

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS 2025

CRIMINAL PRACTICE AND PROCEDURE

(WEDNESDAY, MAY 14, 2025)

Instructions to Students

- (a) Time: **3½ 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

Willie Nexton was charged with the offence of wounding with intent.

The case for the prosecution was that the complainant, Kenny Rogins, attended a bar called 'Hot Steppers' in the town square, where he and a group of men played a heated game of poker. Kenny was considered 'the coward of the county', as he would often turn the other cheek, or walk away from physical confrontation. During the game, Willie accused Kenny of cheating and demanded his money from the table. Kenny refused to hand over his money, declaring that he had dealt his cards "fair and square". After a heated exchange, Willie turned over the game table and lunged at Kenny. During the tussle between the two men, Willie used a knife, which he took from his waistband, to stab Kenny in his stomach, causing a wound which bled profusely. Kenny was rushed off to the Norman Manley Hospital. Willie was held by the other patrons at the bar and the police were summoned. Willie was subsequently arrested and charged with wounding with intent. Two of the patrons gave statements to the police implicating Willie in the offence.

At trial, Willie instructed his counsel to suggest to the witnesses for the Crown that they were lying, and that it was the complainant who attacked him, because he had said something offensive about the complainant's girlfriend, Becky. Counsel representing Willie felt that she should refrain from making that suggestion to the Crown witnesses, as the witnesses had corroborated each other, and there was no independent evidence to support Willie's assertion. Additionally, Willie had indicated that he did not wish to give evidence at his trial, and did not. The defence called Dolly Patridge, a character witness, to give evidence on behalf of the defendant.

The summation, having ended, the jury retired to consider their verdict at 2:15 p.m. The foreman communicated to the Registrar, that the jury needed to be reminded on the burden and standard of proof. The jury returned at 2:50 p.m., at which time the learned trial judge restated her directions on the burden and standard of proof. Before the jury was allowed to retire for the second time, counsel for the prosecution invited the learned trial judge to give the good character directions, which she had omitted to give with the initial directions. The learned trial judge then

gave the good character directions and sent the jury out to continue their deliberations at 3:00 p.m.

The jury returned to court at 3:25 p.m., with a majority verdict.

Willie was convicted for the offence of wounding with intent.

You now appear as counsel for Willie, and he instructs you that he wishes to appeal the conviction.

Advise Willie.

QUESTION 2

Alto was charged and tried for the offence of rape.

The prosecution's case rests solely on the evidence of the complainant, Millie, Alto's co-worker. Both Alto and Millie are employees at Artic Enterprise Limited. The allegations are that Millie joined the company nine months ago, at which time Alto made it very clear that he found her very attractive and wished to have an office fling with her. Alto would constantly make sexual gestures towards Millie and would also invite her out on dates. Millie always rebuffed his advances.

On January 25, 2025, Millie was working late at the office on a project she was asked to supervise. She had been working so intensely that she did not realise how late it was and that she was the last person left in the building. At 8:00 p.m., while walking in the parking lot, she was startled by Alto. Alto remarked, "Hey sweet thing, I catch you now." Alto used a handkerchief, which was laced with a noxious substance, to cover her nose and mouth. Millie slowly lost consciousness. He took her to the storeroom at the back of the building where he removed her skirt and underwear, and had sexual intercourse with her without her consent. When she regained

consciousness, she realised that she was partially nude. She quickly got dressed and made a report at the police station.

The very next day, Alto was arrested and charged for the offence of rape. The police collected DNA samples from Alto, as well as the complainant, Millie. Alto denied the allegations and maintained that he was at home at the time of the commission of the offence, making love with his girlfriend.

At trial, the prosecution relied on the evidence of the complainant as well as DNA taken from vaginal swabs and smears taken from the complainant. The DNA evidence corroborated the complainant's account. Miss Walters, counsel for Alto, objected to the admission of the DNA evidence as the certificate had only been served the day before. Miss Walters also contended that the defence wished to have their own expert test the samples, asserting that the Crown's testing process was not in keeping with scientific standards. Miss Walters contended that her client could not afford the cost of an independent expert, and that Alto had a constitutional right to be provided with an expert by the state and to be placed on equal footing with the prosecution. The learned trial judge ruled that it would not accede to defence counsel's request, and proceeded with the trial.

At the end of the defence's case, Miss Walters made an application to visit the *locus in quo*. She submitted that the court should view the *locus in quo* of the alleged offence to demonstrate that it would be very difficult for the complainant to identify her assailant, both in the parking lot as well as in the storeroom. The learned trial judge refused the application on the basis that the scene of the crime was not in issue and that it was too late in the trial for such interruptions.

Alto was convicted of rape.

Alto wishes to appeal his conviction.

Without addressing the issue of visual or voice identification, advise Alto whether he has a good ground(s) of appeal.

QUESTION 3

Peter, a police officer, was in the city capital, when he observed a young man (later identified as 20-year-old James) throw a stone into a warehouse window and enter the building. James emerged from the building with a bag of commercial goods, looked left and right, and then attempted to run up the road with the bag under his arm.

Peter ran after James and held onto him from behind. James began to resist, and as a result, Peter threw him to the ground. James continued to resist and tried to escape. In response to this, Peter put his knee on James' throat in a bid to subdue him. After James stopped resisting, Peter took James and the bag of goods to the nearby police station where he identified himself as a police officer and charged James for the offences of larceny and resisting arrest.

While at the station, police officers removed James' clothing and searched his person. The police then took James to his home and searched it. The police found a laptop computer in his bedroom, which they searched and found lottery scamming/fraud-related information. James was also charged with lottery scamming/fraud.

Advise James as to the lawfulness of:

- (1) the arrest;
- (2) the search of his person;
- (3) the search of his home; and
- (4) the search and seizure of his laptop computer.

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