

Arbitration Between:

Ohio Department of Public Safety, Division of the State Highway Patrol

and

Ohio State Troopers Association

Grievance of Trooper Michael K. Grant, DPS-2021-02750-01

State Highway Patrol Representatives

Kaitlin Fuller, Ohio State Highway Patrol

Aaron Williams, Ohio State Highway Patrol

Cullen Jackson, Office of Collective Bargaining

OSTA Representatives

Larry Phillips, OSTA Staff Representative

*Witnesses for Grievant:* OSTA Staff Representative Jeffrey Skinner and Grievant

*Witnesses for OSHP:* Lt. David Bailey and Lt. Post Commander Maurice Waddell

ARBITRATOR OPINION AND AWARD

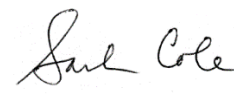
The Ohio Department of Public Safety, Division of the State Highway Patrol (OSHP), issued a three-day suspension to Trooper Michael K. Grant for violation of Rule 4501:2-6-02(I)(4), Conduct Unbecoming an Officer and Rule 4501:2-6-05(D)(1), Motor Vehicle and Aircraft Operations, following Grievant's participation in a high-speed chase of five fleeing motorcycles, his high speed return to where four of the cyclists were now stopped, and his use of profanity toward those cyclists, as well as his failure to wear his Stetson hat, upon arrival at the scene. One of the four stopped cyclists recorded the Grievant's tirade on his GoPro and subsequently posted it on Tiktok, Youtube and Facebook, where it has received over 1,000,000 views. OSHP learned about the incident both from the community and through the normal OSHP channels. OSHP determined that a three-day suspension was appropriate discipline because of the danger associated with the chase, the subsequent unbecoming conduct of the Grievant, his failure to wear his hat during the arrest, and the ultimate negative publicity associated with his behavior. The Grievant does not dispute that his behavior at the site of the arrest was unbecoming and was willing to accept a one-day suspension for that behavior. He contends, however, that his driving was not dangerous and that he should not receive additional discipline for violation of the Motor Vehicle Operations rule. Because the Grievant does not dispute the

unbecoming conduct charge, which includes the damage the negative publicity may have caused, this opinion will focus on whether it was appropriate to increase the discipline Grievant received to a three-day suspension for his actions during the chase of all five motorcycles as well as his subsequent chase of the fifth motorcycle, which he eventually ceased, and his speeding back to the location of the four remaining cyclists, who were then under the control of Trooper Wilcox.

Ohio Department of Public Safety, OSHP Rule 4501:2-06-05(D)(1) states that a “member shall operate all division motor vehicles . . . in a careful and prudent manner.” Here, OSHP contends that the Grievant violated traffic laws by crossing the center line without his lights and siren on, weaving in and out of traffic while engaging a futile chase of a fleeing motorcyclist at speeds up to 144 miles per hour and then, after ceasing the chase, unnecessarily traveling at speeds up to 130 mph with no lights and sirens, to return to the location of the remaining motorcyclists. The Grievant counters that his driving was not imprudent or dangerous because he does not always use his lights and siren when approaching vehicles from behind, that he had to cross the center line because it was safer to do so than come to a stop on the interstate, that he thought it important to engage in the chase and thought it necessary to speed back to where the remaining cyclists were located.

While it seems unlikely that the only alternative to crossing the center line was coming to a stop on the freeway, giving troopers some discretion to cross the center line (or “zipper line”) without lights and siren on, makes sense as the rule prohibiting a trooper from violating the traffic laws unless his lights and sirens are on seems excessively rigid. Giving a trooper some discretion to choose when to turn on lights and sirens makes sense as he may be in a better position to assess the situation at the time. But discretion has its limits. Every witness who testified made abundantly clear that Grievant’s chase was futile, that he would never catch a motorcyclist in his Dodge Charger. During the chase, the Grievant turned on his lights and sirens, but did not proceed in a careful and prudent manner, as he was weaving in and out of traffic. Worse was the return trip when there was no longer any danger to prevent. He traveled at very high speeds, without his lights and sirens on, for no reason other than that he was angry with all the motorcyclists and wanted to get back to where the remaining cyclists were as quickly as possible so he could confront them. Because I find that the chase of the fifth motorcycle and the return high-speed trip back to the location of the other four motorcyclists, was conducted in a imprudent manner, I find just cause for imposing the discipline Grievant received for violation of Rule 4501:2-6-05(D)(1), Motor Vehicle and Aircraft Operations. Thus, the grievance is denied and the three-day suspension is upheld.

Date: November 14, 2022



Arbitrator Sarah R. Cole