

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST-YEAR SUPPLEMENTARY EXAMINATIONS, 2004

EVIDENCE AND FORENSIC MEDICINE

(WEDNESDAY, AUGUST 4, 2004)

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) What are defence wounds ?
 - (b) How do exit gunshot wounds differ from entrance gunshot wounds?
 - (c) The body of a 40 year old man, a known smoker of at least two packs of cigarettes per day for the past 20 years, is recovered from the remains of a fire that destroyed his home.
 - (i) What autopsy finding(s) would be indicative of the deceased being alive before the fire started?
 - (ii) What laboratory investigation could be done to indicate whether the decedent was alive before the fire started?
 - (d) What is a patterned abrasion?
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PART B

LAW OF EVIDENCE

QUESTION 2

- (a) Describe the differences in the functions of the judge on the one hand, and the jury (or judge as tribunal of fact) on the other hand.
- (b) On Tim's trial for murder, Tim's attorney-at-law raises the defence of insanity and adduces evidence of this.

The trial judge directs the jury "Now the accused has raised the defence of insanity. It is for the prosecution to prove its case and therefore it must disprove this defence in order for you to convict."

Advise on the correctness of this direction.

QUESTION 3

Nathan is on trial for burglary. A witness for the prosecution, Pete, gives evidence that he saw Nathan whom he knew before by name, escaping from the burgled home. In his statement to the police, however, Pete did not mention the person he saw escaping by name.

At the trial, Nathan's defence witness, Joe, is called to give evidence in support of Nathan's alibi. In his statement to Nathan's defence attorney-at-law, Joe said that he and Nathan were drinking at a bar at the time of the alleged burglary.

When Joe is called to give evidence, however, he denies any knowledge of Nathan's whereabouts at the time.

What options are open to Nathan's attorney-at-law in respect of:

- (a) Pete's evidence; and
- (b) Joe's evidence.

Discuss.

QUESTION 4

John is on trial on indictment for indecent assault of two boys Gary aged 10 and Peter aged 12. There is one count in relation to each boy.

What legal requirements, if any, apply to the evidence of each boy? Would your advice be different if each boy gave unsworn evidence? Give reasons.

QUESTION 5

John and Gary are policemen on trial for murder before a jury. The witnesses for the prosecution all admit under cross-examination that they saw the deceased attack the policemen with a machete and it was then that John fired the fatal shot. There is no other evidence against the accused.

- (a) What course is available to Gary's attorney-at-law?
 - (b) If the trial proceeds and John elects not to give evidence or call witnesses, how should the trial judge direct the jury as to the burden of proof on the issue of self defence?
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QUESTION 6

Stacey is injured on the job while operating machinery at her workplace, Softdrinks Ltd.

Stacey contends that the machinery malfunctioned and this caused the injury. She further contends that the company was negligent in its failure to maintain the equipment and she sues the company on this basis.

Stacey now applies for discovery/disclosure and inspection of the following:

- (a) Correspondence from Softdrinks Ltd. to their attorneys-at-law seeking legal advice after the incident.
- (b) A report from Softdrinks Ltd's independent safety consultant to Softdrinks Ltd. prior to the incident on the safety of the machinery in question.
- (c) A report from the independent safety consultant to Softdrinks Ltd's attorney-at-law after Stacey's suit was filed.

Advise on the merits of Stacey's application in relation to each of the items mentioned above.

QUESTION 7

- (a) In what circumstances, if any, may a witness, while giving evidence, refresh his memory from a non-contemporaneous document?
 - (b) In what circumstances, if any, may such a document be admitted into evidence at trial?
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QUESTION 8

Derek is charged for receiving stolen goods, namely a quantity of electronic equipment stolen from Hi Tech Ltd., a retailer of electronic equipment.

The prosecution proposes to adduce evidence from the manager of Hi Tech Ltd. and the investigating officer, Constable Grant.

The manager of Hi Tech Ltd. will be called to prove that the equipment recovered from Derek came from Hi Tech Ltd. He will seek to refer to stock records, prepared by Hi Tech employees who are no longer with the company, which show the serial numbers of electronic equipment purchased. The prosecution's case is that the serial numbers match those of the equipment recovered from Derek.

Constable Grant will give evidence that he has seen "well known thieves" often visit Derek's residence from which the alleged stolen equipment was recovered. Constable Grant is newly assigned to the area. The basis on which he asserts that these persons, he saw are "well known thieves" is information from other police officers.

Advise on the admissibility of the evidence of:

- (a) The manager of Hi Tech Ltd.
 - (b) Constable Grant's evidence.
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