
§ 8.7 AN INTRODUCTION TO *SHEPARD'S*

How does a researcher know whether an authority has been overturned or otherwise invalidated?

The answer is *Shepard's Citators*. Using Diagrams 8c, 8d, and 8e, become familiar with the *Shepard's* system of validation.

1. Provide the correct citation to the case provided in *Diagram 8c*.
2. Shepardize the case using the page from *Shepard's* provided in *Diagram 8e*. On the following pages, find the citation volume number, then the citation page number.
3. Cites in parentheses under the page number represent the parallel citations.
4. Small abbreviations to the left of each citation are history and treatment notations. They tell you how those "citing" authorities dealt with your "cited" authority. Refer to the *Shepard's* abbreviation table in *Diagram 8d* to determine the meaning of the symbols.
5. Provide the correct citation, this time including the parallel cite provided by *Shepard's*.

Shepard's will be covered in detail in the next several pages.

Diagram 8c: The Case Being Shepardized

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tered a bank with a loaded gun (which was accidentally discharged in the course of the holdup), robbed the tellers at gunpoint, escaped in the stolen automobile, changed his clothes, transferred the stolen money from one bag to another, and was attempting to make a getaway in a taxicab when the police closed in on him. Thereupon he shot himself in the head, inflicting no serious wounds, however.

The trial court in the habeas corpus proceedings found there was no merit in relator's contention that he was deprived of

relator was under a misapprehension as to the consequences of his plea. In the absence of substantial evidence to the contrary, the court could assume the public defender explained to relator all of his legal rights and the implications of his conviction. Nor is there merit in relator's claim that he was mentally incompetent when he was before the court for sentencing. On this record the court was justified in determining that he was entirely capable of understanding the nature and consequences of those proceedings. The order is therefore affirmed.

ABBREVIATIONS—ANALYSIS

History of Case

a	(affirmed)	Same case affirmed on appeal.
cc	(connected case)	Different case from case cited but arising out of same subject matter or intimately connected therewith.
D	(dismissed)	Appeal from same case dismissed.
m	(modified)	Same case modified on appeal.
r	(reversed)	Same case reversed on appeal.
s	(same case)	Same case as case cited.
S	(superseded)	Substitution for former opinion.
v	(vacated)	Same case vacated.
US	cert den	Certiorari denied by U. S. Supreme Court.
US	cert dis	Certiorari dismissed by U. S. Supreme Court.
US	reh den	Rehearing denied by U. S. Supreme Court.
US	reh dis	Rehearing dismissed by U. S. Supreme Court.
	(writ of error)	Writ of error adjudicated.

Treatment of Case

c	(criticized)	Soundness of decision or reasoning in cited case criticized for reasons given.
d	(distinguished)	Case at bar different either in law or fact from case cited for reasons given.
e	(explained)	Statement of import of decision in cited case. Not merely a restatement of the facts.
f	(followed)	Cited as controlling.
h	(harmonized)	Apparent inconsistency explained and shown not to exist.
j	(dissenting opinion)	Citation in dissenting opinion.
L	(limited)	Refusal to extend decision of cited case beyond precise issues involved.
o	(overruled)	Ruling in cited case expressly overruled.
p	(parallel)	Citing case substantially alike or on all fours with cited case in its law or facts.
q	(questioned)	Soundness of decision or reasoning in cited case questioned.

ABBREVIATIONS—COURTS

Cir. DC—U.S. Court of Appeals, District of Columbia Circuit
 Cir. (number)—U.S. Court of Appeals, Circuit (number)
 Cir. Fed.—U.S. Court of Appeals, Federal Circuit
 CCPA—Court of Customs and Patent Appeals
 CIT—United States Court of International Trade
 Cl Ct—Claims Court (U.S.)
 Ct Cl—Court of Claims (U.S.)
 Cu Ct—Customs Court
 ECA—Temporary Emergency Court of Appeals
 ML—Judicial Panel on Multidistrict Litigation
 RRR—Special Court Regional Rail Reorganization Act of 1973

Affirmed.



Margaret HOVANETZ, Appellant,
 v.

Kenneth ANDERSON, Respondent.
 No. 39876.

Supreme Court of Minnesota.
 Feb. 10, 1967.

Diagram 8d:
 Shepard's Abbreviation
 Table

Diagram 8e: Shepard's Citator

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**§ 8.8a INTERACTIVE STUDY:
SHEPARD'S CITATORS**

*Shepard's is the primary validator of authority.
Shepard's is considered non-authority.*

Finding a case in Shepherd's is the final step in case research.

When discussing case law, *Shepard's* has three major functions:

*Shepard's validates authority.
Shepard's provides parallel cites.
Shepard's acts as a case-finder.*

This exercise demonstrates these three functions. Each student is asked to work with a citation from the list below.

ASSIGNMENT 8.8A

Pick your citation:

- | | |
|--------------------|---------------------|
| 1. 91 A.2d 865 | 14. 91 P.2d 512 |
| 2. 216 A.2d 585 | 15. 255 P.2d 173 |
| 3. 339 A.2d 657 | 16. 391 P.2d 684 |
| 4. 391 A.2d 558 | 17. 512 P.2d 507 |
| 5. 74 N.E.2d 217 | 18. 688 P.2d 961 |
| 6. 81 S.W.2d 499 | 19. 536 S.W.2d 549 |
| 7. 97 S. Ct. 658 | 20. 134 S.E.2d 334 |
| 8. 468 N.E.2d 224 | 21. 201 S.E.2d 321 |
| 9. 265 N.E.2d 419 | 22. 112 So. 2d 423 |
| 10. 365 N.E.2d 322 | 23. 221 So. 2d 272 |
| 11. 473 N.E.2d 264 | 24. 393 So. 2d. 597 |
| 12. 259 N.W.2d 898 | 25. 78 S. Ct. 394 |
| 13. 267 S.W.2d 492 | 26. 88 S. Ct. 929 |

I'm not an ambulance chaser. I'm usually there before the ambulance.

— Melvin Belli

ASSIGNMENT 8.8B

FIRST, LOOK UP THE ACTUAL CASE! *(Not in Shepard's, in the reporter!)*

What is the name of the case?

Read the synopsis and headnotes to become familiar with the case. Then choose one headnote and write the headnote number below. *(Not the key topic and number, but headnote number 1, or number 2, etc.)*

HEADNOTE NUMBER: _____

The Cited Material

It is helpful to realize that when a researcher Shepardizes a case, she is really Shepardizing an entire publication. Where the researcher begins depends on the publication. We will use the cite **736 P.2d 254**.

Step 1: Locate the *Shepard's* volume for the *cited material* (your cite). Our sample cite is in the *Pacific Reporter, Second Series*. We therefore must find the series titled *Shepard's Pacific Citations*.

Step 2: Find the section of *Shepard's* for your publication. Some *Shepard's* volumes contain citations for more than one publication. For instance, *Shepard's Nevada Citations* contains citations for the Nevada Revised Statutes, the *Nevada Reports, Pacific Reporter, Nevada Cases*, etc. ***Shepard's Pacific Citations***, however, contains citations from the *Pacific Reporter* only.

Step 3: Locate the pages covering the volume number of your cite. *Shepard's Pacific Citations* has many volumes. Researching our sample case, we must find the book containing *Pacific Reporter Second Series* Volume Number 736. (Beginning researchers commonly make the mistake of using *Shepard's* citator for the wrong series.) *Shepard's* provides the volumes contained within each book on the spine of each *Shepard's* volume. Turn to the pages covering the volume: in this case, **Volume 736**. On the top corner of each page, *Shepard's* provides the volume number covered on that page, like a phone book.

Step 4: Locate the page in that contains the page number of your cite. The page numbers for the *cited* material will be in large, boldface print. Our sample **Page Number is 254**. Newer editions of *Shepard's* will also provide the name of the case, which is very helpful.

Now that the researcher has utilized the *cited* case to access *Shepard's*, the *citing* material will validate, or invalidate, the *cited* opinion.

ASSIGNMENT 8.8C

1. Locate the *Shepard's* volume for your cite. What is the title of the *Shepard's* volume?
2. Find the section of *Shepard's* for your publication. According to the spine, what does your volume contain?
3. Locate the pages in *Shepard's* that cover the *volume number* of your cite.
4. Locate the page in *Shepard's* that contains the *page number* of your cite.

The Citing Material

Citing material is material that refers to or mentions your cited case.

Shepard's provides the following tools within the **citing material**:

Parallel Cites

Immediately after the boldfaced page number and, if there is one, the case name, *Shepard's* will provide any **parallel cites** in parenthesis. A parallel cite is another publication which has published the same word-for-word opinion.

History Notations

The **history** of a case is indicated by the letters to the left of the *citing* material immediately after the cited page number (and any parallel cites). These cases are previous, or subsequent, levels of the cited case it-self. For example, "cc" indicates that the *citing* case and the *cited* case are "connected cases." Refer to the table of abbreviations to ensure that you are referring to a *history notation*, not a *treatment notation*.

Treatment Notations

Treatments are how other cases have viewed your cited case. Look for any treatments in the citing material. These are listed after the history cites, (if there are any), in the same manner, but with different abbreviations. For example, "f" is a treatment indicating that the *citing* case "followed" the reasoning of the *cited* case. This might indicate that the cases were similar.

Grouping of Jurisdictions

Shepard's will group citing materials by jurisdictions and publications. Shepherd's collects cases from federal circuits together, for example. *Shepard's* will also group cases from regional reporters together with other cases from the same region. *Shepard's* will not group cases into federal districts.

References to Headnotes in the Cited Case

Shepard's has a system whereby the researcher can concentrate only on the *citing* material most relevant to the issue he is researching. The original *cited* case may have dealt with several issues, only one of which is of interest to the researcher. If the researcher makes note of the relevant headnote numbers in the *cited* case being Shepardized, he can look for cases in the *citing* material which refer only to those headnote numbers. If, for instance, only headnote No. 4 is relevant, *Shepard's* will inform the researcher which *citing* cases deal with the same topic, using a raised number (or superior number) between the citing publication abbreviation and page number (i.e., 825 P.2d ⁴ 173).

Utilizing *Shepard's* as a Case-finder

The tools under the citing material heading on these pages in *Shepherd's* can help the researcher locate additional relevant cases, as well as validate those cases he has already found. Those tools include:

Parallel Cites as Case-Finders

If the researcher Shepardizes the official cite, the unofficial parallel cite is helpful, since the unofficial provides key topics and numbers in the headnotes (not found in the official), which leads to West's Digests. The digests then lead to additional case law.

History Notations as Case-Finders

The history notations lead the researcher to additional opinions involving the same, or a closely related, court action.

Treatment Notations as Case-finders

An "f" next to a cited case indicates that the court has "followed" the reasoning of the case being Shepardized, giving the researcher a possible reason to research this new case.

Grouping of Jurisdictions as Case-finders

Shepard's groups by jurisdiction (federal circuits, regions, and states.) This grouping makes it easy for a researcher who has an on-point case located outside of his jurisdiction to search for related cases within his jurisdiction.

Headnote References as Case-finders

A researcher may focus his research by locating citing materials with references to the *same* head-note number (not the key number, but the head-note number.)

ASSIGNMENT 8.8D

Using the citation you were assigned, follow these instructions.

1. If your cite has any parallel cites, write them down.
2. How are they denoted?
3. Are there any history notations in the citing material?
 yes no
4. If yes, provide one history cite below and look it up. Looking at both your original *cited* case and the *citing* history case, how are they related?
5. Are there any treatment notations in the citing material?
 yes no
6. If yes, provide one treatment cite below and look it up. Looking at the *citing* treatment case, where were you led?
 - to the first page of the citing material
 - to the page on which the cited case is mentioned

7. Note if there are any references to head notes in the *citing* material listed in Shepard's. These are indicated by the raised, or superior, number between the *citing* publication and page number. Are there any references to the headnote you chose at the beginning of this exercise?

yes

no

8. If yes, look up the case. Is it relevant to your cited case?

yes

no

Shepardizing Parallel Cites

A researcher should Shepardize all parallel cites.

The *Shepard's* publication for the official cite may contain citing material different from that found in the *Shepard's* publication for the unofficial cite. Not all libraries contain all the *Shepard's* publications, which can present a problem for a researcher pursuing parallel cites.

Shepard's Supplements

Shepard's updates its hardbound volumes with advance sheets and supplements. It is critical that each supplement, hardbound and softbound, be examined.

Shepard's updates are published in the following order:

WHITE ADVANCE SHEET

The most recent update. A thin white pamphlet.

BLUE INTERMEDIATE SUPPLEMENT

This is the newest of the supplements. It comes out for selected volumes between the white and red supplements.

RED CUMULATIVE SUPPLEMENT

This pamphlet collects several advance sheets.

YELLOW CUMULATIVE SUPPLEMENT

This booklet collects several previous supplements.

To succeed in other trades, capacity must be shown; in the law, concealment of it will do.

— Mark Twain

The *Shepard's Advance Sheets* and *Cumulative Supplements* do not repeat the parallel cites provided in the original *Shepard's* volume.

'Your Library Should Contain'

On the cover of each **advance sheet** (or cumulative supplement) is a section titled "*Your Library Should Contain.*" This provides a list of all the *Shepard's* materials that should be in the law library. The researcher should always make sure that the materials are complete. If any volumes or supplements are missing, you may want to call the phone number provided on the back of the supplement. If the library you come from subscribes to *Shepard's*, *Shepard's* staff will Shepardize the material for you over the phone.

Hardbound Supplements

Some groups in *Shepard's* will contain *hardbound supplements*. *Materials should be Shepardized in all hardbound supplements*. Note that if there is a hardbound supplement, it will not repeat the parallel cites contained in the original *Shepard's* volume.

Lawyer: The only man in whom ignorance of the law is not punished.

—Elbert Hubbard

ASSIGNMENT 8.8E

Using the citation you were assigned, follow these instructions.

1. Does *Shepard's* contain pocket parts?
 yes no
2. Research your cite in the advance sheets. Did you find any citing material in the:
 white advance sheet?
 red cumulative supplement? yellow cumulative supplement?
3. Does the set of *Shepard's* you have researched contain any hardbound supplements?
 yes no
4. If yes, Shepardize your case in the hardbound supplements.

On-line Validation

It is possible to validate authorities on-line in at least three ways:

***Shepard's* On-line**

Shepard's has an on-line fee-based site at *Shepards.com*.

Westlaw

Westlaw utilizes an excellent validation tool called *InstaCite*.

Lexis

Researchers may Shepardize authorities at the click of a button on *Lexis*.

Shepard's Review

Shepard's is an important part of legal research. The paralegal must use all the tools *Shepard's* offers to be an excellent researcher. Review the *Shepard's* tools listed below and work with them until you feel comfortable with them.

History and Treatment Notations

Researchers primarily use *Shepard's* to validate authority. History and treatment notations indicate, through abbreviations, whether the authority being Shepardized is still good authority.

Parallel Citations

Shepard's parallel cites in parentheses, referring to them as "cross-references."

Grouping Authority by Jurisdiction

Shepard's groups authorities by state, by region, and by federal circuit, helping to focus the scope of research.

References to Headnotes in the Cited Case

The researcher may focus the scope of work by researching the cases in the citing material that have corresponding raised, or superior, numbers after the publication abbreviation. The number corresponds to the headnote in the *cited case*, not the *citing case*. Understanding the numbering system is one of the keys to being a great researcher.

Your Library Should Contain . . .

On the cover of any softbound supplement will be a listing of "What Your Library Should Contain." Make sure to check that you have a complete set of *Shepard's*.

Call Shepard's

Shepard's will Shepardize a case over the phone, free-of-charge, if the library from which you are calling subscribes to *Shepard's*. This is an especially important resource for researchers preparing a very important document for filing.

Next to confrontation between two highly trained, finely honed batteries of lawyers, jungle warfare is a stately minute.

— Bill Veck

Shepardize Other Sources

A researcher can Shepardize statutes, regulations, *Restatements*, *A.L.R.* and other materials. The fundamental system of Shepardizing remains the same:

1. Shepardize the publication
2. Look up the volume, chapter or title number
3. Look up the page or section number
4. Use the table of authorities to define symbols
5. Check softbound supplements
6. Check hardbound supplements

Diagram 8f: Shepardizing a Federal Statute

