

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2010

EVIDENCE & FORENSIC MEDICINE

(MONDAY, AUGUST 23, 2010)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer **QUESTION ONE** and **FOUR** others.
- (c) **Answer Question 1 on a separate answer booklet provided.**
- (d) 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.**
- (e) It is unnecessary to transcribe the questions you attempt.
- (f) Answers should be written in ink.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A
FORENSIC MEDICINE

COMPUSLORY

QUESTION 1

- (a) Narrate the changes after death.

- (b) Discuss in details the muscular changes after death and give its medico legal importance.

PART B

EVIDENCE

QUESTION 2

- (a) Diana is charged with managing a brothel at premises ostensibly operated by her as a grooming service for men. The prosecution intends to rely on the evidence of a policeman, who led a team of policemen which raided the premises. He will say that after the raid he stayed on the premises where he intercepted several telephone calls in which the callers, all male, asked to speak to Diana to enquire about sexual services.

Advise on the admissibility of this evidence.

- (b) At his trial for murder committed on March 1, Jim Brown puts forward a defence of alibi, namely that he was in Trinidad at Carnival at the time. In support of this he seeks to adduce in evidence a used airline ticket showing that on the day of the murder, and before it occurred, he flew to Trinidad. The ticket bears the name Jim Brown.

Advise on the admissibility of the ticket.

QUESTION 3

- (a) Jerry is charged with driving his truck on a public road without being the holder of a driving permit, contrary to the relevant statutory provisions.

Advise Jerry on the burden and standard of proof.

- (b) Advise on the standard of proof in a civil action for rescission of a contract on the ground of fraudulent misrepresentation.

- (c) On a charge of wounding with intent, Peter's defence is that he acted in self-defence. In directing the jury, the judge says the following –

"I have to bear in mind that the only burden borne by the accused is that of making self-defence a live issue fit and proper for your consideration. Once he has done this on a balance of probabilities, then it is your duty to examine the case for the prosecution to see if the case has been proved against him."

Peter is convicted and seeks your advice on whether the judge misdirected the jury in the passage above.

Advise Peter.

QUESTION 4

Mortimer was convicted of having murdered a young woman, Miss Oates, by deliberately driving his motor car at her while she was riding a bicycle and knocking her down. Evidence was admitted that on the day before the offence he had separately knocked down two other women cyclists with his car and assaulted each of them; that, on the day following, he had knocked down another woman cyclist and stolen her handbag; and also that he had driven straight at three different parties of police officers who had tried to stop him. His defence was that the collision with Miss Oates had been accidental.

On appeal, he wishes to challenge the admissibility of the above evidence and seeks your advice.

Advise him.

QUESTION 5

- (a) Jean, Clayton and Andrew were jointly charged with having murdered a man named Kent, who had been tied up and badly battered about the face and head

before being strangled. They were intercepted at a hotel at 3 o'clock in the morning after the murder and taken to Police Headquarters, where they arrived at 4:00 a.m. They were separately interrogated for 3 hours and at 7:00 a.m. they were placed together in a holding cell with no seating. At about 9:00 a.m., Clayton started to shout through the bars and when the Sergeant-in-charge arrived Clayton said, "... we need to get out of here, I'll make a statement now". The other two said nothing, but the sergeant immediately separated them again and all three ultimately made full confession statements.

Advise on the procedure to be followed at the trial of Jean, Clayton and Andrew when objections are taken to the admissibility of these statements and on the issue of their admissibility generally.

- (b) Assuming that in (a) above the confessions are ruled inadmissible, what use may the prosecution make of a bloody hammer subsequently found in the hotel room from which the accused had been removed, as a result of information supplied by one of them in his confession?
-

QUESTION 6

Vincent has been indicted for the offence of wounding Sarah with intent to do her grievous bodily harm. Detective Constable Jack, the investigating officer, will be called to give evidence against Vincent, having previously made a note in his notebook of the matters to which he is to testify. You have been asked to advise on the following -

- (a) whether Detective Constable Jack may refresh his memory from his notebook –
- (i) outside the courtroom before giving evidence; and
 - (ii) while he is in the witness box.
- (b) If Detective Constable Jack is permitted to refresh his memory from his notebook in the witness box, whether defence counsel may –
- (i) call for and inspect the notebook; and
 - (ii) cross-examine him as to its contents. If so, what should counsel bear in mind?
- (c) Where the notebook becomes an exhibit, what direction should the judge give to the jury as to the use they may make of its contents?
-

QUESTION 7

- (a) Describe and discuss the 'without prejudice rule'. What is its value in the process of civil litigation?
- (b) Distinguish, with reference to decided cases, the rules of legal professional privilege as they relate to communications between attorneys-at-law and their clients and communications between attorneys-at-law or their clients and third parties.

QUESTION 8

Henry, James and Albert are jointly charged with burglary of a merchandise store. Each of them has a number of previous convictions for burglary. The only evidence which connects them to the crime is that of Sam, who has admitted having driven the get-away car and who has decided to give evidence for the prosecution.

Advise on each of the following developments at the trial –

- (i) Henry gives no evidence, but his attorney-at-law puts to Sam in cross-examination that he has previous convictions for dishonesty, which Sam admits to be true. What use, if any, can the prosecution make of Henry's previous convictions?

 - (ii) James, in the course of giving sworn evidence, asserts that Sam is a liar. Can the prosecution cross-examine James on his previous convictions?

 - (iii) Albert states in the course of his sworn evidence that Henry, James and Sam invited him to help with the burglary but he refused and did not take part. Can Albert be cross-examined on his previous convictions and, if so, by whom?
-