**OCB AWARD NUMBER 2718**

SUBJECT: Arb Summary # 2718

TO: All Advocates

FROM: Victor Dandridge

OCB GRIEVANCE NUMBER: DRC-2022-05896-09

DEPARTMENT: Department of Rehabilitation and Corrections

UNION: OCSEA

ARBITRATOR: Thomas Nowel

GRIEVANT NAME: Bradley Schwendeman

MANAGEMENT ADVOCATE: James Adkins

UNION ADVOCATE: Tim Watson

OCB REPRESENTATIVE: Victor Dandridge

ARBITRATION DATE: March 7, 2023

DECISION DATE: April 21, 2023

CONTRACT SECTION: Article 24

**HOLDING: Grievance Modified.** The Employer’s termination was reduced to a time served suspension (no back pay).

**Facts:** The Grievant was removed on August 19, 2022 for violations of the following: Rule 12: Making obscene gestures or statements, or false, abusive, or inappropriate statements; Rule 24: Interfering with, failing to cooperate in, or lying in an official investigation or inquiry; Rule 36: Any act or failure to act that could harm the employee, fellow employee(s) or a member of the general public; Rule 50: Any violation of ORC 124.34. The Instant Grievance was filed on August 19, 2022.

**The Employer argued** that the grievant was derelict in his duty when he purposefully ignored his coworkers request for assistance. His dereliction placed his coworker in a position of possible harm. His actions were purposeful and a violation of the work rules.

**The Union argued** that the employer coerced testimony from the inmate witnesses. The Union argued that the grievant took immediate action when they became aware that the coworker was indeed in a position that required his assistance. The Union argued that the discipline was excessive and not progressive.

**The Arbitrator found** that the termination was not for “Just Cause.” However, the grievant violated Rule 36 when he failed to assist his partner in a timely manner. That resulted in a serious violation as the safety and health of the grievant’ s coworker could have been jeopardized. The grievant was returned to their position without back pay.