Hiibel v. Nevada
(June 21, 2004) __ US __

ISSUE

If a detainee refuses to identify himself, can he be arrested for obstructing an officer?

FACTS

A sheriff's deputy in Humboldt County, Nevada was dispatched to investigate a report that a man was assaulting a woman in a red and silver GMC truck on Grass Valley Road. When the deputy arrived, he saw the truck parked by the side of the road. He also noticed skid marks in the gravel behind the truck, an indication the driver had come to a sudden stop. A man was standing by the truck, and a young woman was sitting inside.

The deputy approached the man and told him that he was investigating a report of a fight. He then asked the man if he had "any identification." The man refused, instead asking why the deputy wanted to see his ID. The deputy explained "that he was conducting an investigation and needed to see some identification." The man then "became agitated," said he had done nothing wrong, and refused repeated requests to produce ID. All told, he refused 11 such requests.

The deputy warned the man that he would be arrested if he refused to identify himself. The man responded by taunting the deputy, "placing his hands behind his back and telling the officer to arrest him and take him to jail." The deputy then arrested him for violating a Nevada statute that prohibits "willfully resisting, delaying, or obstructing a public officer in discharging or attempting to discharge any legal duty of his office."

The man, who was later identified as Hiibel, was convicted of violating the statute, and fined $250. He appealed to the United States Supreme Court.

DISCUSSION

It is settled that officers who lack grounds to detain or arrest a suspect have no legal right to demand that the suspect identify himself. Thus, his refusal to identify himself is not a crime. Although some state statutes (mainly old vagrancy statutes) required all people to identify themselves upon request, they have been declared unconstitutional.[1]

Hiibel presented a different question. Here, the sheriff's deputy unquestionably had grounds to detain Hiibel. Thus, the issue was whether officers have a legal right to demand identification from a suspect who has been lawfully detained. If so, the suspect's refusal to identify himself would necessarily delay or obstruct an officer in the performance of his duties. This means that if a state statute prohibits such delays or obstructions (as does the Nevada statute and California's Penal Code § 148(a)(1)), the suspect could be arrested.

The Court noted that an officer's questions concerning a detainee's identity are a "routine and accepted" part of many detentions. Furthermore, said the Court, such questions serve important government interests:

> Knowledge of identity may inform an officer that a suspect is wanted for another offense, or has a record of violence or mental disorder. On the other hand, knowing identity may help clear a suspect and allow the police to concentrate their efforts elsewhere.

Accordingly, the Court ruled that suspects who are lawfully detained may be required to identify themselves.[2] In the words of the Court, "A state law requiring a suspect to

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[1] See *Brown* v. *Texas* (1979) 443 US 47.

[2] NOTE: Although the Court ruled that a demand for ID must be "reasonably related" to the purpose of the stop, it indicated that any request for ID satisfies this requirement if the detention

disclose his name in the course of a valid [detention] is consistent with Fourth Amendment prohibitions against unreasonable searches and seizures."

Hiibel's conviction was affirmed.

DA's COMMENT

In 1971 the United States Supreme Court observed that "aliases and false identifications are not uncommon."[3] If *Hiibel* had been decided differently, the Court would have had to revise its observation to, "Aliases, false identifications, and 'I ain't tellin' you my name and there's nothin' you can do about it' are not uncommon." This would, of course, have been a big victory for the hard-core criminal element. Yet, four of the nine justices on today's U.S. Supreme Court wanted that to happen.

We all understand that officers cannot require a person to answer questions about the crime for which he is suspected. But there is a huge difference between asking, "Did you just beat your wife?" and asking, "What's your name?"[4]

The question remains: Can detainees be required to provide officers with *written* ID, such as a driver's license? Or can they satisfy the ID requirement by simply stating their name? The *Hiibel* Court did not decide the issue. Consequently, the California cases on this subject are still valid—and they hold that officers may require written ID *if* the detainee has it in his possession.[5] In one of those cases, *People* v. *Long*, the court succinctly explained the rationale for this requirement:

> To accept the contention that the officer can stop the suspect and request identification, but that the suspect can turn right around and refuse to provide it, would reduce the authority of the officer . . . to identify a person lawfully stopped by him to a mere fiction. Unless the officer is given some recourse in the event his request for identification is refused, he will be forced to rely either upon the good will of the person he suspects or upon his own ability to simply bluff that person into thinking that he actually does have some recourse.[6]

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was lawful. Said the Court, "The request for identity has an immediate relation to the purpose, rationale, and practical demands of a [detention.]."

[3] *Hill* v. *California* (1971) 401 US 797, 803.

[4] NOTE: Although the Court did not address the issue of whether a demand for ID constitutes a violation of the Fifth Amendment right against self-incrimination, it is apparent that it does not. See *Pennsylvania* v. *Muniz* (1990) 496 US 582, 589 ["(W)e have long held that the [Fifth Amendment] privilege does not protect a suspect from being compelled by the State to produce real or physical evidence. Rather, the privilege protects an accused only from being compelled to testify himself, or otherwise provide the State with evidence of a testimonial or communicative nature."]; *Hayes* v. *Florida* (1985) 470 US 811 ["(I)f there are articulable facts supporting a reasonable suspicion that a person has committed a criminal offense, that person may be stopped in order to identify him . . . ."]. ALSO SEE *Schmerber* v. *California* (1966) 384 US 757 [no Fifth Amendment right to refuse blood testing]; *Doe* v. *United States* (1988) 487 US 201 [OK to require a release authorizing foreign banks to turn over certain records]; *Gilbert* v. *California* (1967) 388 US 263, 266-7 [handwriting exemplars]; *People* v. *Bryant* (1969) 275 Cal.App.2d 215 [providing fingerprints] *United States* v. *Wade* (1967) 388 US 218 [standing in lineup]; *Fisher* v. *United States* (1976) 425 US 391 [furnishing records].

[5] See *United States* v. *Knights* (2001) 534 US 112, 117 [The Court noted that when it upholds a particular type of search it is not, unless it says so, ruling that any search that is "not like it" is unlawful.].

[6] (1987) 189 Cal.App.3d 77, 87 [quoting from *Wisconsin* v. *Flynn* (1979) 285 NW2d 710, 717-8]. ALSO SEE *People* v. *Valencia* (1993) 20 Cal.App.4th 906, 919 ["(The officer) was within his discretion in insisting on documentation of who [the driver] was, rather than simply relying on the word of [his passengers]."]; *People* v. *Loudermilk* (1987) 195 Cal.App.3d 996, 1002 ["Without question, an officer conducting a lawful [detention] must have the right to [ask the suspect to identify himself], otherwise the officer's right to conduct an investigative detention would be a

Based on *Long* and the cases we cited with it, it is still the law in California that a detainee's refusal to disclose his name or furnish written ID *if he has it* constitutes a violation of Penal Code § 148(a)(1) which, like the Nevada statute,[7] makes it unlawful to willfully delay or obstruct an officer in the performance of his duties.

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mere fiction. ¶ As part of this inquiry, the police officer may require the suspect to produce proof of identification, if he has it."]; *People* v. *Rios* (1983) 140 Cal.App.3d 616, 621 ["And where there is such a right to so detain, there is a companion right to request, and obtain, the detainee's identification."]. ALSO SEE *People* v. *Cooks* (1967) 58 Cal.Rptr. 550 [defendant violated Penal Code § 148 when he told a detainee not to ID himself to police].

[7] Nev. Rev. Stat. 171.123.