

Ohio Court Holds Employer's Decision to Request Medical Evaluations Based on Employee's Disturbing Social Media Posts Was Appropriate

Article By:

Alexander Nestor

The Court of Appeals of Ohio [recently upheld](#) a trial court's determination that the Ohio Department of Rehabilitation and Correction ("Department") properly ordered an independent medical examination of, and ultimately terminated, an employee who posted threatening messages on Facebook and Yahoo! Messenger.

In 2009, Diedree Ames, a parole officer, started exhibiting erratic behavior in the workplace. The situation became particularly serious when Ames posted a string of Facebook posts including the following statements:

"I'll gimp into work tomorrow. I guess I could just shoot them all...lol!"

"Yo! Thanks neighbor. I'll gimp into work tomorrow. I guess I could just shoot them all...ARE YOU KIDDING ME? 'MEANING I CAN'T CHASE THEM!' OH MY GOD! YOU PEOPLE REALLY DO NEED A LIFE! LIKE NO LAW ENFORCEMENT OFFICER 'EVER' MADE THAT TYPE OF COMMENT. YOU MAKE ME LAUGH OUT LOUD!"

Thereafter, the Department requested an independent medical examination to assess Ames' fitness to perform her job duties, and placed her on administrative leave. However, the psychologist who conducted the examination determined that Ames could return to work. Soon afterward, the Department launched another investigation when Ames began having serious interpersonal conflicts with a fellow parole officer who was in a relationship with a woman Ames previously also had dated.

Subsequently, Ames posted a threat against the fellow officer on Yahoo! Messenger which ended with "You f** with the wrong person . . . , your a** is mine!" After another investigation, during which Ames did not cooperate in providing information regarding her threatening message, the Department terminated her employment based on her violation of the Department's policy against threatening other employees, as well as its policy against hindering official investigations.

Ames then sued the Department for employment discrimination on the basis of a perceived disability. She argued that because the Department requested the medical examination, it must have perceived her as disabled. The Department filed a motion for summary judgment, and prevailed. The trial court held that Ames' discrimination claims could not succeed because the Department's actions were not prompted by any perceived disability. Rather, the medical examinations were prompted by Ames' concerning behavior, including her disturbing threat on Facebook, "whether joking or not, to 'shoot them all.'" The court further held that even if Ames had established that she was perceived as disabled, she could not establish that the Department's stated reasons for her termination were pretextual. The evidence was clear that the Department terminated Ames' employment due to the threats she had messaged to her fellow officer, which directly violated the Department's policies. The appellate court affirmed the trial court's grant of summary judgment.

The Ames case provides further support for employers having the latitude, and in many cases the obligation, to take action in response to employees' social media posts. The court acknowledged the employer's decision to send Ames for a medical examination based on her threatening Facebook posts. And, it approved the employer's decision to terminate Ames' employment based on her threatening Yahoo! Messenger activity, which directly violated the employer's internal policies.

© 2010-2025 Allen Matkins Leck Gamble Mallory & Natsis LLP

National Law Review, Volume IV, Number 323

Source URL: <https://natlawreview.com/article/ohio-court-holds-employer-s-decision-to-request-medical-evaluations-based-employee-s>