

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 2008

EVIDENCE & FORENSIC MEDICINE

(TUESDAY, AUGUST 5, 2008)

**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 stomach contents in determining time of death.
- (b) The body of a 35 year old man is found with multiple stab wounds. An autopsy is performed the following day.
- (i) Explain how examination of the wounds can enable the Forensic Pathologist to determine that a double edged and not a single edged knife was used to inflict the wounds.
  - (ii) Explain how the alleged murder weapon has a blade length of 5cm but most of the stab wounds had measured lengths in excess of 7cm.
  - (iii) Explain how the location of some of the stab wounds can enable investigators to deduce that the victim - although found in bed - was awake when attacked.
- (c) Explain why ultraviolet light should be used in the examination of the body of a woman who is thought to be the victim of rape-homicide.
-

## **PART B**

### **EVIDENCE**

#### **QUESTION 2**

- (a) John is on trial for the offence of wounding with intent. At his trial he testified that he acted in self defence. The trial judge in his summing up to the jury directed them as follows:

“Self defence affords a complete defence to this charge and if the accused by his evidence has persuaded you on a balance of probabilities that he did act in self defence then you must acquit him.”

John is convicted and wishes to appeal. Does he have a ground of appeal? Advise him.

- (b) In order to clamp down on night noise in your jurisdiction the legislature passed the Night Nuisance Act which provides at section 1 as follows:

“Any person holding a public event after 10:00 p.m involving the gathering of more than 50 persons and the playing of music requires a permit from the Commissioner of Police.”

Section 2 of the Act provides that:

“Any person in breach of section 1 is guilty of an offence ...”

You are briefed to prosecute a case under the Act. Advise whether the burden is on the prosecution to prove the absence of a permit or whether

the defence must prove the grant of a permit if it relies on this as a defence.

---

### **QUESTION 3**

Roger and Phillip were charged with larceny/theft from their employer. Roger has several previous convictions for larceny/theft. Phillip has no previous convictions.

At the trial of the charge against Roger and Phillip the main witness for the prosecution was Tom, the foreman in the employer's business.

Roger gave evidence denying the charge and testified -

*"I am an honest man, I would never do things like that. Besides Tom is dishonest and he probably planted the stolen items to implicate me."*

The trial judge gave leave to the prosecuting attorney-at-law to cross-examine Roger as to his previous convictions.

Phillip also gave evidence as to the absence of previous convictions on his part. However in the absence of the jury the judge told Phillip's attorney-at-law that he would not give the jury any good character directions in relation to Phillip as "...this would only highlight Roger's bad character and prejudice Roger".

Roger and Phillip are convicted and wish to appeal. Do they have good grounds of appeal? Give reasons and explain the good character directions referred to by the trial judge.

---

#### **QUESTION 4**

Jack was injured on the job when a machine on which he was working malfunctioned and crushed his fingers. Jack sued his employer and an order for standard disclosure was made at the case management conference hearing.

Advise for the purpose of compliance with the order, giving reasons, whether the following documents are privileged:

- (i) a letter, prior to the incident, from Jack's Trade Union Representative to Jack's employer complaining about the safety of the machine and asking for urgent repairs;
  - (ii) written instructions after the suit from the employer's attorney-at-law to an independent safety expert asking for an opinion on the machine's safety;
  - (iii) a letter from the employer's attorney-at-law to the employer recommending settlement of the suit;
  - (iv) correspondence between the employer's attorney-at-law and Jack's attorney-at-law attempting to settle the suit but which did not lead to settlement.
-

### **QUESTION 5**

Jane and Joe are ten year old children at a school in your jurisdiction and Peter is a janitor employed to the school.

They alleged that one day after school while they were in the classroom alone Peter entered the classroom and used a knife to threaten them, and that he robbed Joe of his cellphone and sexually assaulted Jane.

Both Jane and Joe reported the matter later that day to their teacher Robert. Peter was subsequently arrested and charged for robbery and rape.

Advise on:

- (i) The competence of the children to give evidence and the procedure to determine this.
  - (ii) The admissibility of the contents of the reports of each of the children to their teacher and the conditions of admissibility, if any, that apply.
- 

### **QUESTION 6**

Jack, a locksmith, is charged for burglary and larceny and robbery at a dwelling house occupied by Mary. It is alleged that he was accompanied by two other men who have not yet been apprehended by the police. It is also alleged that a number of the stolen items were found at his business premises when the police illegally and without a warrant entered and searched the premises.

Jack's defence is duress, in that, he asserts that two gunmen forced him to open the lock to Mary's premises and to store the stolen items under threat to kill him and burn his premises.

At Jack's trial, the trial judge:

- (i) allowed, despite objection from Jack's attorney-at-law, evidence of the recovery of the stolen items;
- (ii) allowed the investigating policeman to refresh his memory in court from a note he made of the list of stolen items at the time of their recovery;
- (iii) ruled inadmissible evidence from Jack as to what the gunmen told him on the basis that this constituted hearsay.

Jack is convicted and wishes advice as to whether he has good grounds of appeal in relation to the judge's rulings. Advise him.

---

## **QUESTION 7**

Simone, who is married to Frank, is charged for the murder of Judith, her husband's mistress.

The allegations are that Simone trailed Judith home and then drove her car into Judith causing her death.

The prosecution proposes to rely on the following:

- (i) Judith's neighbour who will say that immediately on hearing Judith's distressed cry for help she went outside and heard when Judith said, "The person who did this is Simone, Tom's wife.";
- (ii) a doctor at the hospital will say that some two hours after the incident and emergency surgery Judith said "Doctor I don't think I'll make it. Tell Tom to tell Simone that she finally succeeded in her bid for revenge.";
- (iii) a telephone bill found at the scene in Simone's name by the investigating officer who will testify to this.

You are a junior prosecutor in the case and you have been asked by your senior to advise on whether there are bases to challenge these items of evidence as hearsay.

Advise your senior.

---

### **QUESTION 8**

Raymond, a prominent businessman, was murdered at his home and the police came under pressure to make an arrest.

A day later the police, suspecting Raymond's former gardener, John, swooped down on him and took him into custody. While in custody John allegedly confessed to the murder and was charged accordingly.



John's instructions to his attorney-at-law were that he was interrogated under bright lights for a full day without refreshment and without access to an attorney-at-law or relative. He said that he maintained his innocence until the end of the process when a statement was brought to him by the police and he was told to sign it. He said the police told him that "As the gardener you will be more likely to be found guilty and so if you confess you will at least get a lighter sentence." John said in those circumstances he signed the statement.

At John's trial his attorney-at-law objected to the admission of the statement but the trial judge ruled against a *voir dire*. The judge's ruling was:

"Since there is no allegation that violence was used against the accused and since it is alleged that the accused did not make the statement but only signed it, no question of voluntariness arises. In these circumstances there is no need for a *voir dire*".

Mary, Raymond's wife and a prosecution witness, testified during the trial that John was fired, whereas in her previous statement to the police she said that John resigned to move to another job. The trial judge prevented John's attorney-at-law from proving Mary's previous inconsistent statement. The judge prevented this on the basis that "...clearly this previous statement is not evidence, only what the witness says at trial is evidence."

John was convicted and wishes to appeal. Advise him on the correctness of the judge's rulings.