

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

NORMAN MANLEY LAW SCHOOL LIBRARY  
COUNCIL OF LEGAL EDUCATION  
MONA, KINGSTON, 7. JAMAICA

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1994

CRIMINAL PRACTICE AND PROCEDURE

(Thursday, August 11, 1994)

Instructions to Students:

- (a) Time: 3 1/2 hours
- (b) Answer FIVE questions only.
- (c) In answering any question a student may reply by reference to the law of any Commonwealth Caribbean territory, but must state at the beginning of the answer the name of the relevant territory.
- (d) It is unnecessary to transcribe the questions you attempt.

---

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED

Question 1

On January 10, 1994, Mr. Jewell missed from his store three expensive rings. The police were called in. On January 24, the police acting on information received, obtained a search warrant and went to the home of Furtum. The warrant was read to him and thereafter the police proceeded to search the room occupied by him. In a drawer the police found two gold rings.

Furtum was questioned about the rings. In answer to a question put by Constable Quiz, Furtum said he bought the rings whilst on King Street from a man whom he did not know. When asked how much he paid for them he refused to answer.

The rings were positively identified by Mr. Jewell as the rings he had missed from his store.

Furtum was arrested and charged.

Draft the indictment to be presented in the Supreme/High Court.

---

Question 2

Grabson was indicted in the Supreme/High Court for forgery.

The trial judge thought he detected from the jury's demeanour during the course of the trial that they would be likely to acquit and without summing-up invited them to return a verdict of not guilty. The jury, after retiring for ten minutes, returned a verdict of acquittal by 5 to 2.

Defence Counsel requested that the trial be allowed to continue. The judge refused the request and discharged the jury.

Grabson was rearraigned and given in charge to a new jury. Counsel for the defence told the judge that he had just been informed that the members of the jury were in court during the first trial of the accused and that some of them were heard saying that the accused was guilty. He sought leave of the court to challenge the jury. The court did not entertain Counsel's application.

The trial proceeded and Grabson was convicted and sentenced.

Grabson wishes to appeal against -

- (i) the decision of the judge to discharge the jury in the first trial;
- (ii) the judge's refusal to entertain the challenge to the jurors for cause.

Advise Grabson of his chances of success.

---

### Question 3

Stanley was charged, inter alia, with larceny. The case against him was that he had removed a pair of curtains valued at \$1,000 from the home furnishing section of a department store and had taken them straight to the customer refund desk, claiming that he had bought them at the store the previous evening and was therefore entitled to a refund. There was no relevant entry in the till rolls of the furnishing section and he did not have a receipt.

After the close of the prosecution's case, the defendant in giving evidence said for the first time that he had not paid for the curtains in the furnishing section but at a till near the entrance of the store. At the end of the case for the defence, the prosecution was granted leave to adduce evidence in rebuttal relating to the relevant tills roll which showed that no purchase of \$1,000 had been made.

Stanley was convicted. He wishes to appeal.

Write an opinion as to whether or not the trial judge was right in permitting the call of rebuttal evidence.

---

Question 4

After Lucices' relationship with a girl had ended he made threats to kill her and her new boyfriend, he maliciously damaged her car and, after being arrested and taken to a police station, he assaulted a police officer. Lucices was charged with uttering threats to kill, causing damage to property and also with common assault on the police officer. At the trial, counsel for Lucices contended that the count alleging common assault could not lawfully be joined on the indictment. The trial judge ruled that it could.

Lucices was convicted. He now wishes to know whether or not the trial judge was wrong so to rule.

Advise him.

---

Question 5

Answer either A or B.

(A) Discuss -

- (i) the right of an accused to be present in court during his trial;
- (ii) summary proceedings.

(B) Indicate the courses open to an accused on arraignment in the Supreme/High Court and comment on any THREE.

---

Question 6

Write notes on THREE of the following -

- (a) majority verdicts;
  - (b) order of speeches in the Supreme/High Court;
  - (c) the rule in Smith v Selwyn
  - (d) motion to quash indictment;
  - (e) the procedure when a woman convicted of an offence punishable with death alleges that she is pregnant.
- 

Question 7

J on trial for murder changed his plea to one of guilty of manslaughter. His plea was accepted by the trial judge and the prosecution.

The judge directed the jury to find J not guilty of murder but guilty of the admitted manslaughter. The jury however, had their own ideas and made it clear that they did not consider J guilty of either crime. The judge requested them to retire and reconsider their verdict. In spite of retiring three times the jurors refused to find J guilty of the admitted charge.

When the jury came back into court one of them told the judge—"The only reason he had pleaded guilty to manslaughter is out of remorse. If you send this man to prison it will ruin his family."

Finally the judge discharged them from giving any verdict, treated the case as a straightforward plea of guilty and imposed a two-year suspended sentence on J.

Write an opinion as to whether or not the course taken by the judge was proper.

---

### Question 8

C was charged on an indictment with rape. At the end of the prosecution's case, counsel for the defence submitted that the defendant should not be called upon to answer the charge as the prosecution had failed to establish a prima facie case.

The trial judge asked the jury to say whether or not they wished to hear further evidence. The foreman replied that the jury wanted to hear the accused's defence. The trial judge told the

jury that he was entirely in agreement with them but that he was prepared to stop the case if they so desired. The trial proceeded. C was convicted. He now wishes to appeal.

Advise him whether or not he needs leave to appeal and as to his chances of success on appeal.

---