

Can an employee be dismissed over threatening Facebook posts degrading their employer?

Major General Vearney is the Cluster Commander of the South African Police Services, stationed at Mitchell's Plain and head of police anti-gang unit in Western Cape. Between December 2020 and February 2021, General Vearney posted several Facebook comments about the ongoing tension within the top brass of the police.

The posts on Facebook did not refer to anyone by name but only to General Vearney's comments with links to newspaper articles.

The employee posted the following on Facebook.

1. December 2020 - a photograph of Sitole and the wording "GOOD MORNING AND HOW IS THE MIND TODAY? Lighting up the shadows" along with [this Daily Maverick article](#) on apparent friction between Jacobs and Sitole. (The photograph of Sitole was part of the linked article.);
2. 12 December 2020 - a photograph of Jacobs with the comment: "ONCE MORE UNTO THE BRIDGE" along with the quote, "It is not enough to hate your enemy. You have to understand how the two of you bring each other to deep completion", attributed to the novel Underworld by Don DeLillo; (sic - Daily Maverick has checked the post and it says: "ONCE MORE UNTO THE BREACH." The photograph referred to was linked to [this News24 article](#) about tensions between Sitole and Police Minister Bheki Cele that Vearey had posted.)
3. 23 December 2020 - a photograph of Jacobs and the comments "TIME NO LONGER THAN ROPE" and "We won against all their money and power before. And this one we shall win, again, no matter the sacrifice or cost." (The photograph was linked to [this News24 article](#) about a battle over crime intelligence that Vearey posted.)
4. 4 January 2021 - the comment "TIME LONGER THAN ROPE" and a link to [this Daily Maverick article](#) about Jacobs and Sitole.
5. 16 January 2021 - a photograph of Sitole with the comment: "THE AGE

OF BLACKER THAN THOU POLICE POLITICS, OR THE POT OTHERING THE KETTLE BRONZE?" (The photograph referred to was actually an image of the front page of [DM168 with an article](#) about how cops investigating Jacobs were themselves the focus of a PPE investigation into alleged corruption.)

6. 17 January 2021 - a post saying "AN ACUTE CASE OF FOOT-IN-MOUTH DISEASE" with a photograph of Sitole. (The photograph was linked to the [online version of the DM168 article](#) about cops investigating Jacobs themselves being the focus of an investigation.)
7. 24 January 2021 - A post saying: "'THE YEAR OF DECEIVING DANGEROUSLY" and a picture of Sitole. (The picture was part of a link to [this DM168 article](#) about Crime Intelligence.)
8. 25 February 2021 - a post saying "MOER HULLE!" along with a link to [this News24 article](#) on Jacobs heading to the Johannesburg Labour Court over the disciplinary he faced at the time.

In 2017 the South African Police created a rule:

"National Instruction 5 of 2017 which provided that employees of SAPS may not engage in online publication or communication on social media which could bring the SAPS into disrepute."

"Every employee is accountable for statements and comments made by him/her and must give careful consideration to what he/she posts and perceptions that may be created by his/her posts. The content of the posts must not be illegal or disrespectful."

In his defence, at the disciplinary hearing, General Vearey contended that the words used in his postings were not abusing anyone and did not constitute misconduct.

General Vearey was nevertheless found guilty of the misconduct and dismissed.

The chairperson of the inquiry, Lieutenant General Liziwe Ntshinga, remarked the following

"Having applied my mind properly to the facts at my disposal, having considered the circumstances under which the offence was committed, and after checking the law on the matter, I am of the view that, imposing a sanction short of

dismissal over such a serious offence would be fundamental to condoning the conduct of the employee.”

Conclusion

It is thus important to note that employees must be careful of what they post on social media.

As a starting point, employers should also decide on their social media strategy. Employers are encouraged to develop policies that control and manage the posts by employees on social media.

The employer can therefore dismiss an employee for his/her posts on social media.

Johannes Mokotedi, Van Velden-Duffey Inc