

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

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, AUGUST 2021**

LAW OF EVIDENCE AND FORENSIC MEDICINE

THURSDAY, AUGUST 12, 2021

Instructions to Students

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, not their names, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not to be used.
- (g) Where word limits have been given, the actual word counts must be included at the end of your answer. Students who have exceeded the word limits will be penalised.
- (h) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (i) In answering any Part, 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.**
- (j) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (k) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in

ELECTRONIC format via the **Year I AUGUST 2021 EXAMINATIONS, LAW OF EVIDENCE AND FORENSIC MEDICINE DROP BOX on TWEN** by **August 13, 2021** **NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (l) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:
- Go to ***www.lawschool.westlaw.com***.
 - Log in using your username and password credentials and select the **TWEN** button.
 - Click on the link for **“Assignments and Quizzes”** located on the left-hand side of the navigation screen.
 - Select the relevant examination and the examination drop box as follows:
 - Year I students with Examination ID numbers between 1100 -1192 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I - 1100-1192”**.
 - Year I students with Examination ID numbers between 1193 -1283 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box B Year I - 1193-1283”**.
 - Year I students with Examination ID numbers between 1284 -1376 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box C Year I - 1284-1376”**.

PART A

While on a group retreat to the West End in Negril, a group of Norman Manley Forensic Medicine students were suddenly distracted from their breakfast by an alarm raised at the neighbouring villa.

The alarm was raised by the male guest who had rented the villa next door, a renowned businessman and family man. He said he returned from an all night party to discover his girlfriend dead in the villa. He also stated that the water-sports instructor was discovered dead in the villa as well. The businessman was convinced that the water-sports instructor raped the young lady and then killed himself after she died.

While one student called the police, the others went to look at the scene.

The water-sports instructor was seen lying on the floor in his swim trunks only, and had

a very muscular built. He had a gunshot wound to the anterior abdomen, just lateral of the navel (umbilicus) on the right side. This wound had a fully circumferential margin of abrasion and no other markings. There was another gunshot wound to the back, also with a circumferential margin of abrasion. He had a 9 mm Taurus pistol resting in his palm.

Explain the processes that produced these findings and discuss the likelihood of this being suicide.

The female was of light complexion and was noted to be laying on her back. Her face, anterior chest and anterior thighs were noted to have a bluish purple colour which changed when force was applied. There was also a ligature mark on the anterior aspect of the neck below the level of the thyroid cartilage, as well as petechial haemorrhages to both sclera.

Explain the processes that produce these findings and account for the likely cause of death as well as what transpired after she died.

An X-Ray that was performed at post mortem showed a bullet in the abdomen of the female victim, but no gunshot wounds were seen on the surface of the body.

Postulate a possible cause for this finding.

The body of the female was noted to be warm and stiff while that of the male was warm and flaccid.

Explain the findings and determine an approximate time(s) of death.

PART B

(This part must be commenced on a new page and titled Part B)

ANSWER BOTH PARTS (a) and (b)

(a) Romana, an Inspector of Police, was tried and convicted for wounding with intent arising from her attempt to arrest a motorist, Peter. The prosecution's case was that Romana was at a check point with Andrew, a constable, whom she had been training. Romana had stopped the car Peter had been driving and had sought to arrest him and seize his car because his driver's license had expired. At the time Romana was armed with her licensed firearm and a taser (which had been introduced in your jurisdiction to minimize police shootings).

Andrew gave evidence for the prosecution. Andrew gave evidence that Romana stopped Peter's car and Peter produced his driver's license to Romana. Romana, while Peter was seated in the stationary car, told Peter that he was under arrest and that the car would be seized. Peter then attempted to start the car when

Romana, in order to prevent Peter from doing so, shot him. An ambulance summoned by Romana, immediately took Peter to the hospital where he underwent an emergency surgery which saved his life.

The investigating officer in the case, Superintendent Scarlett, also gave evidence for the prosecution. He said that in the wake of protests against police shootings in the jurisdiction, the police high command had made a decision to handle such incidents urgently. He said he took a statement the same day from Andrew. He then arrested Romana and charged Romana for wounding with intent. She remained silent and declined the opportunity to consult counsel.

Another police officer, Assistant Commissioner Rhule, who was senior to Superintendent Scarlett, gave evidence for the prosecution. He said that he was assigned to oversee the investigation, but was only able to become involved after Romana had already been arrested and charged.

Assistant Commissioner Rhule gave evidence that he sought to question Romana in good faith. He informed her it would be in her best interest to reconsider her decision to remain silent as if she were to give an account it would increase her likelihood of getting bail. He said he then questioned Romana under caution. He said that he asked her what happened and recorded her answer. She said, "I intended to use my taser but I instead accidentally pulled my firearm. I thought I was tasing him but I shot him by accident".

At the trial, Romana's counsel challenged the admissibility of Romana's statement under caution in a *voir dire*. However, the trial judge, in the absence of the jury, in ruling Romana's statement under caution admissible, said, "*I admit this statement into evidence on the basis that the prosecution has proved it was given voluntarily by the accused.*"

At the trial, Romana gave evidence in her defence. She gave evidence that after telling Peter that he was under arrest and that his car was being seized, Peter became enraged shouting, "*Bad man forward, bad man pull up!*". He then reached to his waist suddenly as if to pull a weapon and that was when she shot him in self defence.

In his summing up to the jury, the trial judge said:

"There is no need to consider the defence of accident in this case. This is so because the accused at trial today has relied on the defence of self defence which is inconsistent with her assertion in her statement under caution that she acted accidentally."

Giving reasons, advise on:

- (i) the trial judge's ruling on the admissibility of Romana's statement under caution; and
 - (ii) the judge's summing up on the issue of accident (assuming that there was no basis to challenge Romana's statement under caution).
- (b)** On the facts mentioned at (a) above Peter sued Romana and the Attorney General's Department in the High Court/Supreme Court for damages arising from the shooting.

Attached to the claimant's statement of claim/particulars of claim in the civil proceedings is a medical report from a medical doctor detailing the injuries suffered by Peter. In response to the alleged injuries the defendants pleaded a non-admission.

Advise, giving reasons, as to:

- (i) the standard of proof to be borne by the claimant in a civil proceeding where a crime is alleged; and
- (ii) the propriety of the defendants pleading a non-admission to the alleged injuries of the claimant and whether this impacts the requirement for the claimant to apply to the court for permission to rely on the medical report.

Note:

Your answer to (a) and (b) should not exceed **4,500 WORDS**.

END OF PAPER