

# Court: First Amendment protects profanity against police

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**A teenage boy convicted of obstruction after yelling and cursing at three Seattle police officers while they were investigating a disturbance at his house had a First Amendment right to behave the way he did, the Washington Supreme Court said in an opinion Thursday.**

By [Jennifer Sullivan](#)

*Seattle Times staff reporter*

Citizens who curse at police and call them abusive names while they're investigating a crime are protected from arrest by the First Amendment's guarantee of free speech, the state Supreme Court ruled Thursday in a case out of Seattle.

The justices threw out the juvenile obstruction conviction of a then-17-year-old boy who pelted Seattle police officers with obscenities and insults when they were called to his house to investigate a reported disturbance in 2011.

Associate Chief Justice Charles Johnson, in the majority opinion, wrote that when "individuals exercise their constitutional rights to criticize how the police are handling a situation, they cannot be concerned about risking a criminal conviction for obstruction."

Johnson noted the while the boy's words "may have been disrespectful, discourteous and annoying, they are nonetheless constitutionally protected."

Lila J. Silverstein, the Washington Appellate Project attorney who argued the case before the Supreme Court more than a year ago, said [the opinion](#) sends a clear "and very important" message to police. "You have a right to observe and criticize the police," she said. "Speech doesn't have to be pretty to be protected."

Seattle police spokesman Sgt. Sean Whitcomb said, "We support the court's decision."

“I think all of us in this profession have been yelled at and called things not suitable for a family audience,” Whitcomb said, noting such language is not a reason to arrest someone for obstruction.

Ron Smith, who heads the Seattle Police Officers’ Guild, said the opinion came as no surprise to officers.

“We live in a country where burning the sacred U.S. flag is protected speech, so it is not surprising that no matter how vile the language is directed toward a police officer, that speech is, too, protected,” Smith said.

Silverstein said her client believed he was defending his family from potential police brutality when he cursed at the three officers. She identified her client, who is now 21, by his middle name “Jordan.” In the ruling, he is referred to only as “E.J.J.”

The Times generally does not name defendants charged in juvenile court.

Three South Precinct officers responded to Jordan’s Beacon Hill home on Feb. 14, 2011, after his mother called police to “remove her intoxicated and belligerent daughter” and the girl’s older sister from the family’s front yard, according to a trial memorandum filed by the King County Prosecutor’s Office in August 2011.

When police arrived, Jordan went outside to watch what was happening. He informed the officers who he was and asked them not to use a nightstick, according to the Supreme Court opinion.

“The officers asked him to go back into the home so they could focus on dealing with the two women,” according to the King County trial memo. The teen “refused, saying this was his home and he didn’t have to listen [to the officers].”

Silverstein said that her client told the officers it was his home and he had a right to be there.

Jordan called the officers “pigs” and cursed at them, according to the criminal charges. Jordan eventually retreated behind a wrought-iron screen door and continued shouting at the police. Officers told the teen repeatedly to shut the front door and go inside the

house, but he said “he wanted to supervise the scene from the doorway,” the Supreme Court opinion said.

An officer repeatedly reached into the home to close the door, but each time Jordan reopened it, according to the opinion. After about 10 to 15 minutes, the boy was arrested. Jordan was convicted of misdemeanor obstruction in King County Juvenile Court.

Supreme Court Justice Steven Gonzalez, in his concurring opinion, said Jordan had reason to be concerned for the safety of his relatives because he “is a young black man in a city where the police have been found by the United States Department of Justice to use excessive force against nonviolent black youth.”

In 2012, the city and Department of Justice entered into a [consent decree](#) that followed federal findings that officers had engaged in a pattern or practice of excessive force and displayed troubling, if inconclusive, evidence of biased policing.

Silverstein said she has never claimed that the race of the officers played a part in their actions. Smith, the police-union head, said two of the officers were African American and one was Latino.

“Regardless of the race of the officers, we know citizens of color are disproportionately impacted by police use of force, therefore it’s particularly important to enforce that First Amendment right,” Silverstein said.

*Seattle Times news researcher Miyoko Wolf contributed to this story.*