GETTIER IN A COURT OF LAW

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I. INTRODUCTION

The "Gettier Problem" has perplexed philosophers for decades. The Gettier problem is offered as evidence that *justified true belief* cannot be a sufficient definition for *knowledge* because one could have a belief that was justified and that was in fact true, but it turns out that the justification was based on false empirical data. An incredible amount of literature had been generated by the problem. Some researchers conclude that it is an intractable problem and others that it is not. However, a simple methodology to unpack the solution to the problem has not been articulated.

This article will propose to use the setting of a witness in a court of law to elucidate the logical flaws in the Gettier problem. The federal Rules of Evidence and the evidentiary basis for legal rulings on various aspects of a witness' testimony will elucidate the problem and the solution to the problem in a simple and clear fashion. This is a bold claim but, if it is effective, it will result in the conclusion that the problem is not based on a failure in the definition of knowledge as justified true belief but that the Gettier problem itself employs a subtle shift in the meaning of terms. In other words, by putting claims of belief in a courtroom setting, light is shed on what counts as *belief* and what counts as *knowledge* which, in turn, will illustrate the nature of the shift in meanings between the two and illustrate that the Gettier problem does not establish that justified true belief cannot be a sufficient basis for knowledge.

II. THE GETTIER PROBLEM

Professor Edmund Gettier famously argued that *justified true belief* is not sufficient for *knowledge*.[1] Over the last 55 years, commentators have had fun with the two narrative examples set out in Professor Gettier's original article and have created a myriad of variations on the theme to create sometimes simpler and sometimes more complex examples. There are hundreds of articles discussing and trying to solve the underlying Gettier

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1.   Edmund L. Gettier, *Is Justified True Belief Knowledge?*, 23 ANALYSIS 121, 121–23 (1963).

problem.[2] This is not the place to recount the many efforts to resolve or reconcile the problem; suffice it to say that efforts continue.[3]

Professor Gettier set up his "problem" notationally with the definition of *knowledge* as *justified true belief* (JTB) as follows:[4]

  a. S knows that P IFF (i.e., if and only if)
         i. P is true,
        ii. S believes that P, and
       iii. S is justified in believing that P.[5]

Professor Gettier then set forth the two narrative examples that he claimed demonstrated the problem. To his thinking and that of many others, the problem demonstrated that JTB was not sufficient for knowledge.[6] The two examples he gave in his original paper, Case I and Case II, are quite complicated. Case I is described as follows:

> Suppose that Smith and Jones have applied for a certain job. And suppose that Smith has strong evidence for the following conjunctive proposition:
> (d) Jones is the man who will get the job, and Jones has ten coins in his pocket.
> Smith's evidence for (d) might be that the president of the company assured him that Jones would in the end be selected, and that he, Smith, had counted the coins in Jones's pocket ten minutes ago. Proposition (d) entails:

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2. *See* THE INTERNET ENCYCLOPEDIA OF PHILOSOPHY, "Gettier Problems," https://philpapers.org/rec/HETGP; *see also* "The Analysis of Knowledge," THE STAN. ENCYCLOPEDIA OF PHIL., https://stanford.library.sydney.edu.au/archives/sum2010/entries/knowledge-analysis/. (Approximately 101,000 articles come up on GOOGLE in response to "Gettier Problem" and about 9,330 on GOOGLE SCHOLAR with the same search words).

3. *See, e.g.*, Erik J. Olsson, *Gettier and the Method of Explication: A 60-year-old Solution to a 50-year-old Problem*, 172 PHILOSOPHICAL STUDIES 57–72 (2015); L. Floridi, *On the Logical Unsolvability of the Gettier Problem*, 142 SYNTHESE 61 (2004).

4. Gettier, *supra* note 1, at 121.

5. *Id.* (Professor Gettier attributes two variations on the claim that knowledge is justified true belief to Chisholm (b) and Ayer (c), respectively:
    (b) S knows that P IFF
            (i) S accepts P,
            (ii) S has adequate evidence for P, and
            (iii) P is true.
    Or:
    (c) S knows that P IFF
            (i) P is true,
            (ii) S is sure that P is true, and
            (iii) S has the right to be sure that P is true).

6. *Id.*

(e) The man who will get the job has ten coins in his pocket.

Let us suppose that Smith sees the entailment from (d) to (e), and accepts (e) on the grounds of (d), for which he has strong evidence. In this case, Smith is clearly justified in believing that (e) is true. But imagine, further, that unknown to Smith, he himself, not Jones, will get the job. And, also, unknown to Smith, he himself has ten coins in his pocket. Proposition (e) is then true, though proposition (d), from which Smith inferred (e), is false. In our example, then, all of the following are true: (i) (e) is true, (ii) Smith believes that (e) is true, and (iii) Smith is justified in believing that (e) is true. But it is equally clear that Smith does not know that (e) is true; for (e) is true in virtue of the number of coins in Smith's pocket, while Smith does not know how many coins are in Smith's pocket, and bases his belief in (e) on a count of the coins in Jones's pocket, whom he falsely believes to be the man who will get the job.

Despite the somewhat convoluted fact pattern in this example and Gettier's Case II,[7] both represent a fairly simple problem. The believer has empirical information which would justify a true belief but, it turns out, the empirical observations are misleading. The conclusion (P in his notational schema) is true, even though the empirical observations, in and of themselves, are not strictly true but are coincidentally consistent with observations which would justify the belief. This is confusing, at best, and,

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7.   *Id.* at 122–23. (Case II is as follows: Let us suppose that Smith has strong evidence for the following proposition:

(f) Jones owns a Ford.

Smith's evidence might be that Jones has at all times in the past within Smith's memory owned a car, and always a Ford, and that Jones has just offered Smith a ride while driving a Ford. Let us imagine, now, that Smith has another friend, Brown, of whose whereabouts he is totally ignorant. Smith selects three place-names quite at random, and constructs the following three propositions:

(g) Either Jones owns a Ford, or Brown is in Boston;

(h) Either Jones owns a Ford, or Brown is in Barcelona; (i) Either Jones owns a Ford, or Brown is in Brest-Litovsk.

Each of these propositions is entailed by (f). Imagine that Smith realizes the entailment of each of these propositions he has constructed by (f), and proceeds to accept (g), (h), and (i) on the basis of (f). Smith has correctly inferred (g), (h), and (i) from a proposition for which he has strong evidence. Smith is therefore completely justified in believing each of these three propositions. Smith, of course, has no idea where Brown is. But imagine now that two further conditions hold. First, Jones does not own a Ford, but is at present driving a rented car. And secondly, by the sheerest coincidence, and entirely unknown to Smith, the place mentioned in proposition (h) happens really to be the place where Brown is. If these two conditions hold then Smith does not know that (h) is true, even though (i) (h) is true, (ii) Smith does believe that (h) is true, and (iii) Smith is justified in believing that (h) is true).

to understand the Gettier problem and examples thereof, we need to find an accurate, but more manageable, example.

A. A Simple Example of the Gettier Problem

Many variations on the Gettier problem have been concocted to simplify the factual setting. A hypothetical problem that illustrates Professor Gettier's objection to the definition of knowledge as justified true belief might involve a person claiming knowledge that a sheep was in the field.[8] That person's belief was based on seeing a dog which looked like a sheep. However, a sheep was actually in the field out of sight behind a hill. By Professor Gettier's interpretation of the JTB definition, this person's claim would be knowledge: P is true (a sheep was in fact in the field); S believes that a sheep is in the field (S does); and the belief is justified (the dog looked like a sheep).

The Gettier quandary then is that, although the person had a *justified true belief* that a sheep was in the field, how can this count as *knowledge* where the empirical basis for that belief was not accurate? Professor Gettier's conclusion would be that this example and ones like it show that justified true belief is not sufficient for knowledge.

Many commentators seek to save the definition by replacing "justified true belief" with some modified concept.[9] Other efforts have accepted that knowledge is justified true belief but that, for instance, false evidence must be eliminated from the empirical basis for the claim of knowledge or, on the other end, that whatever evidence has been considered cannot count as knowledge if the conclusion is based on luck or double luck.[10] However, these proposed modifications suffer from the inability of the resulting definition to determine precisely what counts as evidence or what counts as the conclusion.

It is not the aim of this paper to review each commentator's analysis or proposed remedy. Suffice it to say that most of the modifications to knowledge as JTB are subject to the objection that the result is not a definition but a vague description. We also will not answer the challenges of skeptical Cartesian epistemology or of those who claim that there is no such thing as knowledge at all. Such are not Gettier problems. For Gettier problems to be interesting, there must be an assumption that we can have some knowledge of the facts of the world beyond mere existence. If so, then knowledge requires a definition and JTB seems a serviceable definition of knowledge if Gettier's problem can be answered.

It is the claim of this paper that Gettier problems arise because of a shift in the meaning of the terms in the JTB definition during the application of

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8.   RODERICK M. CHISHOLM, THEORY OF KNOWLEDGE (Englewood Cliffs, NJ: Prentice Hall, 1989);
9.   *See e.g.*, John Turri, *Manifest Failure: The Gettier Problem Solved*, 11 PHILOSOPHICAL IMPRINT, no. 8, 2011, at 1–11 .
10.   *Id.*

that definition. Something like this was suggested in 2007 as "reference-muddling" but was not followed upon in the philosophical literature.[11] However, this paper goes further and demonstrates that this shift in meaning can be seen clearly by considering the meaning of "*knowledge* of" and "*belief* of" as they would be understood if offered in a court of law. The rules of evidence in court would require more specificity in answering, "*Knowledge* of what?" and "*Belief* of what?" In court, the party that offers S as a witness as having a belief that P and a knowledge that P, would have to proffer a specific and congruent meaning of "P" as part of the foundation for admissibility of the witness' testimony. As will be shown, in the Gettier problems, the P that is "*believed*" is different than the P_1 of which "*knowledge*" is stipulated.

This shift in meaning is not merely a matter of whether or not P_1 is entailed by P as a matter of logical deduction. Professor Gettier considered deduction in his original paper saying, "for any proposition P, if S is justified in believing P, and P entails Q, and S deduces Q from P and accepts Q as a result of this deduction, then S is justified in believing Q."[12] This justifies deduction but, as is to be demonstrated, the claim of the Gettier problem is not based on deduction.[13]

In the claim about the sheep, S believes he saw a sheep and is justified in concluding that he has knowledge that there is a sheep in the field. It is tautological that, if S had a justified true belief that P (S saw a sheep in the field) and P entails Q (that if he saw a sheep in the field, there is a sheep in the field), therefore there is a sheep in the field. This is different from the deductive argument that S has a justified true belief that P (S saw one sheep) and P entails Q (that if there is one sheep on this side of the hill another must be in the field over the hill) therefore there is a sheep in the field (over the hill). In other words, to interpret the hypothetical problem in these ways either involves a tautology (S has knowledge that he saw a sheep because he has a JTB that he saw a sheep) or a deduction (S has knowledge that there is a sheep somewhere (else) in the field because he saw the first sheep). These are both different than the Gettier problem that S has knowledge that there is a sheep in the field because he has a justified *false* belief that he saw a sheep and that such a justified *false* belief necessarily entails the presence of a sheep elsewhere in the field.

B. A Witness in a Court of Law

To illustrate this, let us consider how the problem would be treated in a court of law. After all, the rules of evidence in the courts of law of England

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11. Lukasz Lozanski, *The Gettier Problem No Longer a Problem*, 63 PHILOSOPHY NOW, 2007, at 28–29.
12. *Id.* (quote from Gettier on page 121).
13. *Id.*

and the United States have evolved over hundreds of years to provide a framework for understanding what beliefs expressed by a witness should count as knowledge.

The Federal Rules of Evidence, Rule 602, provides: "A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony."[14] This Rule does not apply to expert testimony[15] and is further explicated by the rules on hearsay.[16] Nevertheless, personal knowledge is the paradigm for admissibility of a witness' testimony.[17] Compare this legal rule to Professor Gettier's model of knowledge as justified true belief.

The Gettier model says:

> S knows that P IFF (i.e., if and only if)
>   i.   P is true,
>   ii. S believes that P, and
>   iii. S is justified in believing that P

The legal model says:

> S can testify to P (and leave the question of whether S knows P to the trier of fact) IFF
>   i.   S testifies that P is true,
>   ii. Evidence is introduced that S believes that P, and
>   iii. Evidence is introduced that S has personal knowledge of P (evidence that S is justified in believing that P)[18]

The Gettier claim is epistemological, that is, it is a claim about what counts as S knowing something.[19] The legal claim is foundational to legal

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14. FED. R. EVID. 602.

15. *Id.*; FED. R. EVID. 703.

16. FED. R. EVID. 801-807. (Under certain circumstances, a witness may testify to a hearsay statement made by another, however, the witness must have personal knowledge of the hearsay statement).

17. *See* FED. R. EVID. 602.

18. *See* Jonathan Jenkins & Matthias Steup, *The Analysis of Knowledge*, STAN. ENCYCLOPEDIA OF PHIL. (Mar. 7, 2017), https://plato.stanford.edu/entries/knowledge-analysis/ (Note this is based upon the author's application of the Gettier notation system to the rules of evidence); Under Fed R. Evid. 602, and consistent with practice in court, witnesses to a fact would be called under oath, swearing that what they say is true and thereby professing belief that it is true, but such testimony is admissible "only if evidence is introduced to support a finding that the witness has personal knowledge of the matter."

19. It is a form of analytic epistemology that is based on a thought experiment. *See* Joshua Alexander & Jonathan M. Weinberg, *Analytic Epistemology and Experimental Philosophy*, 2 Philosophy Compass 56–80 (2007).

admissibility, that is, it is a claim about under what circumstances S should be allowed to present testimony of knowledge to a trier of fact.[20] The legal claim is also normative, that is, it is a claim that, if S as a sworn witness testifies to P and has sufficient personal knowledge of P, it ought to be of use to the trier of fact in determining if P is true.[21] The difference is that the Gettier epistemological model assumes that S is faithfully representing S's observations and beliefs and asks if that is sufficient for knowledge.[22] The legal model does not assume that S is faithfully representing (S could be lying or exaggerating) but makes the claim that sworn evidence of belief and evidence of personal knowledge would be useful to the trier of fact in deciding if S has knowledge.[23]

The two models have in common that something will count as knowledge in the case of Gettier, or be considered as evidence of knowledge in the case of the law, IFF S believes (or claims to have personal knowledge) that P and that S is justified in believing (or there is evidence of S's personal knowledge) that P. In Gettier, P is stipulated to be true[24]; in the law, P is found to be true by the trier of fact.[25] In the Gettier model, truth is known independent of S's statements.[26] In the legal model, truth is not known but is a conclusion of the trier of fact following some sort of "folk" Bayesian analysis as to the likelihood that the conclusion is true based on the totality of the evidence.[27] Nevertheless, the measure of truth (stipulated or to be

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20. This is not a claim that the legal system is able to surmount the problems of epistemology confronted by Western philosophers from Plato and Aristotle to the present. It is a claim that the legal system and rules of evidence are a necessarily inadequate procedure to present evidence of knowledge. *See* Fed. R. Evid 602, Notes of Advisory Committee on Proposed Rules ("'* * * [T]he rule requiring that a witness who testifies to a fact which can be perceived by the senses must have had an opportunity to observe, and must have actually observed the fact' is a 'most pervasive manifestation' of the common law insistence upon 'the most reliable sources of information.' McCormick §10, p. 19.").

21. This is not a claim that any legal system is a reliable means to determine truth or that there is a reliable system to determine what legal structure or principles should be a part of that system. *See* ISAAK DORE, THE EPISTEMOLOGICAL FOUNDATIONS OF LAW, (2007).

22. *See* Jenkins & Steup, *supra* note 18 (Note this is based upon the author's application of the Gettier notation system to the rules of evidence).

23. *See* Fed R. Evid. 102 ("These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.").

24. Or, at least, P1 is stipulated to be true as discussed *infra*.

25. *See, e.g.*, ELEVENTH CIRCUIT, PATTERN JURY INSTRUCTIONS (CRIMINAL CASES) (2016) ("It will be your duty to decide what happened so you can determine whether the defendant is guilty or not guilty of the crime charged in the indictment. . . . You must decide the case solely on the evidence presented here in the courtroom." [P1]).

26. Jenkins & Matthias, *supra* note 18.

27. *See, e.g.*, Dennis Devine, JURY DECISION MAKING: THE STATE OF THE SCIENCE, 22–23 (New York University Press 2012). (Actual triers of fact (judges or jurors) are largely unfettered in their factual decision-making processes and, as such, it is impossible to rule out, in any given case, that a trier of fact might decide a case by some non-rational or random process or decide based on explicit or implicit cognitive bias. An idealized version of the weighing of evidence and a rational decision-making process might involve a form of Bayesian network analysis (the creation of a posterior

found) is based on S's claimed personal knowledge of P.

The legal model is useful in unpacking the Gettier problem. Since we assume that P is actually true (a prerequisite of *knowledge* as "justified *true* belief") by stipulation in the Gettier problem it eliminates some of the epistemological uncertainty encountered in the real world. However, the same definitional issue is presented to the trier of fact based on the requirement for a witness to have (claim under oath to have) *knowledge* based on "evidence [that] is introduced sufficient to support a finding that the witness has personal knowledge of the matter."[28] Thus, the Gettier problem potentially exists in both realms if we assume that S believes P and has justification to believe P.

As we will see, the sleight of hand occurs in the Gettier problems in substituting a different meaning for P (which we are calling "P_1") while making it appear that "*knowledge* of" and "*belief* of" both refer to the same thing. They do not. Therefore, the Gettier problem does not defeat the claim that justified true belief (JTB) is a sufficient definition for knowledge. To understand how the Gettier problem appears to, but does not, defeat the definition of knowledge as JTB, we must understand how the meaning of P changes to P_1 from its use in "*belief of P*" to its use in "*knowledge of P_1.*" To facilitate that understanding, we will examine what would happen in a court of law under the Rules of Evidence.

C. Gettier as a Witness

Let us assume that a fellow named Gettier (no relation) is being sued by his neighbor, a troublemaker named Descartes, who claims that Gettier's pet sheep was not in Gettier's field at noon on a particular day but was over on Descartes' property eating his lawn. Descartes is seeking money damages for destruction of his lawn on the theory that Gettier had a duty to keep his sheep in his field. Gettier's defense is that his sheep *was* in his field at the time and could not have eaten Descartes' lawn.

At trial, Gettier is called to the witness stand by his own lawyer and testifies under oath: "I saw my sheep in my field at noon on that particular day."

Descartes' lawyer cross-examines: "I show you Exhibit A, a close-up photograph of your field (taken on the same day and time as you claim to have seen your sheep in the field) and I direct your attention to that dog. Isn't

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likelihood ratio based on analysis of a network of prior likelihood beliefs). But actual judges and jurors are unlikely to be able to make these mathematical calculations in their heads, even if there were scientific means to assess and quantify "pieces" of evidence. Nevertheless, for the purpose of this article, assuming the trier of fact is making a good faith effort to determine what a witness "knows" (hence, the "truth"), the trier of fact is probably using a "folk" heuristic that resembles a Bayesian network analysis).

28.   Fed. R. Evid. 602.

it a fact that you saw the dog and not your sheep?"

Gettier, shaken but honest, says, "You are right. From my vantage point, the dog did look like my sheep. Now that you show me this photograph, I must admit I saw the dog and not my sheep."

Gettier, therefore, claimed on direct examination that he had a "justified true belief" that his sheep was in the field and, thus, had "knowledge of" his sheep being in the field. However, when cross examined, it turns out Gettier could only claim a "belief of" the object as being his sheep—it was a *false* belief; it was a dog. From this claim of belief, Gettier can only claim that the sheep that he saw (the dog) was in the field. He cannot make a broader claim under the Rules of Evidence (or logic) that because he saw a dog he deduced that his sheep must be somewhere else in the field—he simply claims, I saw my sheep (the dog) and that sheep (the dog) was in the field. When the claim that it was his sheep is shown to be false, his belief is false and he has no knowledge of a sheep being in the field.

Testimony can be offered as either direct evidence or circumstantial evidence.[29] Direct evidence is offered to prove a fact,[30] e.g., it is probative to the claim that the witness saw the sheep in the field at the relevant time. Circumstantial evidence is offered to prove circumstances that create an inference that another fact is true,[31] e.g., the witness saw sheep hoof prints in the field as circumstantial evidence that may be probative to the claim that a sheep had been in the field. Professor Gettier's caveat about a deduction of P from Q would be relevant to circumstantial but not to direct evidence. But here, and in all Gettier problems, the claim is of direct evidence, not circumstantial. It is not proffered that a false belief of seeing a sheep on this side of the hill would be a circumstance that could support a deduction that there was a sheep on the other side of the hill. Hence, in a court of law the false belief that he saw his sheep would not be admitted as evidence that there was a sheep somewhere else in the field.

Witness Gettier (and the S of the Gettier examples) is testifying that he believed that he saw his sheep in the field at noon. That is offered as direct evidence that his sheep was in the field. In court, when Gettier was impeached with his admission that the photograph of the dog is what he saw, the probative value of this direct evidence is destroyed and his testimony would be useless.

The judge would not instruct the jury, for instance, that, "If you do not believe that Gettier saw his sheep, and you conclude that he saw a sheep-like dog, you may consider his testimony as circumstantial evidence that a sheep

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29. *See, e.g.*, NINTH CIRCUIT, MODEL JURY INSTRUCTIONS 1.5: "Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which one can find another fact."

30. *Id.*

31. *Id.*

was somewhere else in the field." To the contrary, if the jury concluded that Gettier saw a dog, his testimony would have no probative value whatsoever as to whether a sheep was anywhere else in the field.

In other words, in this case, belief that P is not based on JTB (where P is that Gettier saw his sheep) and, therefore is not knowledge of P:

  a. S would not know that P because
      i.   P is not true (it was a dog not a sheep), even though
      ii. S believes that P (he believed the dog was his sheep), and
      iii. S is justified in believing that P (the dog looked a lot like a sheep).

What Gettier testified to is not JTB because (i) is not true. The truth of (ii) and (iii) without (i) do not meet the definition of JTB.

But a justified belief that P also does not support knowledge of P_1 (where P_1 is that a sheep was somewhere else in the field), that is:

  b. S would not know that P_1 because
      i. P_1 is true (his sheep was over the hill but in the field), and
      ii. S believes that P (he does believe that he saw a sheep on this side of the hill), but
      iii. S is not justified in believing that P_1 (he is only justified in believing falsely P, that the dog on this side of the hill was his sheep).

Based on this, P_1 would not be admitted as proffered testimony in a court of law. P (that the sheep was somewhere else in the field) is mere speculation. The only empirical foundation offered for the belief of P_1 is P. Certainly, if P is false, then there is no empirical foundation for the expanded claim P_1. Furthermore, there is no basis to deduce P_1 from P even if P were true. Therefore, S certainly could not claim knowledge of P_1 if P is false. In other words, it is the change in the meaning of "*belief of P*" to "*knowledge of P_1*" that creates the apparent problem. The prepositional phrase following "belief" is *belief of seeing my sheep on this side of the hill* and the phrase following "knowledge" is *knowledge of a sheep somewhere (else) in the field*.

To make this point, let us examine how Gettier's lawyer would try to rehabilitate Gettier's case now that Descartes' lawyer has shown Gettier's testimony was false. For instance, the lawyer might try to find another witness who might have seen the sheep. Say Gettier's younger brother was on the property and, from another angle, saw the sheep behind the hill. Gettier himself had been impeached with the photograph when he admitted that he was looking at a dog, not his sheep. However, Gettier's younger

brother might testify that he did, in fact, see Gettier's sheep in the field on the other side of the hill. So, what is the true belief? Gettier's belief was not true; it was a dog. Gettier's younger brother's belief was true; it was Gettier's sheep. Gettier did not have knowledge that his sheep in the field; it was just coincidentally true, not that he saw his sheep, but that there was a sheep somewhere else in the field. Gettier's younger brother did have knowledge; he saw Gettier's sheep in the field. Thus, it is Gettier's younger brother who had knowledge because, by virtue of seeing Gettier's sheep, he had justified true belief that Gettier's sheep was in the field.

Importantly, Gettier's lawyer would not argue to the jury at the end of the case that she had proven the case based on Gettier's testimony. She would not say Gettier had a justified true belief and, therefore, knowledge. Nor would she ask the jury to find that the sheep was in the field based on Gettier's belief. She would concede that his belief had no probative value in the case whatsoever. Instead, she would argue that the testimony of Gettier's younger brother was knowledge—i.e., he knew the sheep was there because he saw it.

Of course, Descartes' lawyer might argue that Gettier's younger brother could not know that he really saw the sheep or that his ability to perceive or recollect was impaired or, perhaps, that he was wrong due to bias or dishonesty (not to mention the evil demon). Descartes' lawyer might introduce evidence of a plethora of sheep-like dogs in the field that day that may have fooled the younger brother as well. Nevertheless, Gettier's younger brother's claim of knowledge would be the focus of the lawyers' closing arguments and Gettier's younger brother's claim of knowledge would be the focus of the deliberations of the jury. The testimony of Gettier, himself, would be irrelevant.

As a further law related exercise to show the shift in the meaning of "*belief of P*" to "*knowledge of P_1*," let's ask, "If witness Gettier was prosecuted for perjury, what would be his defense?" In a prosecution for perjury, the prosecutor would have to prove that Gettier made a willfully false statement of a material fact under oath.[32] Gettier's defense would be that he believed in good faith that the dog was a sheep and, therefore, the false statement was not willful.[33] His defense would not be that the statement was true because it turned out fortuitously that there was a sheep there in the field somewhere else. Gettier would not be claiming in defense to perjury that he had *knowledge* that there was a sheep somewhere in the field (P_1). He would

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32. 18 U.S.C. § 1621 (2012) defines perjury: "Whoever . . . having taken an oath before a competent tribunal, officer, or person, . . . willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true . . . ."

33. "A witness testifying under oath or affirmation violates this statute if she gives false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory. *See* § 1621(1); *see also* United States v. Debrow, 346 U.S. 374, 376 (1953); United States v. Norris, 300 U.S. 564, 574, 576 (1937); United States v. Dunnigan 507 U.S. 87, 95 (1993).

be saying he had a justified *false* belief that the dog was a sheep (P).

To make this point even more clearly, consider a charge of perjury in a case where Gettier testified that he saw his sheep but, in fact, not only was the phenomenon he testified to a dog but his sheep was not behind the hill and not in the field at all. We would not say, "Oh, in that case, it is perjury." Instead, we would refer to the testimony as to his belief (P) and not to his resultant claim of knowledge (P_1)—that is, his defense would be that he had a justified *false* belief that the dog was his sheep (P) and not that he believed he had knowledge that the sheep was over the hill in the field (P_1). Even though his sheep was not anywhere in the field (and both P and P_1 were false), we would still defend him on the grounds that his statement of belief (P) was not willfully false. And, if the prosecutor were to argue that not only did Gettier mistake a dog for his sheep but that his sheep was nowhere to be found, we would argue that whether the sheep was or was not behind the hill was irrelevant to his alleged perjury in testifying that he believed the dog was his sheep.

III. CONCLUSION

In conclusion, the Gettier problem is not a problem for the definition that knowledge is justified true belief. It is a shift in the meaning of "*belief* of" and "*knowledge* of" from the specific factual claim, i.e., "I believe I saw my sheep" to a different conclusion, "My sheep was somewhere (else) in the field." In other words, the definition of knowledge as justified true belief still stands if there is a congruence in the definition used for both belief and knowledge. The definition is only apparently defeated in the Gettier problem where a different definition is used from one prepositional phrase to the other.

This conclusion is illustrated by analysis of what counts as "knowledge" in the legal system. The claim of S in a Gettier problem to knowledge is parallel to a claim of a witness in court who testifies to personal knowledge of a fact. This is direct evidence, not circumstantial, hence deduction does not apply in either case. The legal foundation for testimony from personal knowledge and the definition of knowledge as *justified true belief* both require that the *knowledge of P* must match the *belief of P* in order for the claim of knowledge to be justified. This is exemplified in court where congruence between what is claimed to be known and what is believed is not only a necessary condition for admissibility, it would be operative in evaluating the consequences of erroneously admitted testimony where there turned out to be a lack of congruence. Thus, the Gettier problem does not support the claim that justified true belief cannot be sufficient for knowledge.