**OCB AWARD NUMBER: 2203**

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| **SUBJECT:** | **ARB SUMMARY # 2203** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20120405-0038-04-01** |
| **DEPARTMENT:** | **Department of Public Safety** |
| **UNION:** | **OSTA** |
| **ARBITRATOR:** | **Sandra Mendel Furman** |
| **GRIEVANT NAME:** | **Tara J. Barnhart** |
| **MANAGEMENT ADVOCATE:** | **Corey W. Pennington** |
| **UNION ADVOCATE:** | **Elaine Silveira**  |
| **ARBITRATION DATE:** | **3/12/2013** |
| **DECISION DATE:** | **3/19/13** |
| **DECISION:** | **Denied** |
| **CONTRACT SECTIONS:** | **Article 19 – Disciplinary Procedure** |
| **OCB RESEARCH CODES:** | **118.301 – Progressive Discipline; 118.6561 – Work Rules; 118.08 - Suspension** |

**HOLDING: Grievance denied. The Arbitrator found that Grievant violated two work rules without providing any justification or explanation when she had pictures from 12 different accidents on one memory card and lost a different memory card. Grievant’s overall lack of attention to this job duty justified the discipline.**

Grievant was a Trooper at the Findlay Post who had been employed for more than five years when the incident occurred. Troopers were required to take photographs at each traffic accident scene and these photographs were required to be stored on separate memory cards—unless severe weather caused an exception. Grievant failed to upload various memory cards on a timely basis and lost 12 sets of photographs put on one card between 10/11 and 1/12. Despite training on these policies and being required to sign off that photos were uploaded, Grievant provided no explanation for her actions.

The Employer argued that Grievant failed to perform tasks she was required and trained to perform. There is a strong interest in ensuring the safety of motorists, and maintaining reliable and accurate records of traffic stops is essential to a trooper’s job. Grievant provided no excuse, “laughed off the situation,” and without prompting, admitted to having more undocumented photos.

The Union countered the Employer was not diligent in monitoring the process and timeliness of photo uploads. After this discipline the Employer established a new policy for monitoring uploads, which shows a lack of diligence. There was no harm done as none of Grievant’s omissions involved legal action or any other need for the photographs. Grievant was not intentional in her actions, made a mistake, and should only be given a verbal reprimand.

The Arbitrator found that Grievant violated two work rules without justification or excuse. Grievant had 12 accidents on one memory card and offered no explanation for failing to enter photos months after the photos were taken—this lag time being classified as “extreme.” Grievant’s actions showed a lack of attention to one of her duties and this merits disciplinary action. The Union’s “no harm, no foul” argument is not persuasive as the record demonstrates she failed to be attentive in her job duties. Therefore, the discipline is warranted and the grievance is denied.