

**In the matter of Arbitration between:**

**State of Ohio, Department of Public Safety-Ohio State Highway Patrol  
Employer**

**And**

**Case # DPS-2018-00053-01**

**Trooper Joseph Adams**

**Ohio State Troopers Association  
Union**

In attendance for the Ohio State Highway Patrol: Lt. Jacob Pyles-Advocate, Mr. Victor Dandridge-2<sup>nd</sup> Chair(OCB), Sgt. David Bailey(witness), Cpt. Charles J. Linek III(witness).

In attendance for Ohio State Troopers: Mr. Larry Phillips-Advocate, Ms. Elaine Silveira-OSTA General Counsel, Tpr. Joseph Adams(witness), Sgt. Jeremy Mendenhall, OSTA President.

**INTRODUCTION:**

This matter was heard at the Ohio State Troopers Association, Gahanna, Ohio. The Hearing was held on June 11, 2018, at 11:30am. All witnesses were sworn. There were no procedural issues raised, and the parties agreed that the issue was properly before the arbitrator. The following were submitted as Joint Exhibits: Jt. #1-Collective Bargaining Agreement, Units 1 & 15(CBA); Jt. #2-Grievance Trail, Grievance 2018-00053-01, Step 2 Response; Jt. #3-Discipline Trail, composed of-Statement of Charges, Pre-Discipline Notice, Discipline Letter, Department Record, Work Rule 4501:2-6-02(I)(1)(4) Conduct Unbecoming an Officer. The following were introduced as Management Exhibits: ME-1 Administrative Investigation(AI)(Trooper Adams); ME-#2 OHIO STATE HIGHWAY PATROL SWORN OFFICER DISCIPLINE GRID; ME #3 OSP Sign off Report by User.

The following were introduced as Union Exhibits: UE-1 Ohio State Highway Patrol Policy-CRASH INVESTIGATION; UE-2 Ohio State Highway Patrol Policy-RECORDS MANAGEMENT; UE-3 Manager Evaluations, Joseph Adams-(2/8/2015-2/8/2016, 2/8/2016-9/30/2017.

**ISSUE:**

In conformance with Article 20, Section 20.08 of the Collective Bargaining Agreement the parties submitted the following statement of issue for resolution by the arbitrator.

Was the Grievant issued a one (1) day suspension for just cause? If not, what shall the remedy be?

**BACKGROUND:**

On September 5, 2017, a pending Traffic Crash Report(CR)(OH-1)(21-1143-21), was entered into the Ohio Troopers Information System(OTIS). Trooper William Davis, of Delaware Post 21 entered this CR(ME-1, att. A). The actual crash occurred on 8/28/17, and a preliminary Report was prepared on 8/28 by Tpr. Davis. The final page of this preliminary Report contained a picture of a camel(OH2). The detection of the picture of the camel being part of the Report was made by a Dispatcher at Post 21. The Report was in the Dispatch area because, allegedly, it was to be picked up by a person involved in the crash , a Mr. Herrera-Ponce. It was determined by Post Supervision that it would be inappropriate to give this Report with the camel picture to a person involved in the crash. The picture could be considered racially insensitive(ME-1). Ultimately, when the CR was turned in for approval the camel picture was removed. Mr. Herrera-Ponce did not show up for his copy of the CR (ME-1).

As a result of this incident, an AI was commenced on September 7, 2017. It was

alleged that Tpr. Davis, who prepared the CR, and was the on-scene Trooper, had inserted racially insensitive material (camel picture) into the pending CR. Trooper Davis vehemently denied the allegation (ME-1). Numerous employees were interviewed by the AI Investigator. They were- Lt. Marcus Pirrone (9/7/17), Sgt. Geoffrey Freeman (9/7/17), Dispatcher Paige Robinson (9/7/17), Dispatcher Jard Reagh (9/7/17), Software Developer-John Seiler (9/12/17), Dispatcher-April Munoz (9/14/17), Sgt. Chris Wheeler (9/14/17), Tpr. William Davis (9/25/17) (11/29/17), Tpr. Joseph Adams (12/1/17)-(ME-1).

On November 29, 2017, AI Investigator, Sgt. Baily stated that he received a telephone call from Tpr. Davis. Trooper Davis said, during the call, that he found out that Tpr. Joseph Adams inserted the camel picture in the CR. During the interview with Tpr. Adams, he admitted inserting the camel picture into Crash Report. Trooper Adams said he did it as a joke. He stated that he came forward as soon as he realized that there was an AI regarding this issue, and an innocent person was getting into trouble (ME-1).

A pre-disciplinary Hearing was scheduled for January 12, 2018, which was waived by Tpr. Adams on January 4, 2018. Trooper Adams was charged with violating OSP Rules and Regulations, specifically, 4501:2-6-02(l)(1)(4) Conduct Unbecoming an Officer. Through Administrative Investigation #2017-0437, it was found that Trooper Adams inserted an unprofessional diagram into Trooper Davis' crash report. Trooper Adams was suspended for one (1) day without pay, effective January 8, 2018 (Jt. 3, a-e).

A Grievance was filed by Tpr. Adams on 1/4/2018. The Grievant claimed that the OSHP violated Section 19.05, Progressive Discipline, of the CBA. The remedy requested was that the one day suspension be reduced to a Written Reprimand and for Tpr. Adams to be made whole, with lost pay and lost benefits (Jt. 2). A Step 2 telephone conference was held on 1/8/2018. Management responded on 1/18/2018, and denied the Grievance. The Grievance was appealed to Arbitration. By mutual agreement, the Arbitration was scheduled for June 11, 2018. At the

Hearing, the parties agreed that the Grievance was properly before the arbitrator.

## **DISCUSSION AND OPINION:**

The facts in this case as they pertain to the activity alleged are not in dispute. The level of administered discipline is being challenged by the Union. The Grievant admits to altering another Trooper's Crash Report(CR). Trooper Adams placed a picture of a camel on the last page(OH2) of the Report(ME-1,pg.23).

Evidence shows that Tpr. Davis, of the Delaware Post, did a CR on an accident that occurred on 8/28/17. Some of the interviews on the AI are contradictory as to who and how Tpr. Davis' CR, that included the camel picture, was brought to management's attention(ME-1). However, the preliminary CR with the camel's picture attached, was deemed inappropriate by management. The addition of the camel to this Report was considered by some as racially insensitive. The camel picture was removed from the official CR the next day(ME-1).

The AI was initiated to determine who altered Tpr. Davis' Crash Report. A CR is an official document, used for many purposes and available to many entities, per evidence and testimony. The AI Investigator interviewed numerous OSHP employees over nearly a three month period. Ultimately, on 11/29/17 the identity of the person who added the camel to the CR was known. The entry was made by Tpr. Joseph Adams.

Trooper Adams testified that he entered the camel object as a joke on his friends CR. He also claimed that the camel picture was not racially motivated. Trooper Adams testified that he did not intend to get anyone in trouble. He came forward as soon as he realized that there was an AI. During his AI interview and at this Hearing, Tpr. Adams acknowledged his wrong doing.

Trooper Adams was charged with violating OSHP Policy 4501:2-6-02(I)(1)(4)

Conduct Unbecoming an Officer. The Policy reads as follows:

A member may be charged with conduct unbecoming an officer in the following situations:

(1) For conduct, on or off duty, that may bring discredit to the division and/or any of its members or employees. A member shall not engage in any conduct which could reasonably be expected to adversely affect the public's respect, confidence, or trust for Ohio state highway patrol troopers and/or the division.

(4) a member shall perform his/her duties in a professional, courteous manner.

This intended joke entry was an unprofessional activity, in the arbitrator's opinion. This official document, if not corrected, would have been used and viewed by many, and it may or could have brought discredit to the OSHP. Furthermore, there was an extensive and costly AI conducted before the wrong doer was identified.

Although the Discipline Grid(ME-2) is not in the CBA, Article 4 MANAGEMENT RIGHTS(2<sup>nd</sup> para.#5), reserves for the Employer the right to make any and all rules and regulations. I do not find that management was arbitrary or capricious in this case. Section 19.05, of Article 19 DISCIPLINARY PROCEDURE was not violated, in the arbitrator's opinion.

**AWARD:**

The Grievance is denied.

This concludes the Arbitration decision.

Respectfully submitted this        day of June, 2018.

E. William Lewis

Arbitrator

/s/

