**OCB AWARD NUMBER: 2244**

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| **SUBJECT:** | **ARB SUMMARY # 2244** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **34-11-20130422-0020-01-07** |
| **DEPARTMENT:** | **Bureau of Workers’ Compensation** |
| **UNION:** | **OCSEA** |
| **ARBITRATOR:** | **Susan Grody Ruben** |
| **GRIEVANT NAME:** | **Scott Bunting** |
| **MANAGEMENT ADVOCATE:** | **Bradley A. Nielsen** |
| **UNION ADVOCATE:** | **Michael P. Scheffer** |
| **ARBITRATION DATE:** | **1-9-2014** |
| **DECISION DATE:** | **4-1-2014** |
| **DECISION:** | **DENIED** |
| **CONTRACT SECTIONS:** | **Article 24.00** |
| **OCB RESEARCH CODES:** | **118.01-Discipline—In General** |

**HOLDING: Grievance DENIED. The Grievant neglected his duty. His mistakes resulted in a wrongful arrest and incarceration. Twenty-three years of service does not mitigate the egregious nature of his errors.**

*Facts.* The Grievant was a Fraud Investigator. During an investigation, the Grievant committed the following errors: he (1) failed to spell the suspect’s name correctly; (2) failed to run a proper check using the suspect’s social security number (SSN) or date of birth (DOB); (3) failed to spell the suspect’s name correctly when searching for the suspect in a database; (4) failed to cross reference database search results with the suspect’s correct SSN or DOB; (5) completed a report of investigation with the suspect’s name spelled incorrectly, while also using an incorrect SSN and DOB; (6) filed a felony complaint against a suspect for passing bad checks using a wrongly spelt name, and an incorrect SSN and DOB; (7) failed to cross reference the suspect’s name, SSN, or DOB when filing the felony complaint; and (8) failed to enter notes into the Fraud Management System. The negligence of the Grievant resulted in a wrongful arrest. In response, he was removed.

*The Employer’s Argument.* The Grievant failed to follow written BWC policy. As a result, an innocent person was arrested and incarcerated. As a seasoned employee, the Grievant had no excuse for his negligence. The Grievant appears apologetic. But the Employer no longer believes that he is competent. Due to the amount and severity of these errors, the Employer had just cause to remove the Grievant.

*The Union’s Argument*. The Grievant is a 23 year employee who simply made a mistake. Unfortunately, this innocent mistake had dire consequences. In lieu of these consequences, however, the Grievant has expressed great remorse. And he has taken full responsibility. The Employer decided prematurely to terminate the Grievant. The process is merely a formality. In the name of fairness, grant this grievance.

*Holding.* The Grievance is denied. Although insubordination is inappropriate, as his mistakes were not willful, the Grievant neglected his duty. Indeed, the Grievant admitted he was negligent. This negligence resulted in a wrongful arrest and incarceration. The Grievant’s 23 years of service does not mitigate the egregious nature of his mistakes.