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False Accusations Against Police Protected

SAN FRANCISCO, Nov. 4, 2005

(AP) A federal appeals court on Thursday nullified a California criminal law adopted after the Rodney King beating that made it unlawful for citizens to knowingly lodge false accusations against police officers.

The 9th U.S. Circuit Court of Appeals said the law was an unconstitutional infringement of speech because false statements in support of officers were not also criminalized.

The decision, hailed by civil liberties groups and opposed by state prosecutors and law enforcement groups, overturns the California Supreme Court, which in 2002 ruled that free speech concerns took a back seat when it came to speech targeting police officers.

Lawmakers enacted the law after a flood of hostile complaints against officers statewide following King's 1991 taped beating. The 1995 law is punishable by up to six months in jail.

The imbalance generated by the law "turns the First Amendment on its head," Judge Harry Pregerson wrote for the unanimous three-judge panel.

Darren Chaker, 33, of Beverly Hills, challenged the law after he was convicted in San Diego County in 1999 of making a false complaint against an El Cajon police officer.

Chaker appealed to California's courts, to no avail. A federal judge had ruled against him as well, so he went to the San Francisco-based appeals court.

"It was up to the police department to determine if the speech was false," Chaker said. "I made a complaint against a police officer for twisting my wrist and was charged as a criminal."

The American Civil Liberties Union hailed the decision.

"To us, it was a clear example to cut off criticism of the government," said ACLU attorney Alan Schlosser.

Michael Schwartz, a Ventura County prosecutor who on behalf of the California District Attorneys Association urged the appellate court to uphold Chaker's conviction, said he was disappointed with the outcome.

"It's a controversial issue that people disagree about," he said. He said the statute in question is used sparingly.

San Diego County prosecutors said they were considering asking the appeals court to reconsider or asking the U.S. Supreme Court to review the decision.

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