

Arbitration Between:

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

and

Ohio State Troopers Association

Grievance of Trooper Nicholas Lewis, DPS-2022-06858-01

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

ARBITRATOR OPINION AND AWARD

The Ohio Department of Public Safety, Division of the State Highway Patrol (OSHP), issued a one-day suspension to Trooper Nicholas Lewis (Grievant) for violating OSHP Rules and Regulations 4501:2-6-02(Y)(2), Compliance to Orders. OSHP based the discipline on Lewis' behavior during a vehicle pursuit and subsequent foot pursuit. For the reasons set forth below, I deny the grievance.

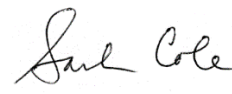
Grievant has worked as a Trooper for the OSHP for approximately 18 years. On June 26, 2022, the Grievant pursued a suspect's speeding vehicle, driving his own vehicle at speeds of up to 150 mph. The suspect eventually crashed his vehicle into a telephone pole and, when the Grievant arrived, took off on foot. During the vehicle pursuit (or attempt to catch up, as the Grievant described it), the Grievant activated his lights but not his siren. In addition, during the pursuit, the Grievant passed another motorist in a no-passing zone, while continuing to maintain a high rate of speed. The pursuit lasted for a few minutes. When the Grievant arrived at the scene and witnessed the suspect depart his vehicle on foot, he chased the suspect without first advising his superiors that he was engaging in a foot pursuit. In addition, he failed to wear his body camera during the foot pursuit. The OSHP issued a one-day suspension to the Grievant, asserting that the punishment was justified for any of the issues that arose during the vehicle and foot pursuit including: driving at a high rate of speed without a siren, while crossing double yellow lines, engaging in a foot pursuit without first notifying one's superiors, and/or failing to wear his body camera during the foot pursuit. Because I find unconvincing Grievant's

explanation for his failure to wear his body camera during his pursuit, I uphold the discipline based on the Grievant's violation of the body-worn camera policy (ME #4 at 2) and do not reach the other issues.

OSHP Policy states that uniformed troopers "must wear and power on their BWC at the beginning of their shift and not power it down until the end of the shift." (ME #4 at 2). The Grievant contends that OSHP should not discipline him for failure to wear his body camera during the foot pursuit because he was charging it while driving his vehicle, and that it was charging slowly, which is not his fault. He also contends that he did not have "body memory" to help him remember to put his body camera on before a foot pursuit begins.

According to the documentary evidence, the Grievant received his body camera in February 2022, at least five months earlier. By the end of June, his "body memory" should have been working and, if not, he should have come up with methods to remind himself to wear his body camera. In addition, his contention that he needed to keep charging his body camera in his vehicle was not believable. On the day in question, he logged on duty at 4 p.m. (ME #7 at p. 6). Prior to the events giving rise to the grievance, he conducted a single traffic stop, which was quite short. He engaged in the foot pursuit at 8:58 p.m., almost five hours after his shift began. Even if his body camera charges slowly, it should have been sufficiently charged well before the foot pursuit. If the body camera was not properly charging, the Grievant should have requested a different body camera rather than risk making a stop without his body camera. Body cameras protect the Trooper, the public, and the OSHP, and are essential elements of modern policing. The Grievant's explanations for his failure to wear the body camera during the foot pursuit are unconvincing. Because I find that failure to wear the body camera violates OSHP Rules and Regulations 4501:2-6-02(Y)(2), Compliance to Orders, I deny the grievance.

Date: April 11, 2023

A handwritten signature in cursive script, reading "Sarah R. Cole". The signature is written in dark ink and is positioned above a horizontal line.

Arbitrator Sarah R. Cole