

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	
Incident involved contact with another person	
Incident was harmful or offensive	
Incident caused damages	

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

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?	How will Mr. Smith's lawyer argue that Mr. Smith's act was NOT on purpose?
What do you think? Why?	
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?	How will Mr. Smith's lawyer argue that Mr. Smith's act did NOT involve contact with another person?
What do you think? Why?	

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?

How will Mr. Smith's lawyer argue that Mr. Smith's act did NOT harmful or offense?

Which Evidence is Stronger? Why?

Element 4: Mr. Smith's act caused damages.

How will Charles's lawyer argue that Mr. Smith's act caused damages?

How will Mr. Smith's lawyer argue that Mr. Smith's act did NOT cause damages?

What do you think? Why?

Is there any reason it might have been okay for Mr. Smith to throw a stick at Charles?

It seems like a close case. Consider a few questions.

Did Mr. Smith throw the stick on purpose?

☐ Yes
☐ No

Does it matter? Why or why not?

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?
Who was injured here?	Does it matter? Why or why not?	

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?

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?

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

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?

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