

**IN THE MATTER OF ARBITRATION
BETWEEN**

Ohio State Troopers Association (OSTA)
Union

And

Case no. DPS-2025-02072-01
Bryan Holden Grievant
Five day Fine

State of Ohio, Department of Public Safety (DPS)
Employer

Umpire's Decision and Award

Introduction

This matter was heard in Gahanna, Ohio on 12/9/25 at OSTA headquarters. Larry Phillips represented Grievant and OSTA. Grievant was present and testified. Other Union representatives were present as observers.

Lt. Kaitlin Fuller represented the State Highway Patrol. (OSP) Other management representatives from the OSP and Office of Collective Bargaining (OCB) were present as observers.

The OSP called as witnesses Sgt. Jennifer Burkhart who prepared the administrative investigation (AI) and Lt. Aaron Williams.

The Union called Grievant as its witness.

All witnesses were sworn and advised of the strictures of the Motion to Separate.

There were several joint exhibits (Jt. Ex.) presented: Jt. Ex. 1- Jt. Issue statement; Jt. 2- the collective bargaining agreement [cba]; Jt. 3- the grievance trail; Jt.4 -the discipline trail.

The issue was stipulated.

Additional exhibits were introduced, and all were admitted during the hearing. These will be discussed below as relevant.

The decision issued within stipulated time limits.

Issue

Was the Grievant issued a five day fine for just cause? If not, what shall the remedy be?

Applicable CBA Provisions

Articles 19; 20

Background

Grievant is a fifteen year employee [DOH 10/13/10]. He was charged with the following:

Compliance to orders. OAC 4501:2-6-02(Y)(2)

A member shall conform with, and abide by, all rules, regulations, orders and directives established by the superintendent for the operation and administrative [sic] of the Division.

The facts are summarized as follows.

The OSP found that Grievant was involved in an off duty use of force [UOF] incident involving a physical altercation that Grievant failed to timely report under established OSP policy. The materials collected and the process used in preparing the AI were discussed through the testimony of Sgt. Jennifer Burkhart. Lt. Williams covered the policy considerations of the OSP. Management Ex.1 and the video contained a full accounting of the investigation.

The incident involving UOF off duty was a road rage interaction occurring on 1/15/25 between Grievant and a motorist [Feucht] which was partially recorded on a business's [farm market] video camera. Feucht sustained injuries as reflected in photographs in the Management Ex.1. Grievant's injuries were self-described as a rug burn.

No criminal charges were filed against either Grievant or Feucht.

After its AI, OSP filed disciplinary charges against Grievant for failure to timely report his off duty interaction with the other driver in violation of policy.

The five day suspension was timely grieved.

Grievant had the following prior discipline of record:

- One day suspension 11/8/23 for non-complaint use of his CEW
- Written reprimand for failure to report for duty on 12/13/21
- Three day suspension, "last chance" effective 4/30-to 5/6/19 for an off duty incident resulting in criminal charges. Grievant resolved that incident through a plea. He explained this was a domestic incident between himself and his pre-teen daughter.

OSP Position:

Grievant had various and multiple discrepancies in his retelling of the incident. Regardless, Grievant was disciplined for his failure to report the off duty use of force, not the particulars of the fight.

The discipline is within the grid; is commensurate; is progressive; is nondiscriminatory and no abuse of discretion exists such as to mitigate the discipline.

The discipline is for just cause and the grievance must be denied.

OSTA Position:

Grievant reported the incident very soon after it occurred. He was not charged criminally. Grievant behaved defensively. This was off duty conduct that did not reflect upon the OSP. He made no mention of his law enforcement status during the incident. Holden was not the aggressor. Grievant was the victim in this encounter.

His reason for not reporting the current incident until he was urged to do so by the Sandusky County Sheriff's Office [SCSO] was that he considered the matter "was done. he wanted it to be done" He made further statements that "he was the victim." Once the SCSO told him to get in front of this matter he advised his supervisor Sgt. Young of the incident.

Grievant stated that he was never taught that the OSP expects an immediate report after a Trooper is involved in an off duty UOF incident.¹

Grievant did report the incident.

The discipline is without just cause. The grievance should be granted in its entirety.

Opinion

OSP bears the burden of proof. The burden in a discipline case such as this is preponderance of the evidence.

The facts are not in dispute as to the facts specifically related to the charge. Grievant did not report the incident until three days later. No report was made to any law enforcement agency when it happened. The report was made by Feucht-not Grievant. No report was made to the OSP until three days after the events. The question to be determined is whether or not discipline is warranted based on the facts.

A few remarks by Grievant stood out. Grievant closed the distance between himself and the other driver, which was the direct opposite move to make to avoid the confrontation. He claimed that he had lost his phone, but also said it was on the floor of his vehicle. He claimed Feucht threw the first punch. That was not true. It was Feucht who reported the incident to the SCSO.

Grievant did nothing to avoid Feucht; did not have to engage in self-defense and had the ability to return to his truck and end the threat immediately. His "missing" cell phone was on the floor of his truck. No claim was made that it was his only phone. No claim was made that it took Holden three days to locate his phone. This is all by way of the credibility concerns the Umpire had. It is not his conduct in the altercation that is the precipitate for the discipline, it is the failure to follow policy.

Holden claimed that he did not know he had a duty to report. But he had signed the policy about reporting UOF off duty just weeks earlier. He had signed

1. Umpire's note: it is this statement that affected the outcome in the matter most directly-not the conduct of the incident itself.

off on the same policy for the previous five years. Grievant claimed that there was no duty to report until he was contacted by a law enforcement agency. There is no such language in the policy.

OSTA likewise argued that there is no duty to report if a BU member is personally involved. There is no support for this statement in any cited rules or policy. That argument is clearly a misunderstanding of the rule which is plain on its face.

Grievant delayed making his report for three days after the incident for his off duty UOF. His "missing" cell phone was on the floor of his truck. No claim was made it was his only phone. No claim was made it took him three days to locate it.

Grievant is an experienced long term Trooper. The reporting rule he claimed not to know and did not follow was not onerous, ambiguous or of recent vintage.

Holden had signed off on OSP 203.03 for the sixth time just scant weeks earlier. See Management Ex.3. He had no stated intention to report the incident out of his own mouth: "he was done with it." But for the urgings of the SCSO to "get in front of the matter," Grievant did not do what was plainly required by policy in a timely manner. The three day delay was concerning. The Umpire was unconvinced of Grievant's claim that he was unaware of the reporting requirement. That did not comport with the greater weight of evidence. He had just signed off on the rule -for the 6th time.

The rule states

Sworn officers who...use force of any kind while off duty must do the following:

a. Notify the local agency with jurisdiction as soon as possible;...

Grievant did not notify the SCSO.

b. Contact the local patrol post ...and notify your direct supervisor.

Grievant did neither as required in b. -until urged to do so by the SCSO who interviewed him at his home. He did so three days post incident-without a reasonable justification or excuse for the delay.

The breach of both parts of the rule is uncontested. No mitigating circumstances exist.

AWARD

The grievance is denied. There is just cause for the five day fine. It is progressive. It is commensurate with the offense.

IT IS SO HEREBY ORDERED.

S/ Sandra Mendel Furman

Sandra Mendel Furman, Esq., NAA Issued December 12, 2025, in Bexley, Oh

Certificate of Service

The Award was issued by email to the parties' representatives on this same date.

s/ *Sandra Mendel Furman*