

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

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS 2024**

LAW OF EVIDENCE AND FORENSIC MEDICINE

(FRIDAY, AUGUST 2, 2024)

Instructions to Students

- (a) Time: **3 ½ hours**
- (b) Answer **ALL** questions from Part A and Part B.
- (c) **Answer Part A and Part B on separate answer booklets.**
- (d) In answering any question, 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.**
- (e) It is unnecessary to transcribe the questions you attempt.
- (f) Answers should be written in black or dark blue ink. Erasable pens are not allowed.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A
Forensic Medicine

QUESTION 1

During the Easter holidays, a group of intrepid students went camping in the blue mountain range. The location had a series of luxury cabins of various sizes spread across the property. The team was jolted from their sleep when a fire alarm went off and they helped to put out the fire at the most remote cabin.

Inside the partially burned cabin, it was discovered that there was a body of a very athletic-looking male, approximately 25 years old, lying face down. He was wearing a T-shirt and a pair of running shorts. There was a female's handbag as well as a pair of Gette slippers, size 7, and a Brazilian natural-hair wig on the floor near to the victim.

The caretaker said he noticed an older gentleman arguing with a young lady as they sped away from the cabin in a motor vehicle, a few minutes before the fire was seen. The caretaker said the elderly man and the young lady both had American accents.

The following observations were made with respect to the body of the 25-year-old male.

1. There were several areas with bleeding below the unbroken skin to the posterior aspect of his head and a deep wound with jagged edges.

Explain the processes involved and discuss how their forensic significance can assist in determining the position of the attacker.

2. He had a gunshot wound to the right posterior chest wall that had tattooing surrounding it, and another gunshot wound to the anterior chest wall that had a circumferential margin of abrasion.

Determine which wound is the entrance wound and which is the exit wound, and account for this state of affairs.

3. Further examination revealed that he was wearing a condom and that he was likely to have had sex around the time of his death.

Postulate as to what transpired leading to the death and explain how information collected from the scene as well as recent technology can be used to track down the young lady.

4. His right forearm was burned down to the bone.

Discuss the classification burns and outline what type of burn he sustained.

PART B

EVIDENCE

(This Part must be answered on a new answer booklet and titled Part B)

QUESTION 2

Two prominent high schools in your jurisdiction have a history of intense rivalry between them in the annual high school football championship, the final of which is held at your national stadium. Both teams had advanced to the final this year.

Michael was a student of one of the schools and Jake was a student of the other. After the match that night, Michael was walking from the stadium and Jake was also doing so. Michael was set upon by a group of supporters from Jake's school, who accosted him and beat him so severely that he suffered several fractured ribs. The attack occurred just outside of the national stadium and Jake was in the vicinity of the attack.

Police were quick on the scene and on their arrival, all the other students fled, except Jake and Michael. The police arrested Jake when a security guard held him and pointed him out as one of the attackers. The police then took him to the nearby police station, where he was charged for causing grievous bodily harm with intent. The police then questioned him about his presence on the scene of the incident, after which he gave a statement under caution. No one was present at the station on Jake's behalf.

The security guard, who was on assignment at the stadium, gave evidence at Jake's trial before a jury that he was about 40 feet from the attack, which took place near streetlights and involved about five schoolboys, including Jake, none of whom he knew before.

The prosecution also sought to rely on Jake's statement under caution, allegedly given voluntarily after he was charged by the police, in which he admitted participating in the attack.

The learned trial judge conducted a *voir dire* in the absence of the jury on the admissibility of the statement under caution. In the *voir dire*, Jake gave evidence that, after he was charged, the police informed him that he would be able to see his parents and be granted bail, if he were to admit that he participated in the attack. Jake said that that was the only reason why he gave the statement under caution.

The learned trial judge accepted Jake's evidence on the *voir dire* but ruled that the statement under caution was admissible because, on Jake's own evidence, there was no violence or threat against him by the police.

As to the questioning of Jake after he was charged, the learned trial judge ruled that although this ought not to have been done, this could be done under exceptional circumstances. The judge said that the prevalence of schoolboy violence in the society, was an exceptional circumstance, which had to be addressed. He added that in any event he had a discretion to admit the statement into evidence, even though given after the charge, and he was exercising that discretion. The trial judge admitted the statement under caution into evidence in the presence of the jury.

After the close of the prosecution's case, Jake gave evidence in his defence to the effect that he was in the vicinity of the attack of Michael but did not participate in it. He said that on leaving the stadium he heard a commotion and went to see what was taking place, and saw the attack on Michael.

At the conclusion of the evidence, the learned trial judge directed the jury to the effect that Jake's defence was that he was mistakenly identified as an attacker. He went on to say that, accordingly, he had a burden to prove that he did not participate in the attack because he had

admitted to being in the vicinity of the attack. Except for these specific directions, the learned trial judge gave no special direction on the issue of disputed identification.

Jake was convicted and wishes to appeal his conviction.

Advise Jake, giving reasons, on the:

- (i) trial judge's rulings in relation to the *voir dire*; and
 - (ii) adequacy of the judge's directions on the issue of the disputed identification.
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QUESTION 3

You are a prosecutor in the Office of the Director of Public Prosecutions. You have conduct of a case involving a charge of rape against a taxi driver, John, who operated taxi services from a base in an area near to the university in your jurisdiction. The trial is pending. The complainant is Jane, who had left her rural community to study and board at the university in the capital.

You note on the file that the complainant's statement is to the effect that she had received John's cellular phone number from another student, and had called him on the night in question to take her to the supermarket. She did not know him before the incident. On boarding the taxi, she said she sat in the front passenger seat and took his business card from a compartment of the dashboard on the front passenger side of the vehicle.

John drove past the supermarket, and then immediately locked all the car doors. She added that when she protested, he pulled a knife from the driver's car door and used it to threaten to kill her if she did not have sexual intercourse with him. She said he drove unto a nearby construction site, where he proceeded to rape her. After the rape, he threatened her not to report the matter to the police because he knew where he could find her. He abandoned her there.

The complainant went on to say that she reported the matter to the police and handed over the business card of the driver, which stated his full name, cellular phone number and the location of his base. She said she later identified the accused on an identification parade and there is also a statement confirming this from the police officer who conducted it.

You telephoned the complainant and she said she was reluctant to give evidence because she had since graduated and was no longer interested in pursuing the prosecution.

You also note on the file, a statement of the investigating officer, who said that he used the card to locate John at his base and arrested and charged him for the offence of rape. When cautioned, John initially said that he did not work that night. However, confronted with his business card, he then admitted that he did pick up the complainant that night, but that she flirted with him. He drove to a construction site where they had consensual sexual intercourse, after which he took her to and left her at the supermarket.

You also notice on the file a record of John's previous conviction for rape. Your enquiries reveal that the complainant in that case was his ex-girlfriend.

Answer the following questions, giving reasons:

- (i) What option(s), if any, are open to the prosecution if the complainant begins to give evidence at trial, but intentionally and materially deviates from her statement to the police?
- (ii) Can the prosecution adduce evidence of John's previous conviction for rape at his upcoming trial?
- (iii) Should the learned trial judge give any special directions (whether to a jury or to himself in a judge alone trial) in relation to the difference in John's pre-trial statements to the police?
- (iv) Should the learned trial judge give any special directions (whether to a jury or to himself in a judge alone trial) in relation to the evidence of Jane in her capacity as a complainant in a sexual offence case?

END OF PAPER