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In the matter of Arbitration between:

**Ohio State Troopers Association
Union**

And

**Case # 15-00-030127-0019-07-15
Lawrence T. St. Clair, Grievant**

**State of Ohio, Department of Public Safety
Employer**

In attendance: For the Highway Patrol—Ms. Renee Byers, Attorney-HRM;
Ms. Erica Brown, HRM(observer); Lt. Brenda S Collins (witness);
Mr. Andrew Shuman, 2nd Chair-OCB; Tpr. Andrew R. Worchester (witness);
Sgt. Charles Linek-Advocate

For OSTA—Mr. Dennis Gorski, OSTA President; Ms. Elaine Silveira, OSTA-
2nd Chair; Mr. Bob Stit, Staff Representative; Sgt. Lawrence P. St.
Clair(grievant); Mr. Herschel Sigall, General Council-Advocate

INTRODUCTION:

This matter was heard in Columbus, Ohio at the Office of Collective Bargaining on December 9, 2003. The hearing began at 9:00am and all witnesses were sworn. No procedural issues were raised and the parties agreed that the issue was arbitrable. The following exhibits were presented and entered into evidence by the parties: Jt. 1-Unit 15 Collective Bargaining Agreement; Jt. 2-Grievance Trail; Jt 3-Discipline Package composed of –Statement of Charges, Pre-discipline Notice, Pre-discipline Meeting Officers Reply, Suspension Letter, Highway Patrol Rules & Regulations 4501: 2-6-03(A)(1)-Responsibility of Command, Deportment Record; Mgm't. Ex. 1-Administrative Investigation #2002- 2404; Mgm't. Ex. 2-OHIO RULES OF

CRIMINAL PROCEDURE (CrimR4. Warrant or Summons; Arrest); Mgm't. Ex. 3-Administrative Investigation-AI 2002-2403; Union Ex. 1-CrimR 4. Warrant or Summons; Arrest; Union Ex. 2-Map of Fremont area, Ohio.

ISSUE:

“Was the Grievant suspended for just cause? If not, what shall the remedy be?”

FACTS:

The grievant, Sgt. Lawrence P. St. Clair, has been employed by the Highway Patrol since November 6, 1992. He was, at the time of the alleged incident, and is currently assigned to the Fremont Post.

On October 12, 2002 while the grievant was the Sgt. Duty Officer, on midnight shift, a trooper under his command initiated a DUI traffic stop at 03:44am in Wood County. During the stop, checks were made by the trooper with dispatch, determining that the detainee was DUS and under a valid arrest warrant. An arrest was made by the trooper, and while in custody, it was determined that the detainee was driving an unauthorized vehicle from Seneca County. Phone conversations were had between the grievant and the arresting trooper while the suspect was being transported to the Fostoria Police Department for processing. The grievant was informed by the trooper of the situation and the intended relay of the suspect to Wyandot County(re-warrant) for incarceration.

A query was received by the Fremont Post from the Wyandot county Sheriff regarding the incarcerated suspect having not received a Rule 4 extradition hearing before being transferred to them. Since the traffic stop and arrest was in Wood County, a non-adjacent county to Wyandot, an incarceration and a Rule 4 extradition hearing should have been conducted in Wood County. The grievant, being the supervisor on duty during the traffic

stop and arrest, was charged by the Highway Patrol with violating HP Rule 4501: 2-6-03(A)(1)-Responsibility of Command.

Lt. Collins, Post Commander, conducted an AI (ME #1) on November 8, 2002 regarding the alleged supervisory error of not providing guidance to the arresting trooper of a need for a Rule 4 extradition hearing. The Administrative Investigation was followed by a Pre-disciplinary hearing on January 3, 2003. The grievant was charged with being in violation of Rule 4501: 2-6-03(A)(1) Responsibility of Command and suspended for three working (3) days effective February 1, 2003. A grievance was filed by Sgt. St Clair on January 22, 2003 claiming the employer violated Article 19, Section 19.01-Standard and 19.05-Progressive Discipline. The grievant requested that his record be made clean and that he be made whole.

OPINION:

According to testimony, it was not abnormal for arrests made in Perry Township (Wood County) to be handled by the Fostoria Court System. The city of Fostoria, according to testimony, is in three counties, Hancock, Seneca and Wood.

The real question here is not staffs' knowledge of how to administer an arrest or traffic stop when a Rule 4 extradition warrant is involved. The question is, was there enough data available to the grievant regarding a potential Rule 4 violation in this particular traffic stop and arrest? Should the information available to Sgt. St Clair from the arresting trooper have been sufficient to alert him to a potential warrant violation? Management claims that: (1) the arresting trooper's testimony, (2) the October 12th dispatch log, (3) Sgt. St Clair's actually relieving the dispatcher at 4:18am, and (4) the stolen car report should have been sufficient to alert him.

The arresting trooper was a veteran and his testimony did not convince the

arbitrator that he communicated the type of information to the grievant that would trigger a concern about a warrant violation. The stolen car report, filled out by Sgt. St Clair for the arresting trooper, had no information about the actual arrest and warrant charges against the suspect. The grievant took over the dispatching duties after the dialogue was completed regarding a warrant for the arrested driver.

In this particular case there is a quantum of evidence but it lacks the clarity to convince the arbitrator that the grievant was guilty of the charged wrong doing. There is a difference between the terms could and should: could the grievant have detected a potential warrant problem—maybe, should he have detected the problem in this situation, based on the evidence and testimony, not in the arbitrator's opinion.

AWARD:

The grievance is sustained. The grievant is to be made whole for lost wages and benefits.

This concludes the arbitration decision.

Issued this 15th day of December 2003.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "E. William Lewis".

E. William Lewis
Arbitrator