

Court system

Three tiers

California

Federal

Highest appeal

Calif. Supreme Ct.

U.S. Supreme Ct.

Intermediate
Appeal

Ct. of Appeal
6 districts in Calif

Ct. of Appeals
13 nationwide

Trial court

Superior Court
Each county has one

U.S. District Ct.
At least one sits in each state,
but still a Fed. Ct.

What can an appellate court (intermediate or high) do?

Affirm

Reverse

Affirm in part

Reverse in part

Dismiss the appeal

Issue an order.

Remand

Issue a stay

U.S Supreme Ct.

Cts. of Appeal

1 st	2 ^d	3 ^d	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	Fed.	DC.
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	*							*				
	*							*				
	*							*				
	*							*				

CT, NY, VT

U.S. District Cts. AK AZ CA
ID, HI, etc.

Parts of a Case Brief

Facts

Procedural History

Issue

Rule

Analysis (Rationale; reasoning)

Conclusion (Holding)

Judgment (Disposition)

Procedural history:

The plaintiff filed a complaint against the defendant for breach of contract. The jury ruled in favor of the plaintiff and awarded him \$5,000. The defendant appealed to this court.

Sample Brief

Garratt v. Dailey, 46 Wash. 2d 197 (1955)

FACTS:

Five-year-old D-nephew pulled chair out from under aunt just before she sat down. P-aunt hit the ground and fractured her hip. P sued D to recover for her injuries.

PROCEDURAL HISTORY:

Lower court found for D. P appealed. (There must have been an intermediate appeal, but it wasn't mentioned.)

ISSUE:

Did D's action of moving P's chair when she was about to sit down, which resulted in her falling and being injured, satisfy the intent element of battery even though D may not have intended to harm P?

OR

(More general) Is a intent to cause a harmful or offensive contact the only way to establish the intent element for the tort of battery?

RULE:

A party may satisfy the intent element of a battery if he knows to a "substantial certainty" that his action will result in a harmful or offensive contact.

ANALYSIS:

An act doesn't have to be intentional to constitute battery. It's sufficient if the D KNOWS with substantial certainty that the contact would result. Here, for D to be liable for battery, the P must show that D knew with substantial certainty that P would attempt to sit down in that spot and that she would fall without the chair. Even if D didn't intend to hurt P, if D knew that his action would with substantial certainty cause P to hit the ground, then the intent element was satisfied.

CONCLUSION/ HOLDING:

Yes, D's action would satisfy the intent element of battery if he knew to a "substantial certainty" that his actions – pulling the chair away while P was getting ready to sit in it – would result in P's hitting the ground.

JUDGMENT:

Remanded back to trial court for clarification on whether D met the "substantial certainty" requirement for intent.

Sample Brief

Garrett v. Dailey
Supreme Court of Washington
279 P.2d 1091 (Wash. 1955)

- Facts:** Plaintiff (Ruth Garrett) fell and broke her hip when attempting to sit in a chair that had been moved by the defendant (Brian Daily) without the plaintiff's knowledge. The defendant, who was a 5-year-old boy, claims he moved the chair not **knowing** that the plaintiff was about to sit in it, and that when he saw the plaintiff beginning to sit down in the spot where the chair has been, he unsuccessfully attempted to move the chair back toward the plaintiff to prevent her fall. The plaintiff claims that the defendant knew before he moved the chair that she was about to sit in it. The plaintiff brought this action for battery to recover for her injuries.
- Procedure:** The trial court found in favor of the defendant, concluding that the defendant did not have any "intent to injure the plaintiff," and he lacked "any intent to bring about the unauthorized or offensive contact." Plaintiff appeals from the judgment dismissing the action and asks for judgment in her favor or a new trial.
- Issue:** Can a battery be established without proof that the defendant had actual intent to cause the harmful or offensive contact with the plaintiff when the facts demonstrate that it was substantially certain that the harmful contact would result?
- Rule:** Battery is the intentional infliction of a harmful or offensive bodily contact upon another. The intent element of battery can be present if there is (i) actual intent to cause harmful or offensive contact or (ii) "substantial certainty" that harmful or offensive contact will occur.
- Analysis:** The trial court focused on whether the defendant intended to hurt the aunt, but that is not the question. The defendant does not need to have any *intent* to cause an *injury* (physical injury, embarrassment, etc.) in order for a battery to occur. The intent necessary to establish a battery can be inferred if the facts demonstrate that the defendant knew with substantial certainty that a harmful (or offensive) contact would result from his actions. Even if the defendant didn't **intend** to hurt his aunt, he may have known that if he moved the chair just before she was about to sit in it, there was a **substantial certainty** that she would fall.
- Conclusion/
Holding:** Yes. Even if the defendant lacked actual intent to cause harmful contact, the intent needed for battery is present where the defendant knew with substantial certainty that the harmful or offensive contact would occur. More specifically, in this case, the presence of intent depends on whether the defendant knew with substantially certainty that the plaintiff would attempt to sit there.
- Disposition:** Remanded to the trial court to determine whether defendant was substantially certain that plaintiff would attempt to sit where the chair has been. If he was, then the judgment should be reversed and entered in favor of the defendant.

Steps to writing a brief

Before you write a case brief, you need to take the following steps:

1. Read the case all the way through once to get a general understanding.
2. Identify the issue and the holding.
3. Read the case again more carefully.
4. Write the brief in your **own words**.

Parts of a brief

Some courts, especially older ones, don't follow a strict IRAC order in their decisions. The cases, however, still contain all of the elements of IRAC and so should your briefs, even if you call the elements by different names or put them in different order. (The professor recommends sticking to IRAC to get practice.)

Identity. A brief should always have the name of the case, court, and year. Need citation, or note to textbook page. You need to be able to find the case again.

Facts Not all of the facts are important to the decision. You only need the legally significant facts. This will be short paragraph or even just a couple sentences.

Procedural history This tells the procedure that was followed to get the case to where it is. Who sued whom for what, what was the trial court's action, and who appealed? If there was an interim appeal, was the trial court's decision affirmed or reversed? Then who appealed?

Issue Some courts clearly identify the issue, but not all. Sometimes you must read the whole case before you identify what the issue was. "The issue is whether the trial court erred," is not the real underlying issue and is insufficient.

Rule Identify the rule. The court will often start with a rule, and then announce a new rule that interprets the words of the original rule. In that case, the new rule is the one to put in the brief. (You can put both in you choose.)

Analysis (Rationale, Reasoning) The most important part of the case. Helps you understand how the court got to that ruling and how courts will reason in future.

Conclusion (Holding) This answers the Issue. Start with "yes" or "no," then state the result that happens when the Rule is applied to the Facts.

Judgment (Disposition) will usually be something short, along the lines of Reversed, Affirmed, or Remanded to Trial Court for a New Trial.

Penalty for littering is jail and a fine.

Penalty for littering is jail or a fine.

Before you can be admitted to the pool, you must be over 18 years old, or have taken a lifesaving class.

Before you can be accepted as a camp counselor, you must be able to swim, or be unable to swim due to a disability.

Kid's Meal \$1.99

Burger and soda, or pizza, soda and toy.

Sandwich \$5.95

For just \$1 more you get: A drink and fruit, chips or a cookie

All landlords of apartment complexes must assure that each building has an adequate number of garbage cans.

No garbage dump can be established within 250 yards of a residence.

The testator must sign the will in the presence of two witnesses.

Classic wishy-washy words

Sufficient

Significant

Substantial

Satisfactory

Suitable

Reasonable

Minimal

Appropriate

Adequate

Ministers, actors, and carpenters cannot work in this jurisdiction without a license.

A customs certificate is required for fruits, vegetables, plants, and other things.

It is illegal to transport obscene newspapers, letters, pictures, motion pictures, and other obscene materials.

No Vehicles in the Park*

The town of Beautifica established a lovely park in the city. The city council wished to preserve some elements of nature, undisturbed by city noise, traffic, pollution, and crowding. It is a place where citizens can go and find grass, trees, flowers, and quiet. In addition, there are playgrounds and picnic areas. The city passed an ordinance that reads: "No Vehicles in Beautifica Park."

Some disputes have arisen over the interpretation of the law. How do you think the law should be applied in the cases that follow, using the "plain meaning" interpretation?

A. First determine which of these situations involve a "vehicle."

Case 1 Two police cars are chasing a suspected bank robber. If one cuts through the park, he can get in front of the suspect's car and trap him between the patrol cars.

Case 2 An ambulance has a dying car accident victim in it and is racing to the hospital. The shortest route is through the park.

Case 3 Mrs. Thomas wants to take her baby to the park in his baby buggy.

Case 4 A monument to the town's citizens who died in the Vietnam War is being constructed. A tank, donated by the government, is to be placed beside the monument.

Case 5 John Smith lives on one side of the town and works on the other side. He will save 10 minutes if he drives through the park.

Case 6 There are many trash barrels in the park so that people may deposit all litter there, hence keeping the park clean. The sanitation department wants to go in to collect the trash.

Case 7 Some of the children who visit the park want to ride their bicycles there.

Case 8 Several of the town's citizens have made a living for several years by driving people around scenic spots in the city in an old-fashioned horse and buggy. They want to drive people through the park.

B. How does the policy behind the ordinance affect your decision as to whether the ordinance has been violated?

* Based on a problem developed by H.L.A. Hart, *Concept of Law*, 1961. Available at ABA website under heading "Lawyers & Judges," as adapted from the ABA publication *Educating the Public About the Courts*.

No Vehicles in the Park—Case Analysis Worksheet

Case	Noise	Traffic	Pollution	Crowding	Is it a vehicle? Why/not?	Should it be allowed? Why/not?
Case 1						
Case 2						
Case 3						
Case 4						
Case 5						
Case 6						
Case 7						
Case 8						

No Vehicles in the Park-Case Analysis Worksheet

Case	Is it a vehicle? Why/ not?	Should it be allowed? Why/ not?
Case 1		
Case 2		
Case 3		
Case 4		
Case 5		
Case 6		
Case 7		
Case 8		

IRAC

Now we will see how we use case law to interpret statutes.

Police caught Ned Barnes at 1:00 a.m. as he came out of his neighbor's carport carrying the neighbor's gasoline-powered leaf blower. The carport is a square structure with space for two cars. It is not attached to the house. It has a tar and gravel roof just the like the roof of the house. It has a concrete floor. It is open on three sides. The fourth side is solid and contains shelves. On the shelves are a radio, some power tools, and a small refrigerator. There is also a wooden bench in front of the shelves. The family who was the victim of the theft has two children who practice roller skating in the carport everyday after school. Their mother watches them from the kitchen window. The children help themselves to sodas from the refrigerator and drink them while sitting on the bench. Sometimes the mother brings cookies to the children out there. On the weekends the father listens to the radio while washing the cars. Ned has been charged with residential burglary.

Why do we care about these facts? If you see this on an exam, you'll know that there is some reason they're telling you all this. You need to use facts to do a legal analysis.

Criminal Code § 123 provides:

A person is guilty of residential burglary if he enters a dwelling with the intent to commit a crime.

What is the issue here? What is the wishy-washy word?

Dwelling.

Sometimes a statute will also contain definitions. Let's say this one doesn't.

So that means we must take a look at the case law to see if it helps interpret.

Police caught Ned Barnes at 1:00 a.m. as he came out of his neighbor's carport carrying the neighbor's gasoline-powered leaf blower. The carport is a square structure with space for two cars. It is not attached to the house. It has a tar and gravel roof just the like the roof of the house. It has a concrete floor. It is open on three sides. The fourth side is solid and contains shelves. On the shelves are a radio, some power tools, and a small refrigerator. There is also a wooden bench in front of the shelves. The family who was the victim of the theft has two children who practice roller skating in the carport everyday after school. Their mother watches them from the kitchen window. The children help themselves to sodas from the refrigerator and drink them while sitting on the bench. Sometimes the mother brings cookies to the children out there. On the weekends the father listens to the radio while washing the cars. Ned has been charged with residential burglary.

Criminal Code § 123 provides:

A person is guilty of residential burglary if he enters a dwelling with the intent to commit a crime.*

***People v. Smith* (Court of Appeals 2008).**

While the Martin family was away on vacation, their neighbors saw an unfamiliar vehicle parked in the Martins' driveway. They went closer to investigate and saw the defendant taking a propane-powered grill from the Martins' porch. They called the police. The police arrested the defendant and accused him of residential burglary under Criminal Code § 123. He was convicted after a jury trial. The defendant appealed. He said he never entered inside the Martins' house, and argued that the court incorrectly instructed the jury that the porch was a dwelling.

The Martins' porch is a wood-framed structure with a wooden floor. The porch extends out from the house. It was added to the house during a remodel and has a different style roof from the house. The back wall of the porch is the wall of the house, so the porch is attached to the house. The other three sides of the porch have a wooden railing around them except for an opening to a set of stairs that leads to the yard. On the porch are a picnic table, and lounge chairs, in addition to the grill. The Martins keep the furniture out there all year around. They sit out there every day in summer, and sometimes cook out there often in the summer and even in the winter.

The Martins' porch was attached to the house and was regularly used for sitting, eating, and cooking. It was part of the living quarters and therefore part of the "dwelling." The defendant was guilty of residential burglary. Affirmed.

*The statute does not contain a definition of "dwelling."

Now we are going to do an IRAC exercise using two cases. See the Fact situation.

Prof Burton
Introduction to US Legal Systems

IRAC exercise

We represent Stuart Smith. He has a three year old medium-sized mixed-breed dog named Muffy who often sleeps on Smith's front porch in a tree lined residential neighborhood. There is no fence around the property. Two weeks ago, a teenage boy who lived on the same street as Smith was walking by. His name was Jason Johnson. He opened a package of gum and threw the wrapper in Smith's yard. Muffy looked up and made a low growl in her throat. Johnson shrugged and walked past. Then last Saturday afternoon, Johnson was walking by when Muffy lunged from the porch, grabbed his leg and bit it. Other than these two incidents, Muffy never barked at anyone, nor bit anyone.

We need to analyze whether Smith is going to be liable to Johnson for the injuries that Johnson received.

Precedent cases:

Fred v. Peter. A small poodle bit the paper boy when the paper boy came by to collect the payment. The poodle had never barked or growled or bitten anyone before, even though the poodle was often outside in the unfenced front yard. The court held that an owner is liable when his dog bites someone if owner knew or should have known that the dog has a propensity to bite. Here the owner had no reason to suspect his dog. Owner not liable.

Green v. Blue. A large dog snapped and growled at the mail carrier everyday for three weeks, then attacked him. The court said that the owner was liable because he knew or should have known that his dog had vicious tendencies.

Statement of Facts

Issue

Rule

Rule explanation

Analysis

Analysis A+

Counter-argument A-

Conclusion

Statement of Facts

Issue

Rule

Rule explanation

Analysis

Analysis A+

Counter-argument A-

Conclusion

Memorandum #1

Statement of Facts

Citizen Smith has a medium-sized mixed-breed dog named Muffy who often sleeps in Smith's unfenced front yard. Muffy attacked a teenaged neighbor on a Saturday afternoon. The teen was walking by when Muffy lunged from the porch, grabbed his leg and bit it. Two weeks earlier Muffy made a low growl in her throat when the teenager threw a gum wrapper on Smith's lawn. Before that, Muffy had never barked at anyone, nor bit anyone.

Issue

Is Smith liable to Johnson for the injury caused by Muffy's biting him?

Memorandum #2

Issue

Is a man liable when he owns a dog that is often outside, but has never bitten anyone before, and the dog suddenly bites a teen whom she had growled at once before when he threw a wrapper in her yard?

Statement of Facts

Citizen Smith has a medium-sized mixed-breed dog named Muffy who often sleeps in Smith's unfenced front yard. Muffy attacked a teenaged neighbor on a Saturday afternoon. The teen was walking by when Muffy lunged from the porch, grabbed his leg and bit it. Two weeks earlier Muffy made a low growl in her throat when the teenager threw a gum wrapper on Smith's lawn. Before that, Muffy had never barked at anyone, nor bit anyone.

IRAC assignment

STATEMENT OF FACTS

Write the story of what happened, in paragraph form.

IRAC:

- I:** The issue is ...
- R.** A dog owner is liable for a dog bite if the owner knows that the dog has vicious tendencies. *Fred v. Peter*.
- E.** Explain facts and holding of *Fred*.
- A +** Like the poodle in *Fred*, Muffy....
- A-** On the other hand, in *Green v. Blue*,.... [Explain facts and holding of Green]
Compared to that dog....
- Conclu-
sion** The better argument is...or these facts are more similar to Or.... So Smith is (or is not) liable.

Directions

Please type this “skeleton” on a separate sheet of paper, double spaced, with a font of at least size 12.

Fill in the parts and turn it in to me by the date announced in class.

