**OCB AWARD NUMBER: 2251**

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| **SUBJECT:** | **ARB SUMMARY # 2251** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20131001-0085-04-01**  |
| **DEPARTMENT:** | **Department of Public Safety** |
| **UNION:** | **OSTA** |
| **ARBITRATOR:** | **Susan Grody Ruben** |
| **GRIEVANT NAME:** | **Richard L. Anderson** |
| **MANAGEMENT ADVOCATE:** | **Lt. Cassandra L. Brewster** |
| **UNION ADVOCATE:** | **Elaine N. Silveria** |
| **ARBITRATION DATE:** | **3-27-2014** |
| **DECISION DATE:** | **6-19-2014** |
| **DECISION:** | **DENIED**  |
| **CONTRACT SECTIONS:** | **Articles 19.01 and 25.02**  |
| **OCB RESEARCH CODES:** |  **124.2-State Vehicles, 118.08 Suspensions—In General, 114.154 Uniforms and Tools**  |

**HOLDING: Grievance DENIED. There was just cause for a ten day suspension. The Grievant should not have taken his patrol car home while his patrol car commuting privileges were revoked. The Grievant recognizes that no supervisor gave him permission to take his patrol car home. Nor did he file a grievance about a potential contract violation. The “obey and grieve later” rule applies, making the Grievant liable for his disobedience.**

*Facts.* The Grievant is a State Trooper assigned to the Milan Post. Without patrol car commuting privileges, and after his shift, the Grievant took his patrol car home. The State saw this as a punishable offense while the Grievant thought he was allowed to do it. The Grievant had previously written two Inter-Office Communications, to which he received no response, asking why he had lost his patrol car commuting privileges. The Grievant had also previously asked a lieutenant if he could take his patrol car home after July 1st, 2013. The lieutenant had said, “I’ll check on that,” but he never gave the Grievant a definite answer. The Grievant felt that the State could not take these privileges away under the circumstances without violating the contract either. So, on July 1st, he took his patrol car home. In response, the State gave him a ten day suspension. The Union then grieved it timely, claiming that it was without just cause.

*The Employer’s Argument.* The Grievant violated a direct order when he took his patrol car home on July 1st, 2013. No supervisors told the Grievant that he had regained his patrol car commuting privileges. And whether or not the State was in violation of the contract is irrelevant. There has been, for some time, an “obey and grieve later” rule, where the employee must first obey the Employer and then grieve having to obey it later. The Grievant did not “obey and grieve later,” he just disobeyed. The State could have terminated the Grievant for this offense. He is on a last change agreement. But the State decided to be merciful, handing him a ten day suspension instead. Because of the Grievant’s willful disobedience, and in light of the State’s lenience, the discipline had just cause.

*The Union’s Argument*. The State never presented the Grievant with a written notice, formally revoking his commuting privileges. His last change agreement, crafted by experienced State employees, never contained anything about it either. There are differing recollections as to when the Grievant could reclaim the vehicle. And the Grievant should not suffer for that. He did not take the car like a bandit in the night. He took it in front of everyone, because he thought he was allowed to. Because of this, the State did not meet its burden. There was no just cause for a ten day suspension.

*Holding.* There was just cause for a ten day suspension. The Employer failed to provide adequate responses to the Grievant’s questions about his commuting privileges. In some instances, they provided no response at all. This, however, does not give the Grievant the right to disobey orders. The Grievant himself recognizes that no supervisor gave him permission to take his patrol car home. Nor did he file a grievance about a potential contract violation. The “obey and grieve later” rule applies, making the Grievant liable for his disobedience.