

Citators

Reference Librarian

*Please log in to Westlaw and Lexis—
we will be using both in today's class.*





Vehicular Burglary Assignment

Will review in full in our next session (Tuesday, October 19)

Any questions from last time (finding caselaw, Topic and Key Numbers, advanced searches)?

Videos You Have Watched

- Citators
- Working Through the Research Plan

What We Will Cover

- Introduction to citators on Westlaw (KeyCite) and Lexis (Shepard's), including:
 - Hands-on practice with the steps involved in checking whether cases and statutes are still good law
 - Finding additional materials on the subject you're researching

Stalking Hypothetical

Jordan and Sydney are professional dog handlers in Southern California, well-respected for their showing of Weimaraners at famous events like the Westminster Kennel Club dog show. The two have always been friendly rivals, but after losing to Jordan last year, Sydney's behavior began to change.

- Four times when Jordan took his dogs to the grooming salon, Sydney's car was already there even though she lived nowhere in the area. Each time, she watched him and the dogs arrive, then drove away laughing.
- Around that same time, Jordan received 10 or 20 phone calls where the caller played audio of dogs angrily barking.
- Once the caller said in a quiet voice, "You'll never make it to Westminster again."
- After losing to Jordan yet another time Sydney yelled, "I will end this one way or another!" Another competitor overheard and told Sydney her comment was inappropriate, to which she replied, "What? It's not like I was threatening to kill anyone."

Did Sydney's actions amount to enough of a credible threat to constitute criminal stalking in California?

In-Class Exercise 1

Using either Westlaw or Lexis as assigned, use a citator on the case *People v. Zavala*, 30 Cal.Rptr.3d 398 (2005).

Be ready to discuss whether this case is still good law for its discussion of “credible threat.”

Exercise 1 Takeaways

- We **cannot** cite *Zavala* to support the rule that you cannot use evidence of stalking as evidence of propensity to commit domestic violence.
- However, we **can** cite *Zavala* to support the argument that a credible threat does not require a threat of death or great bodily injury.
- Remember: you **can** cite a case with negative history for your point of law **if the negative history comes from an unreported case or is from outside your jurisdiction.**

In-Class Exercise 2

Using KeyCite (Westlaw) or Shepard's (Lexis) as assigned, look up Cal. Penal Code § 646.9 to determine whether the statute is still good law and to find cases which discuss what constitutes a "credible threat" under the language of the statute.

Be prepared to talk about the cases you find and what they say about "credible threats."

Exercise 2 Takeaways

- Neither citator showed any cases in which Cal. Penal Code § 646.9 was successfully challenged, nor is there any other indication that the statute is no longer valid.
- Indeed, we found no treatment stronger than *neutral* in both KeyCite and Shepard's.
- As a result, we can conclude that it is still good law.

In-Class Exercise 3

Your client, Calvin, is a resident of San Diego and suffers from chronic back pain. He has a valid medical marijuana card and often smokes marijuana in the morning to alleviate the pain. His employer routinely administers drug tests. Calvin is worried that he could be fired for failing a marijuana drug test even though he has a medical marijuana card.

Your supervising attorney asks you to check whether the case *Ross v. RagingWire Telecommunications*, 42 Cal. 4th 920 (2008), which she tells you is relevant to these facts, is still good law. Be prepared to explain how you found your answer.

Exercise 3 Takeaways

- Both citators advised caution for *Ross*, but we didn't see any indication in either that the case is no longer good law. This suggests that our client may be out of luck.
- The citators did identify different negative treatment—both included results not found in the other. This is an important point: the citators' results often vary. A truly complete updating process would include both services.
- You can also use citators to find *positive* citing references, such as cases or secondary sources that discuss your case positively and which could be beneficial to include in your research memo. Keep this additional use of citators in mind when you're working on your assignments.

In-Class Exercise 4

Calvin's neighbor told him that he cannot get a gun permit if he is a medical marijuana user. Calvin has asked you if that is true. Your supervising attorney has given you a federal statute that she'd like you to start with: 18 U.S.C. § 922(g)(3). Use Lexis or Westlaw (as assigned) to check whether this statute is still good law, and be prepared to explain how it applies to these facts.

Exercise 4 Takeaways

- We saw some significant differences in the materials that the two citators identified, but the result was the same for both: § 922(g)(3) is still good law. Other parts of § 922 have been cast into doubt (and some even ruled unconstitutional by an appeals court), but the section relevant to our client has not been challenged.
- That's bad news for our client—it appears that he cannot get a gun permit.



Next Session

Review of vehicular burglary assignment.