**OCB AWARD NUMBER: 2220**

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| **SUBJECT:** | **ARB SUMMARY # 2220** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20120611-0057-04-01** |
| **DEPARTMENT:** | **Department of Public Safety- Ohio State Patrol** |
| **UNION:** | **OSTA** |
| **ARBITRATOR:** | **E. William Lewis** |
| **GRIEVANT NAME:** | **Steven M. Schemine** |
| **MANAGEMENT ADVOCATE:** | **Cassandra L. Kocab** |
| **UNION ADVOCATE:** | **Hershel Sigall** |
| **ARBITRATION DATE:** | **8-23-13** |
| **DECISION DATE:** | **9-13-2013** |
| **DECISION:** | **MODIFIED** |
| **CONTRACT SECTIONS:** | **Articles: 19.01, 19.05** |
| **OCB RESEARCH CODES:** | **118.08 Suspensions-In General** |

**HOLDING: Grievance MODIFIED. It was reasonable for the Grievant to transport his fiancée to the hospital after she sustained a head wound from falling. The fact that the Grievant did not ask for approval does not justify a three day suspension. No evidence suggested that the Grievant acted in a manner unbecoming of an Ohio State Patrol Trooper. In this situation, a three day suspension was excessive. Discipline should be modified to a written warning.**

Grievant is an Ohio State Patrol Trooper. On April 19, 2012, Grievant received a phone call from his fiancée. Grievant’s fiancée had locked her keys in her car. Grievant agreed to deliver an extra set of keys to her. On the way, Grievant issued a traffic violation. Upon his arrival to a bar and grill where his fiancée was to meet him, Grievant was informed that his fiancée had fallen. She had sustained a head wound. After initially taking her to their residence, Grievant concluded that further medical treatment was necessary. Grievant called dispatch and reported off on personal leave for the balance of his shift. Grievant then took his fiancée to the hospital. Grievant was suspended for three working days.

The Employer contended that the Grievant used personal leave without prior approval. Further, by picking-up his fiancée and driving her home, Grievant used his cruiser for personal business. The Employer argued that the Grievant violated the following rules: Conduct Unbecoming of an Officer, Performance of Duty, and Use of Equipment. Therefore, the grievance should be denied and the three day suspension upheld.

The Union argued that the discipline was without just cause and not progressive in nature. Grievant acted in a reasonable manner when he discovered that his fiancée was injured. There was no evidence that the Grievant’s conduct was disrespectful or unbecoming. Grievant has a clear deportment record. The Union asserted that the discipline be removed from his deportment record, and that he be made whole for lost wages and holiday pay.

The Arbitrator found that there was no evidence that the Grievant’s conduct was disrespectful or unbecoming. Within fifteen minutes of picking up his fiancée, he reported off-duty. No evidence or testimony introduced alleged that the detour off line to retrieve the keys were a violation of Rules or Policy. Additionally, considering the relationship status of fiancée, it was completely reasonable for the Grievant to take immediate action. Grievant should have requested permission to transport his fiancée, albeit, a reasonable person would have approved it. In the Arbitrator’s opinion, a three day suspension was excessive. Discipline should be modified to a written warning.