

Describe and discuss  
see directions below



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Hypnotized Witness Hypnotized Witness

Your name

Subject name

Name of your university

Hypnotized Witness 2

The Fifth Amendment of the American Constitution gives the rights to the person to not testify against himself (Richards, 2009). Thus, forcing upon the State to prove a certain case without any given help from the defendant. The defendant is thus considered as won, unless the state can thereby prove otherwise. For some reason or the other, if the defendant stands silent for the crime that he may or may not have committed he shall stand the right to do so. This refusal to take a stand before the Jury or before the Law, by the defendant, under unforeseeable circumstances, is known as 'taking the Fifth'. This privilege against Self-Incrimination can be implied for Federal Crimes. Witnesses however, do not receive any immunity from testaments; especially, those witnesses who are not defendants nor are likely to be. Witnesses cannot refuse to testify under any circumstances and it may lead to imprisonment on the crime of hiding the truth if they happen to do so. Some cases have also led to prosecution if the witness fails to testify.

Let us look at the Malloy Vs Hogan Case (1964)

This was the case where the Supreme Court of United States used a defendant's Fifth Amendment Right, which was against Self-Incrimination. Malloy who was the petitioner was sentenced to jail for a year for gambling. However, after three months, he was put on probation for two years and released from jail. On probation, he was made to testify for inquiry of the State into gambling and other unlawful activities and when he refused to do

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so, he was put back in jail to the time he testified.

In his essay, 'Are the courts in a trance?' David Weibert speaks of the history of Hypnosis as used by the authorities to empower themselves of the truth.

Weibert's (2003) essay circulated around the admissibility of such a technique for procuring the truth, as well as the legality of such a method.

Certainly, he views it as a violation of the Fifth Amendment Right since it is after all against the will of the human consciousness that such information is being procured. One can imagine under utmost duress when such a technique is used, however, it is a disaster to think of using such a technique as a regular practice by the authorities to procure information from criminals.

Hypnosis is known to enhance memory that leads to better recollection of events, but the credibility of this method is still under question. More so, hypnosis can have its own set of perceivable dangers. There have been various viewpoints that have been presented for and against this stand. But as far as perceivable empirical data is concerned, evidence is mixed.

References:

1. Richards, E. (2009, 19 April). Privilege against Self-Incrimination. Public Health Law Map. Retrieved from <http://biotech.law.lsu.edu/map/PrivilegeagainstSelf-Incrimination.html>
2. Werbert, Daniel. R. (2003). American Criminal Law Review. vLex. Retrieved from <http://law-journals-books.vlex.com/vid/trance-admissibility-hypnotically-enhanced-53200550>
3. George Bruch. (2008). Don't talk to the police. Retrieved from <http://video.google.com/videoplay?docid=6014022229458915912>