

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2011

CRIMINAL PRACTICE AND PROCEDURE

(TUESDAY, AUGUST 9, 2011)

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 questions you attempt.
- (e) Answers should be written in ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

The Auditor General's audit of the Bureau of Men's Affairs revealed that Jacomo Johnson, the Director of Finance, and Juniper Jackson, the Internal Auditor, stole the sum of \$500,000 from cash contributions to the "Men for Fathers' Rights" campaign.

The campaign ran from January 1 to April 1 this year. It is not known when or in what tranches the funds were taken but the proceeds of the campaign, less the misappropriated sum, were lodged to the Bureau's accounts on April 15.

- (i) Draft the indictment.

- (ii) Juniper seeks a separate trial. Comment on her chances of success.

QUESTION 2

What should an appeal court take into account before ordering a new trial?

THE FOLLOWING STATUTE AND FACTS RELATE TO QUESTIONS 3 AND 4.

Section 1 of the White Marl Restriction Act provides:

- “(a) No person shall mine any marl or transport marl from any land without any licence to do so.*
- (b) Any person who contravenes subsection 1 (a) shall be guilty of an offence punishable on summary conviction and liable to pay a fine not exceeding one thousand dollars and in default of payment to serve a term of imprisonment not exceeding one month.”*

On July 23, 2010 Arnold Stona and Brian Glaze were charged that they:

“On the 21st January 2010 did mine and transport marl from land at Gorge without a licence, contrary to section 1(a) of the White Marl Restriction Act.”

The prosecution’s case was that Stona and Glaze on January 21 were caught driving trucks with marl from Gorge at 9:00 a.m. and 10:00 a.m. respectively. They did not have a licence to mine or transport marl.

QUESTION 3

Answer both (a) and (b).

- (a) Comment on the validity of the charges.
- (b) Explain which court(s) would have jurisdiction to try this matter.

QUESTION 4

Answer both (a) and (b).

- (a) May Mr Stona and Mr Glaze be jointly tried? Give reasons for your answer.
- (b) The White Marl Restriction Act repealed and replaced the Quarries Act. The latter act had a provision identical to section 1. If the charge had been erroneously made under the Quarries Act would the defence have a good basis for an acquittal? Give reasons for your answer.
-

QUESTION 5

Hottie Plummer's twin babies died in a fire on March 31 last year. Hottie had left them alone at home to attend a dance. She was convicted of manslaughter and raises these issues with you:

- (a) She had pleaded guilty to infanticide, the prosecution had accepted it but the Judge refused to permit it and directed that the trial commence.
- (b) On the morning of the trial Hottie's counsel withdrew. This was part of a week of protest by the private bar because of unpaid legal aid bills. The trial judge refused to grant an adjournment remarking that:

"The next thing we will have is picketing, sit-ins and the singing of protest songs."

This was the second trial date.

Prepare an opinion on Hottie's chances of success on appeal.

QUESTION 6

Cyrus Bieber was convicted for the murder of his wife. The evidence was compelling including a fingerprint lifted from the murder weapon that matched Cyrus' left index finger, his confession and eye-witnesses. The judge did not admit evidence of previous quarrels between the couple.

After the trial you are advised that:

- (a) a juror was a sister of the Biebers' neighbour and could have been aware of the couple's quarrelling;
- (b) during retirement a juror left the room without permission to retrieve the murder weapon, and
- (c) the trial proceeded without Bieber being arraigned.

Advise your senior counsel on the prospects of a successful appeal.

QUESTION 7

Answer both (a) and (b)

- (a) What are the necessary considerations for the issuing of an arrest warrant?
- (b) At Pancho Brown's trial for the rape of 13 year old Maude Arthurs his defence was consent. The trial judge closed her summing up by instructing the jury that after one hour she would be prepared to take a majority verdict. No alternative verdicts were mentioned at that time.

After two and a half hours of deliberation the judge sent for the jurors and told them:

“I don’t know why you are deliberating so long. This is a simple case. On this evidence you must, at least, find him guilty of Carnal Abuse/Unlawful Sexual Intercourse.”

After a further hour the jury, by an acceptable majority, brings in a verdict of guilty to Carnal Abuse/Unlawful Sexual Intercourse.

Trial counsel asks for your opinion.

QUESTION 8

Vincenzo, Martin and Lucy are jointly charged for possession of cocaine and importing cocaine into your territory. The drug was hidden in the hull of a yacht, before it left a neighbouring jurisdiction and was discovered at the main port in your territory. The yacht is registered in your territory and was sailed by Vincenzo and Martin.

At all material times Lucy remained in the neighbouring territory and had to be extradited to your territory to face trial. She claims that your territory lacks jurisdiction to try her.

You appear for the prosecution and the Court asks you to make written arguments.
