

ADMINISTRATION OF JUSTICE

YOU MAKE THE DECISION!

The Mountain Man and the Trespasser

Name: _____ Period: _____ Row: _____ Score: _____

YOU ARE ASKED TO decide what is often called a "spring-gun" case. Jeremy Jackson is a young man who learned trapping from his father and now traps in the northern part of the state. Albert Harrison is suing Jeremy for injuring his leg as a result of his careless use of a shotgun.

Jeremy is sworn in by the court clerk and agrees to tell the truth about his knowledge of the incident in question.

His attorney asks, "Mr. Jackson, please tell the court what you know about the location of the cabin where Mr. Harrison was injured."

"The cabin's location is in the higher elevation of the Cascade Mountains about 50 miles from the nearest town of Serenity."

"What problems have you experienced living there in the past few years before this accident took place?"

"Well, I'm often away for several days at a time following my trap lines. I have a wire fence around the cabin, and I've posted no trespassing signs in the hopes people will not break into my cabin. On four different occasions in the past, when I was away, skiers and other people have broken in, ate my food or wasted a lot of my supplies, broke windows, and tore the place up. I'm snow-bound in winter, and would have to hike 50 miles to town to get more supplies. I reported all of these incidents to the sheriff, but he couldn't do much way out where I was."

"During the period of time your property was entered without your permission what steps did you take to stop this kind of breaking-in and vandalism?"

"Well, right outside on the door, where you couldn't miss seeing it, I put a sign that read "Private property do not enter violators enter at their own risk. Inside the cabin, I clamped a shotgun to a roof upright support post. Then I ran strings from the trigger to the window and door. If anyone came in and touched the strings, the gun would go off. I had it aimed low, figuring to scare them off."

Albert Harrison's attorney now cross-examines Jeremy. "You know, don't you, that a shotgun is considered a very a dangerous weapon if improperly handled? You also know that used improperly it could kill someone don't you?"

"As I said, I clamped it to an upright; roof-post, to fire low. I didn't want to hurt anyone, just scare them. But the clamp apparently wasn't tight enough to hold the shotgun securely in the place I had aimed it, and the gun must have moved when the door opened."

"Did it occur to you, Mr. Jackson, that a lost child might have come through your door and been killed?"

"No, sir, I didn't think of that."

The attorney's present their closing arguments.

Albert Harrison's attorney says, "Your honor, it is true that Mr. Harrison was trespassing on Mr. Jackson's property. Under the law, a trespasser does not have a right to safety. If he falls into an unguarded hole or slips on something, or a tree branch falls on him, he cannot complain. But he does have a right not to be deliberately injured or trapped. So he should get damages."

Jeremy Jackson's attorney says, "Mr. Jackson had a right to protect his property. In fact, his safety and well-being depended to some extent on his having supplies there when he returned to his cabin. He had no practical, safe way to keep trespassers out. They climbed his fence, they ignored his signs, they forced his doors and windows. The sheriff couldn't give him protection. So he did the only thing he could think of. He rigged a spring-gun. It is Mr. Harrison's own fault that he was hurt. At

best, he was a trespasser. At worst, he entered the cabin to steal the owner's food and other supplies. He is not entitled to damages."

You say, "Thank you Counselors, for your presentations. I will take this case under advisement and let you know my decision. Court is adjourned."

Now you are alone in your judge's chambers. You must find the answers to several questions so that you can decide the case, and be sure your decision is within the law. You must consider all the facts, and then complete your official Opinion and Order.

Judge's "Case Analysis Sheet"

To make an informed decision in a court dispute you must first examine the facts in issue. FULLY EXPLAIN YOUR ANSWERS.

1. Why did Jackson set the spring-gun in the first place?

2. When land owners install devices like signs and fences what would be the expectation that his fence and no trespassing signs would protect his property from thieves and vandals?

3. Did he have a right to take stronger action to protect his property when his first efforts failed?

4. How could Jackson be placed in danger because of loss of supplies in his cabin?

5. How do you feel about Jackson installing the spring-gun?

6. What other measures do you think Jackson could have tried using to protect his property before using a spring-gun?

7. How do you view Harrison's entry on Jackson's property as a factor in this case?

8. Is it more important to protect private property, or to protect people against injury or death?

9. How does the fact that warning signs "enter at your own risk" impact this case?

10. A hiker becomes lost in the mountains for days without food and water. They see the cabin and knock on the door requesting help. No one answers they force entry because they are freezing and starving to death. The spring-gun goes off and kills them, how would you view this death?

**IN THE SUPERIOR COURT OF THE STATE, IN AND FOR THE COUNTY OF
MONROE**

ALBERT C. HARRISON)
)
 Plaintiff)
)
 vs)
)
JEREMY R. JACKSON)
)
 Defendant)

No. 479-81

COURT'S OPINION AND ORDER FOR JUDGMENT

This is a hard case. One cannot blame Jeremy Jackson from becoming angry. He took all possible steps, yet vandalism and destruction of his property continued. It may be that he was in some danger, too. His cabin was far from town. Snow conditions sometimes make travel impossible. He could have returned from one of his trapping trips, found no food or supplies, and been unable to get to town.

Plainly, the different trespassers were _____ in coming into Jackson's cabin
wrong / right
and using his supplies. What legal duty did Jeremy owe them? He does not have a duty to warn them from ordinary dangers, such as holes, pools, tree branches, and so on. He does have a duty to warn of hidden, dangerous conditions if he knows the trespasser is there. Additionally, he does have a duty not to intentionally harm them. In general most states would consider this to be an extreme measure because it is too easy to kill someone and the law considers life more important than property.

We are, of course, speaking only of a trespasser who enters unoccupied property. It's entirely different when someone enters an occupied home, intending to rob or steal. That may be burglary - - a major crime. The people inside may take strong steps to defend themselves and their property. They may shoot, if they reasonably believe their life is in danger but spring-guns are not condoned in most states.

We have a hard question here. Did the many break-ins of his cabin allow us to make an exception to the no-spring-gun rule? Was the spring-gun the only protection open to Jackson? He _____ have put better locks, doors and windows on his cabin.

He _____
could / could not
He _____ have set a shrill alarm system that might frighten away
could / could not
trespassers. He _____ have notified the sheriff at Serenity whenever
could / could not
he left on a trapping trip.

The break-ins and the loss of supplies _____ justify Jackson in
did / did not
in setting the spring-gun.

ORDER of COURT

The court finds that Jackson _____ set a spring-gun which did
did / did not
injure Harrison. The setting was _____ and as a result Jackson
legal / illegal
_____ pay Harrison damages.
must / need not

JUDGE OF THE SUPERIOR COURT