

COUNCIL OF LEGAL EDUCATION NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

FIRST YEAR SUPPLEMENTARY EXAMINATIONS, OCTOBER 2020

LAW OF EVIDENCE AND FORENSIC MEDICINE

WEDNESDAY, OCTOBER 7, 2020

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 required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) 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.**
- (i) 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.
- (j) 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 OCTOBER 2020 EXAMINATIONS, LAW OF EVIDENCE AND FORENSIC EVIDENCE DROP BOX on TWEN** by **Thursday, October 8, 2020, NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (k) 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 -1176 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year I - 1100-1176***”.
 - Year I students with Examination ID numbers between 1177 -1252 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year I - 1177-1252***”.
 - Year I students with Examination ID numbers between 1253 -1326 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year I - 1253-1326***”.

Answer both Part A and B

PART A

FORENSIC MEDICINE

You are a part of a group of Norman Manley Law School Students who are holidaying at a beachside villa in Runaway Bay, St Ann. You are alerted by an alarm at 5:00 a.m., and it is noticed that the beachside villa next door is on fire. The Fire Department quickly respond and the flames are quickly extinguished. The deceased body of a female in her 20's is found in a room, but it is not burned.

- (a) Tightly gripped in her left hand are seaweed and sand.

Explain the process leading to this phenomenon and how it could be used to determine the cause of death, location of death and time 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 duration since death has occurred.

(c) There was an entry gunshot wound to the face, but no exit wounds were seen.

X-rays of the body showed no bullets present.

Explain the characteristics of entry wounds by bullets fired from a gun with a rifled barrel and account for the possible reason why there is a single wound and no bullet is found.

(d) The autopsy showed that there was no water in the lungs.

Explain why it is still possible that drowning could be the cause of death.

Note:

Your answer to this Part should not exceed **1500 WORDS**.

PART B

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

Adrian and Bryan were charged jointly on an indictment for the offence of larceny/theft. Bryan was also charged on the same indictment for the offence of causing grievous bodily harm with intent/causing grievous harm.

The background to the charges is that Adrian and Bryan are friends, who live in an inner-city community called Hopeless Gardens. The community adjoins a popular tourist shopping area in your jurisdiction. The community has a history of a strong police presence and the residents frequently complain of police brutality and discrimination against them.

Three nights before the alleged incident, residents of Hopeless Gardens banded together for peaceful protest against police brutality, in the shopping area. The residents had been protesting peacefully on a nightly basis, under the slogan "Ghetto Lives Matter". Adrian and Bryan had joined the protests.

The charges against Adrian and Bryan came up for trial before a judge and jury and both were separately represented. At the conclusion of the trial in the High/Supreme Court, Adrian and Bryan were convicted of all charges.

The critical evidence for the prosecution was given by four witnesses: Nathan, a security guard, Constables Kneadem and Holdem and the investigating officer, Inspector Truth. Nathan gave evidence that, on the night in question, he was on duty in the shopping plaza in the tourist area. He was unarmed. Sometime after 10 p.m., he saw protestors walking along the main street, and observed about 10 rowdy young men enter the well-lit area of the parking lot of the plaza. He did not know any of them before that night. Sensing imminent danger, he hid in a passage between two shops and called the police.

From his vantage point, about 20 feet away, he observed the men throw rocks at the glass entrance to an in-bond jewellery shop, shattering the glass. He said he could clearly see the men because the shop light was also on. They smashed the showcases and took

several items. The incident lasted about two minutes. At the sound of the police sirens, the men fled the scene.

On the arrival of the police, Nathan made a report to Constable Holdem. Very shortly after, Constable Kneedem arrived in a separate police vehicle. Constable Holdem and Nathan left in search of the men, while Constable Kneedem stayed behind to secure the shop. Nathan stated that, while searching the area, he saw and pointed out to Constable Holdem, one of the looters walking in the direction of Hopeless Gardens. Constable Holdem arrested this man, who later identified himself as Adrian. He saw when Constable Holdem searched Adrian and recovered three Rolex watches from his front pant's pocket.

During the trial, when Nathan sought to identify Adrian as one of the looters that night, Adrian's counsel objected to this on the basis that Nathan ought not to have accompanied the police in search of the men, and, in the circumstances, Adrian was entitled to an identification parade. He submitted that Nathan's pointing out of Adrian to Constable Holdem amounted to confrontation identification, and was therefore improper and inadmissible. The trial judge overruled the objection and allowed the identification in court.

Constable Holdem gave evidence similar to that of Nathan's evidence as to the events after his arrival, up to Adrian's arrest and recovery of the stolen items. He transported Adrian and the items to the police station and handed him over to Inspector Truth.

Constable Kneedem gave evidence that, while driving his vehicle with the head lights turned on, heading to the scene, he saw a man walking briskly away from the plaza, heading in his direction. The man was acting suspiciously. He saw the man's face for about 20 seconds. Upon reaching about 10 feet from the vehicle, the man suddenly turned around and ran through nearby houses. Constable Kneedem nevertheless proceeded to the scene as his assistance was urgently required.

Constable Kneedem sought to identify Adrian in court as the man he had seen walking away from the plaza. Adrian's counsel again objected on the basis that Adrian should have been placed on an identification parade and that the intended identification in court amounted to an inadmissible dock identification. Counsel's objection was overruled by the trial judge, who allowed the dock identification.

Constable Kneedem continued to give evidence and said that while he was guarding the entrance of the shop, a young man, who was apparently hiding in the shop, attempted to flee past him. He tackled the young man to the ground, in an attempt to arrest him. The man reached for a rock on the ground, and struck him on his jaw, which resulted in a fracture. Nevertheless, he was able to handcuff the man and transport him to the police station. While at the station, Constable Kneedem searched the man and found five gold chains in his pant's pocket. The man later identified himself as Bryan. He was handed over to Inspector Truth.

Inspector Truth, in his evidence, said that, after he cautioned Bryan, he (Bryan) said that he was on the scene and tried to deter the protestors, when he was arrested by Constable Kneedem without cause. Bryan added that apparently someone from the crowd threw a rock which hit Constable Kneedem on the jaw.

Inspector Truth then went on to say that, some two hours later, while in custody and after Constable Kneedem had left the station, Bryan volunteered a different account. Upon being cautioned again, Bryan said that he was in the shop, but stated that Constable Kneedem tackled him to the ground at a time when he was not resisting arrest. He said Constable Kneedem held a gun to his head and placed his knee forcibly on his neck. He told Constable Kneedem that he could not breathe, and in self-defence, he reached for a rock that was on the ground nearby and struck Constable Kneedem on the jaw.

Constable Kneedem further stated in evidence that when he cautioned Adrian, he replied by saying that he only entered the shop to stop the looters because it was agreed that the protests should be peaceful.

He subsequently charged both Adrian and Bryan for the offences.

Under cross-examination by Adrian's counsel, Inspector Truth said the reason he did not put Adrian on an identification parade was that Constable Kneedem had spent two weeks in the hospital for treatment of his injury and was not available during that time. Adrian's counsel suggested to him that he was not telling the truth and that what Adrian actually said was that he stayed with the peaceful protestors on the main street and at no time entered the shop. Inspector Truth denied this.

Items recovered from the accused were tendered into evidence.

After the close of the prosecution's case, both accused gave evidence in their defence. In his evidence, Adrian stated that he never entered the shop and he stayed with the protestors on the main street. Bryan's evidence was the same as his second account to Inspector Truth, namely, that he was in the store to deter the looters, and when arrested by Constable Kneedem, he acted in self-defence to get Constable Kneedem off his neck. He denied making the first statement to Inspector Truth that someone among the protestors threw a rock which hit Constable Kneedem in the jaw.

Further, both Adrian and Bryan gave evidence that they had no previous convictions and that the jewellery allegedly found on them was planted by the police.

Aspects of the trial judge's summation to the jury were as follows:

Members of the jury, I am directing you to ignore what Adrian said to Inspector Truth after caution, even if you believe he said it. As you will recall, Inspector Truth said that Adrian said that he only entered the shop to deter looters. However, members of the jury, during this trial, he has denied saying that and his defence is that he did not enter the store. He has therefore invalidated and nullified what Inspector Truth said he told him. Therefore,

ignore that account, even if you believe it. Do not consider it as a possible defence.

She went on to say:

Members of the jury, you heard Inspector Truth give evidence of the different accounts Bryan gave. Both cannot be true and so the prosecution has proved that Bryan lied. You can use that lie to support a conclusion that Bryan is guilty.

Additionally, his defence at trial was that he acted in self-defence. He has raised this defence, but only has an evidential burden as to this defence. He must prove self-defence on a balance of probabilities, and if he does so, you must acquit him.

In relation to the evidence that both Adrian and Bryan had no previous convictions she merely said,

Please bear in mind that the absence of previous convictions is not a defence.

Adrian and Bryan now seek to appeal their convictions.

Advise on the following, giving reasons.

- (i) Was there merit in Adrian's counsel's objection to the identification of Adrian by Nathan, on the one hand, and Constable Kneedem, on the other?
- (ii) Should the trial judge have allowed the jury to consider the defence raised in what Inspector Truth said as to Bryan's pre-trial statement that he entered the store only to deter looters?
- (iii) Should the trial judge have given directions as to Bryan's alleged lie at all? If so, was the direction that the trial judge gave proper? Was her direction as to the absence of previous convictions on the part of Adrian and Bryan proper?
- (iv) Was the trial judge's direction as to Bryan's defence of self-defence a proper direction?

Note:

Your answer in total for Part B should not exceed a word limit of **3500 WORDS**.

END OF PAPER