

COUNCIL OF LEGAL EDUCATION NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

FIRST YEAR SUPPLEMENTARY EXAMINATIONS, OCTOBER 2020

CRIMINAL PRACTICE AND PROCEDURE

THURSDAY, OCTOBER 1, 2020

Instructions to Students

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, **not their names**, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) In answering the question, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **but must state at the beginning of the answer the name of the relevant territory.**
- (i) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (j) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in **ELECTRONIC** format via the **Year I OCTOBER 2020 EXAMINATIONS, CRIMINAL PRACTICE AND PROCEDURE DROP BOX on TWEN by Friday, October 2, 2020, NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (k) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:
- Go to ***www.lawschool.westlaw.com***.
 - Log in using your username and password credentials and select the **TWEN** button.
 - Click on the link for “**Assignments and Quizzes**” located on the left-hand side of the navigation screen.
 - Select the relevant examination and the examination drop box as follows:
 - Year I students with Examination ID numbers between 1100 -1176 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year I - 1100-1176***”.
 - Year I students with Examination ID numbers between 1177 -1252 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year I - 1177-1252***”.
 - Year I students with Examination ID numbers between 1253 -1326 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year I - 1253-1326***”.
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Danny Cane and Bello Cane, are brothers. They are jointly charged with wounding with intent in the High/Supreme Court in your jurisdiction.

Danny is represented by Rock River and Bello by Saturdey Knight, attorneys-at-law who practise from the same office.

The case had come before the court several times for mention and, on one of those occasions, Saturdey Knight made submissions to the court explaining that she has been unable to take instructions from Bello because his answers made no sense. The trial judge before whom those submissions were made, adjourned the case against Bello for an enquiry to be made into his mental condition. Danny’s case was set for trial June 1, 2020 (where required, Danny gave notice of alibi which was properly served).

On June 1, 2020, Danny was arraigned, pleaded not guilty and the trial began.

Several witnesses gave evidence. The court was told that a popular disc jockey named Guava Don, was hired to provide music at a wedding in the community of Social Distance. There was much jollification at the wedding, except that, Guava Don kept playing songs which contained lewd lyrics, inappropriate for the occasion. Bello and Danny, who are distant relatives of the bride, were asked by the bride to have a quiet word with the disc

jockey about it. They spoke to Guava Don several times. On each occasion the music was changed to gospel and appropriate love songs, but he soon reverted to lewd music. Sometime around 2 am, the guests, tired of complaining about the music, left. The bride and groom also left.

Guava Don, said in his evidence, that shortly after the wedding ended, he and his associates began packing up the musical equipment into their van. He heard noises and, saw a crowd being led by Bello and Danny descending on him and his associates, asking him, if he thought that he had the right to “spoil the lady wedding”. He identified Danny as the one who beat him several times as he held up his hands to defend himself. He said that, after several blows, he must have lost consciousness. The next thing he was aware of was that he woke up in the hospital suffering from wounds all over his body.

Rock River cross-examined Guava Don extensively and suggested to him that he was being malicious when he said that Danny was on the scene or had anything to do with wounding him. He suggested further to Guava Don that he was a known con-man who was trying to extort money from the community. He had also said that if he did not receive money he would make a report to the police that Bello and his brother, Danny, beat him. It was also suggested to him (Guava Don) that he has relatives at the nearby police station and, that he played music regularly at police functions.

At this point the trial judge stopped Rock River and enquired:

“All of these things that you are putting to the witness, which impugns his character and that of the police, are things, I imagine, you intend to call witnesses to support.”

Rock River replied, *“I may not be able to my Lord, but these are my instructions and I believe I should put them.”*

The trial judge then asked, *“Do you have more of these questions?”* to which Rock River responded, *“I certainly do, my Lord. I have instructions to show that the complainant and the police are partners and that police officers have actually delivered a bill for money to the community on behalf of Guava Don.”*

The judge said, *“Well, I will not allow you to ask any more questions along the path you are going. Move on.”* After a few more questions in which he again put his case that Danny was not at the scene, he ended his cross-examination.

The investigating officer was also cross-examined and it was suggested to him that Danny had told him that at the time of incident he (Danny) was with his girlfriend, Puncie, at her home.

Danny gave sworn evidence in which he admitted that he did speak to Guava Don, as the bride had requested, but that he left the wedding long before it ended. He had fallen ill with stomach cramps, went to the home of his girlfriend, Puncie, and spent the night with her. It was only in the morning that he learned about the incident when his brother, Bello, came and asked him if he had heard about it. After giving his evidence he was cross-examined by the Crown. The defence then called two witnesses who had been at the

scene of the incident who said, that neither Danny or Bello was at the scene. The defence then closed its case.

The matter adjourned for the day.

The next morning, the Crown made an application to call evidence from Puncie in rebuttal. The judge granted the application despite the objection of Rock River.

Puncie gave evidence that she had heard about the incident but had not seen Danny that night, and, in fact, had not seen him for weeks around the time of the incident.

After the judge summed up the case, the jury retired. Having retired for over an hour, they returned to say that they were unable to arrive at a verdict. The judge merely said: *“Where do you all live? Here is a simple case, from a typical community. You heard the people, you understand these people, and you cannot decide whether this man, Danny, was among the people who got angry and took out their frustration on the disc jockey or whether his name, is just a convenient name to call. Come man, go back in and do your duty, please. Taxpayers’ monies are being wasted by your indecision.”*

They retired again, returned in 10 minutes and found Danny guilty.

Rock River asked for sentencing to be postponed for the appropriate pre-sentencing reports to be secured. The judge refused and said:

“I have been asking from the beginning, is this not a simple, typical case of life in our country with typical characters? I don’t know what it could otherwise be. What do you think you could ever tell me about a young man like this that I don’t already know? Have a seat, young counsel. You will see when I am finished the wisdom of years.

“Stand, young man. Even though you are said to be a hard-working young man and you have never been in trouble with the law before this. I am ignoring that and giving you 15 years. You are just one of those typical young men who take every opportunity to get violent. When the community hears of this, other young men will learn about the need for self-control.”

You are junior counsel in the office of Rock River and Saturdey Knight, and have been asked to draft an opinion prior to the meeting with the family of Danny and Bello. Specifically, they ask that you advise:

- (i) on the appealable issues arising from Danny’s trial, and the legal bases that underpin your advice; and
- (ii) the procedure the court should adopt to determine if Bello is fit to face his trial, and what, if anything, Saturdey Knight should do to prepare for the hearing?

Note:

Your advice must not exceed **2500 WORDS**.

END OF PAPER