**OCB AWARD NUMBER: 2215**

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| **SUBJECT:** | **ARB SUMMARY # 2215** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20120627-0061-04-01** |
| **DEPARTMENT:** | **Ohio Department of Public Safety** |
| **UNION:** | **Ohio State Troopers Association** |
| **ARBITRATOR:** | **E. William Lewis** |
| **GRIEVANT NAME:** | **Michael K. Ervin** |
| **MANAGEMENT ADVOCATE:** | **Lt. Cassandra L. Kocab** |
| **UNION ADVOCATE:** | **Elaine Silveira** |
| **ARBITRATION DATE:** | **7-30-2013** |
| **DECISION DATE:** | **8-12-2013** |
| **DECISION:** | **GRANTED**  |
| **CONTRACT SECTIONS:** | **Article 19.01- Disciplinary Procedure Standard** |
| **OCB RESEARCH CODES:** | **Just Cause-Concept Of 118.311** |

**HOLDING: Grievance GRANTED. The Employer violated Article 19 of the contract by administering a three day suspension to the Grievant for not investigating a possible injury crash. The Grievant was never dispatched to the scene of the crash. The Grievant was never made aware of any serious injuries sustained by those involved in the car accident.**

The Grievant is an Ohio State Highway Patrol Trooper. On April 7, 2012, Portsmouth Dispatch received a phone call from a citizen reporting an auto accident. The Grievant was about twenty-five minutes away from the citizen. The Dispatcher told the citizen to call their insurance company, and that if a report was needed, the citizen should call back. The Dispatcher called the Grievant by cell, to talk about the accident. The Grievant did not go to the crash scene and no crash report was filed by him. The citizen got a written traffic Crash Report. As a result of this Crash Report, an Administrative Investigation was conducted and the Grievant was disciplined for failing to respond to an injury crash. The Grievant was suspended for three days. The Grievant claims that there was no just cause for the discipline.

The Employer claimed that once the Grievant became aware of the situation, he had a responsibility to investigate the facts and circumstances surrounding the possible injury crash. The dispatcher’s negligence of not assigning the Grievant to the crash does not relieve the Grievant from his duty. Prior to this discipline, the Grievant had a one day suspension on his record. Progressive discipline was followed. Therefore, the grievance should be denied.

The Union argued that the Grievant was not actually dispatched to the crash. Progressive discipline was not followed. If the crash was that horrible, the citizen would have called back. The dispatcher never told the Grievant that the injuries sustained during the accident would have resulted in a hospital visit. The remedy requested was to have the discipline removed and for the Grievant to be made whole. The Union submitted that the grievance should be granted.

The Arbitrator found that the Employer violated Article 19 of the contract. There was not just cause for a three day suspension. The dispatcher did not tell the Grievant that the citizen would go to a hospital. The Grievant was not actually dispatched to the scene. Both crash participants left the scene, so the accident could not have been that severe. The Employer did not meet the burden of proof. Therefore, the grievance was granted. The grievant was to be made whole for the three charged vacation days.