

# Talmage v. Smith

101 Mich. 370, 59 N.W. 656. (1894)

## Course

Torts

## Keyword Subject

Trespass (common law), Intent

## Facts

The defendant (Charles Smith) had on his property multiple sheds. One day he came out and saw a number of boys on top of his sheds and ordered them to get down. After they had, he discovered two more boys on the roof of another one of his sheds, though he claims he only saw one of them.

The defendant picked up a stick and threw it at one of the boys. The stick missed and hit the plaintiff in the eye, resulting in the plaintiff being blinded.

## Procedural History

Trial Court: In favor of plaintiff

Appeal: In favor of plaintiff

## Issue

Was the intent of the defendant to hit somebody with the stick, and was that excessive force given the facts?

## Holding: Yes; Judgment Affirmed

## Principle

The fact that an injury from a tort resulted to someone other than the intended target does not relieve the defendant of liability

## Reasoning

## Separate Opinions

## Notes