#1622

ARBITRATION AWARD

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

and

OHIO STATE TROOPERS ASSOCIATION
GRIEVANT: RUSSELL A. CANTRELL

CASE NUMBER: 15-00-020730-0113-04-01

APPEARANCES: For the Highway Patrol—Major Payton Watts, Tpr. Ty Tyson, Tpr. John Martin, and S/Lt. Kevin Teaford, Advocate OSHP HRM.

For the union--Tpr. Russell A. Cantrell, Grievant, Tpr. Nikia James Hendricks, Tpr. Darren Webb, and Herschel M. Sigall, OSTA Advocate

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

FACTS: Grievant, Russell A. Cantrell, a twenty year employee as an Ohio State Trooper, is employed as a trooper assigned to the West Jefferson Post. Grievant was charged with violation of Admin R. 4501:2-6-03(D)(4), Military Courtesy and Respect for Rank, based on an allegation that on June 5, 2002, he subjected the 139th Academy Class to an abusive training drill. He received a one-day suspension. He has received a verbal reprimand on June 18, 2002, for failure to get supervisory approval for vacation leave. 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 November 19, 2002, and now comes before me as arbitrator for final resolution after I denied the request of the OSHP advocate for an immediate decision based on the volume of documents presented for review.

CONTRACT PROVISIONS

Article 7 – Non-Discrimination; Article 19.01 – Just Cause Standard; 19.05 Progressive Discipline.

AWARD

The grievance is denied. Admin. R. 4501:2-6-03(D)(4) provides: "A supervisor shall not bring physical or verbal abuse upon a subordinate." The grievant was the officer in charge of the Academy Training Class after dinner on June 2, 2002. He had been informed that the class had failed to perform a detail on the previous day, and decided to engage in "sense of urgency" drills so that the class could continue to grow as a group. He sent them from the range to their living quarters to change uniforms several times, and to get their canteens, when they forgot them, then to fill them when they were not all filled. Interspersed in the running to and from quarters he had them perform exercises in unison that included the front leaning rest position. He then ordered them to drink their canteens and hold them over their heads when they were finished. Finally, he ordered the cadets to police the grounds while it was raining. He watched the class from inside and dismissed them from the range when they completed the police detail.

Grievant denied he ordered the cadets to drink more than one canteen full of water, denied knowledge that anyone threw up as a result, and denied there was thunder and lightning while the cadets were policing the grounds.

Management proved by a preponderance that several cadets threw up, that more than one canteen was consumed, and that there was thunder and lightning, at least on the horizon, during the rainstorm. I find no contract violation in the way in which the incident was discovered and investigated. Proof of forced consumption of water and police detail in the rain without rain gear

that was available appears to me to sustain management's burden of proof of physical abuse. If physical fitness drills are not to be used for corrective action the Commandant should put his directive in writing because it is so much a part of traditional military and quasi-military training. I find the punishment reasonable.

Respectfully submitted,

DATE: November 26, 2002

PHILIP H. SHERIDAN, JR.