

ROLL CALL TRAINING
FROM NORTH CAROLINA'S 24/7 POLICE
ATTORNEY LAW FIRM

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TOPIC:

CAUTION TO OFFICERS —

New Case from the United States Supreme Court – Arresting Persons for Failing to Identify Themselves to Officers.

CASE:

Hiibel v. Nevada, No. 03-5554 (decided June 21, 2004)

DISCUSSION:

Perhaps you have already learned of this Court ruling from news and internet accounts this week. If so, please read this edition of Roll Call Legal Training very carefully: The high Court's ruling (as reported in the media) appears to allow the arrest of persons who fail to identify themselves to law enforcement officers. SR&S urges officers in North Carolina to use caution. Here's why:

Hiibel v. Nevada is based on the law of Nevada. Specifically, Nevada has what is known around the nation as a "stop and identify" statute. Many states have laws such as this, **but North Carolina does not!** Moreover, if one listens to popular media accounts of the Court's ruling, little is made of the fact that 4th Amendment reasonable suspicion is first required before an officer can act upon a validly-enacted "stop and identify" statute (in other words, before an officer in one of these states can demand that a person identify himself, and then arrest him for failure to do so, that officer must have reasonable suspicion of criminal wrongdoing on the part of that individual).

Again, North Carolina has no "stop and identify" statute, so the *Hiibel* ruling is of little interest in our State.

WHAT FIRST LINE-SUPERVISORS SHOULD DO:

First-line supervisors should instruct their officers that they may not "pull up" on a person and simply demand identification – and then arrest that person if they fail to cooperate. This will be a false arrest in our State. First-line supervisors may want to advise officers to "pay no attention" to the *Hiibel* ruling to the extent they may have learned of it from radio or TV (or the internet, newspapers, etc.).

BUT WHAT IF THE OFFICER DOES HAVE REASONABLE SUSPICION FOR A TERRY STOP?

In North Carolina, it will make no difference. We do not have a “stop and identify” statute. We may conduct a Terry stop, and we may request identification. But the failure of a detainee in a Terry stop to identify himself does not automatically justify an arrest under *Hiibel v. Nevada*.

FINAL POINT:

Officers should be reminded that they may politely request identification of citizens in a variety of routine circumstances. Such inquiries may be regarded as mere “interaction with the public” or “polite conversation” (and of course such interactions should in fact be polite and professional, never amounting to harassment). But officers must remember that “failure to provide identification” is not an arrestable offense.

ONE LAST THOUGHT:

First-line supervisors will want to remind their officers that N.C. motor vehicle law does require any person operating a car to surrender his license or to otherwise identify himself to an officer requesting identification (G.S. 20-29). It is already clear that officers may arrest persons for violation of this statute (the *Hiibel* ruling notwithstanding).

Please stay tuned for the next edition of Roll Call Legal Training!