

Arbitration Between:

Ohio Department of Public Safety, Division of the State Highway Patrol

And

Ohio State Troopers Association

Grievance of Paul March; DPS-2018-03009-15

State Highway Patrol Representatives

Lt. Darrell Harris

James Thompson

OSTA Representatives

Elaine Silveira

Larry Phillips

Witnesses for the Grievant: Grievant, Sgt Paul March, OSTA

Witnesses for the OSHP: Sgt. Chad Bass, Lt. Carlos Smith

ARBITRATOR OPINION AND AWARD

The Ohio Department of Public Safety, Division of the State Highway Patrol (OSHP), issued a one-day suspension to Sergeant Paul March (Grievant) for a violation of Ohio State Highway Patrol Rules and Regulations, Rule 4501:2-6-02(B)(5) – Performance of Duty. OSHP issued this discipline because the Grievant did not follow appropriate procedures when he handled the investigative custody and arrest of another trooper, Trooper Clayton Conrad.

OSHP has employed the Grievant for thirty years and the Grievant has been a sergeant for 25 years. He supervises troopers and works at the Elyria post.

On July 8, 2018, the Grievant investigated a one vehicle injury crash involving Trooper Clayton Conrad, a trooper assigned to the Elyria post. Upon arriving at the scene, the Grievant

immediately suspected that Trooper Conrad was under the influence because he observed Conrad's bloodshot eyes and could smell the alcohol on him from several feet away. Trooper Conrad's off duty crash occurred near his parents' house. At least two onlookers arrived on the scene and the Grievant believed that those onlookers knew Trooper Conrad. Concerned about his trooper's well-being and reputation, the Grievant took him into investigative custody, drove him back to the Elyria post and conducted the Standardized Field Sobriety Tests (SFST) inside the garage at the post. Trooper Conrad tested above the legal limit and the Grievant arrested him for operating a vehicle impaired.

The facts here are undisputed. Thus, the only question is whether there was just cause to impose a one-day suspension on the Grievant for failing to follow the appropriate procedure when confronted with a suspected OVI. That procedure would have been to conduct the SFST in the field rather than taking the impaired motorist to the garage at the post to conduct the test(s). The Grievant testified that he was showing compassion to Trooper Conrad because he didn't want to embarrass him in front of those who were at the scene and he also wanted to avoid the media becoming aware of this incident. He conceded that he would not have taken these actions if Trooper Conrad were a civilian and that, if he did, would understand that such a decision would demonstrate inefficient behavior for which he could be disciplined.

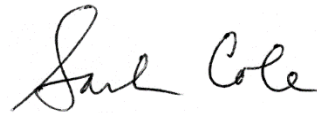
The OHSP issued a one-day suspension to the Grievant for failure to follow proper procedures in this case, which amounts to inefficiency. While compassion for one's co-workers is laudable, in this case there was no justification for treating Trooper Conrad differently than a civilian, who might very well be in the same situation (with onlookers who know him) as was Trooper Conrad. The Grievant's actions were inefficient because an error in judgment led him to

fail to properly perform his duty. His actions are exactly the kind of behavior Rule 4501:2-6-02 prohibits. The discipline in this case is appropriate to address the judgment error.

Conclusion

I uphold the decision to issue a one-day suspension for Sergeant Paul March for a violation of Ohio State Highway Patrol Rules and Regulations, Rule 4501:2-6-02(B)(5) – Performance of Duty.

April 30, 2019

A handwritten signature in cursive script, reading "Sarah Cole". The signature is written in black ink and is positioned above a horizontal line.

Arbitrator Sarah R. Cole