

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2016

CRIMINAL PRACTICE AND PROCEDURE

(AUGUST, 2016)

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 black or dark blue ink.

---

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

## **QUESTION 1**

Jack Spratt is an 18 year old fisherman charged with murder, arising out of a fight on a boat. He pleaded not guilty to murder but guilty to manslaughter. The court accepted his plea. When his counsel asked for another date for the plea in mitigation, to get the appropriate reports, and to call three character witnesses, the judge enquired how long it would take to put these things in place. Counsel pointed out that the plea in mitigation and the character evidence could be done the next day, but that procuring the reports was the duty of the state and that he, naturally, had no control over this. The prosecution counsel pointed out that the appropriate reports would take several weeks. On hearing this, the judge put off the matter until the following day to consider the matter.

The following day, when court resumed, the judge seemed to be in a stern mood, declaring -

*“We are wasting time. The facts are very simple and I have been doing this job for nearly 35 years. I don’t see why I need to either hear from you, or from witnesses who are going to come and say ‘ooh ooh he is such a great person, judge. I am very surprised that he has allowed himself to get in trouble.’ Everybody is great until they are not. Listen, I start my pre-retirement leave tomorrow. This is it. Stand up Spratt. I sentence you to 10 years in prison. All the best to you. Adjourn the court.”*

Fifteen years was the maximum being given for manslaughter at that time.

Spratt wishes to appeal. Advise him on the issues he may raise, if any.

---

## **QUESTION 2**

Ula and Punky are joint owners of a store which specializes in selling high-quality black hair extension. They are charged jointly with wounding with intent. The allegations against them are that they beat up a male employee, Baldy, with curling irons. They accused him of stealing stock from their storeroom and selling it on the black market. After a four-day trial, with many

witnesses, the jury retired to consider their verdict and then returned in thirty minutes with a unanimous verdict of guilty.

After the trial you are advised that:

- (a) the foreman of the jury had left the jury room and returned with a curling iron, an exhibit in the case;
- (b) a juror was a cousin of the complainant;
- (c) while in the jury room, some of the jurors went online to see “just how much money these girls were making” by looking at the prices for black hair extensions; and
- (d) one juror had a message delivered from outside, to the effect that his wife was waiting on him and he needed to hurry.

Advise Ula and Punky on the legal issues to be considered when deciding on whether they have good grounds of appeal.

---

### **QUESTION 3**

During a trial for a murder, about which there had been considerable pre-trial publicity, counsel for the accused had exhausted the peremptory challenges allowed in your jurisdiction. As other jurors were called to be sworn, the accused, John Stubborn, called him, indicating that he wanted counsel to challenge or question the jurors who were recently called up to be sworn. Stubborn did not have any particular information or reason to challenge them, except that “he did not like how they looked at him as he was being brought into the court room”.

His counsel informed him that that was not a good enough reason, but Stubborn insisted that he should question them and, as he put it, “dig out their biases from them”. His counsel refused, and allowed the jurors to be empanelled. The trial proceeded and he was convicted.

Stubborn is upset and is seeking advice from you, his new counsel, about his chances on appeal.

Apart from his dissatisfaction with his previous counsel for not challenging the jurors, he keeps asking, "What about the pre-trial publicity? Isn't it a ground?"

Advise him.

---

#### **QUESTION 4**

During the arraignment of Spliffy Nice, the registrar of the court read out the charge and asked whether he pleaded guilty or not guilty. He considered the matter for a while and said in a well-spoken way:

*"Tell me something, are there any other options, please your lordship honourable, beside simply guilty or simply not guilty? What about not guilty and guilty too, or guilty of being not guilty?"*

The court became quiet, and the judge, who was presiding over his first case, seemed to be considering an answer, when Spliffy suddenly shouted:

*"Sir, did you know that I invented electricity? The lady in red was dancing with me."* Then, just as suddenly, he sat down, saying nothing more.

You appear for the defence.

The judge calls the prosecuting counsel and you to his chambers and asks you both to prepare brief opinions advising him what to do next.

Prepare your opinion.

---

## **QUESTION 5**

You are junior counsel for the defence in the murder trial of Spuggie Noid, an alleged gang member. As the trial is about to begin, it has come to your attention that the prosecution is in possession of information which has not been provided to your team.

The information concerned confidential details of police investigations of a gang. Your senior counsel is of the opinion that the information from the investigation might cast some doubt on the veracity of the charges. You bring this to the attention of the judge in chambers.

As regards the information, the prosecutor insists that it can, under no condition, be disclosed as it will place ongoing investigations at risk and compromise the public interest.

The trial judge has adjourned the case and asks for brief written submissions from both sides on the issues.

Your senior counsel asks you to prepare the brief legal submissions for the defence, advising the trial judge on the correct procedure to adopt, having regard to the relevant law.

---

## **QUESTION 6**

- (a) Banky Bopp appeared before the magistrate's/parish court in your jurisdiction on two counts for drug offences. On the first count, the magistrate/parish judge found him not guilty and, on the second count, the magistrate/parish judge found him guilty. After the verdicts, but before sentencing, the magistrate/parish judge returned to court and pointed out that she might have made a few errors and confused the facts on the two counts.

As Bopp's counsel, you have asked for time to make submissions on the issues. Prepare the submissions.

- (b) You are asked by your senior to advise on a situation which has just arisen in a case which he is conducting, where the jury retired, returned and was unable to arrive at a verdict. The judge then ordered a retrial in the matter. The jury, having asked for time to consider further, was allowed to do so, and returned a verdict of guilty.

Advise your senior.

---

### **QUESTION 7**

John Redemption was charged with wounding with intent. He is on bail. On the first trial date, April 4, 2016, he did not answer when his name was called. The court enquired of his attorney-at-law whether he had any idea where his client was, and the attorney-at-law replied that he did not. The judge adjourned the matter for one week as there was a part-heard trial going on, and the court might not have been able to start the case in any event. All the witnesses for the prosecution were present.

When the matter was called up one week later, all the witnesses for the prosecution were again present. Redemption's name was called but he did not answer. The attorney-at-law reported that, despite repeated efforts to contact Redemption, he did not receive a reply from him. He added that Redemption's family have told him that Redemption had recently "found the Lord" and was baptized. The attorney-at-law lamented the fact that he had not been able to find Redemption to discuss his new perspective with him as it seemed that he had disappeared on a "pilgrimage".

The trial judge indicated that he intended to proceed with the trial and then the following conversation took place between the attorney-at-law and the judge:

*TJ: "Counsel, do you have full instructions from your client?"*

*Att: "To some extent I do my Lord."*

*TJ: "I order you to stay and conduct the defence as best you can."*

*Att: "I wish to decline my Lord because my client may have changed his instructions bearing in mind his new lease on life."*

*TJ: "Your choice! But if you don't, I will hold you in contempt."*

Counsel stayed but did not question all the witnesses and indicated to the judge that he was uneasy, as matters had arisen for which he would have needed further instructions. The trial judge paid no attention to the attorney-at-law's reservations.

Redemption was found guilty.

Redemption's family retain you to advise them whether there is any basis for an appeal.

Advise them.

---

## **QUESTION 8**

Formica French and Nicole Ambitious are two former employees of Buybetter Supermarket. Formica was charged with the offences of larceny/theft and receiving stolen goods. Nicole was charged with larceny/theft. The allegations are that they arranged with unspecified persons to steal the supermarket's payroll. Their roles were discovered only after they went on a shopping spree with some of the proceeds of the larceny/theft.

On the first trial date, Formica pleaded not guilty to larceny/theft but pleaded guilty to receiving stolen goods. The judge rejected the plea and the trial proceeded on both counts. She found Formica not guilty of larceny/theft and sentenced her on the count of receiving stolen goods, to which she had earlier pleaded guilty.

As regards Nicole, she was found not guilty of larceny/theft, but guilty of receiving stolen goods and sentenced accordingly.

Formica and Nicole contend that the judge was wrong to sentence them as she did, and seek your advice on the legality of the judge's decision.

Advise them.

---

**END OF PAPER**