

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2007**

EVIDENCE AND FORENSIC MEDICINE

(WEDNESDAY, AUGUST 8, 2007)

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

COMPULSORY

QUESTION 1

- (a) Discuss the use of diatoms in the diagnosis of drowning.
 - (b) Describe situations in which an exit gunshot wound may exhibit characteristics indistinguishable from an entrance gunshot wound.
 - (c) The dead body of a 22 year old woman is found in bushes a short distance from her home. She is suspected to be the victim of rape homicide.
 - (i) Explain the significance of the following:
 - (1) At autopsy the body was examined under ultraviolet light.
 - (2) Fingernail clippings were submitted by the forensic pathologist for analysis by the Government Forensic Laboratory.
 - (ii) Discuss the autopsy findings which resulted in the forensic pathologist listing ligature strangulation as the cause of death.
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PART B

EVIDENCE

QUESTION 2

Distinguish between a Supreme/High Court criminal and civil trial in relation to the following:

- (a) a no case submission;
 - (b) the process of examination-in-chief; and
 - (c) the burden and standard of proof.
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QUESTION 3

John was on trial before a jury on a charge of wounding with intent. John declined to give evidence in his defence and instead elected to give an unsworn statement from the dock in which he asserted the defence of self defence. John called no witnesses in his defence.

In summing up to the jury the judge directed them as follows:

“The unsworn statement is persuasive rather than evidential. It cannot prove facts not otherwise proved before you, members of the jury. Therefore, the accused has not discharged his obligation to prove the defence of self defence”.

John is convicted and wishes advice on whether he has valid grounds of appeal.

Advise John.

QUESTION 4

Charles is charged with carnal abuse of his two daughters Jane aged nine and Sandra aged twelve. It is alleged that the conduct took place in relation to each child separately over a period of two years while the children lived with Charles. Accordingly the indictment against Charles contains separate counts in relation to Jane on the one hand and Sandra on the other hand.

What principles govern –

- (i) the competence of the children to give evidence; and
 - (ii) whether the evidence in relation to each child is admissible in relation to the other.
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QUESTION 5

Peter is charged with the murder of Carl, his neighbour, allegedly arising from a dispute between them.

Carl was found suffering from stab wounds and rushed to the hospital. Carl spent two days in hospital before he could be interviewed by the police. After the interview Peter was charged but Carl dies before trial.

At trial, the investigating officer Sgt. Bailey gives evidence that he spoke to Carl at the hospital. Sgt. Bailey is, however, unable to recall the details of the conversation. The judge then allows him to refresh his memory from his notes in his diary made at the time and he further admits the notes into evidence.

The judge then allows Sgt. Bailey, despite objection from the defence, to give evidence of the conversation. He gives evidence to the effect that:-

“After speaking to Carl and based on what he said, I obtained a warrant for the arrest of Peter, the neighbour.”

Advise on the correctness of the judge’s rulings as to:

- (i) permission to Sgt. Bailey to refresh his memory from his notes and their admission into evidence; and
 - (ii) the evidence of the conversation between Sgt. Bailey and Carl.
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QUESTION 6

Don an alleged gang leader is on trial for murder. Two prosecution witnesses, Raymond and Michael, when called to give evidence fail to come up to proof.

Raymond simply refuses to give any evidence after he is sworn. In respect of Raymond the trial judge refuses the prosecution’s application to cross-examine him on his statement to the police. The basis of his ruling is that since Raymond has not given evidence there is no inconsistency to be proved.

In respect of Michael the judge noted that his evidence-in-chief was “somewhat unfavourable to the prosecution” because it differed in some respect from his statement to the police. On that basis and without any application by the prosecution, the judge ruled that the prosecution could cross-examine Raymond on his statement to the police.

In his ruling he stated “The Evidence Act allows counsel to cross-examine a witness on his previous inconsistent statement.”

Advise on the correctness of the judge’s rulings.

QUESTION 7

Armed with a warrant, the police enter and search Paul’s home and claim that they find there a quantity of marijuana. They immediately arrest and charge Paul who is present at the time. When confronted Paul responds “I have absolutely no knowledge of this. I deny ever having marijuana in my possession”.

The police take Paul to the police station where they question him and record his answers. Paul in the process incriminates himself.

Advise on:

- (i) the evidential value, if any, of Paul’s verbal statement at his home when confronted by the police; and
 - (ii) the propriety of the police questioning of Paul at the station and the implications, if any, as to the admissibility of the document containing the questions and his answers.
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QUESTION 8

James is charged with murder. The prosecution's case is based principally on a statement by James under caution.

James' attorney-at-law challenged the admissibility of the statement on a *voir dire*. The basis of the challenge was that James was beaten into giving the statement.

After the *voir dire* the judge ruled that the statement should be admitted in the main trial. On the resumption of the main trial the statement was admitted but the judge stopped James' attorney-at-law from cross-examining the police as to the circumstances under which it was given.

In his summing up to the jury the judge directed them as follows:

"If, for whatever reason, you are not sure whether the statement was made or was true, then you must disregard it. If, on the other hand, you are sure both that it was made and that it was true, you may rely on it even if it was made or may have been made as a result of oppressive or other circumstances".

James is convicted and now wishes advice as to whether he has good grounds of appeal.

Advise James.
