

ARBITRATION AWARD

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

and

**OHIO STATE TROOPERS ASSOCIATION
GRIEVANT: ERIC J. CARROLL**

CASE NUMBER: 15-00-20020408-0043-04-01

APPEARANCES: For the Highway Patrol—Sgt. Michael Orosz and Sgt. Charles J. Linck,
Advocate OSHP HRM.

For the union--Tpr. Eric J. Carroll, Grievant, Dispatcher Nicole Madick and Herschel M.
Sigall, Esq., OSTA Advocate.

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

FACTS: Grievant, Eric J. Carroll, a five-year employee as an Ohio State Trooper, is employed as a trooper assigned to the Lisbon Post. Grievant was charged with violation of Admin R. 4501:2-6-02(B)(1)(5), Performance of Duty/Inefficiency. He received a one-day suspension. He has received a written reprimand on November 7, 2001, for use of excessive profanity, and the present one-day suspension on February 28, 2002, based on an allegation that the grievant failed to provide proper custodial care for a subject arrested for a DUI offense while he was employed at the Canfield Post. After the subject was arrested, brought to the post, offered a breath test, declined, and was charged with DUI, grievant decided to allow the subject to go home if he had a sober ride, or could afford a taxi. While the subject was waiting for a taxi to arrive he asked if he could go outside to smoke, and the grievant allowed him to go outside, where he either slipped or passed out, fell, and cut his

ear and finger. He refused treatment from the emergency squad and the grievant took him home. He filed no complaints and pled guilty to the DUI charge. There are no procedural issues, and the parties agree this dispute is arbitrable. The suspension was grieved, to no avail, and the matter was presented to me at a hearing in Columbus, Ohio on September 20, 2002, and now comes before me as arbitrator for final resolution.

CONTRACT PROVISIONS

Article 19 – Disciplinary Procedure

AWARD

The grievance is granted. The grievant had the subject in custody, but had the discretion to release him to a responsible adult, or a taxi driver, according to the undisputed facts. No one appears to be questioning the reasonableness of the grievant's decision to arrest the subject, but not incarcerate him after serving him with his DUI paperwork. No one disputes the narrative prepared by the grievant for the use of the court, which described the subject as "confused," and "very unsteady on his feet." Testimony also revealed that the subject got out of the patrol vehicle while his hands were handcuffed behind his back, walked unaided up two steps into the post, followed directions on where to go, and where to sit, and was able to make himself understood in requesting permission to smoke.

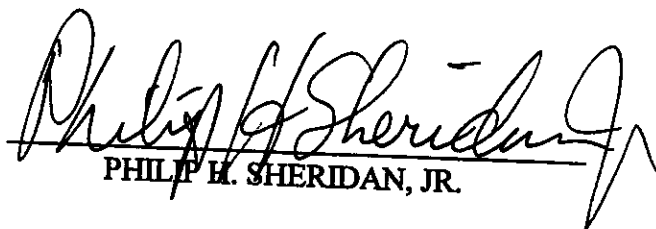
The subject fell and slightly injured himself soon after he walked out of the front doors at the post. The grievant was going out the doors when he saw the subject fall. The grievant did not directly cause the fall or the injuries. Sgt. Orosz testified that the grievant should have known that a DUI subject was not to be allowed outside the post until a responsible person came to pick him up,

and that he wrote a policy for his shift that specifically stated that subjects were not to be allowed to go outside to smoke, after the incident.

It is true that the subject would not have fallen on the steps if he had not been allowed to go outside, but I heard no testimony that troopers are required to walk subjects out to their rides, or help them down the stairs, unless there was some clear reason for extra care. This arrest and process of the subject was fairly routine, and the accident did not occur because of misconduct of the grievant.

Respectfully submitted,

DATE: September 24, 2002


PHILIP H. SHERIDAN, JR.