CASE BRIEF 2

**Introduction:**

 The case Terry v. Ohio, 392 U.S. 1 (1968), was about the access of the police officer and his authority to stop a person in search of a weapon. The case is significant as it highlighted the narrowly drawn authority to permit a reasonable search and seizure. According to the rule, when a police officer found someone suspicious and has reason to consider that the suspect has some kind of weapon or he is dangerous for the people, irrespective of whether an officer has an arrest warrant to arrest the suspect for the crime. The case was decided on June 10, 1968, after making the argument on December 12, 1967.

The defendant "Terry" along with two other men were approached by the police officer who found their behavior suspected in the store. The police officers found their suspicious behavior and doubted that they were planning to rob the store. The police officer asked question-their names to know about their presence around the store and the reason for their repetitive movement in the same area. The men mumbled in response to the question of the officers due to which officer searched the three men. While searching the men police officers found gun from two of the suspect in which Terry and Clinton had convicted of having a concealed weapons. In response, Terry filed the case against police officer and claimed that the search violated the fourth amendment right against unreasonable seizures and searches. The category in which case falls was an illegal search and seizure. The supreme court of the united state held that the approach of the officers and search was reasonable as long as they have reasonable suspicion. The ruling, in this case, pertains to the fourth amendment.

**Facts:**

 McFadden was the officer with thirty-nine years of experience performing his duty on a downtown beat where he found the two strangers with unusual behavior. The first man was the defender names Terry and other’s name was Chilton. Both Terry and Chilton became suspicious as they were moving around the same route. They proceed alternately along an identical area where they got stopped at a particular place to stare in the window of the same store. They did this back and forth movement for about twenty-four time in total. Every time they reached to the corner of the area they made discussion with each other. Later on, a third man named Katz joined the two and left quickly. All these activities made them suspicious and officer McFadden followed both. While following the two, the officer saw them meeting again with the third man in front of another store which was a couple of blocks away. The officer reached to them and showed them his identity. He asked them to tell their names. Instead of telling their names all men mumbled with each other. Afterward, the officer spun Terry around and checked his clothes. McFadden found Terry's overcoat pocket while patted down his outside dress, however, he was unable to remove the weapon. For checking purpose, the officer ordered them to move to the store where he took petitioner's overcoat from him and found the revolver in it, and then he ordered all the three suspects to raise their hand and face the wall. He took outside clothing of Clinton and Katz for further investigation where he got another revolver from Clinton's clothes. However, he did not put his hand in the third suspect that was Katz as he did not observe anything in his pat-down. Besides this, he did not even put his hand in the clothes of the petitioner and other man until he found a thing which can be a weapon (Rankin, n.d.).

 McFadden took all the three men to the police station. Clinton and Terry were charged for having the concealed revolvers with them. Later, Terry brought the clash between harassing, intrusive conduct by the police and Fourth Amendment protection. Terry filed the case against the police officer in 1967 which later known as “stop and frisk” case. The defense moved to hold back the revolvers. The filed case was allowed for trial; however, the judge gave the decision against the petitioner and rejected the prosecution theory. The court rejected the movement to suppress and conceded the revolvers into proof on the ground that the officer had reason to accept that Terry and Chilton were behaving suspiciously, that their cross-examination was justified, and that the McFadden for his very own assurance reserved the privilege to search their external attire having sensible reason to accept that they may be armed.

**Issue:**

The subject that brought in the case of Terry vs. Ohio was related to the weapons and the fourth amendment. Therefore, the issue was:

Whether the checking or searching for weapons without having any probable reason for the arrest is an unreasonable search under the Fourth Amendment to the constitution of the United State?

**Holding:**

 The Supreme Court of the United State held that it is not an unreasonable search for the weapon when an officer believes that the person can be armed. When the officer does a limited and quick search for the weapon then it is a reasonable search and seizure. A beat official would be excessively burdened by being denied from searching people that the official suspects to be dangerous or armed. There were three judges in which two of them agreed to the majority and one rejected the court decision. Therefore, judges' decision came against the petitioner and they held that it was the reasonable search for the weapon when the officer believed that a person can be armed or dangerous for the people in the surrounding. In addition, search and seizure can be only for people, not place (“Terry v. Ohio,” n.d.).

**Rationale:**

 Justice William Douglas opposed the holding while Justice John Harlan and Justice Byron White disagreed with the majority. J. Douglas opposed with the reason that the holding of the majority will give powers to the officers to make search and seizure. They will be able to get the authority that a magistrate would not even acquire. J. White agreed, however, he emphasized that some of the case facts were suspicion of the violent act. J. Harlan also agreed to the majority and raised the concern that police officer should have reasonableness for the search and seizure without any warrant (“Terry v. Ohio 392 U.S. 1 (1968),” n.d.). The court rationale was in courtesy of the officer with the decision that action of McFadden to stop the petitioner for search and seizure does not violate the rule of the fourth amendment. The rationale of the majority was not based on the previous case they disagreed to the points of the same case and without highlighting the previous cases judges raised their concerns. The decision, therefore, did not overturn a previous court decision on this issue.

**Significance:**

The case is significant to understand as it provides an important understanding regarding the willingness of the Supreme court of the United States to allow the police officer for search and seizure. The court decision provides the fact that acts of police officers satisfy the fourth amendment. If any officer found a person suspicious with the unusual behavior which makes the officer believe that the person can be involved in the robbery or any other violent crime, he can stop the person. This is because if the police officer makes "stop and frisk" for weapon and find any weapon then he would be in danger to approach the men for asking the question without making the search first. In addition, an officer might not be able to detain the suspects for a long period of time to make an arrest without reasonable fact. Therefore, search for the weapon is crucial for not only satisfies the police officer's concern but also for his safety.

A report indicates that the number of police officers was injured as well as killed during performing their duty. In 1966, 57 police officers were killed and during 1960-66 more than nine thousand officers were injured. Forty-one officers out of fifty-seven who got killed during their duty inflicted by handguns while remaining murders were made by the knives (“Terry v. Ohio (1968),” n.d.). The report highlights the credibility of the court decision that by not giving the power to the officer for stopping a suspicious person is reasonable if he believes that a person has a weapon to harm the other person. However, It is important to know that judges raised the explanation that police officer should have reasonable facts to defend that he had made "stop and frisk" with probable cause. Otherwise, it can violate the fourth amendment if the officer does not have probable cause and he stops a citizen anywhere for the investigation. The reason behind this fact was that judges found that many times officers unfairly target the minorities which are against the law. Therefore, to ensure the rights of the citizen, stop and frisk were made reasonable under the fourth amendment but with a probable cause.

**References**

Rankin, R. (n.d.). *Terry v. Ohio 392 U.S. 1 (1968) Case Brief*. Retrieved from https://www.academia.edu/31742387/Terry\_v.\_Ohio\_392\_U.S.\_1\_1968\_Case\_Brief

Terry v. Ohio. (n.d.). Retrieved June 27, 2019, from LII / Legal Information Institute website: https://www.law.cornell.edu/supremecourt/text/392/1

Terry v. Ohio 392 U.S. 1 (1968). (n.d.). Retrieved June 27, 2019, from ACLU of Ohio website: https://www.acluohio.org/archives/cases/terry-v-ohio

Terry v. Ohio (1968). (n.d.). Retrieved June 27, 2019, from Crime Museum website: https://www.crimemuseum.org/crime-library/criminal-law/terry-ohio/