

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

**LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, AUGUST 2022**

**CRIMINAL PRACTICE AND PROCEDURE**

**MONDAY, AUGUST 8, 2022**

**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 a 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 2022 EXAMINATIONS, CRIMINAL PRACTICE AND PROCEDURE DROP BOX on TWEN** by **TUESDAY, AUGUST 9, 2022** 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 - 1185** must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I – 1100 - 1185”**.

- Year I students with Examination ID numbers between **1186 - 1271** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box B Year I - 1186 - 1271**”.
- Year I students with Examination ID numbers between **1272 - 1357** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year I - 1272 - 1357**”.

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Arnold Tippy was tried for and found guilty of the offence of wounding with intent before Justice Mello and a jury. The trial was presided over by Justice Mello a notoriously impatient judge and Tippy was represented by attorney-at-law Vertigo Little, very short in stature and very pugnacious.

The allegations are that about midday on February 1, 2021, a dispute developed at a bar called ‘End of Stress’(Stress), between Tippy and another patron, Larry Massy.

It is alleged that Tippy objected to Massy drinking at this bar since he usually drank at a competing bar in the community, and so, Tippy accused Massy of coming only to spy at ‘Stress’ bar.

The two men who were seated in the bar, began to quarrel, and this escalated into a fight which moved from inside the bar onto the street. They wrestled in front of a crowd who were patrons of both bars and who were cheering them on.

Massy stated that while they were wrestling on the ground, Tippy stabbed him with a knife, severing an artery in his abdomen. He spent four weeks in the hospital where he underwent surgery before being released.

Tippy, who pleaded not guilty, gave signed instructions to his lawyer in which he stated that he did not have a knife. He said it was Massy who pulled a knife when they were on the ground wrestling and that during the wrestling Massy fell on his own knife.

There were five witnesses for the prosecution: Massy, three patrons from the competing bar and the investigating officer, Detective Inspector Speedy Gonzales.

Massy gave evidence that while they were on the ground wrestling, Tippy pulled out a knife and stabbed him. The patrons who were called as eyewitnesses, confirmed Massy's account.

During the taking of the evidence of the prosecution witnesses, both in examination-in-chief and cross-examination, the judge continuously intervened, asking many questions of his own, despite the clear exasperation of both the prosecution and the defence.

Little, who had had enough, asked Justice Mello, *"whether it would not be better if both the prosecution and himself withdrew so that he, Mello, could have his own private trial."*

Little further asserted that the judge had massacred his instructions and that he should abort the trial and set the matter for hearing before another judge.

The judge replied, *"Mr Little, you are both short on etiquette and insight to name just two things."* The jury laughed.

During cross-examination, Gonzales stated that though he had collected over 11 statements, he decided that only five were relevant and had handed over these five to the prosecution.

Little became outraged. He pointed out to the judge that he had written to the prosecution asking for all the statements in its possession. The prosecutor rose and said that she provided the defence with all the statements in its possession. The judge remarked to Attorney Little, *"that given the evidence so far, where the witnesses say they saw Tippy stab Massy, I do not see how it matters one way or the other that he did not turn over the remaining statements to the prosecutor."*

After the cross-examination of Gonzales, the prosecution closed its case.

Tippy gave sworn evidence in keeping with his instructions, that Massy fell on his own knife and that he, Tippy, did not have a knife. The pattern continued of the judge taking over the examination-in-chief and the cross-examination by the prosecution, with Little complaining constantly about the interruptions.

After Tippy gave evidence, Little called Tippy's wife as a witness who gave evidence that Tippy was a very gentle and non-violent person and that she had never seen him with a

knife. Curiously however, she then added, without prompting, that on February 1, the day of the incident, he was at home with her all day.

Justice Mello summed up the case with much humour, laughing at what he said, “*was the ridiculous attempt by the wife to pull the wool over their eyes.*”

During deliberations, one of the jurors told the registrar that two of the jurors informed the others that they had visited the *locus*, had drinks at both bars and had taken photographs which they showed to the others. The registrar informed the judge who then asked the registrar to invite both prosecution and defence counsel to his chambers. When they arrived, the registrar repeated what he had told the judge in the presence of both counsel.

The judge said it did not matter to him “*because in a small town as this, those types of things cannot be avoided.*” Justice Mello did not invite or give either counsel an opportunity to speak before ushering them abruptly from his chambers.

Two hours later, the jury returned a unanimous verdict of guilty of wounding with intent. Justice Mello postponed the sentencing for a later date for a sentencing report.

At the sentencing, Little rose to make a plea in mitigation. Justice Mello refused to hear him, remarking that,

*“Only a lawyer short on foresight would want to make a plea in mitigation on behalf of a man who was there and then not there. This attempt to lie in the face of the court looms large in my mind. In the same way I reject the sentencing report making him out to be an angel in his community.”*

At this juncture, Little walked out of the courtroom.

Justice Mello then sentenced Tippy to the maximum permitted sentence for wounding with intent without making any further comment.

Tippy has retained your firm of attorneys-at-law to argue the appeal on his behalf. He wants to know, in particular, if it could be right in law for the judge to:

- (1) interfere in the trial so much and laugh at his lawyer;
- (2) allow the case to continue although his lawyer did not get all the statements in the

case;

- (3) dismiss the fact that some members of the jury visited the scene on their own while the trial was going on;
- (4) refuse to hear his lawyer's plea in mitigation and rejecting the sentencing the report on his behalf; and
- (5) give him the maximum sentence.

**Instructions:**

Frame the above concerns expressed by Tippy as grounds that could be filed in the Court of Appeal **AND** under each, opine on the way the court is likely to treat with each one.

**Note:**

The word count should not exceed **3,500 words**.

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**END OF PAPER**