

In the matter of Arbitration between:

**State of Ohio, Department of Public Safety-Ohio State Highway Patrol
Employer**

And

Case #

15-03-20120711-0065-04-01

Trooper Alec

P. Coil

**Ohio State Troopers Association
Union**

In attendance for the OSHP: Lt. Kocab-Advocate; Sgt. Mathew R. Crow(witness); Sgt. T. P. Grisby(witness); S/Lt. Charles J. Linek; Mr. Jim Miller, 2nd Chair-OCB.

In attendance for OSTA: Mr. Hershel M. Sigall-Advocate; Ms. Romana Bean-observer; Tpr. Alec P. Coil(witness); Tpr. Brian Hannum(witness); Mr. Larry Phillips-President; Mr. Dave Riley-Staff Representative; Ms. Elaine Silveira-Attorney.

INRTRODUCTION:

This matter was heard at the Headquarters of the Ohio State Troopers Association, Columbus, Ohio. The Hearing was held on July 30, 2013, at 11:00am. All witnesses were sworn. There were no procedural issues raised, and the parties agreed that the issue was properly before the arbitrator. The following were submitted as Joint Exhibits: Jt. 1-Collective Bargaining Agreement(2012-2015); Jt. 2-Grievance Trail; Jt. 3-Discipline Package composed of: Statement of Charges; Pre-Discipline Notice; Signed Pre-D Waiver; Discipline Letter; Highway Patrol Rules & Regulations 4501: 2-6-02(B)(5)-Performance of Duty; Department Record. The following were submitted as Management Exhibits: ME. 1-Administrative Investigation(AI) 2012-0262, with accompanying DVD & CD's; ME. 2-Ohio State Highway Patrol Policy 1/30/2012, MOTOR VEHICLE OPERATION BY SWORN OFFICERS. The following were submitted as Union Exhibits; UE. 1- Course Training Schedule for Field Training Officers; UE 2-Recorded Interview Tpr. Hannum; UE. 3-Tpr. Coil's Military Resume.

ISSUE:

The parties submitted a jointly signed issue statement, which reads as follows:

Did the Grievant receive a five (5) day suspension for just cause? If not, what shall the remedy be?

FACTS:

The facts in this case are not in dispute. They are well documented through the Administrative Investigation, and supplemented by the in-car video(ME 1). On February 26, 2012, Tpr. Alec Coil, accompanied by Tpr. Trainee Hannum, were west bound on US route 30 between 4:00 & 4:30am. They observed two vehicles, east bound at a high rate of speed. Trooper Coil checked their speed with radar at 105mph. Trooper Coil turned around and pursued. After traveling himself, at speeds well over 100mph., they initiated a traffic stop of both vehicles at approximately 4:37am(ME 1a).

Tpr. Coil, accompanied by Trainee Hannum, approached the vehicle immediately in front of his patrol car. He immediately requested ID information. While doing so, the forward car took-off. Trooper Coil had the stopped car driver remove the car keys, and he handed them to Tpr. Hannum(ME 1a). Trooper Trainee Hannum was left with the stopped vehicle, with instructions to remain their and turn on his radio. The fleeing vehicle was pursued by Tpr. Coil, with speeds well over 100mph.. He ultimately stopped the fleeing vehicle at approximately 4:41am. The fleeing vehicle driver was arrested for excessive speed and OVI(ME 1). While Tpr. Coil was at the scene of the stopped fleeing vehicle, Tpr. William Watson, happens by, and agrees to transport the driver and his passenger(ME 1).

Trooper Coil, followed by Tpr. Watson, arrive at the initial traffic stop scene at approximately 5:01am.. Trooper Trainee Hannum was standing outside the first stopped vehicle(ME 1). Contact was initiated with dispatch checking plates etc.. Trooper Coil took the first stopped driver to the patrol car requesting identification information. While the driver was providing

his information, Tpr. Coil was informed that there was a weapon in his vehicle(ME 1b). This driver, after various checks, was released. The fleeing vehicle driver was transported to the Delphos PD(ME 1).

As a result of a random Post review of this traffic stop and incidents, an AI was conducted. On June 25, 2012, Tpr. Coil was notified that it was recommended that he be suspended for five (5) days for violating OSHP Rules & Regulations # 4501: 2-6-02(B)(5)-Performance of Duty. To wit: It was found that you stopped two cars for speed violations. The lead vehicle pulled away on initial approach. You advised your trainee to remain at the scene while you chased after the lead vehicle. You made an error in judgment when you left your trainee alone at the scene of the original traffic stop for an extended period of time (Jt. -3b).

Trooper Coil waived the Pre-D Hearing(Jt. 3c). He was notified on July 9, 2012, that he would be suspended for five (5) days effective July 15, 2012(Jt. 3c &d).

On June 29, 2012, Tpr. Coil filed a grievance. He charged the Employer with violating Article 19-DISCIPLINARY PROCEDURE, Section 19.01-Standard & 19.05-Progressive Discipline. He argued that the discipline is not justified by the events of this particular incident, and the discipline is not progress in nature. The only discipline on his Department Record was a verbal reprimand related to a patrol car crash(Jt. 2). It was requested to reduce the discipline to a verbal reprimand.

The grievance was denied at Step 2 on July 31, 2012, and referred to Arbitration by the Union on that same date. By mutual agreement between the parties, the Arbitration Hearing was scheduled for July 30, 2013.

DISCUSSION AND OPINION:

The video and AI identified a number of safety concerns during this incident, in the arbitrator's opinion. However, Tpr. Coil was charged with a Performance of Duty violation. Specifically, per Joint Exhibit # 3, making a judgment error by leaving Tpr. Trainee Hannum alone at the scene of the original traffic stop for an extended period of time.

The facts in this case are not disputed. Trooper Coil, a recognized Field Training Officer, was on patrol on US route 30 with Tpr. Trainee Hannum. This was Trainee Hannum's first night out, as such(ME 1). It must, to Tpr. Hannum, have seemed like an eventful first exposure to traffic control(ME 1). Two 100mph. Vehicles apprehended in one stop with a flight occurring. Did Tpr. Coil subject Trainee Hannum unnecessarily to danger by leaving him alone at the initial stop scene?

Evidence and testimony showed that it was approximately 4:40am(dark), and the stationary vehicle had two occupants. Both unknown persons, since Tpr. Coil chose to quickly leave the scene without really identifying the stopped vehicle occupants(ME 1a). No traffic was detected to dispatch for identity information, and dispatch was not made aware of Tpr. Hannum being alone at the scene(ME 1). At this time, although unknown to the two Troopers, there was a weapon in the stopped vehicle. Certainly a safety concern, in the arbitrator's opinion.

Thus, in the arbitrator's opinion, Tpr. Coil's decision put Trainee Hannum unnecessarily in harms way. Dispatch should have been completely involved in the incident, and the actions taken. Backup could have been called for from other law enforcement departments etc.. At the time of the pursuit of the fleeing car there was no knowledge of how long it would take to execute an apprehension.

The Union argues that this "Trainee", with his military history and his prior law enforcement experience mitigates Tpr. Coil's decision to exit. However, without clear identification of the stopped car's occupants and its contents, to leave Trainee Hannum fending for himself along a dark highway, is too dangerous of a risk, in the arbitrator's opinion.

Testimony and evidence shows Trooper Coil to be a fine officer and an asset to the citizens of Ohio, in the arbitrator's opinion. Thankfully, this stop ended without incident. However, other safer ways should have been employed to address the situation. We need good law enforcement personnel. When they report to work every day they enter harms way, and to exacerbate that without necessity, is not good practice. Fortunately, by

the date of this decision, Tpr. Coil will be more than one-half way through

the disciplinary removal limit.

Arbitrator's are loathe to substitute their judgment for that of management unless the degree of mitigation is a major and consequential change¹. The arbitrator finds that management's decision is within the broad parameters of reasonableness, and that it has not abused its discretion, in this case².

AWARD:

The grievance is denied.

This concludes the Arbitration decision.

Respectfully submitted this 12th day of August 2013.

E. William Lewis
Arbitrator

¹ Westinghouse Elec. Corp. 91LA685 & 689.

² Elkouri & Elkouri--How Arbitration Works, 6th Ed.-pgs. 960-962.