

Facebook Postings Lead to Firing

Susan Graziosi served as a police officer of the Police Department in Greenville, Mississippi, for twenty-six years. She posted on her Facebook page and on that of Greenville's mayor a series of statements criticizing the Department's chief (Cannon) for lack of leadership, both generally and as demonstrated by his failure to send officers to the funeral of an officer killed in the line of duty in Pearl, Mississippi.

When he learned of Graziosi's postings, Cannon met with the city attorney (Alexander) to express his concern that the postings jeopardized his ability to lead the department and told Alexander he was going to recommend Graziosi's termination. Alexander told Cannon he could do that. Cannon then had two Internal Affairs officers investigate Graziosi's Facebook postings. Their investigation resulted in a written report supporting her termination. Graziosi was subsequently fired for violating the Department's Policy and Procedure Manual, which required employees to cooperate with, support, and assist each other. It further prohibited malicious criticism, malicious gossip, chronic complaining, and acts of defiance, dissension, or resistance to authority.

After unsuccessfully appealing her firing to the City Council, Graziosi sued the city and the chief in federal district court. Her suit claimed that she had been wrongfully discharged in retaliation for exercising her constitutional right to freedom of expression in the form of the Facebook postings. The district court granted a motion for summary judgment filed by the defendants. The court first noted that, while government employees do not lose their constitutional right to freedom of expression by virtue of their employment, that right is not absolute. Whether a government employee's speech receives constitutional protection is analyzed under a four-prong test, under which the employee must establish four elements. If the employee proves those four elements, "the burden shifts to defendants to show by a preponderance of the evidence that they would have come to the same conclusion in the absence of the protected conduct."

The element often receiving the most attention, and the focus of the court's review here, is the necessity that the speech in question relate to a matter of public concern. To meet that requirement, the government employee must be speaking about a matter of public concern in his/her role as a citizen, not in his/her role as an employee. Here, Graziosi was not addressing a matter of a matter of public concern, such as exposing unlawful conduct or intending to help the public evaluate the performance of the Department. Rather, the court found, Graziosi was speaking out because of her personal frustration over a perceived workplace problem. Her postings were made as an employee of the Department, not as a member of the Greenville community.

This case demonstrates an important limitation on free speech rights of government employees and the need to be circumspect when posting on social media sites.