

ISSUE:

Does Nevada's stop-and-identify statute violate the defendant's Fourth Amendment rights or the Fifth Amendment's prohibition on self-incrimination?

HELD: No--questions concerning a suspect's identity are a routine and accepted part of many Terry stops.

REASONING:

1. The initial stop was based on reasonable suspicion.
2. Beginning with Terry, the Court has recognized that an officer's reasonable suspicion of a person perhaps being involved in criminal activity permits that officer to stop the person for a brief time and take additional steps to further investigate.
3. The Court is now of the view that Terry principles permit a State to require a suspect to disclose his name in the course of a Terry stop.
4. The Fifth Amendment prohibits only compelled testimony that is incriminating and protects only against disclosures that the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used.
5. In this case, Hiibel's refusal to disclose his name was not based on any articulated real and appreciable fear that his name would be used to incriminate him, or that it would furnish a link in the chain of evidence needed to prosecute him. It would appear that the only reason he refused to identify himself was because he thought his name was none of the officer's business.

NOTES:

Compare/contrast this case with Kolender v. Lawson, Legal Bulletin No. 70, where the U.S. Supreme Court ruled that a San Diego, California, loitering statute was unconstitutional because it required a suspect to give an officer "credible and reliable" identification when so asked. The Court ruled in Kolender that the statute was vague and

would result in "virtually unrestrained power to arrest and charge a person with a violation."

Unlike Kolender, the police in this case were responding to a reported crime and had a right to identify Hiibel during their investigative seizure of him.

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Add this case to Section I, "Investigatory Seizure of Persons and Things," of your Contents and Text. File Legal Bulletin No. 283 numerically under Section R of the manual.