

## **INSULTING OR PROVOKING NATURE**

**Question of whether contact is insulting or provoking, as would support conclusion that a defendant committed battery, is an objective, reasonable-person inquiry; it is the nature of a contact, not the actual impact on the victim, that must be established**

**The plain meaning of “nature” in this context reflects an intent to look outside the victim's viewpoint and to that of a reasonable person's perspective. Put another way, it is the nature of the contact, not the actual impact on the victim, that must be established. Consequently, we hold that the trier of fact is asked to determine whether a reasonable person under the circumstances would find the physical contact insulting or provoking in nature.**

**There are many reasons why a victim may not display an emotional reaction or deny being insulted or provoked. For example, “[v]ictims of domestic violence might not show outward emotion because of stoicism, fear of reprisal, pride, shame, humiliation, or even feelings of guilt and self-loathing.”**

**Similarly, such a holding would foreclose prosecution in cases where an unconscious victim is physically contacted in an insulting or provoking way.**

**There may also be instances where the victim is unable to comprehend or understand if certain contact is insulting or provoking.**

**Applying a reasonable person standard is consistent with the plain language of the statute and avoids absurd results.**

**The State is not required to prove that a victim of a battery subjectively felt insulted or provoked by the contact. Instead, the State need only prove that a reasonable person would have felt insulted or provoked by the physical contact.**

**People v. Davidson, 2023 IL 127538**

**Supreme Court of Illinois.**

**January 20, 2023**