

ARBITRATION
BENCH DECISION AND AWARD

#492 Ex

Arbitrator: Jerry A. Fullmer

State of Ohio

Grievance No. 31-03 (9-11-89) 76-01-06

Department TRANSPORTATION

Grievant MATT LYDICK

Union OCSEA, Local 11

Date of Hearing _____

Issue(s): Did the DOT suspend the Grievant for Three (3) days for just cause, in accordance with Article 24? If not, what shall the remedy be?

Appearances:

For the Employer: (Advocate) Gil Sellen

For the Union: (Advocate) Robert L. Gabeen

AWARD: Grievance denied. The claims of abusive language, "forearming" + "bullet proof vest" are quite serious + sufficient in themselves to justify a three day suspension. The CREDIBILITY issue is paramount. The Arbitration credits the Percy/Stewart testimony for several reasons. There was no showing of any reasons these witnesses would have to "get" the Grievant. Also, both are in the bargaining unit. They thus have no institutional interest in enforcing the Statute provisions and bear the risk of peer pressure in coming forward.

Issued at Ashland, OH
9/18/90
Date

Jerry A. Fullmer
Arbitrator's Signature