

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2007

CRIMINAL PRACTICE AND PROCEDURE

(TUESDAY, AUGUST 7, 2007)

**Instructions to Students**

- (a) Time: 3 ½ hours
- (b) Answer **FIVE** questions.
- (c) In answering any question, a candidate 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 question you attempt.
- (e) Answers should be written in ink.

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**PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.**

## **QUESTION 1**

Andrew is charged with the offence of murder and is scheduled to stand his trial before the Supreme/High Court next week. The evidence contained in the depositions reveal that the case for the Prosecution is very strong. Andrew wishes to plead guilty to the charge. After taking full instructions, his attorney-at-law agreed that Andrew has no valid defence and that it would be a waste of time to proceed to trial. However, Andrew's version of the circumstances in which the deceased was killed differs significantly from those alleged by the Prosecution.

Andrew's attorney-at-law is unsure how to proceed in representing his client at the trial and is seeking your advice.

Advise Andrew's attorney-at-law.

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## **QUESTION 2**

John Black and his accomplice Gunman agreed to rob old ladies at the nearby Serenity Home for the Aged. Gunman was apprehended shortly after the planned robberies were executed.

A preliminary enquiry/committal proceedings commenced for Gunman. After four of the old ladies had already deposed, John Black was apprehended. He was then placed before the same court where the preliminary enquiry/committal proceedings were being held. The Magistrate simply read back to John Black what the previous witnesses had said and proceeded to commit both accused to stand trial for robbery with aggravation.

At the trial, the prosecution indicted both men for the offence of burglary and larceny and wish to rely on evidence that was not adduced during the preliminary enquiry. Miss Unsure, the attorney-at-law, who represents both men, suspects that there is some legal point that can be taken but does not know the precise objection to make. Desperate for help, she retains you to write an opinion for her.

Advise Miss Unsure.

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### **QUESTION 3**

Sam stands charged before the High/Supreme Court on an indictment containing three counts of burglary and larceny. Just before the arraignment was scheduled to commence, Sam's attorney-at-law informed Crown Counsel that he was recently instructed that Sam had a history of mental illness and that he is now concerned about Sam's fitness to plead.

When the first count was read to Sam he remained silent. Crown Counsel has sought your advice on the general issue of fitness to plead and the procedure to be adopted at trial when such an issue arises.

Advise Crown Counsel.

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#### **QUESTION 4**

**Answer both (i) and (ii).**

- (i) Besbo, the local race car hero, was speeding along the highway when he was pulled over by the police. The police searched his car and examined his documents. The search revealed a packet of ganja. He was charged with exceeding the speed limit and possession of ganja. Both offences are triable before the magistrate's court in your jurisdiction. The trial had commenced in the absence of Besbo's attorney-at-law who, on arrival, was advised by his client that he was not pleaded to the informations. Besbo's attorney-at-law examined the endorsements on the informations. No plea was recorded on them. The first witness for the prosecution had completed his examination-in-chief. Before commencing cross-examination of that witness, Besbo's attorney-at-law raised the issue whether the trial had properly commenced. The magistrate has adjourned to consider the submission and has sought your advice.

Advise the magistrate.

- (ii) Can both informations be tried together? Give reasons for your answer.
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#### **QUESTION 5**

Sally and Simon were seen by Constables Quick and Alert, running from the National Commercial Bank. They jumped into a car that was parked around the corner from the bank. As the car was about to drive off Constable Quick jumped in the middle of the road, pointed his firearm at the car and shouted, "Police,

stop!” The driver (Samson) also pulled a firearm and pointed it in the direction of Constables Quick and Alert, who were about 16 feet away, and then fired two shots at them.

The car drove away and the Constables gave chase. A shoot-out ensued, during which Constable Quick was shot in his arm. The car in which Sally and Simon were traveling crashed, when one of its tyres blew out. All three (Sally, Simon and Sampson) were apprehended on the spot and charged.

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

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### **QUESTION 6**

Stan was on trial for the offence of murder. The transcript shows that the jury retired at 2:00 pm and returned at 4:30 pm and discloses the following:

Registrar: Mr. Foreman please stand.  
Members of the jury have you arrived at your verdict?

Foreman: No.

His Lordship: The Accused is remanded in custody for retrial at the next sitting of the Circuit Court/Assizes.

Foreman: My Lord, we would like some more time.

His Lordship: Mr. Foreman, you believe that with some more time you could arrive at a verdict?

Foreman: Yes, my Lord.

His Lordship: How much more time do you need?

Foreman: Two hours.

His Lordship: If you could not arrive at a verdict after 2 ½ hours, another 2 hours would hardly do you any good. If you think that another ½ hour will suffice, I am prepared to allow you ½ hour more.

The jury retired for another ½ hour and returned with a unanimous verdict of guilty as charged. The jury was discharged. Stan was sentenced to life imprisonment.

When Stan was being removed from the dock, one of the jurors stood up and told the judge that she did not agree with the verdict and that the foreman had misled the court when he said that the verdict was unanimous.

Stan wishes to appeal and wants to know if he has any good ground of appeal.

Advise Stan.

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### **QUESTION 7**

At a trial in the Supreme/High Court the following took place: “Eye See Them”, a witness whose name was on the back of indictment, was not called by the prosecution. Just before the prosecution closed its case counsel for the defence

enquired of prosecuting counsel the reasons for not calling the witness. Prosecuting counsel responded by saying that the witness was not reliable. After the defence closed its case, His Lordship, The Honourable Mr. Justice Sleepy, decided to call "Eye See Them", who provided damning evidence against the accused, Jason. He was convicted.

Jason wishes to appeal and is seeking your advice on whether -

- (i) he has any good legal basis for an appeal; and
- (ii) the prospect of success of any basis identified by you.

Advise Jason.

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### **QUESTION 8**

Sticky Finger was convicted of simple larceny in the magistrate's court. His defence at trial was that of an alibi. He claimed to have been at Alice's house located in Wonderland. She was not called as a witness at the trial. Sticky Finger was convicted and sentenced to a term of imprisonment. Sticky Finger's attorney-at-law has procured a statement from Alice who affirms that Sticky Finger was indeed at her home at the time in question.

Alice says that she was not contacted before to be a witness for Sticky Finger. There is no clear evidence indicating what effort, if any, was made to find her and have her appear at the trial.

On appeal, Counsel wishes to adduce this further evidence before the Court of Appeal.

Advise Sticky Finger's attorney-at-law.

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