

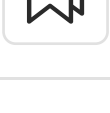
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Vancouver man wins \$11,250 after illegal search by Portland police officer

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By [Aimee Green](#) | [The Oregonian/OregonLive](#)

Jose Gasque

Aimee Green

A jury Wednesday awarded \$11,250 to a 32-year-old man who was arrested and taken to jail after he refused to let a

[Portland police](#)

officer dig through his pockets.

A judge earlier in the day ruled that the Officer Tequila Thurman wrongly detained Jose Gasque of Vancouver during the November 2009 encounter in the Old Town area.

The verdict should send a message to Portland police that they need to respect people's constitutional rights, said David Fidanque, executive director of the

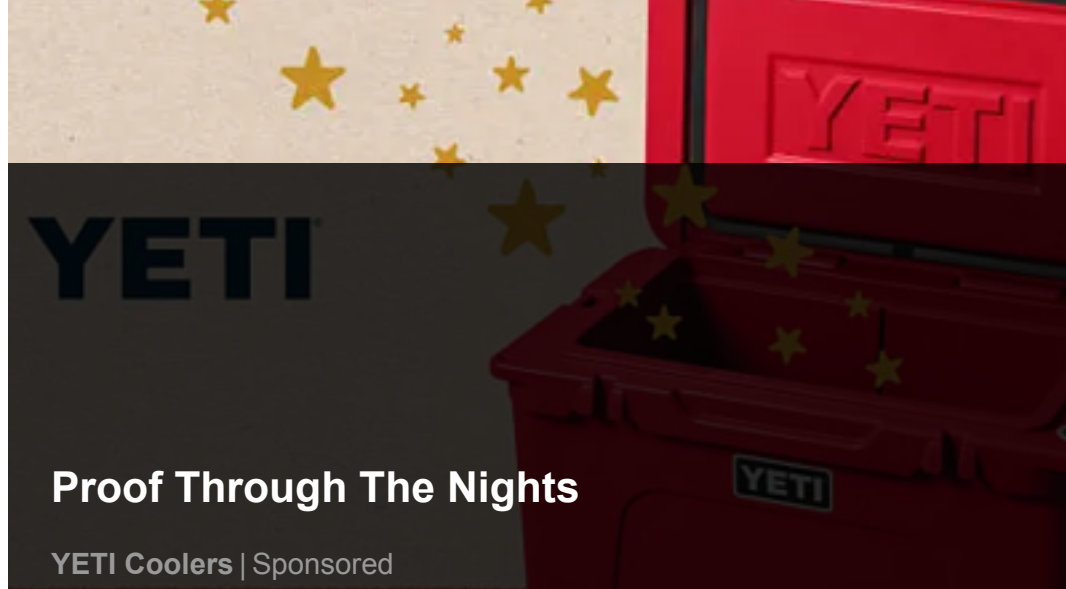
[American Civil Liberties Union of Oregon](#)

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Law-abiding people have a right to refuse searches without probable cause, said Fidanque, whose agency provided a lawyer to Gasque.

"He was clearly given this Catch-22 by the officer, 'You can let us search you, or we'll arrest you and then we'll search you,'" Fidanque said.

Gasque, who was 29 at the time, had been sitting on a curb and waiting for a friend to finish smoking a cigarette sometime after midnight when Thurman drove up. The officer put a bright light on the men, asked for identification and ran their names to check for warrants. After finding none, she asked to search through their pockets. Gasque's friend consented.

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But Gasque thought the officer was violating his Fourth Amendment right protecting him from unreasonable searches. He pulled out an ACLU "Know Your Rights" guide and told her so.

That's when Thurman arrested Gasque on suspicion of criminal trespass for being on what she believed was private property closed to the public, according to testimony in the three-day trial. The curb was in an alley next to a building formerly occupied by Burger King at the corner of Northwest Broadway and West Burnside streets.

"Officer Thurman told the two men they were trespassing -- trespassing despite the fact that there are no barriers, there are no obstacles, there are no gates, no fences, no signs that say 'Keep Out,'" Gasque's attorney, Bronson James, told jurors during closing arguments Wednesday.

The officer let Gasque's friend go, but handcuffed Gasque, searched his clothing and then booked him into jail, where he was held more than four hours before being released at 5:32 a.m.

Gasque testified that he suffered sore wrists from the handcuffs.

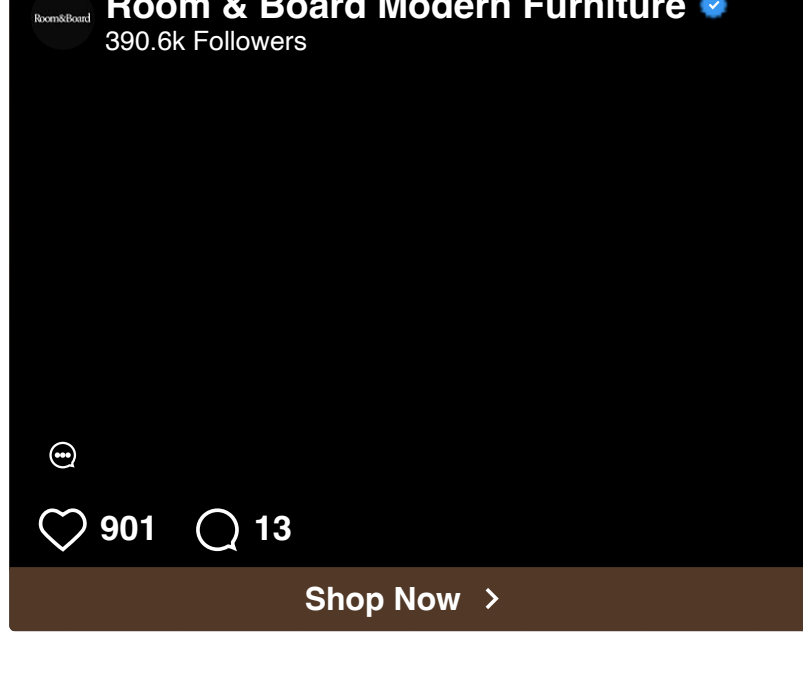
Neither Gasque or his friend have a criminal history. The two were out enjoying a night on the town, said Gasque's attorney, Bronson James.

Bill Manlove, an attorney for the city, told jurors that Thurman thought she'd smelled marijuana, and after searching the friend still wanted to search Gasque because he could have been a drug dealer. But the two men had nothing illegal on them.

Multnomah County Circuit Judge Kathleen Dailey ruled that the alley was open to the public. The judge also found that the city was liable for the false arrest, assault and battery of Gasque.

The judge gave jurors the task of deciding how much in damages to award Gasque. They also were asked whether Gasque was maliciously prosecuted after police pursued charges against him in court. On the day of trial in 2010, the Multnomah County District Attorney's Office decided not to go forward with the case.

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Jurors deliberated about two hours before deciding to award Gasque \$11,250 of the \$49,250 he had sought. They found that Gasque wasn't maliciously prosecuted.

Moments after the verdict, Gasque said he felt vindicated by the judge's decision, but said the case was "never about the money."

The arrest was "terrifying," said the married father of an 11-year-old son. He works as a development engineer, has a black Labrador and raises chickens.

He's shaved his goatee and often wears dress shirts and slacks when he goes out to reduce the likelihood that police will hassle him, he said.

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[Aimee Green](#)