

**IN THE MATTER OF THE ARBITRATION BETWEEN**

Ohio State Troopers Association, Inc.	:	
Unit 1 & 15,	:	Grievance No.: DPS-2024-02741-01
	:	
Union,	:	Grievance: 1 day fine
	:	
and	:	Grievant: Christopher Beyer
	:	
The State of Ohio, Department of Public	:	Opinion and Award
Safety, Division of State Highway Patrol,	:	
	:	April 8, 2025
Employer.	:	

**APPEARANCES**

**For the Union:**

Larry Phillips, Staff Representative  
Christopher Beyer, Grievant

**For the Employer:**

James M. Stegner, Management 1st Chair  
Aaron Williams, Management 2nd Chair  
Cullen Jackson, Office of Collective Bargaining  
Kaitlin Fuller, Observer

**Daniel G. Zeiser**  
**Arbitrator**  
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## **I. INTRODUCTION**

This is a labor arbitration conducted under the terms of the parties' collective bargaining agreement. It involves a grievance filed by the Ohio State Troopers Association, Inc. (Union or OSTA) on behalf of the Grievant, Christopher Beyer, contesting the Ohio Department of Public Safety, Division of State Highway Patrol's (Employer or OSHP) decision to fine him one workday's pay for a violation of OSHP Rules and Regulations 4501:2-6-02(B)(5) - Performance of Duty. The Employer fined the Grievant by letter dated September 12, 2024 for erring in judgment when he charged a higher pay rate for an off-duty detail. The grievance was timely filed on September 12, 2024. It was processed under Article 20 of the 2021-2024 Contract Between Ohio State Troopers Association, Inc. Unit 1 & 15 and The State of Ohio (Labor Contract).

The Employer denied the grievance at all steps of the grievance procedure and the matter was submitted to alternative dispute resolution pursuant to Section 20.12 of Article 20 of the Agreement, which includes a permanent panel of arbitrators. This Arbitrator was selected from the panel. The arbitration hearing took place on April 2, 2025 at the offices of OSTA, 190 W. Johnstown Road, Columbus, Ohio. During the hearing, the parties had the full opportunity to present witnesses, introduce relevant exhibits, and argue their positions in accordance with Section 20.12. Witnesses were sworn and separated, examined and cross-examined. The parties made closing statements and the matter was submitted.

## **II. ISSUE**

The parties submitted the issue as follows:

Was the Grievant issued a one (1) day fine for just cause? If not, what shall the remedy be?

## **III. RELEVANT PROVISIONS OF THE LABOR CONTRACT AND EMPLOYER RULES**

### **ARTICLE 18 - ADMINISTRATIVE INVESTIGATION**

\* \* \*

#### **18.10 Off-Duty Status**

Disciplinary action will not be taken against any employee for acts committed while off duty except for just cause.

\* \* \*

### **ARTICLE 19 - DISCIPLINARY PROCEDURE**

\* \* \*

#### **19.05 Progressive Discipline**

The Employer will follow the principles of progressive discipline. Disciplinary action shall be commensurate with the offense. Disciplinary action shall include:

1. One or more Written Reprimand(s).
2. On or more day(s) Suspension(s) or a fine not to exceed five (5) days' pay, for any form of discipline, to be implemented only after approval from the Office of Collective Bargaining.
3. One of more day(s) Working Suspension(s). If a working suspension is grieved, and the grievance is denied or partially granted by an arbitrator, and all appeals are exhausted, whatever portion of the working suspension is upheld will be converted to a fine; the employee may choose a reduction in leave balances in lieu of a fine levied against him/her.
4. Demotion or Removal.

However, more severe discipline (or a combination of disciplinary actions) may be imposed at any point if the infraction or violation merits the more severe action.

The Employer, at its discretion, is also free to impose less severe discipline in situations which so warrant.

The deduction of fines from an employee's wages shall not require the employee's authorization for the withholding of fines from the employee's wages.

\* \* \*

### **OHIO ADMINISTRATIVE CODE SECTION 4501:2-6-02(B)(5)**

#### **Performance of duty and conduct**

Members who fail to perform their duties because of an error in judgment, or otherwise fail to satisfactorily perform a duty of which such member is capable, may be charged with inefficiency. Unsatisfactory performance may be demonstrated by a lack of job-related knowledge, an unwillingness or inability to perform assigned tasks, failure to take required action, or failure to take appropriate action at any time.

### **OSP-500.18 EXTRA-DUTY PATROL SERVICES**

**Revision #: 18**

**Approved Date: 8/1/2023**

#### **Purpose**

To set guidelines for employment of extra-duty employees for security and/or traffic control at construction sites, special events, or other functions within the Division's scope of authority. To establish sanctions for failure to properly report for extra-duty details.

#### **Policy**

- A. **STATEMENT OF POLICY** - All requests for extra duty-services [sic] will be administered at the direction of management and will be voluntary for officers.

\* \* \*

F. **COMPENSATION RATES**

1. **Highway Patrol Officers** - Compensation for extra-duty sworn officers working in non-supervisory capacity will be \$55.00 per hour.

\* \* \*

6. ***Multi-Agency / Details Hosted by Other Agencies - Highway Patrol officers working multi-agency or details hosted by another agency, [sic] shall be compensated at the rates within this policy or at the highest special duty rate of any agency working or hosting the detail, whichever is greater. This applies to all applicable officer and supervisory rates.***

\* \* \*

[Bold and italics in the original.]

IV. **FACTS**

The facts in this matter are not in serious dispute. The OSHP provides escorts to trucks as off-duty details performed by Troopers. In March 2024, Riverbrook Trucking in Cleveland requested an escort for March 22, 2024 to the Kentucky state line. (MX 1, Attachment I). On March 21, 2024, an MCT email was sent by Administrative Professional 1 Heather Byczek that the Cleveland Post needed one unit for the off-duty detail the next day. (Attachment K). The Grievant accepted the detail. The MCT email did not include an hourly rate. Troopers Tammy D. Soto and Charles R. Hawkins were also on the detail.

Since the escort began in the city of Cleveland, Police Officers from the Cleveland Police Department escorted the truck to the city limit. The Grievant testified that Soto told him they should be paid a higher rate because the Cleveland Police were paid more. According to the Grievant, he had never worked an escort with another agency and was not aware of different pay rates. The Grievant testified that Soto said that she had worked a similar detail in February with a Sergeant Jeffrey A. Kaess. This detail also involved the Cleveland Police Department. During the February detail, Soto learned there was a change in Policy 500.18 as to the rates of pay when there was another agency involved.

Kaess testified that he worked a similar detail on February 13, 2024 that Cleveland Police Officers also worked. During that detail, a question arose as to pay. Kaess did not know how the Cleveland Police had been arranged, so he called Byczek to ask about the policy. Kaess acknowledged the policy has gray areas. On February 14th, he emailed Byczek asking about the rate. Byczek responded she was asking for clarification, but the rate for the trip was quoted at \$55.00 per hour. (Attachment A). According to Kaess, he never received any decision to his email. Soto also emailed Byczek in March about the rate. (Attachment B). Byczek advised Soto there was no direction to charge a higher rate.

Kaess testified that Soto called him on March 22nd to ask if there were any clarity on the policy. The Grievant also called Kaess. This is the one area of material dispute in the facts here. Kaess testified that he told both Soto and the Grievant to contact Byczek since she was the person who arranged the detail with Riverbrook. The Grievant testified that Kaess agreed they should be paid the higher rate. According to the Grievant, Kaess did not tell him to call Byczek. The Grievant further testified that, every other detail he worked was at the \$55.00 per hour rate, so he never questioned it.

Policy 500.18 has undergone several revisions since 2022. Section F.6 in Revision #17 was Ohio State University Details. Revision #17 was approved on August 1, 2022. (UX 1). Revision #18 includes the relevant language cited above. It was approved on August 1, 2023. (Attachment M). On August 8, 2024, the policy was revised again, #19. Pay rates were increased. Paragraph 5, Major Event Details, and Paragraph 6, Multi-Agency/Details Hosted by Other Agencies were removed and Ohio State University Details was inserted again with changes. Paragraph 7 was added that the rates listed were the only rates to be paid. (UX 2). The policy was changed once again on December 10, 2024 to increase Ohio State University Details pay rates. No other changes were made. (UX 4).

Near the end of the escort, the Grievant, Soto, and Hawkins stopped at a rest area to wait for the Kentucky State Troopers. They talked with the truck driver, James Criss, and the

Grievant showed him Policy 500.18. Criss paid them at the rate of \$61.00 per hour in cash. (Attachment N). Following the detail, the Grievant, Soto, and Hawkins sent their hours for the detail to Byczek. She then sent an invoice to Criss using the \$55.00 rate. Criss told her the invoice was incorrect and he needed the correct invoice to be reimbursed by Riverbrook Trucking. Byczek then increased the hours for each Trooper so the invoice would reflect the amounts Criss paid each Trooper. (MX 1, Attachments G-J).

An investigation was performed from April 16 to June 14, 2024. The Grievant was notified on May 23, 2024. Byczek also became a subject of the investigation. During the investigation, the Grievant, Soto, and Hawkins were ordered to reimburse Criss for the amounts they received over \$55.00 per hour. The Grievant wrote a check on July 10 2024. (Attachment Y). The Grievant was charged with a violation of 4501:2-6-02(B)(5) for improperly charging a higher pay rate for an off-duty detail. On September 10, 2024, he was issued a fine of one workday's pay. He had no prior discipline. (MX 1). Byczek received a Documented Counseling for recreating an inaccurate invoice for an off-duty detail. (UX 5).

## **V. POSITION OF THE EMPLOYER**

The State asks that the grievance be denied in its entirety. It proved there was just cause to discipline the Grievant and issuing a one day fine was an appropriate penalty. The State's investigation revealed a violation of OAC Section 4501:2-6-02(B)(5), Performance and conduct of duty. On March 22, 2024, the Grievant and two other Troopers escorted an oversized load from Cleveland to Kentucky. Under OSHP policy, Troopers are paid \$55.00 per hour, but they charged \$61.00 per hour.

The Grievant could have clarified the proper rate to charge, but he did not. The Grievant is a long term employee and should have known better. It was an error in judgment interpreting the Employer's rules. The Employer has the right to set policy and the Grievant failed to follow it. This was even after speaking to Sergeant Kaess, who told him to contact AP 1 Byczek about it. Therefore, there was just cause to discipline and the one day fine was a reasonable penalty.

## **VI. POSITION OF THE UNION**

The grievance should be sustained. The discipline should be removed and the Grievant reimbursed for the fine of one day of pay as well the \$60.00 he reimbursed Criss. The facts are clear here. The detail began in the city of Cleveland with the Cleveland Police Department. Paragraph F.6 of Policy 500.18 provided that, during a multi-agency detail, Troopers are paid the highest rate of those involved in the detail. All three Troopers concluded the same, that this was a multi-agency detail and they were entitled to the higher rate. The Grievant recorded the discussion with Criss on his body-worn camera. He was not trying to hide anything.

Simply put, the policy was confusing. Even Sergeant Kaess testified there were grey areas. It has since been deleted because it was confusing. However, the OSHP simply cannot admit that the policy was poorly written. Rather, it charged the Grievant with using poor judgment. Furthermore, Byczek was given a Document Counseling only, when she admitted to changing the hours on the invoice, falsifying the numbers. Yet the Grievant was issued more severe discipline. The discipline was improper and the grievance should be sustained.

## **VII. OPINION**

The Employer bears the burden of proving that just cause exists for the Grievant's discipline. Just cause generally requires persuasive proof that the rules or policies cited for the discipline were violated and the discipline was proportionate to the offense. That is, the discipline imposed was reasonable under the totality of the circumstances. Usually, the just cause standard favors progressive discipline, which gives the employee an opportunity to correct behavior and provides notice that failure to do so will lead to more severe discipline. However, progressive discipline need not always follow an oral warning, written warning, suspension, and discharge in lock step order. The facts and circumstances of each particular case dictate the appropriate disciplinary level. Progressive discipline concepts, however, do not apply in the face of gross misconduct, such as dishonesty, that warrants summary discharge in the first instance. This is particularly so when law enforcement officers are involved, given their unique place in the working world. Law enforcement officers are guardians

of the peace and security of the community, and the efficiency of our entire system, designed to maintain law and order, depends upon the extent to which such officers perform their duties and are faithful to the trust given them. For this reason, police officers must be held to a higher standard of conduct than other public employees. "Law enforcement officials carry upon their shoulders the cloak of authority of the state. For them to command the respect of the public, it is necessary then for these officers even when off duty to comport themselves in a manner that brings credit, not disrespect, upon their department." *Jones v. Franklin Cty. Sheriff*, 52 Ohio St.3d 40, 43 (1990). Law enforcement officers are generally aware of this, although they do not always like it. Finally, no citation is needed for the principle that employers have the initial discretion to impose discipline for proven misconduct. Generally, arbitrators will not second guess management so long as the penalty imposed is reasonable and not arbitrary or capricious.

The Employer suspended the Grievant for exercising poor judgment for charging a higher rate than the \$55.00 listed in paragraph F.1 of Policy 500.18. The Arbitrator notes that the MCT email did not include an hourly rate. (Attachment K). This makes sense since the regular rate was \$55.00. However, upon arriving for the escort, Cleveland Police Officers were involved. This led the Troopers to conclude it was a multi-agency detail. Under paragraph F.6, the Troopers would receive the highest special duty rate of any agency involved. The Troopers understood that Cleveland Police Officers received over \$61.00, which the Grievant, Soto, and Hawkins rounded down to \$61.00. Soto had been involved in a previous escort with the Cleveland Police Department where the subject of the rate to charge arose. That question had not been resolved at the time of the detail at issue here.

The question then becomes whether it was reasonable to conclude that paragraph F.6 would apply. On this record, the Arbitrator concludes that it was reasonable based on the language of F.6. The escort detail included the Cleveland Police Department. This could reasonably be seen as a multi-agency detail and fit the language of F.6. This is further



supported by the evidence that paragraph F.6 had only been added to the policy in August 2023 and this was the first extra-duty detail the Grievant worked with another agency.

Furthermore, the language was removed only months after this detail, which was during the life of the investigation here. At least two details raised the issue as to whether the higher rate could be charged. Byczek sought clarification in February 2024 and had not received any by March 22, 2024. It must be noted that Byczek did inform Soto on March 13, 2024 that there was no direction to charge a higher rate. (Attachment B). However, that does not change the outcome here. The language that was Paragraph F.6 remains out of Policy 500.18 today. The logical conclusion to draw is that it created issues and questions — the very same issues and questions at issue here — and was therefore removed. On this record, it was not an error of judgment to conclude that paragraph F.6 applied to the detail.

There is the issue of not contacting Byczek to clarify the rate to be charged. Sergeant Kaess testified he specifically told the Grievant to contact her. The Grievant denies Kaess said this. Kaess's AI interview includes that Kaess educated Beyer on the policy and the policy "said he would go to the higher rate of pay..." (MX 1, p. 15). This is consistent with the Grievant's testimony that Kaess agreed the higher rate applied. Additionally, the BWC video the Grievant took shows the Grievant explaining he had just spoken to Kaess and he verified the policy would allow charging a higher rate. The Grievant had turned on his BWC to record the conversation with the driver so there was a record of it. It makes little sense that he would do so and then say that Kaess okayed charging the higher rate if that were not true. (Attachment N). Kaess's AI interview took place on May 10, 2024, seven weeks after the detail. Since the BWC video was taken on the day in question and is consistent with the Grievant's testimony, the Arbitrator concludes that the BWC video and the Grievant's testimony is more likely to be accurate than Kaess's memory seven weeks later. On this record, the Arbitrator finds it is more likely that Kaess agreed with the higher rate and did not instruct the Grievant to call Byczek.

Additionally, the Arbitrator observes that Byczek received a Documented Counseling only for recreating an inaccurate invoice. (UX 5). As OSTA points out, this is another way of

saying she falsified the invoice. While AI Investigator Sergeant Jennifer Burkhart made pains to explain that Byczek recreated the invoice so Criss would be fully reimbursed, Byczek did so without authorization. The Arbitrator understands that Byczek is in a different bargaining unit, not a sworn officer, and subject to different rules. However, the Arbitrator struggles with her receiving a Documented Counseling only while the Grievant was fined one workday's pay. This is particularly so since the Grievant had no prior discipline during his 20 year tenure with the OSHP. For these reasons, the Arbitrator sustains the grievance.

**VII. AWARD**

The grievance is granted. The fine of one workday's pay is to be removed from the Grievant's record. He is to be reimbursed one workday's pay and the \$60.00 he paid back to Criss.

Dated: April 8, 2025

A handwritten signature in blue ink, appearing to read "Daniel G. Zeiser", is written above a horizontal line.

Daniel G. Zeiser  
Arbitrator