

**OCB AWARD NUMBER: 2761**

SUBJECT: Arb Summary #2761  
TO: All Advocates  
FROM: Daniel Terp  
OCB GRIEVANCE NUMBER: DPS---2024-03755-01  
DEPARTMENT: Department of Public Safety, Division of the Ohio State Highway Patrol  
UNION: The Ohio State Troopers Association  
ARBITRATOR: Sherie Passmore  
GRIEVANT NAME: Trooper Michael Ervin  
MANAGEMENT ADVOCATE: Lieutenant Kaitlin D. Fuller  
UNION ADVOCATE: Ronald H. Snyder, Esq.  
OCB REPRESENTATIVE: Cullen Jackson (Day 1) & Victor Dandridge (Day 2)  
ARBITRATION DATE: April 23, 2025, May 2, 2025  
DECISION DATE: July 21, 2025  
DECISION: Grievance Denied  
CONTRACT SECTIONS: 19.01, 19.04, 19.05  
OCB/BNA RESEARCH CODES: 118.641, 118.6516, 118.6561  
KEYWORD SEARCH TERMS: Unauthorized felon informant, untruthfulness, illegal search

**HOLDING: Grievance DENIED.** Arbitrator found Employer satisfied the burden of just cause for termination based on violation of 3 work rules.

**Facts:** Grievant, 17-year state trooper was terminated by OHSP (Ohio State Patrol) for violating work rules relating to: Performance of Duty, Compliance to Orders, and False Statements/Truthfulness. Grievant was terminated for actions arising out of his investigation of a stolen motorcycle. Grievant contacted a known felon outside of established procedure to receive information about the motorcycle. Grievant used the felon to partake in searches of private property on Grievant's behalf. Grievant then coordinated with two other civilians to orchestrate a "recovery" (theft) of the motorcycle. Throughout, Grievant failed to notify fellow officers of his whereabouts, and continuously failed to adhere to division policy. A trooper was made aware and reported concerns up the chain of command. Body camera footage was examined and concerns continued to escalate. During his administrative interview, OSHP raised concerns about the truthfulness of his responses—specifically, concerning his relationship with the felon. The termination was based on misconduct throughout the vehicle recovery and untruthfulness in the investigative interviews.

**The Union argued:** Employer lacked just cause to terminate Grievant. Due process was violated as Employer failed to give adequate notice of the specific charges during disciplinary process and failed to cite specific proof of work rule violations to justify the termination. The Open Fields Doctrine insulates the search of the property from 4th Amendment concerns. Grievant made an honest mistake assuming that private road was a public access road. There was no proof of buildings being "searched," only assumptions based on the felon reporting to Grievant that building was "locked tight." Any body camera coverage/failure to record was merely incidental. Evidence of "untruthfulness" was an accidental mischaracterization of Grievant's relationship with the felon, which was truthfully clarified in follow-up interview. Even if mistakes were made, termination is undeserved for an officer with such a decorated, consistent career.

**The Employer argued:** that just cause for the termination was met based on the violation of three work rules and the egregious nature of the violations. Grievant's violations included unauthorized use of a known criminal offender to help illegally search private property, coordinating a plan using civilians to recover a stolen vehicle, failing to communicate whereabouts with supervisors, and being untruthful during the investigation process. Failure to follow informant protocols is a violation of OSP Policy 103.17, and covering up/ turning off body cam is a violation of OSP policy 103.22. Statements found in the footage show a clear, deliberate deviation from policy and standards. Grievant lied about his relationship with the felon, and internal interviews show that this mischaracterization was deceptive. Termination is a proportional, logical answer to the level and nature of misconduct, and there were no mitigating factors to justify a lesser punishment.

**The Arbitrator found:** Grievant continuously fell short of performance standards throughout the process, putting himself & others at risk. Reliance on the Open Fields Doctrine was unreasonable and inapplicable to the illegal searches. Grievant had no right to authorize the search of the property. Grievant's actions and statements throughout the process indicate clear awareness and approval of the felon's illegal search of the property. The involvement of civilians in the "recovery" of the motorcycle violated policy and put them in danger, as the man in possession of the motorcycle was high on drugs, paranoid, and had a firearm. The Division could have been liable for damages due to Grievant's actions. As a 17-year veteran, this level of misconduct by Grievant cannot be attributed to lack of training or education. Misconduct and dishonesty of this severity tarnishes any future employment relationship. Grievant showed he cannot be trusted to tell the truth, make sound decisions, or operate within the division standards. Employer has carried its burden of proving just cause to terminate the Grievant, therefore, the grievance is **DENIED**.