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## Once again, Scalia's the talk of the town

**Charles Lane**  
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WASHINGTON - Justice Antonin Scalia is at it again.

"For Pete's sake, if you can't trust your Supreme Court justice more than that, get a life!" he said Wednesday, replying to an audience member at the University of Connecticut who asked about Scalia's refusal last year to sit out a case involving his hunting partner, Vice President Dick Cheney.

Scalia had similar advice to a student in Switzerland who asked last month about the Supreme Court's ruling for George W. Bush during the 2000 election. "Oh, God. Get over it," he said.

And, on March 27, he answered a *Boston Herald* reporter's question about criticism of his conservative religious beliefs by putting his fingertips under his chin and flipping them dismissively outward. "That's Sicilian," the high court's first Italian-American explained, triggering a controversy that would spill over to cable TV and prompt a testy letter to the editor of the *Herald* from Scalia himself.

One of the most conservative, and cerebral, of the nine justices, Scalia, 70, has never shied from verbal warfare.

But as he completes his second decade on the court, Scalia, often known by his nickname, Nino, seems less inhibited than ever, speaking frequently off-the-cuff, in a crowd-pleasing voice quite unlike that of the legal academy to which he once belonged.

It is the voice of a conservative populist: combative, humorous, and sharply critical of the media and of the legal establishment atop which he sits. That includes the Supreme Court, from whose rulings in favor of gay rights and against the juvenile death penalty he dissented vigorously but in vain.

To some, Scalia's conduct shows a lack of judicial temperament and hurts the court.

"It's sad as much as anything else," said Dennis Hutchinson, a former law clerk to two justices who teaches Supreme Court history at the University of Chicago. "It suggests to me a frustration with his colleagues and the left-wing *kulturkampf* in the academy, and it just does not add to the dignity of the office."

But Scalia's supporters say it is simply Nino being Nino, offering the public a playful taste of his unvarnished thinking, which they call healthy for the court.

"I think people have called for the justices to be less monastic and get out there and talk to the people, and he's doing that," said M. Edward Whelan III, a former Scalia law clerk who heads the conservative Ethics and Public Policy Center in Washington.

Scalia's outspokenness is facilitated by modern judicial ethics laws that leave it up to members of the court to decide when their comments create an appearance of impropriety. In the past, speeches by sitting members of the Supreme Court were rare, and generally scholarly. The major exception in the post-World War II era was Justice William O. Douglas, a liberal firebrand who spoke and wrote on issues including the environment and the Vietnam War.

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