

ARBITRATION SUMMARY AND AWARD LOG
OCB AWARD NUMBER: 1310 Expedited

OCB GRIEVANT NUMBER:

- 1) 27-22-971029-0399-01-03
- 2) 27-22-971022-0398-01-03
- 3) 27-22-980123-0412-01-06
- 4) 27-22-971216-0404-01-06
- 5) 27-08-970618-0363-01-03-S
- 6) 27-08-980302-0395-01-03-S
- 7) 27-22-970414-0436-01-03
- 8) 27-22-980414-0439-01-03
- 9) 27-22-980501-0443-01-03

GRIEVANT NAME:

- 1) Paula Moore
- 2) Cynthia Hannigan
- 3) Randy Williams
- 4) Douglas McKay
- 5) Arnold Davis
- 6) Ralph Bond
- 7) Rickie Brewer
- 8) Charles Penix
- 9) Bob Smith

UNION: OCSESA

DEPARTMENT: Rehab & Corrections

ARBITRATOR: Rob Stein

MANAGEMENT ADVOCATE: 1 - 9) George Engle

2ND CHAIR: Heather Reese

UNION ADVOCATE: 1- 9) John Horton

ARBITRATION DATE: August 24, 1998

DECISION DATE: August 24, 1998

DECISION:

- 1) Denied
- 2) Denied
- 3) Modified
- 4) Modified
- 5) Sustained
- 6) Modified
- 7) Denied
- 8) Modified
- 9) Modified

AWARD #1310 Continued:

CONTRACT SECTIONS

- 1) 5 Day Suspension
- 2) 2 Day Suspension
- 3) 15 Day Suspension
- 4) 1 Day Suspension
- 5) 3 Day Suspension
- 6) 3 Day Suspension
- 7) 1 Day Suspension
- 8) 15 Day Suspension
- 9) 15 Day Suspension

HOLDING: 1) Arbitrator Stein agreed that the punishment imposed was sufficient for the Grievant's infraction of giving a favor to an inmate. 2) The Arbitrator ruled that the remarks made by the Grievant to a fellow officer in front of inmates were inappropriate and did warrant the suspension. 3) The suspension was reduced to a written warning. He was found to have violated only rule #8 (Failure to carry out a work assignment or exercise of poor judgment. 4) The one day suspension was reduced to a written warning for failure to follow post orders. The grievant left an inmate working outside unsupervised. 5) The Employer failed to provide clear and convincing evidence that the Grievant violated rules 44 & 8. The Grievant is to be made whole for all 105 wages (plus roll call wages) and the suspension is to be removed from his record. 6) The suspension is reduced to a written warning. The Grievant will receive twelve (12) hours of back pay at the appropriate rate. The written warning is for violation of rule 6 only. There were mitigating circumstances in this case (e.g., the warden requesting the Grievant's involvement in the IPRC Health & Safety Committee, the approval of his leave by the warden) may have lead the Grievant to believe he would deal with authority above the shift captain. However, the Arbitrator also found that the Grievant erred in not respecting the operational chain of command. 7) The Grievant had an obligation to report what he knew and not just what he directly observed regarding the incident involving Inmate Price. The Grievant readily admitted to hearing inmates yelling, but did not initially report hearing comments by Sergeant Hinton. He was obligated to report such information and Arbitrator Stein found it was material to this matter. However, the evidence and testimony revealed that the Grievant is a long term employee with a disciplinary free record. This long service should matter in the length of time the discipline stays on his record. If the Grievant remains discipline free this suspension shall be removed from his personnel record after one year from the date of issuance. 8) The grievance is denied in part and sustained in part. The 15 day suspension is reduced to a 10 day suspension. Arbitrator Stein found that the Grievant violated Rule 24 in this matter, however, given a similar incident cited in the Third Step Response, the level of discipline levied in this situation appears to be out of line with a first occurrence of a Rule 24 violation. 9) The grievance is denied in part and sustained in part. The 15 days suspension is reduced to a 10 day suspension for a Rule 24 violation. Arbitrator Stein found that the Employer proved with a preponderance of the evidence that the Grievant violated Rule 24 by withholding the fact that Officer Holt was in Cell 12 and he did not fully disclose all the events that occurred in Cell 12. Officer Smith's role in this matter was ruled to be a proper use of force.

COST:

BENCH DECISION AND AWARD

ARBITRATOR: ROBERT STEIN

HEARING DATE: 8/24/98

GRIEVANT: Ralph Bond

GRIEVANCE #: 27-08-9803060894 0103

DEPARTMENT: DR & C

UNION: OCSEA

MANAGEMENT ADVOCATE: Gerald Clay

UNION ADVOCATE: John Horton

ISSUE

3 day suspension, Rule violations 6, 3H

AWARD

Reduce suspension to written warning. Grievant to receive twelve (12) hours of back pay at the appropriate rate. The written warning is for violation of Rule 6 only. I find that the mitigating circumstances in this case (e.g. the warden requesting the grievant's involvement in the FPRC Health & Safety Committee, the approval of his leave by the warden) may have led the Grievant to believe he could deal with authority above the shift captain. However, I also find the Grievant erred in not respecting the operational chain of command.

ISSUED AT: Pickaway
DATE:

ARBITRATOR'S SIGNATURE:



BENCH DECISION AND AWARD

ARBITRATOR: ROBERT STEIN

HEARING DATE: 8/24/98

GRIEVANT: DOUGLAS MCKAY

GRIEVANCE #: 27-2297/2160404010624

DEPARTMENT: DR & C

UNION: OCSEA

MANAGEMENT ADVOCATE: George Engle

UNION ADVOCATE: John Horton

ISSUE

1 day suspension; Rule 7 violation, Rule 11

AWARD

Grievance denied in part and sustained in part. The tenure and clean record of the Grievant should be considered in this matter. Therefore, the 1 day suspension is reduced to a written warning. However, to reinforce the seriousness of this matter no back pay is awarded.

ISSUED AT: Pickaway
DATE:ARBITRATOR'S SIGNATURE: 

#1310

BENCH DECISION AND AWARD

ARBITRATOR: ROBERT STEIN

HEARING DATE: 8/24/98

GRIEVANT: RANDY WILLIAMS

GRIEVANCE #: 27-22-98-012304120106

DEPARTMENT: DRFC

UNION: CCSEA

MANAGEMENT
ADVOCATE: George EnkeUNION
ADVOCATE: JOHN HORTON**ISSUE**

15 day suspension Rule 8, 16

AWARD

The 15 day suspension is reduced to a written warning. Although the Grievant used poor judgement in this matter I find that he was in violation of Rule 8 only. There is insufficient evidence to sustain a Rule 16 violation in this matter. The evidence indicates Mr. Williams secured the private work with Mr. Deagle because of his reputation as a contractor in the private sector, not because he is a carpenter with DRFC. The grievant is to receive 15 days back pay at the appropriate rate.

ISSUED AT:
DATE: PickawayARBITRATOR'S
SIGNATURE: 

#1310

BENCH DECISION AND AWARD

ARBITRATOR: ROBERT STEIN

HEARING DATE: 8/24/98

GRIEVANT: CYNTHIA HANNIBAN

GRIEVANCE #: 272297102203980103

DEPARTMENT: DR & C

UNION: OCSEA

MANAGEMENT
ADVOCATE: George EnileUNION
ADVOCATE: John Horton**ISSUE**

2 day suspension Rules 7, 8, 12

AWARD

Grievance denied. I find that the remarks made to Officer Krumeich went beyond "shop talk" and represented verbal abuse. I also find that the Grievant's conduct in not immediately accepting her assignment represented a violation of Rule 8. However, there is insufficient evidence to support a Rule 7 violation. The Grievant is cautioned to exercise self control so she may be judged by her abilities and not her emotion.

ISSUED AT: Tickaway
DATE:ARBITRATOR'S
SIGNATURE: 

BENCH DECISION AND AWARD

ARBITRATOR: ROBERT STEIN

HEARING DATE: 8/24/98

GRIEVANT: Paula Moore

GRIEVANCE #: 27-22 97-10-2^o-0399-01-C3

DEPARTMENT: DR & C

UNION: OCSEA

MANAGEMENT
ADVOCATE: George EngleUNION
ADVOCATE: John Horton**ISSUE**

5 day suspension Rule 45A, B

AWARD

Grievance denied. The nature and circumstances of the rule violations suggested a course of behavior that required a swift and meaningful response by the Employer. It is hoped that the Grievant has learned a lesson in this matter.

ISSUED AT: Pickaway
DATE:ARBITRATOR'S
SIGNATURE: 

#1310

BENCH DECISION AND AWARD

ARBITRATOR: ROB STEIN

HEARING DATE: 8/24/98

GRIEVANT: Rickie Brewen

GRIEVANCE #: 27-22-980414043601-03

DEPARTMENT: DR & C

UNION: OCSEA

MANAGEMENT
ADVOCATE: George EngleUNION
ADVOCATE: John Horton**ISSUE**

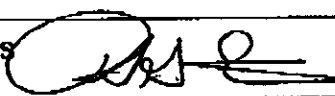
1 day suspension

AWARD

Grievance denied. The act of witnessing involves all the senses. The Grievant had an obligation to report what he knew and not just what he directly observed regarding the incident involving Inmate Price. The Grievant readily admitted to hearing inmates yelling, but did not initially report hearing comments by Sergeant Hinton. He was obligated to report such information and I find it was material to this matter. However, the evidence and testimony reveal that the Grievant is a long term employee with a disciplinary free record. This long service should matter in the length of time the discipline stays on his record. If the Grievant remains discipline free this suspension shall be removed from his personnel record after 1 year from the date of issuance.

ISSUED AT:
DATE:

8/26/98 / Summit Co. OHIO

ARBITRATOR'S
SIGNATURE:

#1310

BENCH DECISION AND AWARD

ARBITRATOR: ROB STEIN

HEARING DATE: 8/24/98

GRIEVANT: Charles Penix

GRIEVANCE #: 272298041404390103

DEPARTMENT: Drfc

UNION: OCS EA

MANAGEMENT
ADVOCATE: George EnkeUNION
ADVOCATE: John Horton**ISSUE**

15 day suspension ; Rule 24 violation

AWARD

Grievance denied in part and sustained in part. The 15 days suspension is reduced to a 10 day suspension. I find that the Grievant violated Rule 24 in this matter, however, given a similar incident cited in the Third Step Response, the level of discipline levied in this situation appears to be out of line with a first occurrence of a Rule 24 violation. One thing in the Grievant's favor was the fact he admitted he was not truthful in his first interview. Although this may not seem significant, it has an impact on the level of disciplinary action necessary to achieve a corrective result in the future. Most employees live pay check to pay check and it is reasonable to assume you can get an employee's attention by taking a paycheck away from him. In this matter, taking a paycheck and one-half away appears punitive for a first offense.

ISSUED AT:
DATE: 8/26/98/Summit Co. OhioARBITRATOR'S
SIGNATURE: 

BENCH DECISION AND AWARDARBITRATOR: ROB STEINHEARING DATE: 8/24/98GRIEVANT: Bob SmithGRIEVANCE #: 2722 98050104430103DEPARTMENT: DR & CUNION: OCSEAMANAGEMENT
ADVOCATE: George EngleUNION
ADVOCATE: John Horton**ISSUE**15 day suspension, Rule 24 violation.**AWARD**

Grievance denied in part and sustained in part. The 15 days suspension is reduced to a 10 day suspension for a Rule 24 violation. I find the Employer proved with a preponderance of the evidence that the Grievant withheld the fact that Officer Holt was in Cell 12 and did not fully disclose all the events that occurred in Cell 12. This is the Grievant's first Rule 24 violation, although it is noted this was a serious situation that could have had more severe consequences. Most employees live pay check to pay check and it is reasonable to assume you can readily get an employee's attention by taking a paycheck away from him. Secondly, Officer Smith's role in this matter was ruled to be a proper use of force. His proper conduct in this situation and the risk involved need to be considered as mitigating factors.

ISSUED AT:

DATE: 8/26/98 / Summit Co. OhioARBITRATOR'S
SIGNATURE: [Signature]