**OCB AWARD NUMBER: 2221**

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| **SUBJECT:** | **ARB SUMMARY # 2221** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20120827-0076-04-01** |
| **DEPARTMENT:** | **Department of Public Safety- Ohio State Patrol** |
| **UNION:** | **OSTA** |
| **ARBITRATOR:** | **E. William Lewis** |
| **GRIEVANT NAME:** | **Kyle Pohlabel** |
| **MANAGEMENT ADVOCATE:** | **Lt. Ron Raines** |
| **UNION ADVOCATE:** | **Ms. Elaine Silveira** |
| **ARBITRATION DATE:** | **8-23-13** |
| **DECISION DATE:** | **9-13-2013** |
| **DECISION:** | **DENIED** |
| **CONTRACT SECTIONS:** | **Articles: 19.01, 19.05** |
| **OCB RESEARCH CODES:** | **118.08 Suspensions-In General** |

**HOLDING: Grievance DENIED. The Grievant took an unnecessary risk when the Grievant drove in the opposite direction on the highway in order to stop an unidentified person on a motorcycle going in the correct direction on the highway—causing the motorcyclist to crash. Although there was no meaningful property damage or injuries, the situation created by the Grievant could have easily resulted in severe injuries or property damage.**

Grievant is an Ohio State Patrol Trooper. While on a traffic stop, a motorcycle passed by the Grievant. Two County Deputies trailed the motorcycle, presumably in pursuit. Shortly thereafter, the Grievant heard a motorcycle coming back in the opposite direction. The Grievant assumed that this was the same motorcyclist that had been previously pursued. The Grievant terminated his traffic stop. He then proceeded to drive on the opposite side of the highway, going in the wrong direction, in order to set up a roadblock. The motorcyclist tried to stop but could not stop in time. The motorcyclist hit the police cruiser. The Grievant was given a 5 day suspension.

The Employer contended that the Grievant had committed a judgment error. This error was significant. There was no probable cause to conduct a traffic stop with the motorcyclist. There was moderate traffic on this road. Three cars plus the cycle and the Deputies had passed the Grievant during his traffic stop. After the incident, three cars passed through the scene and a significant number of cars were seen driving by the incident. Essentially, the Grievant took an unnecessary risk. Therefore, the Employer argued that the grievance should be denied.

The Union argued that the Grievant admitted that he made a mistake. The discipline is not commensurate with the offense. It was not the Grievant’s intent to block the roadway. The intent was to gain compliance. The motorcycle driver had the opportunity to pull over. Thus, making contract with the patrol car was the motorcyclist’s fault. Therefore, the Union asserted that the grievance should be granted.

The Arbitrator found that there was meaningful traffic in that area at the time of this event. The Grievant should have been aware of the safety concerns involved. Although there was no meaningful property damage or injuries, the situation created by the Grievant could have easily resulted in severe injuries or property damage. This scenario could have been avoided if the Grievant would have chosen to initiate normal pursuit of a speeding violator. Thus, the grievance was denied.