

CJUS230 Sample Case Brief

Caption

Vosburg v. Putney, 80 Wis. 523 (1891)

Facts

Two boys were in a classroom during school hours; the class had just been called to order by the teacher. The defendant reached across the aisle with his foot and kicked his toe against the plaintiff's shin. Afterward, the shin area became infected, and the plaintiff eventually became lame.

Procedural History

The case was originally brought before the circuit court. A trial in the circuit court resulted in a Plaintiff's verdict. The Defendant appealed to the Supreme Court of Wisconsin. The case was reversed for error, and the Court awarded a new trial. The case was tried again and resulted in another Plaintiff's verdict. The Defendant appealed the judgment to the Supreme Court of Wisconsin.

Issue

Whether a boy satisfied the intent element of battery when he kicked another boy in the knee (while in class) and, as a result, the knee later became infected and diseased.

Rule of Law

In an action to recover damages for an alleged assault and battery, the plaintiff must show either that the defendant intended to do the act and the act was unlawful or that the defendant intended the ultimate result. If the intended act is unlawful, then the intention to commit it must necessarily be unlawful.

Holding

Yes. Because the defendant's intentional act of kicking the plaintiff was unlawful, his intention to kick plaintiff was also unlawful. Defendant was at fault for any harm resulting from his unlawful act.

Rationale

Here, the boy did not intend the end result (injuring his friend's leg so severely), but he did intend to kick him in the shin during a time (class in session) and a place (the classroom) where this action (the kicking) was unlawful. Because he intended the act (kicking) and the kick was unlawful, he satisfied the intent element of battery.