

# The Chair and the Stick (Part 2)

## *Analysis from Multiple Perspectives*

Objective: Thinkers will consider the legal rule for battery and analyze a real-life legal case from multiple perspectives.

### Common Core Content Standards

Grade 6	Grade 7	Grade 8
RI.6.6 Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.	RI.7.6 Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.	RI.8.6 Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.
RI.6.9 Compare and contrast one author's presentation of events with that of another.	RI.7.9 Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.	RI.8.9 Analyze a case in which two or more texts provide conflicting information on the same topic and identify where the texts disagree on matters of fact or interpretation.
W.6.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.	W.7.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.	W.8.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.
SL.6.1C Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.	SL.7.1C Pose questions that elicit elaboration and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.	SL.8.1C Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.
SL.6.1D Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.	SL.7.1D Acknowledge new information expressed by others and, when warranted, modify their own views.	SL.8.1D Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.

## Common Core Content Standards

### Grade 9/10

RI.9-10.6 Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

RI.9-10.8 Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

W.9-10.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

SL.9-10.1C Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

SL.9-10.1D Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

### Grade 11/12

RI.11-12.6 Determine an author's point of view or purpose in a text in which the rhetoric is particularly effective, analyzing how style and content contribute to the power, persuasiveness or beauty of the text.

RI.11-12.8 Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy.

W.11-12.4 Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

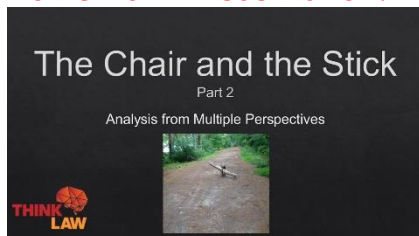
SL.11-12.1C Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

SL.11-12.1D Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

## Lesson Outline:

1. Thinkers will briefly review the standards of battery by analyzing a real-life legal case.
2. Thinkers will apply the formal elements of battery to *The Stick* case.
3. Thinkers will determine whether the defendants in *The Chair* case and *The Stick* case should face criminal battery charges for their actions.

## PowerPoint Presentation:



### Instructor's Note:

What if my thinkers try to look up the legal cases to find the "correct answer?"

All the legal cases in the thinkLaw curriculum are real and thinkers can look them up to see what the Court decided.

However, a ruling is just one Court's opinion. It does not matter how the Court ruled. Remind your thinkers that they are the judge and that they might be hearing the case on appeal. How would they rule? They may reach a different conclusion than the Court in the real case.

Name \_\_\_\_\_

### The Chair and the Stick (Part 2)

#### Analysis from Multiple Perspectives

**thinkStarter** (Katko v. Briney, Iowa, 1971)

Edward owned an old farmhouse that he no longer lived in. It was boarded up and in very bad shape. After many break-ins and burglaries, Edward decided to set up a trap on his door so that anyone who tried to break into his door would get shot in the legs.

Days later, Marvin went into the farmhouse to steal some old bottles and was shot in the legs by this automatic trap. Marvin ended up going to the hospital to treat his injury.

Did this incident meet all four criteria for battery?

Incident was intentional	Edward meant to shoot any intruder.
Incident involved contact with another person	Marvin was shot.
Incident was harmful or offensive	Getting shot is harmful.
Incident caused damages	Marvin went to the hospital.

Should Edward be liable for battery? Why or why not?

Edward was liable for battery. Edward would have known that someone would get hurt. Thinkers may point out that Marvin broke into his house and that Edward has a right to protect his property. However, the law places a lower value on property than it does on life, so Edward did not have the right to use deadly force to protect his property.

### Probing Questions:

- How could you argue that Edward came into contact with Marvin?
- Did Edward intend to shoot Marvin specifically? Should it matter? Why or why not?
- Do you think Edward's solution to his break-in problem was reasonable? Why or why not? What would you suggest he do instead?
- If you break into a property, do you assume the risk of being shot or injured? Why or why not?
- What is the best argument that Edward should be liable for battery? What is the best argument that Edward should not be liable for battery?
- What rule would you write for how people can protect their property?

### The Stick Case (Talmage v. Smith, Michigan, 1894)

Mr. Smith had a few sheds on his land. He saw that six or eight boys were sitting on the roof of one of these sheds, and he ordered the boys to get down, and they did. After this, Mr. Smith saw two boys—Byron and Charles—sitting on the roof of Mr. Smith's shed. Mr. Smith ordered them to get off the roof, and they started to come down. At that point, Mr. Smith could still see Byron on the shed, but he could not see Charles. Mr. Smith threw a stick that was 2 inches wide, 2 inches thick, and 16 inches long at Byron. The stick hit Charles and caused him to lose vision in one eye.

#### Will Charles win if he sues Mr. Smith for battery?

Remember that in this case, Charles is the plaintiff because he is bringing the lawsuit. Mr. Smith is the defendant because he is being sued.

Element 1: Mr. Smith's act was on purpose.	
How will Charles's lawyer argue that Mr. Smith's act was on purpose?  Charles will argue that Mr. Smith meant to throw the stick at the boys. Throwing the stick was not an accident.	How will Mr. Smith's lawyer argue that Mr. Smith's act was NOT on purpose?  Mr. Smith will say that he did not mean for the boys to get hurt. He just wanted to get their attention.
What do you think? Why?  Responses will vary.	
Element 2: Mr. Smith's act involve contact with another person.	
How will Charles's lawyer argue that Mr. Smith's act involved contact with another person?  Thinkers may reference <i>The Chair</i> case. The stick was an extension of Mr. Smith's hand.	How will Mr. Smith's lawyer argue that Mr. Smith's act did NOT involve contact with another person?  The stick hit Charles in the eye. Mr. Smith did not touch Charles.
What do you think? Why?  Responses will vary.	

### Instructor's Note:

Thinkers may be broken up into groups to analyze *The Stick Case*, divided up so that one set of groups will represent the Plaintiff (Charles) and the other set will represent the Defendant (Mr. Smith).

The goal will be to fill out this chart in the group in the same way the chart was filled out in *The Chair* case. For this case, it takes a bit more ability to argue the Plaintiff's case. Thus, you may consider having your thinkers with a higher degree of critical thinking skills argue the plaintiff's side. Remind your thinkers that plaintiffs must prove every single element to win, while defendants only need to disprove one element to win.

### Instructor's Note:

The defendant's side will probably bring up several points relating to Mr. Smith's lack of intent but put them in the wrong category. It is important that thinkers realize that any issues relating to Mr. Smith not meaning to hit Charles should only impact the intent element. The turning point of this case will be whether Mr. Smith's act was intentional.

### Probing Questions:

- How is *The Stick* case like the case in the thinkStarter? How is it different?
- What is your gut reaction to *The Stick* case? Who do you think will win?
- What other information would you like to have? Why?
- What would you have done if you were Mr. Smith?
- Have you ever thrown a stick? Did it hurt someone? Do you think Mr. Smith thought the stick would injure one of the boys? Why or why not?

**Instructor's Note:**

Thinkers should recognize that Charles and Byron were trespassing on Mr. Smith's property without permission. The issue here is that they were not doing anything that was threatening to Mr. Smith – there is no evidence Mr. Smith felt that they were going to harm him. In fact, the boys were following Mr. Smith's orders.

Though it was not "right" for Charles and Byron to sit on Mr. Smith's shed roof without permission, getting a stick thrown into your eye as a result is excessive. What might Mr. Smith have done instead?

Element 3: Mr. Smith's act was harmful or offensive.		
How will Charles's lawyer argue that Mr. Smith's act was harmful or offensive? <b>Getting hit in the eye and losing your sight is harmful.</b>	How will Mr. Smith's lawyer argue that Mr. Smith's act did NOT harmful or offense? <b>Getting hit in the eye and losing your sight is harmful. Mr. Smith will have a difficult time arguing against this element.</b>	
Which Evidence is Stronger? Why?		
<b>Responses will vary.</b>		
Element 4: Mr. Smith's act caused damages.		
How will Charles's lawyer argue that Mr. Smith's act caused damages? <b>Charles is now blind in one eye.</b>	How will Mr. Smith's lawyer argue that Mr. Smith's act did NOT cause damages? <b>Charles is now blind in one eye. This is a major injury. Mr. Smith will have a difficult time arguing against this element.</b>	
What do you think? Why?		
<b>Responses will vary.</b>		
Is there any reason it might have been okay for Mr. Smith to throw a stick at Charles?		
<u><b>Thinkers might suggest that Mr. Smith might not have realized so much damage could be caused by a stick. He might have thought that the stick would just lightly tap Charles and get his attention.</b></u>		
It seems like a close case. Consider a few questions.		
Did Mr. Smith throw the stick on purpose?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Does it matter? Why or why not? <b>Some thinkers might say that it matters because Mr. Smith decided to throw the stick, and that decision cost Charles his eye.</b>

**SEL Instructor's Note:**

In *the Stick* case, Mr. Smith might argue that he meant for the stick to hit the boys but did not intend for them to get hurt.

- Have you ever meant for one thing to happen, but something else happened instead? What was the situation? What did you mean to happen? What ended up happening?
- In the incident did you pause and consider all possible outcomes? If not, how might the situation have been different if you thought for a moment before acting?
- Do you think Mr. Smith was upset when he threw the stick? Why or why not? How do you think Mr. Smith's emotions impacted his thinking? Think back to your incident. Did your emotions impact your decision-making?

Did Mr. Smith mean to throw the stick at Byron?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Does it matter? Why or why not? <b>Thinkers might say that it doesn't matter that the stick was meant for Byron because Byron could have just as easily been injured.</b>
Who was injured in this case?  <b>Charles</b>		Does it matter? Why or why not? <b>Thinkers might say that it doesn't matter which boy was injured because the main issue is that Mr. Smith's decision to throw the stick caused injury.</b>

Would it be fair to Charles to not allow him to sue Mr. Smith because Mr. Smith didn't mean to hit him? Why or why not?

**Mr. Smith injured Charles by throwing the stick. Charles has suffered as the result of Mr. Smith's actions and should be allowed to sue.**

#### thinkBigPicture

Should "I meant to hit someone else" become a defense for battery? What would the real-life consequence be if defendants were allowed to use this as a defense?

**The "I meant to hit a different person" defense would create a "slippery slope." Every defendant would just say that they meant to hit someone else, not the victim. This would not be fair to the victim who got hurt.**

Considering the evidence and the big picture, should Mr. Smith be liable for battery? Why or why not?

**The Court found Mr. Smith liable for battery, using a theory called "transferred intent." If you intend to hit someone, but end up hitting someone else, the Court will find that you transferred your intent to the other person so that the victim can sue you for battery.**

good standard for all the different battery cases? Why or why not?

#### Probing Questions:

- What is Mr. Smith's best argument? Why?
- What is Charles's best argument? Why?
- What would the world look like if "I meant to hit someone else" was an acceptable justification? How would that impact future cases?
- Do you think the "I meant to hit someone else" defense would work for you? If you hit your sister but told your parents you meant to hit your brother, would it make a difference? Why or why not?
- Now that you've had the opportunity to look at several different battery cases, is there anything you would change about the four criteria? Do you think the four criteria are a



**Instructor's Note:**

Civil battery lawsuits involve a payment of money. Criminal battery cases involve someone going to jail.

Thinkers will probably find that it would be unfair to put Brian into jail for what he did because he was too young. This could lead to an interesting extension discussion about the differences between juvenile and adult criminal systems.

**thinkBigger**

This exercise discussed battery lawsuits, which are civil cases. A civil case is a noncriminal case. However, the elements for criminal battery are the same as the civil battery.

Should five-year-old Brian have been arrested for criminal battery? Why or why not?

Thinkers will probably find that it would be unfair to put Brian into jail for what he did because he was too young.

What about Mr. Smith? Should Mr. Smith have been arrested for criminal battery? Why or why not?

Thinkers may feel that Mr. Smith should have been arrested for criminal battery because he was an adult, and Charles suffered a serious injury.

**Probing Questions:**

- How much money should Mr. Smith have to pay to Charles? Why did you choose that amount?
- Why do you think that people can bring a civil lawsuit for battery? Why do you think it is not always a criminal suit?