

**David M. Pincus
Arbitrator
4026 Ellendale Road
Moreland Hills, Ohio 44022**

Hele O

June 5, 2003

**Mr. Mike Duco
Manager of Dispute Resolution
Office of Collective Bargaining
100 E. Broad Street, 18th Floor
Columbus, Ohio 43215**

-and-


**Mr. Herschel Sigall, Esq.
Ohio State Troopers Association
6161 Busch Blvd., Suite 130
Columbus, OH 43229**

**RE: The State of Ohio, Department of Public Safety, Division of the Ohio
State Highway Patrol and The Ohio State Troopers Association, IUPA,
AFL-CIO
Grievant: Charlotte A. Olson
Grievance No.: 15-00-20021219-0207-04-01**

Dear Mike and Herschel:

I would like to thank you in advance for your patience regarding the completion of the above captioned matter. This has been a rough couple of months, but everything is finally under control.

I have enclosed the Opinion and Award dealing with the above captioned matter. I have also enclosed an Arbitrator's Invoice for services rendered.

Sincerely,

Dr. David M. Pincus
Arbitrator

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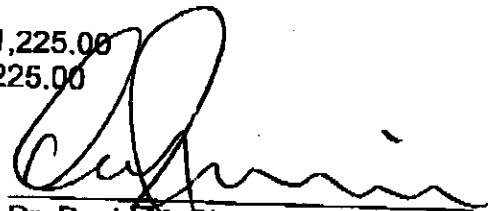
RE: The State of Ohio, Department of Public Safety, Division of the Ohio
State Highway Patrol and The Ohio State Troopers Association, IUPA,
AFL-CIO
Grievant: Charlotte A. Olson
Grievance No.: 15-00-20021219-0207-04-01

ARBITRATOR'S INVOICE

DATE OF ARBITRATION HEARING: February 6, 2003
DATE BRIEFS RECEIVED: March 3, 2003

1 Day of Hearing @ \$700.00	\$ 700.00
2 Days of Study & Preparation @ \$700.00	1,400.00
½ Day of Travel @ \$700.00	350.00
	<u>\$2,450.00</u>

½ Payable By Employer \$1,225.00
½ Payable By Union \$1,225.00



Dr. David M. Pincus
Arbitrator
SS# 276-46-4879

STATE OF OHIO, DEPARTMENT OF PUBLIC SAFETY,
DIVISION OF THE OHIO STATE HIGHWAY PATROL AND
THE OHIO STATE TROOPERS ASSOCIATION VOLUNTARY
LABOR ARBITRATION PROCEEDING

IN THE MATTER OF THE ARBITRATION BETWEEN:

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

-AND-

THE OHIO STATE TROOPERS ASSOCIATION, IUPA, AFL-CIO

GRIEVANT: CHARLOTTE A. OLSON
GRIEVANCE NO.: 15-00-20021219-0207-04-01

ARBITRATOR'S OPINION AND AWARD
ARBITRATOR: DAVID M. PINCUS
DATE: June 5, 2003

APPEARANCES

For the Employer

Robert D. Johnson
Matthew S. Warren
Don Whipple
James Hoekstra
Dale Glenn
H.E. Schwind
Neni Valentine
Kevin Teaford

Lieutenant
Lieutenant
Chief Inspector (DYS)
Chief of Enforcement (ODA)
Agriculture Enforcement Manager
Sergeant
Second Chair
Advocate

For the Union

Charlotte A. Olson
Darius Gorski
Robert K. Stitt
Elaine N. Silveira
Herschel M. Sigall

Grievant
President
Staff Representative
Second Chair
Advocate

I. JOINT STATEMENT OF THE ISSUE

Was the Grievant removed from employment for just cause? If not, what shall the remedy be?

II. INTRODUCTION

This is a proceeding pursuant to a negotiated grievance procedure in a labor agreement (Joint Exhibit 1) executed between the Ohio Department of Public Safety, Division of the State Highway Patrol (hereinafter referred to as the Employer), and the Ohio State Troopers Association, Inc. (hereinafter referred to as the Union). The parties selected Dr. David M. Pincus as the Arbitrator.

An arbitration hearing was held on February 6, 2003 at the Office of Collective Bargaining, Columbus, Ohio. At the hearing, the parties were given the opportunity to present their respective positions on the grievance, to offer evidence, to present witnesses, and to cross-examine witnesses. At the conclusion of the hearing, the parties were asked by the Arbitrator if they planned to submit post-hearing briefs. The parties have submitted post-hearing briefs in accordance with the guidelines agreed to at the hearing.

III. PERTINENT PROVISIONS

CONTRACT CLAUSES

ARTICLE 19 – DISCIPLINARY PROCEDURE

19.01 Standard

No bargaining unit member shall be reduced in pay or position, suspended, or removed except for just cause.

(Joint Exhibit 1, Pg. 26)

19.05 Progressive Discipline

The Employer will follow the principles of progressive discipline. Disciplinary action shall be commensurate with the offense. Disciplinary action shall include:

However, more severe discipline (or a combination of disciplinary actions) may be imposed at any point if the information or violation merits the more severe action.

(Joint Exhibit 1, Pg. 28)

WORK RULES

4501:2-6-02 Performance of Duty and Conduct

(E) False Statement, Truthfulness

A member shall not make any false statement, verbal or written, or false claims concerning his/her conduct or the conduct of others.

(Joint Exhibit 3)

IV. CASE HISTORY

The Grievant, Charlotte Olson, has been a Trooper for approximately eight (8) years. After four (4) years of service, she was assigned to General Headquarters/Office of Investigative Services as a Trooper/Investigator, where she served until December 16, 2002, her removal date.

The disputed removal has as its genesis a confrontation which took place in the Department of Agriculture during May of 1999. On May 26, 1999, Becky Keller, an employee at the Ohio Department of Agriculture, was allegedly assaulted by a co-worker. Keller notified her Supervisor, John Hicks, who purportedly failed to notify the State Highway Patrol regarding the allegation.

During the evening of May 26, 1999, while at her residence, Keller queried the non-response by any investigators regarding the incident. She contacted the Grievant,

who was an acquaintance and friend, and asked if the Highway Patrol had jurisdiction over these matters. The Grievant was unsure, but said she would find out. The Grievant called Sergeant Nichols who advised her the Highway Patrol had not received a call from the Department of Agriculture, but that Keller herself could initiate a report dealing with the events.

After receiving this information, Keller contacted the Highway Patrol, and Sergeant Nichols assigned the matter to Trooper Donald Whipple. Whipple also called Keller the morning of May 27, 1999. Keller reviewed the incident with Whipple, which caused Whipple to meet with Ohio Department of Agriculture's personnel.

Upon arriving at the Ohio Department of Agriculture, Whipple met with Jim Hoekstra, the Chief of Enforcement. Hoekstra showed him a letter of notification he had prepared, but had not faxed to the Highway Patrol. Hoekstra, moreover, provided him with a number of witness statements, which he had taken prior to Whipple's arrival. They had purportedly witnessed the disputed incident.

Whipple included these statements in his case file and interviewed these individuals. He attempted to interview Walter Brown, the alleged assailant, but Brown refused to cooperate. It should be noted none of the above-mentioned interviews were documented. Whipple neither took notes nor did he provide relevant summaries.

On May 27, 1999, Whipple met with Keller to review the incident. Keller wrote a statement and answered a few questions (Employer Exhibit 1, Pgs. 58-62). The case file summary contains the following summary of the incident:

The following is a summary of the incident from all perspectives:

On Wednesday, May 26, 1999, at about 7:45 a.m., Rebecca Keller and Walter Brown arrived for work. The two of them share an office. The argument began over job assignments which had recently been changed. An argument ensued, which led to yelling and cursing. Mr. Brown left the office to find his boss, Lewis Jones. He saw Mr. Jones in another office and went in and was telling Mr. Jones he needed another office because he could not work in the same area as Ms. Keller.

While Mr. Brown was talking to Mr. Jones, Ms. Keller walked in and began yelling at Mr. Brown. The two of them started shouting at each other again and cursing. Mr. Brown called her a "cunt" and she called him a "son of a bitch". As she began to leave, Mr. Brown extended his right hand and touched her left arm by the elbow, as if to indicate to her that he did not want her to leave because he wasn't done yelling at her. Ms. Keller instantly jerked away and left the room.

During the interview, Ms. Keller thought she was "grabbed" but she could not remember which arm it was and she had no marks. The other people in the room advised there was no grabbing at all.

Obviously there are administrative issues but no crime has occurred. There was no assault as the victim has alleged.

(Employer Exhibit 1, Pg. 64)

In accordance with statements made by Keller while being interviewed by Whipple, Keller did, indeed, get examined by her physician on May 28, 1999. He found indications of a traumatic injury with contusions to Keller's arm and chest.

On June 7, 1999, Whipple called the Licking County Prosecutor's office and spoke to Assistant County Prosecutor, Harvey Shapiro. Whipple reviewed his "incident from all perspectives" summary, and was advised the county declined to prosecute. As such, Whipple closed the file.

In August of 2001, Keller filed a victim/witness claim with the Ohio Crime Victim Services. This particular claim was reviewed in August of 2001. It appears Keller re-

filed the claim in November of 2001 with one major revision. Attached to the claim was an affidavit signed and notarized by the Grievant, and authored on October 24, 2001. The affidavit states in pertinent part:

Affidavit of Charlotte Olson

I have personal information on the assault that Ms. Keller sustained at the Department of Agriculture May 26, 1999.

1. While working in the capacity as a State Highway Patrol Trooper/ Investigator, I investigated another case at the Department of Agriculture. While speaking with James Hoekstra, Chief of Enforcement he stated, "we are not going to screw this up like we did the Keller case."
2. The prosecutor's office namely Harvey Shapiro was not privy to crucial evidence, in that Ms. Keller's medical records were not turned over to him for review. These records clearly state that she sustained physical as well as emotional trauma.

It is my belief that a criminal act did occur, and that Ms. Keller sustained injury because of it.

(Employer Exhibit 1, Pg. 10)

The disputed matter came to the Employer's attention as a consequence of a telephone conversation between Staff Lieutenant R.S. Slater, and Assistant Attorney General, Alice Robinson-Bond. She advised Slater that Whipple and the Grievant had been subpoenaed, and would have to testify against each other.

On December 6, 2002, the Grievant was terminated from employment. The removal notice specified the following justifications:

You are hereby terminated from your position of State Trooper with the Department of Public Safety, Division of State Highway Patrol, effective immediately.

You are being removed for violation of Rule 4501:2-6-02 (E)

(Joint Exhibit 3)

The rule in question deals with False Statement/Truthfulness. Prior notifications regarding the dispute indicate the Grievant was charged with submitting a notarized affidavit to the Court of Claims that contained false statements. The Grievant, moreover, made false statements concerning conversations she had with supervisors (Joint Exhibit 3).

The Grievant formally protested her termination by filing a grievance on December 16, 2002. The Grievance Facts section states:

On December 6, 2002, I received notice from the Highway Patrol that I was terminated. The discipline was not justified and is non-progressive. The discipline is also discriminatory because it is disparate treatment.

(Joint Exhibit 3)

The parties were unable to settle the matter during subsequent portions of the grievance procedure. Neither party raised procedural nor substantive arbitrability concerns. As such, the grievance is properly before the Arbitrator.

V. THE MERITS OF THE CASE

The Employer's Position

The Employer opined it had just cause to terminate the Grievant for several violations of Rule 4501:2-6-02 (E). The Grievant submitted a notarized affidavit (Employer's Exhibit 1, Pg. 10) to the Court of Claims that contained false statements, and also made false statements concerning conversations she had with supervisors.

Hoekstra never referenced the Keller case when the Grievant visited the Department of Agriculture. At the arbitration hearing, Hoekstra and Glenn vehemently denied referencing the Keller case in the Grievant's presence. Glenn consistently corroborated Hoekstra's version of the events. There was never a conversation regarding Keller's case.

The Grievant's version was not supported by the record. She failed to engage in certain obvious efforts, which would have provided support for her allegation. Hoekstra's alleged statement was important enough to include in the Affidavit (Employer Exhibit 1, Pg. 10). Yet, the statement was neither included in the Grievant's case report nor reported to a supervisor.

The Grievant made another false statement in the second portion of her affidavit (Employer Exhibit 1, Pg. 10). Prosecutor Harvey Shapiro was privy to all the crucial evidence available at the time of Keller's incident. Keller's case was closed in June of 1999. Medical records (Union Exhibits 6, 8) introduced in support of the Grievant's affidavit (Employer Exhibit 1, Pg. 10) were never part of the Employer's investigation because the Employer was unaware of their existence. They were dated November 1, 2002 and February 28, 2000, far beyond Whipple's initial investigation and Keller's case

closing date. As such, all evidence gathered and received by Whipple was turned over to the Prosecutor's office, and he had the final say regarding potential criminal prosecution.

The Employer, through its agent, Sergeant Warren, never received the medical records (Union Exhibits 4-8) alluded to by Keller. Keller was only able to produce a cover letter and a fax transmittal form (Union Exhibit 4) transmitted on April 19, 2001, but failed to produce any attached medical documentation. Sergeant Warren strongly denied ever receiving the fax from Keller.

The Grievant never followed an outlined procedure used to re-open closed criminal cases. Lieutenant Johnson reviewed the process and the various elements needed to re-open files. She could have easily followed the stipulated protocol, but failed to do so. Rather, she took it upon herself to help a friend by bypassing the process and her supervisors.

Other falsification charges dealt with statements made by the Grievant during an administrative investigation, regarding her affidavit. Lieutenant Johnson testified about these potential inconsistencies. The Grievant stated she spoke to Sergeant Warren about the deficiencies in the Whipple investigation. The Grievant also stated she asked Warren to re-open the Keller case (Employer Exhibit 1, Pg. 26). Sergeant Warren adamantly denied discussing the Keller case with the Grievant. She, moreover, never surfaced any documents or evidence that supported re-opening Keller's case. Lieutenant Johnson was solely authorized to re-open a closed case, but he was never asked to do so. Similarly, the Grievant alleged Sergeant Schwind gave her specific

approval to file the disputed affidavit (Employer Exhibit 1, pg. 10). Schwind, at the arbitration hearing denied all of these activities.

These proven falsification charges made it virtually impossible to return the Grievant to her former position. She had compromised her ability to serve as a witness in any subsequent litigation.

The Union's Position

The Union opined the Employer did not have just cause to remove the Grievant. None of the falsification charges were proved by a preponderance of the evidence.

The notarized statement did not contain any false statements regarding Hoekstra's comments. The Grievant was accurate and truthful in reporting her observations, while Hoekstra's and Glenn's versions were self-serving and inaccurate. Clearly, there appeared to be conflicting testimony, which must be resolved in the Grievant's favor.

Hoekstra presented himself at the arbitration hearing as a less than credible witness. In terms of demeanor, Hoekstra was closed and combative. At first, he denied transmitting Keller's confidential medical records to the Employer in preparation for the arbitration hearing. Upon further questioning, and being confronted with a fax transmittal sheet, he recanted while affirming the records should not have been transmitted.

The Grievant provided highly credible testimony. She was honest, open and informative. Once she authored the affidavit, and particularly the reference to Hoekstra's statement, she knew the contents and her loyalty would be challenged. As such, she had no reason to lie about the statement.

Hoekstra's utterance was well supported by a series of circumstances, which supported his unwillingness to repeat prior errors. Keller, rather than the Department of Agriculture, contacted the State Highway Patrol, a direct violation of DAS's workplace violence policy. By the time Whipple arrived, Hoekstra was ready to fax the notification document, something he should have done a day earlier. He had gathered a number of witness statements, but had not conducted a thorough investigation. Keller had initiated a number of related claims, which alleged the Ohio Department of Agriculture initiated limited action regarding her assault charge and demonstrated a general lack of concern.

The false statements to supervisors charge is equally unsupported by the record. The Grievant was charged with falsely reporting what supervisor's had said to her. Warren did make a statement regarding the quality of Whipple's investigation. Warren never truly, and unequivocally, denied making the alleged statement. He merely stated he did not recall making such a statement. His version of events, however, should not be believed based on other inconsistencies in the record, which lessened his overall credibility. Warren did converse with Keller regarding what she needed to do to re-open her case. She complied with his suggestions by faxing medical records to his attention as evidenced by a fax transmittal sheet. Warren denied ever receiving these medical documents when confronted with the evidence.

Schwind did provide the Grievant with informal approval to issue the affidavit. The Grievant never alleged she showed Schwind the prepared statement. The Grievant had several informal conversations with Schwind, prior to preparing the statement. She never showed the statement to Schwind, but he remembered many informal and casual

conversations with the Grievant. It can easily be inferred that Schwind and the Grievant discussed a potential statement during one of the briefings.

Harvey Shapiro, the Prosecutor, was not privy to crucial evidence. As such, the notarized document did not contain false or untruthful statements. Shapiro's decision regarding a criminal assault claim was erroneous because of the shoddy investigation conducted by Whipple. Statements made by Keller during the administrative interview should have been accurately and fully conveyed. As an experienced investigator, Whipple knew the Grievant was scheduling a doctor's appointment within days of the incident. He failed, however, to follow-up, and thus, failed to provide Shapiro with critical information necessary for a criminal assault charge determination.

Lieutenant Johnson admitted at the hearing that the Grievant's observations and conclusions appeared more accurate than Whipple's. He acknowledged the Grievant was probably correct in believing "a criminal act did occur." Johnson's testimony was bolstered by rulings made by the Worker's Compensation Appellate Division and the Ohio Court of Claims. Both administrative bodies concluded Keller had been assaulted and awarded her benefits.

VI. THE ARBITRATOR'S OPINION AND AWARD

From the evidence and testimony adduced at the hearing, a complete review of the record, including pertinent contract provisions, it is this Arbitrator's opinion that the Employer did not have just cause to remove the Grievant. None of the charges violated Rule 4501:02-6-02(E). False Statements/Truthfulness. Proofs necessary to establish the necessary burdens in support of removal were never achieved causing the above-mentioned finding.

Probably the most critical charge alleged by the Employer dealt with statements in the affidavit (Employer Exhibit 1, Pg. 10) indicating Prosecutor Shapiro was not privy to crucial evidence when determining whether Keller's case constituted a criminal assault. The record, in no uncertain terms, supported the Grievant's allegation.

Whipple's investigation of the Keller case was shoddy at best, and failed to follow long-established policy and practice. Various investigatory defects caused a limited portrayal of the incident, causing a determination by the prosecutor based on less than complete information. Other than taking Keller's statement, Whipple relied extensively on witness narratives gathered by Hoekstra. Both Lieutenant Johnson and the Grievant acknowledged that Whipple's method of information gathering did not involve sufficient personal contact, and could, therefore, not be viewed as an independent investigation.

Whipple should have been clearly aware of a potential criminal assault charge. His "Summary of Incident from all perspectives" (Employer Exhibit 1, Pg. 64) failed to incorporate pertinent testimony gathered during the course of Keller's interview. A few excerpts support this conclusion:

Q. Did he threaten you?

A. I felt threatened very.

Q. What was said?

A. Well it was the look on his face when he called me a cunt and then when he grabbed me as I started to leave the room, and was about an inch away from me yelling.

Q. How long did the shouting go on for?

A. It seemed like forever, it had to be a couple minutes.

(Employer Exhibit 1, Pg. 50)

Q. Is there anything else that you would like to add?

A. The stress of this episode has flared up my Fibromyalgia and I tried to get into The Doctor Thursday, May 27, he called me in a prescription and made an appointment for Friday, the 28th. Severe neck pain and limited motion resulted from this. Due to the stress and probably crying for half the day. Management never apologized, did anything to stop him, or protect me. They just let him at me and then turned it all on me including Sam Waltz.

Q. Who's Sam Waltz?

A. The deputy director.

(Employer Exhibit 1, Pg. 52)

Whipple never followed up on the Grievant's medical condition by inquiring about Keller's May 28th doctor's appointment. This negligent conduct seems hard to fathom since the appointment date was specified, and Keller provided an explicit description of "severe neck pain and limited motion."

An admission at the arbitration hearing underscores Whipple's lack of attention while conducting Keller's investigation. He knew he had a responsibility to follow-up on any additional evidence:

Union: you closed your investigation formally on the 7th of June. Correct?

Witness: yes sir

Union: on the 27th of May, you were advised by the statement taken by Miss Keller that she was unable to see her doctor immediately, but would see him on the following day and that she was suffering neck pain and other pain that she indicates. Did you contact her and/or her doctor after that appointment to see what that appointment disclosed?

Witness: no sir

Union: is it your position that that was the victim's responsibility to find you and supply you with any additional evidence she might have that would support the fact that she had been a victim of a crime?

Witness: could be, but it would probably by my responsibility as an investigator.

(Employer Exhibit 1, Pg. 50-52)

As noted in her statement, Keller met with Dr. Timothy K. Buchanan on May 28, 2000. His diagnosis concluded the Grievant had realized "contusion to arm and chest" (Union Exhibit 8). Again, this critical facet of the case was never made a part of the formal case file. Although easily attainable during the early stages of the investigation, it was never brought to Prosecutor Shapiro's attention because of Whipple's inattention to detail. Buchanan's diagnosis, moreover, served as an important determining factor in subsequent favorable rulings by the Bureau of Worker's Compensation (Union Exhibit 2) and Ohio Court of Claims (Union Exhibit 3). This was, therefore, not a mere oversight, but a mistake of insurmountable consequences.

Clearly, Prosecutor Shapiro "was not privy" to crucial evidence. Here, one need not reference subsequent documentation allegedly sent by Keller to the State Highway Patrol to reach this conclusion. All of the information for Prosecutor Shapiro's determination was available within a few days of the incident.

The Grievant's "belief that a criminal act did occur," is obviously subjective; but the record supported this intuitive declaration. All subsequent reviewing bodies (Union Exhibits 2 and 3) concurred with this belief, which resulted in compensable claims for an assault. In fact, at the arbitration hearing, Johnson admitted the

Grievant's statements contained in the affidavit (Employer Exhibit 1, Pg. 10) were not false.

Union: 000002 and 000003 – I would like to direct your attention to paragraph 2. That is a second paragraph of a notarized standards (sic) that Charlotte Olsen made. Correct?

Witness: correct

Union: and it says the prosecutor's office, namely Harvey Shapiro is not privy to crucial evidence in that Miss Keller's medical records were not turned over to him for review. These records clearly state that she sustained physical, as well as emotional trauma. Is it your testimony that that statement was false?

Witness: Not based on what you told me so far.

The remaining falsification charges concern conflicting versions of events dealing with Hoekstra, and two supervisors, Warren and Schwind. For the following reasons, none of these related allegations were sufficiently supported by the Employer. The Employer's view would have prevailed if the credibility of these protagonists was substantially greater than the Grievant's. The specified standard was not met in this instance.

Hoekstra and Glenn are viewed less credibly than the Grievant. They held a certain self-interest or motive in denying the reference to the Keller matter. The Grievant's investigation of another assault case closely mirrored the Keller dispute, while Keller's associated appeals raised explicit suspicion regarding the handling of her particular dispute. Thus, the disputed declaration, found in an affidavit (Employer

Exhibit 1, Pg. 10) submitted to the Court of Claims, could have served as an admission to certain irregularities; admissions which could have bolstered Keller's case.

Hoekstra's credibility is further reduced by explanations concerning a specific fax transmittal to Lieutenant Johnson. Hoekstra transmitted Keller's psychological profile prior to the arbitration hearing. He transmitted the file, but did not know why or how it was procured or why he sent it to Lieutenant Johnson. His responses were illogical, incomplete, and lacked veracity.

Warren's credibility is equally defective. Warren's testimony was consistent, but equivocal regarding discussing Whipple's investigation prowess. Under direct and cross-examination, Warren claimed he did not recall making any comments about Whipple "screwing up" prior cases. This wavering response can hardly support a removal decision for falsification.

Like Hoekstra, Warren's credibility was muddied by another fax transmittal dispute. Warren, during direct examination, stated he did not remember any paperwork being faxed or sent to him in reference to re-opening the Keller case. He maintained his response even when confronted with a fax transmittal cover sheet and letter addressed to him by Keller (Union Exhibit 4). Warren failed to provide any legitimate and plausible justification for this conflicting evidence and testimony. Attempts to discredit this document (Union Exhibit 4) and Keller's testimony proved to be uneventful. Even though originally attached documents were not submitted at the hearing, the cover sheet and letter to Warren proved sufficient to damage Warren's credibility.

Schwind's testimony regarding giving the Grievant informal approval to draft and issue the affidavit (Employer Exhibit 1, Pg. 10) was also inconclusive. The charge,

therefore, was not properly supported. Whether one can equate informal approval with informal discussions about a series of topics, including the re-opening of the Keller case, are matters which the Employer should have clarified at the hearing. Also, Schwind's testimony was equally inconsistent. At first, Schwind maintained the Grievant never spoke to him about a closed criminal case involving Keller. Under cross-examination, however, Schwind partially recanted his original testimony.

Union: when Charlotte was interviewed in her A.I., she did not state that she had given you a document to review and approve, she said she talked to you about the question of giving a statement of her beliefs with regard to this particular case. Could she have discussed with you as one of the items of her concerns the question as to whether or not a particular case was properly done or whether or not it could be re-opened or whether or not there was ample evidence submitted first time around?

Witness: I'm not sure I understand your exact question.

Union: Removing the fact that there is no assertion on her part that she ever gave you a document to approve, could she have discussed with you the propriety of re-opening a case?

Witness: it's possible, yes sir.

Union: of what may be required or problems she was experiencing out there in the field would not be uncommon, would it?

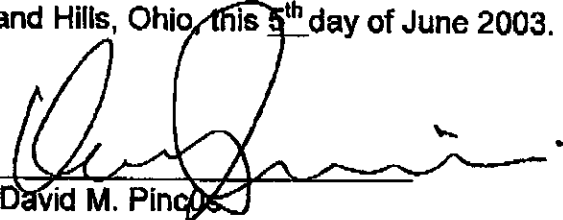
Witness: No.

This dialogue fails to confirm the falsification charge in question.

VII. AWARD

The grievance is upheld. The Grievant shall be made whole and returned to her former position with all back pay less any traditional offsets. Her seniority and leave balances shall be replenished for the period of her unwarranted removal.

AWARD, signed, dated and issued at Moreland Hills, Ohio, this 5th day of June 2003.

A handwritten signature in black ink, appearing to read 'David M. Pincus', written over a horizontal line.

Dr. David M. Pincus
Arbitrator