**OCB AWARD NUMBER: 2224**

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| **SUBJECT:** | **ARB SUMMARY # 2224** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20121231-0111-04-01** |
| **DEPARTMENT:** | **Department of Public Safety** |
| **UNION:** | **OSTA** |
| **ARBITRATOR:** | **E. William Lewis**  |
| **GRIEVANT NAME:** | **Christopher J. Appollonio** |
| **MANAGEMENT ADVOCATE:** | **Lt. Cassandra L. Kocab** |
| **UNION ADVOCATE:** | **Ms. Elaine Silveira**  |
| **ARBITRATION DATE:** | **9-24-2013** |
| **DECISION DATE:** | **10-7-2013** |
| **DECISION:** | **DENIED**  |
| **CONTRACT SECTIONS:** | **Articles: 19.01, 19.05** |
| **OCB RESEARCH CODES:** | **118.08 Suspensions- In General**  |

**HOLDING: Grievance DENIED. Management acted within the broad parameters of reasonableness when it suspended an officer for one day after that officer told a civilian that “[they were] driving like a dick.”**

Grievant is an Ohio State Trooper. Grievant and a trainee were investigating a two vehicle accident. The accident was between a dump truck and an automobile. The driver of the truck offered the Grievant the opportunity to view the dump truck’s dash-cam. While viewing the dash-cam, the Grievant noticed the truck driver’s erratic driving behavior. Within earshot of the truck driver, the Grievant stated that the truck driver was “driving like a dick.” The truck driver was issued a citation for his actions in the crash. The next day, the truck driver called the Delaware Post to complain about the citation. During the call, the driver alleged that the Grievant had said that he was “driving like a dick.” The Grievant was charged with Conduct Unbecoming of an Officer. The Grievant received a one-day suspension.

The Employer contended that there were no violations of Sections 19.01-Just Cause or 19.05-Progressive Discipline. The Grievant made a derogatory comment towards a citizen. Afterwards, the Grievant admitted that such conduct failed to meet the standard of a professional manner. Further, the Grievant was serving as a field training officer to a new trooper when he acted in this unbecoming manner. The Employer is entitled to a range of discipline from a one day suspension to removal for violations of Conduct Unbecoming-Use of Profanity rules violations.

The Union argued that the Grievant admitted to his mistake. Further, the Union advocate argued that the word “dick” is not a profane word. The word can be heard on the television and the radio all the time. The discipline was excessive. The Grievant had no deportment record prior to the instant case. The requested remedy was to have the discipline reduced to a verbal reprimand.

The Arbitrator found that the word “dick” in this context was profane. The Arbitrator would have preferred that the Employer had charged the Grievant with discourteous conduct as opposed to Conduct Unbecoming of an Officer. However, management’s decision was within the broad parameters of reasonableness. The Employer was not arbitrary, capricious, or discriminatory. Therefore, the grievance was denied.