

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

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

**EVIDENCE AND FORENSIC MEDICINE**

**THURSDAY, AUGUST 18, 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 a 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 2022 EXAMINATIONS, EVIDENCE AND FORENSIC MEDICINE DROP BOX on TWEN** by **FRIDAY, AUGUST 19, 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**

During the Christmas holidays, a group of intrepid students went camping in the Blue Mountain range. The location had a series of log cabins of various sizes spread over a 5-acre property. The group jumped out of their sleep when the fire alarm was raised and they helped to put out the fire in a cabin at the far edge of the property.

Inside the partially burnt 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. On the floor near to the body, were a female handbag, a pair of Gucci slippers, size 7, and a wig made of Brazilian natural hair.

The caretaker said he noticed an older gentleman arguing with a young lady, near to the cabin, before they sped away down the hill, a few minutes before the fire was seen. The caretaker said the older gentleman and the young lady both had American accents.

The following observations were made:

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

**Explain the process involved and discuss how its 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 connected from the scene, as well as recent technology can be used to track down the female.**

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

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

5. The body was warm and stiff.

**Explain the possible processes involved, 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)**

Stephen and Don were jointly charged for the rape of the complainant, Mary, a woman resident in their community. They were also jointly charged for burglary and larceny from her premises.

### **THE BACKGROUND**

At the time he was charged, Stephen had just recently finished a locksmith apprenticeship and had opened a small locksmith business in a room in his home in the community. Don

was a reputed gangster in the community and the much bigger man of the two. He had a tattoo with the words, 'I Don' overlaid with the image of a human skull on his arm. Mary was an activist for greater police presence in the community because of the prevalence of gangs. She had been warned by the police that she may be targeted as a result.

### **MARY'S STATEMENT TO THE POLICE**

Mary gave a statement to the police that, on the night in question, she woke up to see two masked men in her room, one much taller and bigger in stature than the other. The bigger man forcibly placed his hand over her mouth and threatened to kill her if she screamed. He then raped her.

Mary further said that during the rape, the room was partially lit by a nearby streetlight. She said that during the rape, she saw a tattoo on the rapist's arm with the word 'I Don', overlaid with the image of a human skull which she recognised to be on Don's arm. She also saw the smaller man at the door to the room, apparently keeping watch if anyone were to approach the residence.

After the rape, Mary said the bigger man forced her into her closet and she could hear someone rummaging through her chest of drawers. She said she heard the men leave through the back door, after the bigger man again threatened to kill her if she screamed or went to the police.

She said that within minutes, she rushed to her neighbours, an elderly retired couple, and told them "*what happened*". They encouraged her to report it to the police, and she did so that night. She also gave her statement that night. The police visited the residence later that night, and while they were there, she discovered her gold chain with her zodiac sign and her gold watch were missing from her chest of drawers and reported that to the police. She subsequently identified the recovered items at the police station as the items that had been stolen from her premises on the night of the incident.

### **SERGEANT DILIGENT'S STATEMENT**

The investigating officer, Sergeant Diligent, also gave a statement. He said that on inspecting the residence, he saw no signs that the back door had been pried open. Based

on information received, he then visited Stephen at his workshop to question him. He said that on visiting the workshop, Stephen immediately volunteered to give a statement, so he took Stephen to the police station for that purpose.

At the station, Stephen gave a written statement under caution to his (Diligent's) superior, Inspector Rhule, in the presence of a Justice of the Peace. In it, Stephen said that Don had threatened to kill him and his girlfriend unless he, Stephen, accompanied him to help him break into an 'informer's' home. Stephen said that was the only the reason he accompanied Don to a house in the area that night. At the house, they entered through the back door with the use of his tools. He further said that Don committed the rape and appeared to have stolen things from her chest of drawers. They then made their escape together.

Sergeant Diligent also said that the same day, he obtained a warrant for the arrest of Don and a search warrant for his house. He said he searched the house and found a gold chain and watch matching the description of items Mary said had been stolen. Don, who was present at the time of the search, volunteered to give a statement.

Sergeant Diligent said that he escorted Don to the station where Inspector Rhule took a written statement under caution from Don in the presence of a Justice of the Peace. Don's statement under caution, was a full confession by Don that he committed the burglary, larceny and the rape.

### **INSPECTOR RHULE'S STATEMENT**

Inspector Rhule also gave a statement. In it, he said that the statements he took from Stephen and Don were given voluntarily, in the absence of oppression and after they were informed of their rights to consult counsel and both declined counsel.

### **EVENTS PRIOR TO TRIAL**

The case was mentioned in court for the purpose of setting a trial date. On that date, the prosecutor offered no evidence against Stephen in relation to all charges to enable him to give evidence for the prosecution. A witness statement was recorded from him in the presence of his counsel, which was to the same effect as his statement under caution.

The case against Don later came up for trial before a jury. At that time, Don pleaded guilty to the offence of burglary and larceny but not guilty to rape. Don was tried and convicted for rape.

### **PROSECUTION'S EVIDENCE AT THE TRIAL**

Mary, Stephen, Sergeant Diligent and Inspector Rhule gave evidence for the prosecution along the lines of their statements.

When Mary gave evidence, the judge allowed her to say that she told her neighbours "*what happened*", despite objection by Don's counsel to this aspect of her evidence and despite the fact that neither of the elderly couple gave a statement to the police nor gave evidence at the trial. At court, Mary also identified the jewellery recovered from Don's house as hers.

When Sergeant Diligent gave evidence, Don's counsel also put to Sergeant Diligent that at no time did Don offer to give a statement under caution.

When Inspector Rhule was giving evidence, Don's counsel asked for the jury to be excused so that a point of law could be heard in their absence.

In the jury's absence, the trial judge, at the request of Don's counsel, conducted a *voir dire* in the absence of the jury. Inspector Rhule and the Justice of the Peace gave evidence for the prosecution that Don gave his statement voluntarily, in the absence of oppression in accordance with the Judges' Rules and after being advised of his, Don's right to consult counsel.

Don then gave evidence on the *voir dire*. He said the police used live electrical wires to shock him to force him to sign the statement under caution prepared by the police in his absence.

After Don gave evidence on the *voir dire* the trial judge ruled, without giving reasons, that he was satisfied "*on a balance that Don's statement was true and admissible.*" He declined to give reasons despite defence counsel's request for these. The trial judge then admitted it into evidence on the return of the jury.

Don's counsel cross-examined Inspector Rhule in the presence of the jury to suggest that he, Don, was forced to sign a pre-prepared statement because the police used live electric wires to force him to do so.

### **THE DEFENCE'S EVIDENCE AT TRIAL**

After the close of prosecution's case, Don gave evidence in his defence. He admitted to the burglary and larceny but said that the rape charge against him was '*trumped up*'. He said the police had long been waiting to "*set him up on a false charge*" because of his alleged reputation in the community. He said that he and the '*I Don*' tattoo on his arm were well known in the community and that must be how Mary knew of it and falsely asserted that she saw such a tattoo on the rapist that night. He said that he committed the burglary and larceny only to scare Mary away from her '*informer*' ways and he had threatened to "*harm*" her if she continued to do so but again asserted that there was no rape. Finally, he gave evidence that he was forced to sign a pre-prepared confession when the police used live electrical wires to shock him.

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

The trial judge gave no special directions in relation to Mary or Stephen's evidence. In relation to Mary's evidence as to telling the neighbours "*what happened*", the trial judge told the jury:

*Members of the jury, it is for you to make what you wish of this evidence in that it shows conduct consistent with what she said happened to her that fateful night.*

In relation to the *voir dire* the trial judge said:

*Members of the jury, I held a hearing in your absence to determine whether to admit Don's alleged confession into evidence and I concluded that it was admissible. I hasten to say, however, that my conclusion on this was a matter solely for my consideration.*

Later in relation to Don's confession, the trial judge said:

*Now members of the jury, Don has asserted before you, that the police forced him to sign a pre-prepared statement. That issue,*



*however, is not an issue for your consideration. If you find the confession is true, then Don's assertions as to being forced to sign a pre-prepared statement, have no significance.*

**Answer all four questions**

After his conviction, Don seeks your advice as to the merits of an appeal. You are asked, giving reasons, to advise him on the following four issues:

- (1) Whether the trial judge ought to have given separate special directions as to Mary's evidence and Stephen's evidence.
- (2) Whether the trial judge's directions were proper as to Mary's evidence of telling her neighbours "*what happened*".
- (3) Whether the trial judge's rulings on the *voir dire* were proper.
- (4) Whether the trial judge's later directions to the jury in relation to the *voir dire* and how to approach Don's alleged confession were proper.

**Note:**

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

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**END OF PAPER**