

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, AUGUST 2021**

CRIMINAL PRACTICE AND PROCEDURE

THURSDAY, AUGUST 12, 2021

Instructions to Students

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, not their names, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not to be used.
- (g) Where word limits have been given, the actual word counts must be included at the end of your answer. Students who have exceeded the word limits will be penalised.
- (h) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (i) In answering any Part, 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.**
- (j) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (k) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in

ELECTRONIC format via the **Year I AUGUST 2021 EXAMINATIONS, CRIMINAL PRACTICE AND PROCEDURE DROP BOX on TWEN** by **August 13, 2021** **NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (l) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:
- Go to ***www.lawschool.westlaw.com***.
 - Log in using your username and password credentials and select the **TWEN** button.
 - Click on the link for **“Assignments and Quizzes”** located on the left-hand side of the navigation screen.
 - Select the relevant examination and the examination drop box as follows:
 - Year I students with Examination ID numbers between 1100 -1192 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I - 1100-1192”**.
 - Year I students with Examination ID numbers between 1193 -1283 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box B Year I - 1193-1283”**.
 - Year I students with Examination ID numbers between 1284 -1376 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box C Year I - 1284-1376”**.

You have been asked by the firm to which you are employed, which represents Baxton Bonkers, to take instructions from Baxton Bonkers and members of his family. Baxton Bonkers is a 19-year-old chef, who has recently been convicted of wounding with intent. The family wants to appeal the conviction.

They inform you that they have a witness who has recently come forward, who saw the incident and who is prepared to give evidence, if allowed, on appeal. The witness says that it was someone else who did the stabbing. They provide you with his name, address and telephone number. You contacted the witness, Tony Tonker, who gave you a written statement. In it, he had indicated that he had not come forward before because no one had contacted him about what he had seen.

From your reading of the notes of evidence/transcript you glean the following:

The case against Bonkers is that on June 15, 2020, a community vaccination site was set

up in a heavily populated community in your jurisdiction. This site was set up to vaccinate persons over the age of 75 years against a SARS virus spreading in the country. Bonkers and a group of young men attended the site before it opened and were demanding money from people who came early, in exchange for places in the line. Other young people who had accompanied their older relatives objected to this. This led to a stand-off and a quarrel and, several scuffles developed.

Disgruntled at the resistance, Baxton Bonkers and his friends left promising to return and they did, carrying several implements such as knives and sticks and attempted to resume their 'space-for-cash' scheme.

They were again challenged by several other young men. Bonkers chased one of the challengers for a considerable distance, stabbed him several times and ran. The man he stabbed, the complainant, was taken to the hospital.

At trial, the jury pool was exhausted before a jury was empaneled. Both counsel for the defence and the crown had used up all their peremptory challenges. The learned trial judge instructed the registrar to seek persons from the areas outside of the court, who were not disqualified and who were available.

An adjournment was taken and sometime later, a list was given to the learned trial judge and empaneling resumed. Counsel for Bonkers sought to challenge a woman about to be empaneled. The judge pointed out that there were no more peremptory challenges but enquired of the reason for the challenge. The judge was told that the accused had instructed counsel that the potential juror was from an adjoining community and did not like him. He (Bonkers) also believed that she could have been at the vaccination site along with other people from the adjoining community. The trial judge made enquiries of the juror, who denied being at the site, but said she had heard of the incident but did not know who the young men were. She further said that she had seen Bonkers in the adjoining community but had never spoken to him, or formed a view one way or the other concerning him. The trial judge asked her if she could render a true verdict, to which her answer was, "why not?". She was allowed to remain despite counsel's objections.

The crown called three witnesses, including the complainant, who was unable to say who stabbed him. The other witnesses said that they saw Bonkers among several young men fighting, saw him running away with a knife in his hand, and then they saw the complainant on the ground bleeding. They both pointed out Bonkers on the identification parade.

Counsel for the defence suggested that they only identified Bonkers because he is a friend of some of the young men who were at the scene making trouble.

After a few formal witnesses the prosecution closed its case.

Bonkers gave sworn evidence that he was on his way to work and saw the men in a scuffle. He saw the fight which led to the stabbing as the men ran very close to him, so

he ran to avoid being injured himself. He insisted that he had nothing to do with the stabbing and had no knife in his hand. Further, he is unable to say who did the stabbing. After he gave his evidence, the defence closed its case.

The jury found him guilty.

After reading the notes of evidence/transcript, you visit Bonkers at the prison where he awaits his appeal. He is very upset and has many questions.

He instructs you that persons from his community have told him that the jurors came to the scene each day and had discussions among themselves. There was no judge present. A member of the community, Mark Android, filmed them doing this on his phone. You interviewed Mark Android and obtained a statement and a copy of the video from him.

Bonkers also wants to know why the judge prevented his attorney-at-law from speaking on his behalf before sentencing him.

When you look back at the notes of evidence/transcript you note that when counsel rose to make a plea in mitigation the judge said:

“ I will not hear from you. I will not even seek to get a probation report. Imagine how important the vaccinations are in these serious times when all of us are at risk. I need no talk about lawless people who believe that they can come and disrupt such a crucial activity in the life of our country. With respect counsel you have done your best but I do not wish to hear from you.”

Instructions:

Advise your firm on the :

- (i) decision of the judge not to allow the challenge for cause;
- (ii) jury members' visits to the *locus in quo* and Mark Android's evidence;
- (iii) judge's remarks in sentencing; and
- (iv) statement given by Tony Tonker.

Note:

Your word count should not exceed **3,500 WORDS**.

END OF PAPER