**OCB AWARD NUMBER: 2094**

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| **SUBJECT:** | **ARB SUMMARY # 2094** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **KRISTEN RANKIN** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20091123-0156-04-01** |
| **DEPARTMENT:** | Ohio Department of Public Safety |
| **UNION:** | OSTA |
| **ARBITRATOR:** | Sandra Mendel Furman |
| **GRIEVANT NAME:** | Colleen J. Coyne-Hall |
| **MANAGEMENT ADVOCATE:** | Sgt. Anne Ralston |
| **2ND CHAIR:** | Marissa Hartley |
| **UNION ADVOCATE:** | Herschel Sigall |
| **ARBITRATION DATE:** | August 26, 2010 |
| **DECISION DATE:** | September 7, 2010 |
| **DECISION:** | DENIED |
| **CONTRACT SECTIONS:** | Article 19 |
| **OCB RESEARCH CODES:** | 118.301—Progressive Discipline; 118.6523—Abusive  Language Towards Management; 118.646—Discourtsey to  Public; 118.6521—Insubordination |
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**HOLDING: Grievance DENIED. The Arbitrator concluded that the Employer appropriately issued a three (3) day suspension to the Grievant.**

The Grievant was a Trooper assigned to the Chardon Post. The Grievant has eleven (11) years of service. On September 2, 2009, the Grievant returned to the post after the start of her shift to get batteries for her car video microphone. A Sergeant explained to the Grievant that she needed to ask for permission to return to the post after beginning her shift. The Sergeant also explained to the Grievant that the Grievant should stock batteries in her car. The Grievant left the post without getting batteries. Two hours later, the Grievant called to talk to the Sergeant, during the conversation the Grievant raised her voice and twice called the Sergeant a liar. On September 5, 2009, the Grievant stopped a motorist. The Grievant did not turn on her body microphone to record her first exchange with the motorist. The Grievant did turn on her microphone to record subsequent exchanges with the motorist. Thereafter, the motorist filed a complaint and the Employer initiated an administrative investigation. The Employer issued the Grievant a three (3) day suspension for: (1) the September 2, 2009 conversation with the Sergeant; (2) failure to use equipment in accordance with Patrol policy during a traffic stop; and (3) conducting an unprofessional traffic stop on September 5, 2009. The Grievant was also on a last chance agreement.

The Employer argued that the Arbitrator should deny the grievance. The Employer argued that the Grievant spoke to the public and to a superior in an unprofessional manner. Additionally, the Grievant violated the Employer’s policy when the Grievant did not activate her body microphone when she approached a vehicle during a September 5, 2009 traffic stop. Further, the Employer explained that the Grievant is responsible for ensuring that her equipment is in working order before leaving the post and that the Grievant should have requested permission to return to the post. As such, the Employer urged the Arbitrator to deny the grievance because the Grievant’s behavior did not accord with the high professional standards demanded by the Patrol.

The Union argued that the Arbitrator should grant the grievance. The Union reasoned that the Grievant was being assertive on September 2, 2009, and that assertiveness is not a reason for discipline. Further, the Union argued that the Grievant was never insubordinate because the Grievant never received a direct order. Finally, the Union argued that the discipline was too harsh because the alleged offenses were relatively minor and because the Grievant is a long term employee.

The Arbitrator denied the grievance. The Arbitrator determined that the Grievant spoke to her superior in a rude and disrespectful tone. The Arbitrator determined that the Grievant knowingly violated the Patrol’s policy prohibiting troopers from returning to the post after beginning their shift. Further, the Arbitrator determined that the Trooper behaved unprofessionally during a September 5, 2009 traffic stop. The Arbitrator also determined that the Grievant violated Patrol protocol by not activating her microphone before approaching a stopped car on September 5, 2009. As such, the Arbitrator denied the grievance.