs failing to adhere to a subpoena issued by this Arbitrator. It argued that if Mr. Briggs is permitted to refuse to appear in an

The victim, Ms. Cummins, clearly experienced real fear and suffered psychological harm as a result of the Grievant's actions (see Cummins testimony and Management Ex. 4). The actions of the Grievant were compounded by the fact the victim works in close proximity with the Grievant's wife on a medical team. Ms. Cummins testified for several months that she suffered the effects of the Grievant's actions in regard to her collegial relationship with the Grievant's wife. Ms. Cummins was harmed psychologically and professionally.

The Union provided a vigorous defense against the applicability of Work Rules 38 and 40; however, the nature and public awareness of the Grievant's actions cannot be overcome in this matter.

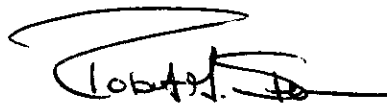
A Parole Officer plays a critical leadership role in the justice system and should be held to a higher standard of conduct. The public relies upon Parole Officers to enforce the law; parolees depend upon their guidance, and judges rely upon their recommendations and judgment in the critical matter of sentencing. It matters that Parole Officers exercise sound judgment, have integrity, and can be trusted. The Grievant appeared before and was sentenced by the Criminal Court of Stark County. I find that this exposure not only discredited the work of the Adult Parole Authority, but it also severely impaired the Grievant's ability to effectively continue in the role of an officer of the court.

The Union states in its Closing Statement, "For the state to argue that employees be held to a standard that allows for no human wrongdoing is ridiculous." The fact is that the standard's interpretation depends on the nature, severity, and impact of that "wrongdoing." The actions of Parole Officers Sensenstein, Lancaster, and Regional

AWARD

The grievance is denied.

Respectfully submitted to the parties this 25th day of April, 1998.



Robert G. Stein, Arbitrator