

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

**LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, MAY 2022**

**LAW OF EVIDENCE AND FORENSIC MEDICINE**

**MONDAY, MAY 16, 2022**

**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 MAY 2022 EXAMINATIONS, LAW OF EVIDENCE AND FORENSIC MEDICINE DROP BOX on TWEN** by **Tuesday, May 17, 2022 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 - 1185** must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I – 1100 - 1185”**.

- Year I students with Examination ID numbers between **1186 - 1271** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box B Year I - 1186 - 1271**”.
- Year I students with Examination ID numbers between **1272 - 1357** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year I - 1272 - 1357**”.

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**PART A**  
**FORENSIC MEDICINE**

During their study break, a group of intrepid law students spent the Easter weekend researching the medical marijuana industry in Jamaica. They visited a world famous growing encampment in Westmoreland. They were hoping to catch a visiting team from Colorado in the USA, but due to scheduling issues, the foreigners left after a farewell party the previous night and a few hours before the law students arrived.

Once settled in, the students decided to tour the facility which took them to a river that flowed through the camp site. Just around the bend a body was seen floating face down in the water. The strongest swimmer in the team immediately jumped in and dragged the body to the shore and placed it on its back.

The body was that of a teenage female of light complexion who was wearing a spaghetti strap blouse and a pair of jeans shorts, that was pulled down with the underwear to the mid thigh. In one of the pockets was a coil of JM\$20,000 and US\$500.

The following observations were made:

1. There was a purplish colouration of the posterior surface of the body. There was no blanching on applying pressure to the area.

**Explain the process involved and discuss how its forensic significance can**

**assist in determining the location of the body after death and the time of death.**

2. There was a horizontal line of patterned abrasions and contusions to the anterior surface of the neck, just below the thyroid cartilage.

**Explain the processes involved and discuss how this and other related features may be used to determine the cause of death.**

3. The body was well groomed and the armpits and genitals were fully shaved. Semen was noted to be oozing from the genitals and a blonde strand of hair as well as a black, curly strand of hair was seen in the underwear. There were abrasions to the medial aspect of the proximal thighs.

**Discuss the type of crime that likely occurred and explain how the use of recent developments in DNA technology could be used to track down the perpetrators.**

4. In the right hand was firmly gripped green leaves of a marijuana plant.

**Discuss this phenomenon and use all the information provided to postulate a likely scenario as to the events leading to the death and the discovery of the body.**

5. The body was cold and stiff.

**Explain the processes involved, that would account for the state of the body, the impact of the location of the body, and determine the probable time of death.**

**Note:**

The word count for Part A should not exceed **1,000 words**.

## **PART B**

### **LAW OF EVIDENCE**

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

#### **THE BACKGROUND**

William and Martin were jointly charged, tried and convicted before a jury for the offence of causing grievous bodily harm with intent. At the time the charge was laid against both of them, they were resident students of Rock Hall, a hall of residence at a prominent university in your jurisdiction. William was the resident Student Hall President. The complainant who was beaten is Christopher, also a resident of the hall.

At the time the charges were laid, William had been in a serious relationship with Jade, also a university student, but resident at another hall. Jade is Martin's sister and Martin had introduced her to William.

The prosecution called Christopher and Augusto as witnesses and adduced evidence of pretrial statements to the police by Sheldon, William and Martin.

#### **CHRISTOPHER'S EVIDENCE FOR THE PROSECUTION**

In his evidence at the trial, Christopher said that he was deejaying at a hall concert which was to be followed by a hall party. Both the concert and the party were to raise funds for the hall. Christopher said that while deejaying, he saw William and Jade seated in the audience together and he decided to 'roast' them, but in a non-offensive manner. He spontaneously deejayed the following lyrics:

*William and Jade bond like cement*

*Guess why our President so non resident?*

*Anybody know where he frequents?*

*Jade, any thoughts any comments?*

Christopher further said that after the concert, he went to his room on hall and began

opening the door. He said that he was put in a neck hold from behind by a much bigger and stronger man who used duct tape to immediately tape his mouth and put a pillowcase to cover his head. He said he was repeatedly punched in his ribs and face and then he almost lost consciousness. He did not see his attackers, but he knew there were at least two because one was holding his hands behind his back, while the other was punching him. He said he just made it out his door when he saw Sheldon, a hall resident, in the passage, who raised an alarm.

During the cross-examination of Christopher, counsel for Martin attempted to show Christopher the medical report which documented broken ribs, but no injury to the face. The trial judge asked Martin's counsel if the document was made by Christopher. Martin's counsel replied, "No". The trial judge then ruled:

*Counsel, the document you wish to show this witness is hearsay in so far as this witness is concerned, as he is not the maker of this document. You can neither show him nor attempt to cross-examine him on it in anyway.*

### **AUGUSTO'S EVIDENCE FOR THE PROSECUTION**

Another witness who gave evidence for the prosecution was Augusto. Augusto had run against William for Hall President but lost. He intended to run against William again in the next election. He had also dated Jade before William, but Jade had broken up with him to date William.

Augusto gave evidence that he was in the audience for the concert in question and was seated right next to Jade, as they were still friends. He said that when Christopher 'roasted' William and Jade, Jade was visibly upset. He heard William said to Jade, "*No worries babes, tonight I'll teach him a lesson. I will sort him out good and proper*".

William's counsel cross-examined Augusto on an inconsistency between his evidence at trial and his statement to the police. When confronted with his statement to the police, Augusto admitted that he had said in his statement that William said to Jade, "*No worries babes, I will sort it out tonight*". When pressed further in cross-examination, Augusto admitted that what he had said in his statement to the police was the truth.

## **THE STATEMENT OF SHELDON ADMITTED INTO EVIDENCE WHEN TENDERED BY THE PROSECUTION**

Sheldon, nicknamed 'Bookworm', a hall resident and final year student, gave a statement to the police. Sheldon had decided to stay on hall to study instead of going to the hall party after the concert.

In his statement to the police Sheldon said that, shortly after the concert, he was in the passage on hall walking to his room and that on approaching Christopher's room, he saw Christopher's room door open. He then saw William and Martin, who he knew before, leave the room and close the door behind them. He spoke to both of them and enquired why they were not at the hall party. William replied he was checking the hall to encourage anyone not at the party to attend to help raise funds for the hall. William and Martin then hurriedly walked off together in the same direction. He said he later checked in on Christopher, found him unconscious and alerted the hall warden.

By the time the trial commenced, Sheldon had migrated, and had just commenced work at a high-paying job overseas and could not return to the jurisdiction. On proof of this, the prosecution, successfully applied for his statement to the police to be admitted into evidence in his absence. The application by the prosecution was granted under the relevant evidence legislation of your jurisdiction.

## **EVIDENCE OF THE INVESTIGATING OFFICER**

The investigating officer also gave evidence as to pretrial statements under caution that both William and Martin had given, upon their arrest. The pretrial statements of William and Martin, according to the investigating officer were given voluntarily and in accordance with the Judges' rules and this was not challenged by either defence counsel. Both the pretrial statements of William and Martin were admitted into evidence on the prosecution's case.

## **THE PRETRIAL STATEMENTS UNDER CAUTION OF WILLIAM AND MARTIN**

In his pretrial statement under caution to the police, William said that after the concert, he went on hall to see Christopher, who invited him, William, into his room. William said his

only purpose of going there was for both of them to speak about the 'roasting', and to ask Christopher to refrain from making offensive comments about his girlfriend. He said they were seated face to face, with Christopher's back to the door, as they spoke.

Suddenly, Martin unexpectedly burst into the room, put Christopher in a neck hold from behind, duct-taped his mouth and placed a pillowcase over Christopher's head. Martin then punched Christopher all over his body until, he, William, restricted him. He said he saw when Christopher collapsed to the floor, at which point, he pushed Martin out of the room, and they left together.

In his pretrial statement under caution to the police, Martin said he was not in Christopher's room at anytime that night. He said that at the time of any attack in the room, he was in his own room on hall with his girlfriend.

After the investigating officer gave evidence, the prosecution then closed its case.

### **WILLIAM'S ELECTION AT THE CLOSE OF PROSECUTION'S CASE**

William elected to remain silent and declined to call any witnesses.

### **MARTIN'S ELECTION AT THE CLOSE OF THE PROSECUTION'S CASE**

Martin, on the other hand, elected to give sworn evidence in his defence. In his evidence, Martin repeated what he had said in his pretrial statement under caution to the police, namely, that he was with his girlfriend in his room on hall and was not in Christopher's room at any time that night. In his evidence, Martin gave details he had not given in his pretrial statement to the police. He said that his sister Jade, telephoned him and told him about the 'roasting' at the concert and she told him that William went to Christopher's room to speak to him. He further said he went up to Christopher's room and called out for William from outside the door. William then opened the door just enough to exit the room and so he, Martin, did not see inside or enter the room. They then left together and saw and spoke to Sheldon while leaving.

### **THE TRIAL JUDGE'S SUMMING-UP**

In his summing-up to the jury, the trial judge gave directions as to the inconsistency



between Augusto's evidence and his statement to the police. The trial judge said the following:

*Members of the jury, you heard the witness Augusto admit that in his statement to the police William had said to Jade words to the effect that "No worries babes, I will sort it out tonight", a reference to the 'roasting'. This inconsistency is a matter for you to assess in your deliberations.*

In relation to Sheldon's statement to the police, the trial judge directed the jury as follows:

*Members of the jury, Sheldon's statement is evidence and whether you rely on it is a matter for you.*

In relation to William's pretrial statement to the police, the trial judge said the following:

*William declined to give evidence before you today, members of the jury. That indeed is his right. Counsel sought in his closing address to rely on William's pretrial statement under caution to the police. Again, members of the jury what he said to the police is something you can rely on, but it has less weight than sworn evidence. It is a matter for you. You must reject all or accept all.*

In relation to Martin's pretrial statement to the police and his evidence at trial, the trial judge said the following:

*Finally, members of the jury we come to Martin's pretrial statement to the police and his evidence at trial. Martin had the right to remain silent and not give the police any statement. However, Martin chose to do so and should have given full details of what he did that night. Instead for the first time, when giving evidence here, he gives details of being in the immediate vicinity of the attack on Christopher, but denying he was involved. Isn't it so very curious that he never gave those details to the police when he gave his pretrial statement? He should have done so.*

*Also, Martin has raised the defence of alibi therefore, he must prove this to you so that you are of the view that he is likely to be telling the truth, and if so, you must acquit him.*

The special directions mentioned above were the full extent of special directions in relation to Augusto's previous inconsistent statement, and the pretrial statements of Sheldon, William and Martin and Martin's evidence.

### **ANSWER ALL FOUR QUESTIONS**

You are counsel in the Director of Public Prosecution's Department in your jurisdiction. Both William and Martin have appealed their convictions and the appeals are pending. Your senior has asked you to review the transcript and prepare an opinion on the following matters:

- (1) (a) Whether the trial judge's ruling disallowing cross-examination of Christopher on the medical report was correct; and  
(b) whether the trial judge's direction on Augusto's previous inconsistent statement was adequate.
- (2) (a) Whether the trial judge ought to have given special directions in relation to Augusto's evidence; and  
(b) whether the special direction given by the trial judge in relation to Sheldon's statement was adequate.
- (3) Whether the trial judge's direction on the evidential value of William's pretrial statement to the police was adequate
- (4) (a) Whether the trial judge's special directions as to Martin's pretrial statement to the police and his evidence at trial were adequate.  
(b) whether the judge's direction on the defence of alibi was correct.

#### **Note:**

The word count for Part B should not exceed **3,500 words**.

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**END OF PAPER**