

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

AMY R POLLPETER

Claimant

and

IOWA DEPT OF PUBLIC SAFETY

Employer

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HEARING NUMBER: 16B-UI-09368

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-A, 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Employment Appeal Board would modify the administrative law judge's Reasoning and Conclusions of Law as follows:

The Board would modify the second paragraph on p. 3:

Braafhart finished his investigation and prepared a report. Based on the information in the investigative report, Saunders made the decision to terminate the claimant's employment. The employer determined she had violated the social media use policy and code of conduct. ~~The employer also determined that she demonstrated a bias against its African American customers or clients and could no longer be considered unbiased in the performance of her job duties.~~ *The claimant's personal intent does not necessarily appear to be racially discriminatory, but it certainly could be reasonably interpreted as such, and would adversely impact her ability to be a credible witness. That is precisely why the policy exists.*

The Board would also modify the first paragraph at p. 5:

The image of law enforcement presented to the public is important to its mission. *Civ. Serv. Commn. of Coralville v. Johnson*, 653 N.W.2d 533, 538 (Iowa 2002). Law enforcement officers have to earn and maintain public trust by displaying good judgement and sound discretion. *Id.* The employer has an interest in maintaining a fair and unbiased crime lab and the appearance of such. The claimant was a criminalist who was responsible for the processing and control of evidence in crimes involving African Americans as victims or perpetrators. The employer reasonably concluded that the claimant's conduct ~~indicated~~ *could be perceived as* a bias against African Americans that impaired her ability to impartially do her job or would give the appearance of bias while testifying about the process and control of evidence.

Lastly, the Board would modify the second paragraph at p. 5:

The employer and the claimant have an agreement that the claimant will not personally engage in conduct on her personal time that would put her employer in a negative light. The claimant was aware of the code of conduct she was responsible for upholding put in place for the employer to earn and maintain public trust. The claimant also knew or should have known that making public statements ~~indicating~~ *which could be perceived as* a bias against African Americans could harm the employer's interest. The claimant's conduct was work-connected and displayed a deliberate disregard of the employer's interests. Accordingly, benefits based upon wages credited from this employer's account are denied.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv