



In his Petition for Rehearing, Henderson argues that the State failed to prove that Henderson's activity took place within the Town of Speedway and that therefore there was a failure to prove that the officers had probable cause to stop him for a violation of an ordinance of the Town of Speedway.<sup>1</sup>

If Henderson were appealing from a conviction of the ordinance violation his argument might bear a degree of merit. However, he is appealing from conviction of a Refusal to Identify Self. Under the applicable statute, the State need not prove that Henderson actually violated a Speedway ordinance. It need only establish that Henderson was "stopped . . . for an infraction or ordinance violation." Ind. Code § 34-28-5-3.5 (Emphasis supplied). Whether or not a violation actually took place is not determinative. If the purpose of the stop was to investigate an alleged ordinance violation, the requirements of the statute have been met.

In any event this Court could take judicial notice that the Indianapolis Motor Speedway, where the Brickyard 400 NASCAR race is held, and the immediate environs of the race track facility are located within the Town of Speedway. Indiana Rules of Evidence, Rule 201. See Page v. State, 395 N.E.2d 235 (Ind. 1979), overruled on other

---

<sup>1</sup> Henderson concedes that in his amended appellate brief he specified no distinct issue in this regard but that the issue was preserved by reference in a footnote to a portion of text in which he argued that "it is disputed whether the officers clearly identified themselves as Speedway Police Department officers. . . ." The footnote itself was as follows: "It is not known if the events occurred within the corporate limits of the town of Speedway. It was never established that the location was Indianapolis or Speedway. It was not a requirement to obtain a Speedway permit in Indianapolis." 2007 WL 1786581 (Ind. App.)

Whether the issue was adequately preserved by a passing reference in a footnote, as opposed to a statement in the text of the appellant's brief (as in Brockman Enterprises, LLC v. City of New Haven, 868 N.E.2d 1130 (Ind. App. 2007)) is questionable. Nevertheless, we proceed to consider the argument made in the Petition for Rehearing.

grounds, Rhyne v. State, 446 N.E.2d 970 (Ind. 1983); 29 Am. Jur. 2d Evidence § 77.

The Petition for Rehearing is granted for the sole purpose of addressing Henderson's contention and to confirm our earlier determination affirming the judgment of the trial court.

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