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## THE THROWBACK HEARD AROUND THE (BASEBALL) WORLD: A LEGAL PERSPECTIVE

By **Stephen Thiele**<sup>1</sup>

On Wednesday, October 14, 2015, significant controversy erupted in the Texas Rangers versus Toronto Blue Jays game 5 deciding game of their American League Division (playoff) Series. The controversy arose as the result of a throwback to the mound from Toronto catcher Russell Martin. Instead of the thrown back ball going back to his teammate, pitcher Aaron Sanchez, the ball hit the hand of left-handed Texas batter Chin Soo Choo, who was standing in the batter's box, and rolled toward third base.

At the time of the throwback, Texas had a runner on third base, Roughned Odor. As the ball continued to roll toward him, Odor suddenly bolted for home plate. Meanwhile, Sanchez started moving toward the ball and gestured toward the home plate umpire to determine whether the ball was in play. As Odor continued his progress toward home plate, home plate umpire, Dale Scott, started yelling "No. No. No." He then took off his mask and held up both of his hands, calling "Time" on the field. Despite the umpire's call for "Time", Odor continued to run and crossed home plate. Eventually, the six umpires officiating the game, in consultation with video review umpires in New York, awarded Texas a run on the bizarre play.

Commentators agreed that the ruling made by the officials was correct on the grounds that Martin's deflected throwback was a live ball according to the rules of Major League

Baseball ("MLB") and that the calling of "Time" should not deprive Texas of the run.

Following the game, an analysis of a few applicable rules would confirm that the run was properly awarded. However, the analysis of those rules is incomplete and from a lawyer's perspective, utilizing rules of interpretation and legal principles, it could be contended that the run was improperly counted.

I begin with the proposition that the governing rules of Major League Baseball, like provisions found in a statute, are not to be read in isolation. Rather the interpretation given to any specific rule or statutory provision must be made by taking into account the entire rulebook or statute and the purpose of the rules or statute.

Applying a substantive approach to the rules of Major League Baseball, it can be argued that the rules as a whole, unless otherwise expressly specified therein, do not permit a base-runner to advance a base after an umpire has called "Time". I submit that like any sport, the outcome (or potential outcome) of a baseball game ought to be in the control of the players and not the officials and that in this instance it was the officials alone who determined whether Texas should be awarded a run, by mistakenly interpreting the rules.

The Major League Baseball rulebook is 157-pages long. At various times, rules

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overlap or are somewhat repeated, and therefore interpreting a specific rule requires a careful review of the entire book.

My analysis of the throwback play starts with the definition section of the rulebook. The following definitions are applicable to the play:

1. The Batter's Box is the area within which the batter shall stand during his time at bat.
2. A Dead Ball is a ball out of play because of a legally created suspension of play.
3. A Live Ball is a ball which is in play.
4. "Time" is the announcement by an umpire of a legal interruption of play during which the ball is dead.

Based on these definitions alone, it can be argued that when Umpire Scott called "Time", he had determined that there as a "legal interruption of play" and that his call immediately caused the ball to be "dead".

A review of the rules further show that there can be no doubt that prior to Umpire Scott's calling of "Time" the ball was a Live Ball. This is governed, in general, by MLB rule 5.01(b) which states: "After the umpire calls "Play" the ball is alive and in play and remains alive and in play until for legal cause, or at the umpire's call of "Time" suspending play, the ball becomes dead".

The consequences of a ball becoming "dead" are further described in the rulebook at r. 5.06(c). This rule, which is critical to the analysis of the throwback play, expressly states as follows:

While the ball is dead no player may be put out, no bases may be run and no runs may be scored, except

that runners may advance one or more bases as the result of acts which occurred while the ball was alive (such as, but not limited to a balk, an overthrow, interference, or a home run or other fair ball hit out of the playing field).

Accordingly, when Umpire Scott called "Time", Odor was disentitled from advancing to home plate and scoring a run. The Blue Jays, had Odor suddenly stopped, and a player had collected the ball and tagged him, could not have recorded an "out".

There can be no doubt that a review of the rulebook leads to the interpretation that had Umpire Scott not called "Time", Martin's throwback was a live ball in the circumstances and that Odor was entitled to risk trying to score on the play. The deflection did not result in an automatic advance of a base.

However, the deflection could have resulted in Choo being called "out" or resulted in a warning and thus the umpire's calling of "Time" was critical.

Pursuant to r. 5.04(b)(1), a batter is required to take his position in the batter's box when it is his time to bat. Pursuant to r. 5.04(b)(4)(A), subject to enumerated exceptions, the batter shall keep at least one foot in the batter's box throughout the batter's at bat. A review of the play shows that Choo remained in the batter's box after the pitch and was struck by Martin's throwback while properly standing in the batter's box. Indeed, it appears that he had both feet in the batter's box and was thus in compliance with r. 5.04(b)(5) which states: "The batter's legal position shall be with both feet within the batter's box."

Yet, rule 6.01(a)(10) provides that it is interference by a batter when he intentionally interferes with a thrown ball.



Offensive “Interference” is defined by the rules as an act by the team at bat, in this case Texas, which interferes with, obstructs, hinders or confuses any fielder attempting to make a play.

The general penalty for offensive interference is that the interfering player is ruled “out”. This is clearly the penalty under the rules for runner interference. With respect to batter’s, the failure of a batter to properly take his position in the batter’s box can also result in a warning.

In the event that Choo had been declared “out” for intentional interference, the inning would have ended for Texas because the declaration would have resulted in the third out. Odor, of course, would not have been allowed to advance. In the event, that there were less than two outs, and Odor had occupied third base, he still would not have been permitted to score since the rules provide as follows: “If the umpire declares the batter out for interference, all other runners shall return to the last base that was in the judgment of the umpire, legally touched at the time of the interference, unless otherwise provided by these rules.” The interference would have occurred while Odor was in the vicinity of third base. Third base was the last base Odor had legally touched at the time Martin’s throw struck Choo.

It is arguable that when Umpire Scott called “Time” the Blue Jays players were entitled to rely on his call as an indication that some form of interference had occurred on the play. The Blue Jays players relied on the call of “Time” to their detriment as all of them stopped any extensive effort to retrieve the rolling ball. By doing so, they gave up their ability to throw Odor out at home. Accordingly, based on the legal theory of detrimental reliance, Texas should have been disentitled from

being awarded a run.

Some spectators however might argue that there was no detrimental reliance at all on the part of Blue Jays players and that none of them had made much an effort to collect the rolling ball or could have been in a position to make a play on the speedy Odor.

Nevertheless, on the calling of “Time” Odor was prohibited from advancing. Setting aside r. 5.06(c) for a moment, nowhere in the Major League Baseball rulebook is it expressly stated that a runner is allowed to advance a base on a deflected throwback from the catcher to the pitcher when an umpire inadvertently calls “Time” to suspend play. Indeed, rules 5.06(3)(b) and 5.06(4) elaborately describe the various situations when a runner or batter-runner can advance bases, without liability of being put out. Given the elaborateness of these subrules, it is arguable that the Major League Baseball rulebook was never intended to permit a runner to advance a base as a result of an umpire’s inadvertent call of “Time” on a deflected throwback from the catcher to the pitcher.

This conclusion is defensible despite the language of r. 5.06(c), which has been used by other analysts, to support the ultimate decision of Umpire Scott.

Notwithstanding that this rule permits runners to advance even while a ball is dead “as the result of acts which occurred while the ball was alive” and that such acts are “not limited to” a balk, overthrow, interference, or a home run or other fair ball hit out of the playing field, I submit that these words when considered as a whole and in conjunction with the legal principles of *eiusdem generis*<sup>2</sup> and *nocitur a sociis*<sup>3</sup> require an act of “illegality” on the part of the defensive team or an act of either the

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2. The term *eiusdem generis* is generally defined as “of the same kind, class or nature. In statutory interpretation, the “*eiusdem generis* rule” is that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned.

3. “*Nocitur a sociis*” is a latin term for “it is known by the company it keeps”. It is the concept that the intended meaning of an ambiguous word depends on the context in which it is used.



defensive or offensive team that caused the ball to leave the field of play in order for a base runner to advance after “Time” is called. A balk, an overthrow, interference, or a home run or other fair ball hit out of the playing field are plays which according to the rules result in the advance of a base runner.

As set out, in part, in r. 5.06(b)(3), each runner, other than the batter, may without liability to be put out, advance one base when:

- (A) there is a balk;
- (B) the batter’s advance without liability to be put out forces the runner to vacate his base, or when the batter hits a fair ball that touches another runner or the umpire before such ball has been touched by, or has passed a fielder, if the runner is forced to advance.

As set out, in part, in r. 5.06(b)(4), each runner including the batter-runner may, without liability to be put out, advance

- (A) to home base, scoring a run, if a fair ball goes out of the playing field in flight, and he touched all bases legally; or if a fair ball which, in the umpire’s judgment, would have gone out of the playing field in flight, is deflected by the act of a fielder in throwing his glove, cap, or any article of his apparel;
- (F) two bases, if a fair ball bounces or is deflected into the stands outside the first or third base foul lines; or if it goes through or under a field fence, or through or under a scoreboard, or through or under shrubbery or vines on the fence; or if it sticks in such fence, scoreboard, shrubbery or vines;

- (G) two bases, when with no spectators on the playing field, a thrown ball goes into the stands, or into a bench (whether or not the ball rebounds into the field), or over or under or through a field fence, or on a slanting part of the screen above the backstop, or remains in the meshes of a wire screen protecting spectators. The ball is dead. When such wild throw is the first play by an infielder, the umpire, in awarding such bases, shall be governed by the position of the runners at the time the ball was pitched; in all other cases the umpire shall be governed by the position of the runner at the time the wild throw was made.

There was nothing illegal about Martin’s throwback. At no point did he intentionally throw the ball at Choo’s hand and the ball certainly never left the field of play. His “act” was throwing the ball in the direction of the pitcher, but inadvertently striking Choo’s hand, which caused the ball to slowly roll toward third base. Umpire Scott then committed an intervening “act” by mistakenly calling “Time” to suspend play.

The controversial run provided Texas with a 3-2 lead in the deciding play-off game. However in a strange twist of fate – the baseball Gods perhaps not wanting the winner of the game to be decided by an umpire’s ruling – Toronto scored 4 runs in the bottom half of the seventh inning thanks to three consecutive Texas errors, a momentary lapse of judgment on the part of Texas second baseman Odor that permitted a blooming ball to drop for a base hit, and a mighty swing of the bat by Blue Jays slugger Jose Bautista.

Given the controversy caused by the throwback heard around the baseball world,



which should never be permitted to happen again, the Major League Baseball rulebook should be amended to clearly provide that on an inadvertent call of “Time” on a throwback from the catcher to the pitcher, a runner may not advance.

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