

Arbitration Between:

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

and

Ohio State Troopers Association

Grievance of Trooper Jody Sawyers, DPS-2023-00233-01

State Highway Patrol Representatives

Aaron Williams, Ohio State Highway Patrol

Kaitlin Fuller, Ohio State Highway Patrol

Cullen Jackson, Office of Collective Bargaining

OSTA Representatives

Larry Phillips, OSTA Staff Representative

ARBITRATOR OPINION AND AWARD

The Ohio Department of Public Safety, Division of the State Highway Patrol (OSHP), issued a three-day fine to Trooper Jody Sawyers (Grievant) for violating OSHP Rules and Regulations 4501:2-6-2(I)(4), Conduct Unbecoming an Officer. OSHP based the discipline on Sawyers' behavior during a traffic stop. For the reasons set forth below, I uphold the grievance.

Grievant has worked as a Trooper for the OSHP for over eighteen years. On September 20, 2022, the Grievant stopped a motorist, Carlena Hoffman, for failing to stop at a stop sign in Heath, Ohio. The video evidence established that Ms. Hoffman failed to stop at the stop sign. When the Grievant turned on his lights to signal her to pull over, she moved from the left lane, where she had been traveling, into the left-hand turn lane and turned in front of traffic, which had stopped because of the Grievant's patrol car lights, and pulled into a parking lot. The Grievant followed her into the parking lot and was compelled to block traffic in the parking lot because Ms. Hoffman pulled into a spot that did not provide the Grievant with other safe parking options. The Grievant approached Ms. Hoffman and asked her why she didn't park somewhere else, while waving his arms to demonstrate that there were many alternative parking spots available. He then explained to her that she put others in danger, as well as herself and the Grievant, by turning left into the parking lot rather than pulling to the right, as required by law. He also noted that she failed to stop at the stop sign, which she denied. The next day, she filed a complaint about the Grievant's behavior during their exchange, stating that the Grievant was unprofessional

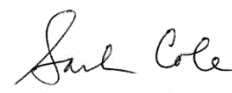
and that he had insulted and berated her. Because the complaint was filed online, it went directly to the Administrative Investigation Unit, where then-Sergeant Bailey began an investigation.

Ultimately, OSHP issued a three-day fine, based on the principle of progressive discipline, to the Grievant. The discipline was based solely on OSHP's conclusion that the Grievant's behavior during the traffic stop was unprofessional. (See Joint Doc. 3, pp. 4-7). During the hearing, Grievant, Grievant's supervisor, Lt. Aaron Vollmer, and one of the OSHP's witnesses, Sgt. David Bailey, testified that they did not believe the Grievant's behavior was unprofessional. OSHP's other witness, Staff Lt. Herron, was Lt. Vollmer's supervisor. Herron testified, in contrast to those three, that he did not think the Grievant's behavior was professional, but he agreed that Ms. Hoffman's driving was aggressive and unsafe. Sgt. Bailey, Lt. Vollmer, and Staff Lt. Herron have all conducted traffic stops and have reviewed traffic stops in the course of their employment. Sgt. Bailey, as an Administrative Investigator has, however, reviewed many more traffic stops than the other two witnesses.

A review of the video, when considered together with the witness testimony, does not support the issuance of discipline in this case. Three out of the four witnesses testified that the Grievant's behavior was not unprofessional. That Sgt. Bailey, who has considerable experience reviewing these videos and was also testifying for the OSHP, concluded after reviewing the video and interviewing everyone involved in the incident (except for Ms. Hoffman, who did not return his calls) that the behavior was not unprofessional, is quite persuasive. In addition, the video does not show, by a preponderance of the evidence, that the Grievant's behavior was unprofessional.

At the hearing, OSHP attempted to distinguish behavior that is not unprofessional from courteous behavior, arguing that even if the Grievant's behavior did not violate the "professional" part of the policy, it was not courteous and therefore violated the rule. I do not reach the question whether the behavior was courteous, however, because OSHP, in its communications with the Grievant and his representative, used only the word "unprofessional" to describe Grievant's behavior. See Statement of Charges, Pre-Disciplinary Notice and Discipline Letter (Jt. Ex. Pp. 4-7). Because I conclude that the Grievant did not act unprofessionally, the grievance is upheld and the Grievant should be made whole, including a reversal of the fine and reinstatement of any other benefits lost because of this discipline.

Date: April 11, 2023



Arbitrator Sarah R. Cole