

#1495

## **ARBITRATION AWARD**

**OHIO DEPARTMENT OF PUBLIC SAFETY,  
DIVISION OF THE STATE HIGHWAY PARTOL**

**And**

**OHIO STATE TROOPERS ASSOCIATION  
GRIEVANT: COLLEEN J. COYNE**

**CASE NUMBER: 15-00-001219-0182-04-01**

**APPEARANCES:** For the Highway Patrol—Lt. Michael Webber, Sgt. Dean W. Laubacher, Sgt. Jerrod A. Savidge, Neni M. Valentine, Staff Labor Relations Specialist, and Lt. Reginald Lumpkins, OSHP HRM Advocate.

For the union—Tpr. Colleen J. Coyne, Grievant, Bob Stitt, President, OSTA, and Herschel M. Sigall, OSTA Advocate.

**ISSUE:** Was grievant issued a three-day suspension for just cause? If not, what shall the remedy be?

**FACTS:** Grievant was disciplined for a response she made to a conversation that Sgt. Laubacher and then Tpr. Savidge were having after the end of a shift. They were commenting on the number of women who would be at the Findlay Post after the drug interdiction team was disbanded and Sgt. Laubacher said that there had been no problems with the women already there. Tpr. Coyne either offered, or was asked, for a comment. She said that Sgt. Gwynn had called her a lesbian, or a carpet munching lesbian, or a carpet-munched. No other questions were asked, and she went about her business. Sgt. Laubacher decided this was a serious matter and discussed what to do with other sergeants and the post commander. After the discussions, and perhaps advice from district, Lt. Webber initiated an investigation of Sgt. Gwynn, and called Tpr. Coyne as a witness.

She then stated that it was she who had used the term carpet-muncher, or carpet munching lesbian in response to Sgt. Gwynn asking her whether she was talking to her significant other on the telephone. This conversation had occurred in the trooper's room after the shift, as she was telling her boyfriend to order a pizza. She inferred that Sgt. Gwynn was referring to her sexual preference, as she had been discussing the fact that all the other women at the post were pregnant, as were some of the other troopers' wives, and she was teased by another trooper about ending up as an old lady with lots of cats. She was embarrassed by his question and said either "are you calling me a lesbian" or "I am not a carpet munching lesbian" or words to that effect. She made no complaint about the comment and testified that she and Sgt. Gwynn discussed the matter in private because she wanted him to know she had been embarrassed and did not want to have problems at her then new post. This interchange had taken place about a month before the investigation.

Lt. Webber found there was no cause to discipline Sgt. Gwynn and, at least according to the report of investigation, counseled Sgt. Gwynn and Tpr. Coyne to keep their conversations on a business level. No further investigation took place, but Tpr. Coyne was then served with a notice of a pre-disciplinary conference for her alleged false accusation against Sgt. Gwynn and was given a three-day suspension and also had a one-day suspension, which was held in abeyance, imposed.

**CONTRACT PROVISIONS: Articles: 7-Non-discrimination; 18.02-Bargaining Member Rights; 19.01-Good cause standard; and 21.03-Application of work rules**

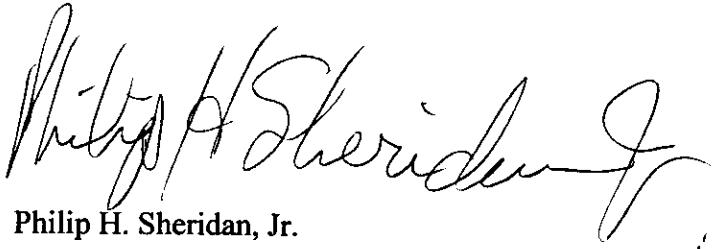
#### **AWARD**

Grievant is charged with violation of Rule 4501:2-6-02(B)(1)-performance of duty, and Rule 4501:2-6-02(E)-False Statement.

I find no evidence of a violation of the performance of duty rule, as grievant was in the trooper's room on the occasion of the comment which led to this discipline, and had performed her duties for the night. The evidence satisfies me that grievant reasonably believed Sgt. Gwynn was referring to her sexual preference when he made the initial comment about her significant other, especially in light of the remainder of the conversation that preceded his remark. It is undisputed that Sgt. Gwynn apparently meant no harm, and was merely trying to be politically correct. Although her comment was in poor taste and vulgar I believe there is a certain amount of "shop talk" in the troopers' room before and after shifts that should not be the subject of discipline.

The issue of whether her comment to Sgt. Laubacher was false is subject to several interpretations. It is clear grievant thought Sgt. Gwynn had intimated that she was a lesbian by his comment. This seems to me a perfectly understandable belief under the circumstances. However, I am not convinced that her characterization of what occurred to Sgt. Laubacher was intended by her to accuse Sgt. Gwynn of anything except poor taste and lack of sensitivity to her feelings. IF she were to have gone to Lt. Webber and accused Sgt. Gwynn of sexual harassment based upon his calling her a lesbian and everyone else had said that he just asked her about her significant other, or her girlfriend, and she continued to insist that he had used those specific words, then I would uphold this discipline for just cause. However, where she made an off the cuff remark in the troopers' room during a general, open conversation, and then explained it as soon as she was asked, I do not find the statement was a false statement subject to discipline. The grievance is allowed in its entirety and Tpr. Coyne is to be made whole by paying her for the three-day suspension, reinstating the one-day suspension to abeyance, and removing the record of this discipline from her record.

Respectfully submitted,

A handwritten signature in cursive script, reading "Philip H. Sheridan, Jr.", written in black ink.

May 22, 2001

Philip H. Sheridan, Jr.