

AFSCME Council 24
WISCONSIN STATE EMPLOYEE UNION, AFL-CIO
Arbitration Award Summary

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| WON: | | CONTRACT | 1997-99 |
| LOST: | | CASE NO.: | 15775 |
| SPLIT: | XXX | VOLUME: | 12-1 |
| ISSUE: | SUSPENSION, OWI | PROVISIONS: | ARTICLE IV, SECTION 9 |
| ARBITRATOR: | TOROSIAN | LOCAL: | 171 |
| HEARD: | 5/11/98 | BARG. UNIT: | S&PS |
| AWARD: | 5/27/98 | EMP. UNIT: | UW MADISON |

This case was heard under the expedited arbitration procedure contained in the Agreement and is, therefor, non-precedential.

The Grievant was at all times material to this grievance a Security Officer 3 at the U.W. Madison. He was assigned to the University Hospital. Part of his duties required the possession of a valid driver's license. In October of 1997, while off duty, the Grievant was stopped by a State Patrol trooper and, as a result, received a citation for operating a motor vehicle while intoxicated (OWI). On that same day the Grievant notified his sergeant of his arrest. The Grievant was ordered to obtain an occupational license that would cover his hours of work and he also received a ten-day suspension.

It was the Employer's position that the Grievant's job required a valid driver's license; that his employment as a Security Officer was one of public trust; and that for that reason he was held to a higher standard than most employees in other jobs. The Employer noted that, because of Risk Management's policy regarding state-owned vehicles, the Grievant could have been terminated but only received a ten-day suspension.

The Union noted that at the time of his arrest the Grievant was driving his own motor vehicle, on his own time, and not employed in any business for the State. Although the Grievant exercised poor judgment, the Union felt a ten-day suspension was too severe. It stated that the Grievant had met all of the requirements of his job and had been punished for his misconduct by the State.

First, the Arbitrator found that the Employer's reliance on the "Failure to exercise good judgment" work rule to be misplaced. He concluded that the work rule could not reasonably be read to include off-duty conduct. While the Grievant's conduct could not be condoned or taken lightly, any affect it had on the Employer's image and business was more speculation than fact. The Arbitrator also found disparate treatment in that a similarly situated employee only received a written reprimand. Therefor, there was not just cause to impose a ten-day suspension. However, because the Grievant tried to manipulate the situation by claiming his job required out-of-state driving, a three-day suspension was appropriate.

The ten-day suspension was reduced to a three-day suspension.