

Farrell Henderson (Henderson) appeals his bench trial conviction of Refusal to Identify Self, a Class C misdemeanor under Ind. Code § 34-28-5-3.5. The issues as set forth by Henderson in his brief are all, in essence, challenges to the sufficiency of the evidence.

The statute under which Henderson was charged and prosecuted provides in relevant part that “A person who knowingly or intentionally refuses to provide either the person’s: (1) name, address, and date of birth; to a law enforcement officer who has stopped the person for an infraction or ordinance violation commits a Class C misdemeanor.”

In this instance two undercover police detectives from the Town of Speedway were circulating among the crowd attending the Brickyard 400 NASCAR race. They were dressed in the same manner as persons attending the race and were on the lookout for persons selling items to members of the public without having obtained the requisite permit from the Town. They approached Henderson who was selling or offering for sale earplugs. Henderson was doing so as a fund-raising device for his son’s high-school football team. One of the detectives asked how much Henderson was charging for the earplugs and the response was \$1.00. The officer then displayed his badge and asked whether Henderson had a permit. The response was in the negative. The second officer also displayed his badge and identified himself as a police officer.

The officers were preparing to issue an ordinance violation citation for Soliciting Without a Permit, and Henderson, who did not have any identification on his person,

gave a false name. When the officers failed to confirm the name given to them, Henderson was placed under arrest, at which time he then correctly identified himself.

The substance of Henderson's argument is that at the outset, he was unaware that the men accosting him were police officers and that he thought they might be trying to "take advantage of me." (Tr. 43). He stated that one of the officers "pulled out his billfold and flashed it," (Tr. 43) but that the other officer did not do so; nor did either officer identify himself as a police officer. He admitted giving a false name at that point and that only after being arrested did he correctly identify himself.

The argument on appeal is merely a request that we reweigh the evidence as to whether or when and how the officers identified themselves. ¹ We will not do so.²

Affirmed.

DARDEN, J., and BRADFORD, J., concur.

¹ The defendant's testimony concerning when and how the officer or officers identified themselves was somewhat equivocal.

² Henderson injects a policy argument that the common law should dictate that under the statute in question, only an officer in uniform should be permitted to effect a stop and make an arrest. In this regard he equates the situation here involved with the requirement for clear and unmistakable identification of law enforcement officers in order to make a traffic stop. The policy considerations proffered by Henderson have a degree of merit. However, the argument is better directed to our General Assembly seeking clarification of the circumstances under which an officer may enforce the Refusal to Identify Self statute.