

STATE OF TENNESSEE

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Opinion No. 04-148

Stop and ID

QUESTION

Does a court officer serving civil papers have the same authority enjoyed by police officers to approach a person in a public place and ask the person to identify himself?

OPINION

Yes. A court officer serving civil papers may ask a person to voluntarily identify himself; however, the court officer has no authority to compel the person to comply with the request unless the officer has a reasonable suspicion that the person is engaged in criminal wrongdoing.

ANALYSIS

The Fourth Amendment to the United States Constitution provides that the people shall “be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. Amend. IV. Similarly, Article 1, section 7, of the Tennessee Constitution guarantees “that the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures.” Tenn. Const. art. 1, § 7. These constitutional protections “are implicated only when a police officer’s interaction with a citizen impermissibly intrudes upon the privacy or personal security of the citizen.” *State v. Daniel*, 12 S.W.3d 420, 424 (Tenn. 2000).

Without question, before a police officer may seize an individual, that officer must have at least reasonable suspicion, supported by specific and articulable facts, to believe that the individual has been or is about to be involved in criminal activity. *See id.*; *Brown v. Texas*, 443 U.S. 47, 50-52 (1979). An officer may not stop an individual and “demand[] identification without any specific basis for believing he is involved in criminal activity.” *Brown*, 443 U.S. at 52. However, once an individual has been lawfully stopped based upon reasonable suspicion of criminal activity, a police officer may ask a suspect to identify himself or herself if the request to identify is reasonably related to the circumstances justifying the stop. *See Hibel v. Sixth Judicial District Court of Nevada*, ___ U.S. ___, 124 S. Ct. 2451, 2458-60 (2004).

While a police officer has no authority to seize an individual and demand identification

without any reasonable suspicion of wrongdoing, an officer “may approach an individual in a public place and ask questions without implicating constitutional protections.” *Daniel*, 12 S.W.3d at 425. The Supreme Court has explained that

law enforcement officers do not violate the Fourth Amendment by merely approaching an individual on the street or in another public place, by asking him if he is willing to answer some questions, by putting questions to him if the person is willing to listen or by offering in evidence in a criminal prosecution his voluntary answers to such questions. Nor would the fact that the officer identifies himself as a police officer, without more, convert the encounter into a seizure requiring some level of objective justification. *The person approached, however, need not answer any question put to him; indeed, he may decline to listen to the questions at all and may go on his way. He may not be detained even momentarily without reasonable, objective grounds for doing so; and his refusal to listen or answer does not, without more, furnish those grounds.*

Florida v. Royer, 460 U.S. 491, 497 (1983) (plurality opinion) (emphasis added). Thus, a police officer may approach an individual and ask for identification so long as the police conduct would not convey to a reasonable person that he or she was not free to decline the request. *See id.* at 440; *Daniel*, 12 S.W.3d at 425-27. A court officer serving civil papers would have the same ability to approach an individual and ask for identification, as it is a consensual encounter between the officer and the citizen; however, that court officer, like a police officer, would have no authority to seize the individual and demand identification.

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