**OCB AWARD NUMBER: 2710**

SUBJECT: Arb Summary # 2710

TO: All Advocates

FROM: Victor Dandridge

OCB GRIEVANCE NUMBER: DRC-2015-02406-03

DEPARTMENT: Department of Rehabilitation and Corrections

UNION: OCSEA

ARBITRATOR: Jack Buettner

GRIEVANT NAME: Christopher Barto

MANAGEMENT ADVOCATE: Richard Shutek

UNION ADVOCATE: Tim Watson

OCB REPRESENTATIVE: Victor Dandridge

ARBITRATION DATE: October 25, 2022

DECISION DATE: Grievance Denied

CONTRACT SECTIONS: 24

**HOLDING: Grievance Denied**. The Employer Grievant was terminated for “just cause.”

**Facts:** The Grievant was removed on July 6, 2015, based on the violation of three (3) rules of the employee code of conduct: Rule 30 – While on duty or on State owned or leased property the: Unauthorized conveyance, distribution, use, or possession of tobacco. Rule 46 (A&B) – Unauthorized relationships. The instant grievance was filed on July 16, 2015.

**The Employer argued:**

The Grievant conveyed contraband into the facility and placed it where an inmate could retrieve it. Through the testimony of several witnesses it was determined that the Grievant was guilty of conveying a shrink-wrapped package containing 0.22 lb. of tobacco in the Porter Closet of 2-House. By presenting evidence of phone records, the Employer provided a connection between the Grievant and a family member of an inmate. That inmate was the head inmate involved in inside contraband transactions.

**The Union argued:**

The Union asserted that all of the Employer’s evidence was circumstantial. The employer did not have an actual eyewitness and that the phone texts messages were regarding a “Facebook” transaction. The Union contended that the grievant had no idea of the identity of the individual that was contacting him about an item he was attempting to sale.

**The Arbitrator found:**

The string of events in this instant case appeared to be more than coincidental. The grievant did go to the Porter Closet in 2-House without reason. Witness testimony confirmed that only Officer Barto had been inside the Porter Closet prior to the discovery of the contraband. The Arbitrator ruled that the termination was for “just cause” and the grievance was **Denied.**