

col RNY

Court upholds law fighting obscene calls

By Jackie Hallifax
The Associated Press

TALLAHASSEE

A law that makes it a second-degree misdemeanor to call people at home and use obscene language to harass them is constitutional, the state Supreme Court said Thursday.

The case arrived at Florida's high court when a Sebring woman challenged her conviction, arguing the law violated her free speech rights guaranteed in the U.S. Constitution.

The complaint against Sara Gilbreath was brought by Ronald Hegadis, a manager for the U.S. Postal Service in Highlands County who worked with her husband.

Hegadis said he received some 30 phone calls over a two-year period. Thursday's opinion includes an expletive-filled statement by Hegadis as an example of the content of one of the calls.

In a 152-word speech, 37 words are profane or obscene.

Mrs. Gilbreath, who denied speaking as strongly as Hegadis alleged, was convicted in county court and appealed the verdict to both the circuit court and the 2nd District Court of Appeal, both of which upheld the verdict.

Gary Gossett Jr., a Sebring attorney representing Mrs. Gilbreath, said he is considering appealing to the U.S. Supreme Court.

In Thursday's 5-2 opinion, justices upheld the conviction and the constitutionality of the law, ruling it does not bar "pure speech."

"It is the conduct of intentionally making such a call into a place of expected privacy, not pure speech, which is proscribed," Justice Charles Wells wrote for the majority.

But the court narrowed the scope of the law, by limiting it to calls where obscenity is used to abuse, threaten or harass. The justices struck the words "annoy" and "offend" from the statute as too vague.

Chief Justice Stephen Grimes and Justices Ben Overton and Leander

The court narrowed the scope of the law, limiting it to calls where obscenity is used to abuse, threaten or harass.

Shaw supported Wells' opinion. Justice Major Harding concurred in its result only. The dissenters were Justices Harry Lee Anstead and Gerald Kogan.

Anstead wrote he thought the state could outlaw obscene calls made to someone's home "with the specific intent to harass the person called."

But, he added, the present statute was too broad to be constitutional and questioned the court's authority to

limit it.

Anstead warned the law punished speech in a consensual conversation if the caller tries to annoy or defend the listener with a dirty word.

"For example, friends discussing politics in a friendly conversation may often violate this statute when they reach a point of disagreement and one uses a 'dirty' word to 'annoy' or 'offend' the other," Anstead wrote in a dissenting opinion supported by Kogan.