

APPEALED ARBITRATION DECISIONS

The following arbitration decisions have been appealed by one of the parties. It is important to know which decisions are under appeal or have been appealed and vacated because the party appealing the Arbitrator's award will argue that the Arbitrator's decision is not binding while a decision is pending in the courts. Also, if the arbitration award is vacated, it loses its precedential value.

1. **Juliette Dunning (108)** – The Union was able to win this grievance at the arbitration level but the State of Ohio was successful in getting the decision vacated. The Union was unsuccessful in appealing this award all the way to the Ohio Supreme Court. **Thus, this decision has been vacated.**
2. **Castle and Thomas (170)** The Union won this grievance at the arbitration level but the State of Ohio was successful in **getting this decision vacated.** The Union appealed through the Court of Appeals, and it elected not to take it to the Supreme Court. **This grievance was re-arbitrated and the new arbitration decision is #382.**
3. **Anthony Kent (212)** – The Union was able to get the grievant's removal overturned at arbitration. The State of Ohio was able to get the Arbitrator's decision vacated at the Court of Common Pleas. OCSEA appealed and won in the Court of Appeals. The State unsuccessfully attempted to get this grievance reviewed by the Ohio Supreme Court. **Therefore, the Arbitrator's decision was upheld.**
4. **Rick Tishner (230)** – The Union prevailed in this grievance at arbitration. The State of Ohio was able to get this decision vacated in the Court of Common Pleas. The Union lost its appeal to vacate in the Court of Appeals. **The Supreme Court reversed the Court of Appeals and upheld the Arbitrator's award in favor of the Union.**
5. **Margaret Hoar (234)** – The Union was able to get the grievant's suspension overturned at arbitration. The State of Ohio moved to vacate the Arbitrator's decision in the Court of Common Pleas and lost. The State appealed to the Court of Appeals and **OCSEA received a favorable decision upholding the Arbitrator's award.** The State did not appeal the decision of the Court of Appeals.
6. **ODOT Snow Emergency Grievance (275)** – The Union won this grievance at arbitration. **The Union appealed this grievance** to the Court of Common Pleas **because the State did not fully comply with the Arbitrator's decision.** The Court of Common Pleas issued a decision in the

- Union's favor.** The State did not appeal the decision by the Court of Common Pleas.
7. **Thaddeus Turner (308) – The Union was successful in reducing the employee's discipline from a removal to a 180 day suspension.** The State of Ohio took the position that the 180 day suspension is a 180 working day suspension. The OCSEA position was that the discipline should be a **180 calendar day suspension.** OCSEA appealed the award to the Court of Common Pleas to resolve the dispute. The Court ruled in OCSEA's favor and the State of Ohio did not appeal.
 8. **Jimmy Williams and Edward Hamner (311) –** The Union was able to successfully argue in arbitration that the two grievants should not have been laid off because the OBES rationale for the layoff was lacking. The award was appealed by the State of Ohio to the Court of Common Pleas where a decision was made upholding the Union's position. The State appealed to the Court of Appeals which **upheld the Arbitrator's award.** The State did not appeal further.
 9. **Gerald Peters (318) –** OCSEA was successful in getting the grievant's removal reduced to a suspension at arbitration. The State moved to vacate the Arbitrator's decision in the Court of Common Pleas. The Court of Common Pleas dismissed the State's appeal on the basis of late filing by the State. The State then appealed to the Court of Appeals. **While the case was pending in the Court of Appeals, the parties reached a settlement agreement.**
 10. **Paul Caldwell – Broadview Layoffs (340) –** OCSEA succeeded in overturning part of these layoffs at arbitration. The State of Ohio filed a motion to vacate this award in the Court of Common Pleas. The Union prevailed in the Court of Common Pleas and the State did not appeal. **The Arbitrator's original award was upheld.**
 11. **Minimum Qualifications (392 – 397) –** The State filed in the Court of Common Pleas to vacate this series of related arbitration decisions. **The State later withdrew its motion to vacate these awards.**
 12. **Joseph Sorrell (406) –** OCSEA filed a motion in the Court of Common Pleas **to confirm and enforce the Arbitrator's award. The State then posted a vacancy** in the sheet metal shop in order **to comply** with the Arbitrator's decision. The Union did not appeal this decision further.
 13. **Randy Burley (430) –** The Union filed a motion in the Court of Common Pleas to vacate the Arbitrator's award. The Union received a **decision** by the Court of Common Pleas **upholding the Arbitrator's award.**
 14. **Harold Diss (431) –** The Union prevailed in arbitration. The State of Ohio moved to vacate this award in the Court of Common Pleas. **The Arbitrator's award was vacated by the Court of Common Pleas.** The Union did not appeal the decision by the Court of Common Pleas since the issue had already been decided by the Ohio Supreme Court in the Dunning case.

15. **Bruce Raines (475)** – The Union prevailed in arbitration in this case involving the granting of personal leave. The Union took this case to the Court of Common Pleas to get the Arbitrator's decision affirmed. **The Court upheld the Arbitrator's award**, but it did not declare what the parties' rights are under the new collective bargaining agreement.
16. **Jack O'Boyle (489)** – The Union prevailed in arbitration in this grievance involving improper subcontracting. The State moved to vacate and won in the Court of Common Pleas. In the Court of Appeals, the order of the Court of Common Pleas to vacate the award was reversed and the State did not appeal. **The arbitrator's original award was upheld.**
17. **Julius Ferguson (506)** – The State prevailed in arbitration in this grievance involving a removal for physical assault. The Union then moved to vacate this decision in the Court of Common Pleas. **The decision of the Arbitrator was upheld by the Court of Common Pleas.** Julius Ferguson appealed to the Court of Appeals. The Court of Appeals dismissed the appeal on the basis of its finding that the employee did not have standing since he was not a party to the original action filed. Only OCSEA and the State were parties.
18. **James Eckard (514)** – The Arbitrator in this grievance held that the State violated the Contract by improperly contracting out project inspection work. The State moved to vacate this decision in the Court of Common Pleas. **The Court of Common Pleas upheld the Arbitrator's decision** and the State elected not to appeal it further.
19. **Kevin Redman (556)** – The State prevailed in arbitration in this grievance involving a removal for alleged falsification of documents. The Union had moved to vacate this decision in the Court of Common Pleas. **The Court refused to vacate the award, finding that the Arbitrator did not exceed his authority.** The Union did not appeal the decision further.
20. **Gregory Hurst (569)** – The Arbitrator sustained this grievance alleging an improper removal. **The Union filed an action to confirm and enforce the arbitration award.** The State reinstated the employee to his former position for one work day, then transferred him to another ODOT garage. The Union claimed that the employer's actions did not constitute compliance with the Arbitrator's order of reinstatement to the employee's former position. **While the lawsuit was pending, the employee was restored to his former position. The Court determined that whether the State could transfer the employee to a new site was to be determined by the Collective Bargaining Agreement. If the Collective Bargaining Agreement was violated by the Employer, the Union's remedy was through the filing of the grievance or other applicable procedures as defined by the Collective Bargaining Agreement.**
21. **Brian Hicks (655)** – The Arbitrator upheld MRDD's decision to remove the employee for client abuse. Criminal charges were processed related to the underlying facts which were also the basis of the removal. The employee pled no

- contest to a lesser charge. The Arbitrator relied on the “no contest” plea to arrive at his decision that the removal should be upheld. The Union filed an action to vacate the award. Ohio Criminal Rule 11(B)(2) provides: “The plea of no contest is not an admission of guilt, but is an admission of the truth of the facts alleged in the indictment, information, or complaint and such plea or admission shall not be used against the defendant in any subsequent civil or criminal proceeding.” The union seeks to establish that this rule is applicable in the arbitration arena and thus, maintain the policy underlying the rule so that employees can be assured that the plea is only applicable to the case in which he/she enters his/her no contest plea. **The Franklin County Court of Common Pleas ruled in the Union’s favor and the 10th District Court of Appeals later affirmed.**
22. **Betty Williams (701)** - The State prevailed in arbitration in this case involving a removal for misconduct, but it was required to compensate her back pay. Thereafter, the Union moved to vacate the Arbitrator’s Award in the Court of Common Pleas. The Court sustained the arbitrator’s award in its entirety. The Union appealed to the Court of Appeals. Prior to the Court of Appeals hearing, the parties settled and the Union withdrew its appeal.
 23. **Stanley Williams (732)** - The State prevailed in arbitration in this grievance involving a full-time probationary employee not receiving credit for previous time served as an interim employee. Thereafter, the Union moved to vacate the arbitrator’s award in the Court of Common Pleas.
 24. **Deon Carter (740)** -- The State prevailed in arbitration in this case involving a removal for inappropriate dealings or conduct with an inmate. The Grievant, not the Union, moved to Vacate the Arbitrator’s Award in the Court of Common Pleas.
 25. **Anita Kennedy (722)** – The Arbitrator upheld Ohio Veteran’s Home’s removal of Anita Kennedy based on the evidence and testimony presented at arbitration. The Union argued in the Court of Common Pleas that the Arbitrator exceeded his powers, or so imperfectly executed them, under the parties’ collective bargaining agreement when he ruled that the tardiness of the employer in disciplining Ms. Kennedy was not in violation of Article 24.05.
 26. **Holiday Pay (950)** -- The arbitrator interpreted contract language in Article 26.04. The Union filed a Motion to Vacate the award. The State and the Union settled and the motion was withdrawn.
 27. **Noel Williams (1016)** –The arbitrator upheld the removal of the Grievant for violations of the agency computer use policy. The Grievant, not the Union, filed a Motion to Vacate. The Franklin County Court of Common Pleas upheld the arbitrator’s decision.
 28. **Finch (1120)**— Arbitrator Allen granted the grievance. The Grievant is a at the Adjutant General’s office. The agency changed the way The state asked the court to vacate the arbitrator’s decision. The court upheld the arbitrator’s decision.
 29. **Reyes & Hedglin (1129)**—Arbitrator Colegranted the grievance. Each Grievant was part of a same-sex couple who had been married in another state. The Grievants were asking for benevolence leave for the deaths of in-laws.
- The U.S. Supreme Court in a 2015 decision upheld the legality of same-sex marriage.

30. Lazaro (1140)—Arbitrator Rubin granted the grievance. The Grievant was charged with abuse. In her initial ruling the arbitrator found the Grievant guilty of abuse, but ordered her back to work. In a corrected ruling the arbitrator did not find the Grievant guilty of abuse and ordered her back to work. Department of Developmental Disabilities. The State argues that the first ruling should stand; however, in that ruling the arbitrator awarded the Grievant something the arbitrator did not have the authority to grant—if the Grievant was guilty of abuse she could be returned to her job.

31. Johnson (1146)—The Union had filed an action in the Union County Common Pleas Court after the hearing on August 5, 2014. The Employer had contended that certain documents requested by the Union were prohibited by the Ohio Revised Code. The Arbitrator had ruled that the documents were to be provided to the Union. The Union dismissed part of its action concerning subpoenas and the Court found that the Arbitrator's Award was not an award because removal was the issue. This decision is from the arbitration hearing date of September 29, 2015.

