

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS 2024

CRIMINAL PRACTICE AND PROCEDURE

(WEDNESDAY, AUGUST 7, 2024)

Instructions to Students

- (a) Time: **3 ½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any 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.**
- (d) It is unnecessary to transcribe the questions you attempt.
- (e) Answers should be written in black or dark blue ink. Erasable pens are not allowed.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

(a) Natey Nate is a 19-year-old high school dropout with a low IQ, who consistently finds himself in trouble with his family members and neighbours. He is before the magistrate's/parish court charged with the offence of unlawful wounding. The Crown alleges that he threw a stone at his neighbour Keiner, causing a wound to Keiner's head.

After his matter was placed on the list for trial, his family retained counsel Miss Dara Deet to represent him. In preparation for the trial, Miss Deet interviewed Natey Nate. She formed the view that Natey Nate's low IQ was a bar to receiving complete instructions from him.

She has, however, managed to get some instructions from him. These instructions, *inter alia*, relate to a witness who offers solid support for Natey Nate's defence of self-defence.

On the morning of trial and before Natey Nate was pleaded, Miss Deet informed the magistrate/parish court judge that she is having difficulties getting full instructions from him.

When the magistrate/parish court judge asked Miss Deet what she meant by that, she said "Well let's say, he is not the sharpest tool in the tool shed."

The magistrate/parish court judge replied "An accused does not need to be the sharpest tool in the tool shed. Let's get on with it."

Advise Miss Deet as to the options open to her and how best to proceed in the circumstances.

(b) Lori Lamb, a new law graduate is appearing in her first trial matter in the magistrate's/parish court. Her client, Clint Cover, is charged with the offence of receiving stolen goods.

After receiving written instructions from him and based on those instructions, Miss Lamb advised him to plead not guilty.

The magistrate/parish court judge instructed the prosecutor to plead Clint Cover.

Contrary to Clint Cover's instructions to Miss Lamb and her advice to him, he pleaded guilty.

Miss Lamb was amazed. She asked the court for a brief adjournment to speak with Clint Cover. The adjournment was granted.

Clint Cover explained to Miss Lamb that the wording of the charge confused him and that is why he pleaded guilty. Miss Lamb asked the magistrate/parish court judge to permit the accused to be re-pleaded. The magistrate/parish court judge asked, "Why? I heard the plea clearly on the first occasion."

Advise Miss Lamb what submission(s) she should make to the court.

The facts below relate to both questions 2 and 3

Polton Roller was tried before Judge Ann Holger and a jury for the offence of burglary. He was convicted and sentenced. He was represented by counsel, Mr Ratten, at trial.

Polton Roller has now instructed Mr Ratten to appeal the conviction.

QUESTION 2

At the end of the empanelment and, before the other jurors forming the array were dismissed, Mr Ratten informed Judge Holger that he would like to approach the bench to discuss a matter. Judge Holger nodded in agreement and Mr Ratten, along with Crown Counsel, approached the bench.

Mr Ratten explained that he was concerned that the majority of the jurors empanelled in the matter, shared the identical surname.

He submitted that this was a possible basis to apprehend bias since the persons may be close relatives or acquaintances. Judge Holger promised to enquire but omitted to do so.

During the fifth day of the trial, juror number three asked to be excused. She explained that she needed to assist her elderly mother who, the night before, was admitted to the hospital. She further explained that juror number two is her sister and, that because both of them were serving on the jury, their mother, who suffered from a terminal illness, was left without assistance.

Judge Holger excused juror number three from further serving.

She then enquired of the remaining jurors if any of them was in any way related to each other. The jurors responded in the negative.

Before the summation, and in the absence of the jury, Mr Ratten submitted to Judge Holger that she should give the jury a special direction, not to be influenced by any relationship they may share with each other. Judge Holger politely declined to do so.

Advise Ratten.

QUESTION 3

- (a) During the trial, the Crown called a witness, Eva Mew, who gave evidence that she saw the accused, with a knapsack on his back, walking towards her in the direction of the burgled house. She further said that in passing they greeted each other.

Thereafter, she turned around, looked in the direction of the accused, and observed him enter the street on which the burgled house was located.

During cross-examination, Mr Ratten suggested to the witness that “you are lying and not telling the court the whole truth and the reason for your lies will come to light.”

Polton Roller gave evidence in his own defence. He stated that *en route* to his home, he had seen the witness, Eva Mew. However, they saw each other in a location opposite to

where the burgled house is located and, that they had not greeted each other at all as they were not on speaking terms.

He further stated that Eva Mew was telling lies about him because he and her son had been involved in a dispute in which her son had lost an eye.

The Crown did some quick research and found out that Eva Mew did not have a son.

The Crown made an application to recall Eva Mew to establish that she did not have a son.

Mr Ratten objected to the application on the ground that there was no proper basis in law to grant it.

Judge Holger granted the Crown's application.

Advise Ratten.

- (b) After retiring for two hours, the jurors returned and informed the judge that they could not agree. Judge Holger asked the foreman why. The foreman said that some aspects of the law were unclear to a member of the jury.

Judge Holger thanked the foreman and then proceeded to remind them of all the instructions she had given them on the law.

She also gave them a majority direction and sent them back to retire.

Fifteen minutes later, they returned with a majority verdict of guilty, which Judge Holger accepted.

Advise Ratten.

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