

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS 2023

EVIDENCE AND FORENSIC MEDICINE

(TUESDAY, AUGUST 08, 2023)

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.**
- (a) 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.**
- (d) It is unnecessary to transcribe the questions you attempt.
- (e) 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

You are a part of a group of law school students who are holidaying in the cool hills of Spaldings in your jurisdiction. It gets so cold that many houses have fireplaces. You are alerted by a scream, and an alarm is raised by the gardener at the orange farm next door. The law students quickly run next door and are let in by the gardener. They see a body in the pool. The emergency services are immediately called, and the ambulance and police vehicles arrive at the farm within seven minutes.

- (a) Lying face down in the pool was a teenaged female. The autopsy later showed absolutely no water in the lungs.

Explain the processes leading to this phenomenon, and how they could be used to determine the cause of death.

- (b) The body was lying face down but there was evidence of pooling of blood in the skin on her back.

Explain the process leading to the phenomenon of pooling of blood, and account for the position of the body at the time of death, and the time since death occurred.

- (c) There was an entry gunshot wound to the face that demonstrated tattooing.

Explain the characteristics of entry wounds by bullets fired from a gun with a rifled barrel, and account for the range (the distance between the muzzle of the gun and the skin) at which the shot was fired.

- (d) Her Savage X Fenty underwear was seen at her ankles and there were signs of a sexual assault.

List the items of evidence that should be collected at the crime scene, and explain how each can aid in determining the identity of the attacker.

PART B
EVIDENCE

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

QUESTION 2

Jacob and Luke, who are brothers, are charged with the offence of Wounding with Intent. The complainant in the case is David, a friend of both for many years.

The case for the prosecution is that Jacob, Luke and David have been friends since high school. In his statement to the police, David stated that he borrowed \$500,000 from his friends, but was having challenges repaying the loan. The accused men had visited him at his house on several occasions to demand their money. David pleaded with them to give him more time. The last time he saw Jacob and Luke, they threatened him saying, *“Hey bwoy, any how we don’t get wi money tomorrow, we a go deal wid your case, it nah go pretty.”*

David further stated in his statement that, the following day, some minutes to 7:00 p.m., he stopped at a local furniture store, Courtyard, to purchase a 60” LED Smart television for his mother. He caught the store just before closing time, and only a few customers were present in the store. The store is located at the corner of the street that David lives on. As he placed the television in the back of the car and turned around, he saw Jacob and Luke approaching him with their hands behind their backs. The area was well lit. Luke said, *“My yout, we want we money and we want it now.”* David told them that he was still working on getting back the money but needed a few more weeks. Jacob said, *“You don’t have wi money, but you can afford smart tv? You tek we fi idiot or what?”* With that, Luke and Jacob both raised their hands with machetes and chopped David all over his body. Luke and Jacob then ran off, leaving David for dead on the ground.

Moments after, a passerby found David, and rushed him to the hospital, where he had surgery that saved his life. The following evening, David made a report and gave a statement to the police while at the hospital. He gave a description of the men, their full names, and their joint address. Acting on this information, the police went in search of the accused men, but they could not be

found. One week later, during a sting operation at 3:00 a.m., Luke and Jacob were apprehended at their home and taken to the police station.

Corporal Duffus, the investigating officer, who was not a part of the sting operation, gave a statement in which he stated that, upon the arrival of the men at the police station, he immediately confronted Luke and Jacob with the allegations made by David. Jacob said, *“Di bwoy tek we fi punk and never want to give we wi money.”* Corporal Duffus then charged them jointly for Wounding with Intent. The following day, Corporal Duffus returned to the cell area and proceeded to question the two men in furtherance of his investigation. Both men said, *“Him violate, so him pay the price.”*

At trial, as David entered the courtroom and approached the witness box, he saw Luke point a gun finger at him. Fearing for his life, David recanted from his statement while in the witness box, and stated in his evidence that he did not know or see his attackers. The prosecution applied for and was granted leave to treat David as a hostile witness, and he was cross-examined by the prosecution. David denied telling the police in his statement that he knew his attackers. The prosecution tendered into evidence the portion of David’s statement in which he described the accused men as his attackers.

Corporal Duffus also gave evidence consistent with his statement. The defence objected to the admission of the alleged statements made by the accused men, however, the trial judge overruled the objection and admitted them into evidence. He also stated in his evidence that he recorded the statement of the complainant in which the complainant identified the accused men as his attackers.

At the end of the prosecution’s case, both Luke and Jacob gave evidence in their own defence. They both denied any involvement in the offence and the words allegedly said to Corporal Duffus at the station. They both stated in their evidence that they were at home watching television with their cousin at the time of the incident. Each accused stated that he had no previous conviction. They each called a character witness.

In his summation, the trial judge stated the following:

“The accused men have raised the defence of alibi, but they called no evidence to support this defence, so you must disregard it.

Additionally, the accused men each have called character witnesses to give evidence on their behalf. Their evidence is of no use to you because they have an interest to serve. The evidence of good character, if true, is not a defence in law, so it is of very little value to you in coming to your decision.”

Opine on the following, giving reasons:

- (i) The conduct of the investigating officer in questioning the accused men at the police station and the correctness of the judge’s ruling on the admissibility of the statements allegedly made by the accused men.
- (ii) Assuming that the trial judge ruled the alleged statements made by the accused men as inadmissible, what option, if any, would have been open to the defence counsel at the close of the prosecution’s case?
- (iii) The correctness of the trial judge’s direction to the jury on the defence of alibi, assuming that any requirements for notice of alibi have been complied with.
- (iv) The correctness of the trial judge’s direction to the jury on character evidence.

QUESTION 3

Johnny Slick and Lance Grabba are charged with the offence of kidnapping. The complainant in the case is Maria, the ex-girlfriend of Johnny Slick. Johnny, Lance and Maria are final year students at the University of the Caribbean in your jurisdiction, and are study partners.

The complainant gave a statement to the police in which she stated that she and Johnny had been in a relationship for approximately eight months. They both lived on Hibiscus Hall, a hall of residence, on campus. During their relationship, she observed that Johnny had anger management issues, but she overlooked these incidents involving fellow students and strangers. She stated that, in January 2022, she ended the relationship with Johnny, because he attempted

to hit her in the face when she had accidentally knocked over and broke his most coveted football trophy. Maria stated Johnny tried to apologize and begged her to come back to him, but she refused on the basis that she would not tolerate his violence.

One afternoon, in April 2022, while walking on the corridor of the hall, Johnny approached the complainant, demanding that she take him back. When she refused, he exclaimed *"If I can't have you no one else will. You'll see."* Maria further stated that later that night about 8:00 p.m., while coming from the hall cafeteria, Johnny appeared at the top of the stairs of Hibiscus Hall. The stairway was well lit. Johnny shouted to Lance who was walking behind Maria, *"Grab her!"* Lance held on to Maria while Johnny pulled a pillowcase over her head. They carried Maria into Johnny's room on hall, where they gagged and tied her up. Lance then left them in the room. Maria was held hostage for three days without food, while Johnny constantly made his demands. Maria also stated that on the third day, while Johnny went to the rest room, she found the strength to loosen the ties and escaped. She made a report and gave a statement to the campus police.

The police launched an investigation, and shortly after, arrested Johnny and Lance who were found hiding in a storeroom, near the hall of residence.

In his statement, the investigating officer, Sergeant Fly, stated that he arrested the accused men and recorded their statements under caution. He, thereafter, jointly charged Johnny and Lance for the offence of Kidnapping. When cautioned, Johnny and Lance remained silent. Sergeant Fly also stated that a week after the complainant had given her statement, she was killed by a drunken motorist, while standing at the bus stop close to campus.

In Johnny's alleged statement under caution, he stated that he loved her and just wanted her to come back to him. He didn't want to hurt her, but only wished to show her how much he needed her, and that is why he kidnapped her.

In Lance's statement under caution, he stated that Johnny was always a bully and he, Lance, was intimidated by him. On the night in question, he was approached by Johnny to help him kidnap Maria. When he refused, Johnny became aggressive and angry, and threatened him by holding a

knife to his throat, saying *“If you know what is good for you, meet me on the stairs around 8:00 p.m. tonight.”* In fear for his life, he, Lance, agreed. It was Johnny who told him to grab Maria as she came up the stairs and they took her to his room on hall. Johnny threatened him not to tell anyone.

At trial, the prosecution also sought to rely on the statement of the complainant whose death was proved. Her statement was admitted into evidence.

The prosecution also sought to rely on the statements under caution of the accused men. There was a *voir dire* in the absence of the jury in relation to the admissibility of Johnny’s statement under caution. Johnny, in his evidence on the *voir dire*, stated that the alleged statement under caution was prepared by the police in his absence, and he was beaten and forced to sign it. The judge rejected Johnny’s evidence and admitted his statement under caution. Lance did not object to the admission of his own statement under caution, and so it was also admitted into evidence before the jury.

During cross-examination, the defence counsel for Johnny then continued to assert that Johnny had been beaten and forced to sign a previously prepared statement.

At the close of the prosecution’s case, Lance gave evidence in his defence consistent with his statement under caution. Johnny also gave evidence in his defence. He had continued to assert in evidence that he was beaten to sign a previously prepared statement. He also denied any kidnapping by him, and asserted that the complainant, the investigating officer and his co-accused, Lance, fabricated the allegations against him.

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

“Members of the jury, you have heard Johnny’s assertion that his statement under caution to the police was previously prepared and he was forced to sign. I conducted a hearing in your absence, in which I concluded that the statement under caution of Johnny was voluntarily given and was admissible. Therefore, the only matter for you to determine is whether you believe his statement under caution to be true or not.”

Opine on the following, giving reasons:

- (i) The evidential value of the complainant's statement which was tendered into evidence by the prosecution under the relevant legislation in your jurisdiction and what special directions should the trial judge give to the jury.
- (ii) The judge's direction to the jury in relation to his ruling on the *voir dire*.
- (iii) The evidential value of Lance's statement under caution and what, if any, special direction the trial judge should give to the jury.
- (iv) The evidential value of Johnny's statement under caution and the correctness of the trial judge's directions to the jury on this point.

END OF PAPER