

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

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS 2024**

LAW OF EVIDENCE AND FORENSIC MEDICINE

(FRIDAY, MAY 10, 2024)

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.**
- (d) 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.**
- (e) It is unnecessary to transcribe the questions you attempt.
- (f) 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 travelled to Negril for the spring break holidays. The group woke up early to go for a brisk jog on the beach, when they stumbled upon the body of a female, in her late teens, scantily clad in a two-piece Shein swimsuit. When rolled over, she was immediately recognised to be a famous local social media influencer.

- (a) There appeared to be burns to her medial thigh.

Discuss the classification of burns according to depth (degrees).

- (b) She had black and blue marks to her face.

Name this phenomenon, explain how it arises and discuss the forensic significance.

- (c) There was a gunshot wound to anterior chest, with a circumferential margin of abrasion, as well as another gunshot wound to the posterior chest, also with a circumferential margin of abrasion. 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 are two wounds with the same characteristics.

- (d) The autopsy showed that there was semen in her mouth and a confidential informant has told the police that she was last seen leaving the club with a blonde male American college student.

Explain how, based on recent developments in forensic technology, this semen could be used to determine the identity of the suspect from the United States of America.

PART B
EVIDENCE

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

QUESTION 2

Charles, a fisherman from a seaside village in your jurisdiction, was tried and convicted of the murder of Andrew. Andrew, who was also a fisherman, had grown up in the same village as Charles, and they knew each other. Andrew was shot and killed by Charles with a speargun.

The prosecution's case at trial centred on the evidence of Mary, who knew both Charles and Andrew. Mary operated a small seafood restaurant from a stall on the beach where Charles and Andrew would leave to go fishing.

Mary gave evidence of the interaction between Charles and Andrew. She said that Charles, who was the bigger in stature of the two, would frequently tease Andrew about his ex-girlfriend leaving him (Andrew) for Charles. Andrew, being a quiet person, avoided Charles' teasing. As time went by the teasing escalated and became very offensive, and it was about Andrew's girlfriend leaving him for Charles.

On the morning of the killing, Mary said she was in her stall, when she heard Charles shouting expletives at Andrew, and words to the effect that he was a "shrimp" who could not please his ex-girlfriend, and that the only place he belonged was "in a plate of fried rice." Mary said she turned around and saw both men in a face off and, at that time, Charles had his loaded speargun in his hand, but Andrew had nothing. Charles then used the speargun to shoot Andrew in his chest.

Mary said she ran up to where Andrew fell and shouted to Charles, "How could you shoot him, when he did nothing to you and had no weapon?" Charles said nothing, but instead shrugged his shoulders and left the beach.

The investigating officer in the case also gave evidence that when he arrested, charged and cautioned Charles, he (Charles) said, "He attacked me, I had to defend myself."

Charles gave evidence in his defence. He agreed that he taunted Andrew in the way that Mary had described. He said that there was a face off and at that time Andrew had a fishing knife which he always had on him. He said Andrew rushed at him with the knife, and attempted to hold on to his speargun, when he (Charles) shot him in self-defence.

The trial judge directed the jury (or himself in a judge-alone trial) in the terms set out below:

As to the interaction between Mary and Charles after the shooting, the trial judge said:

“The law is that the silence of an accused in the face of an accusation cannot be used against him, and so, this interaction is irrelevant.”

As to the pre-trial statement of Charles on arrest and charge, the trial judge said:

“The accused, after being arrested, charged and cautioned, said the deceased attacked him and he acted in self-defence. This pre-trial statement is wholly self-serving and has no evidential value for the defence. On the contrary, what is striking and incriminating, is that the accused did not mention in that statement that the deceased attacked him with a knife, but now, for the first time, at trial, he says so.”

As to the possibility of the shooting as a result of accident, the trial judge said:

“The accused asserts that there was a struggle between him and the deceased when he, the accused, had a loaded speargun. One cannot exclude the possibility of the speargun going off accidentally in those circumstances. However, the defence of accident does not arise for consideration because the accused only relied on the defence of self-defence.”

As to the defence of self-defence, the trial judge said:

“The accused has asserted self-defence. That being so, the accused has an evidential burden to raise this defence, as he did, but he only need prove that defence on a balance of probabilities, nothing more.”

Elaborate, giving reasons, on the propriety of the judge's directions on:

- (i) the silence of the accused in the face of Mary's accusations;
 - (ii) the pre-trial statement of the accused to the investigating officer;
 - (iii) the issue of the defence of accident; and
 - (iv) the issue of self-defence.
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QUESTION 3

A successful entertainer in your jurisdiction, Robert Steady, has the stage name 'R. Steady'. He faced unwelcome media publicity when it was reported that he had settled a lawsuit brought against him by his ex-girlfriend. The ex-girlfriend had alleged that he had raped her, while they were in a relationship, some seven years ago.

After the media publicity, several ladies made reports and gave statements to the police alleging that R. Steady had raped them also. As a result of the reports, R. Steady was arrested and charged for the rape of each complainant. R. Steady pleaded not guilty to each of the various charges, and the trial of each is pending in the High Court/Supreme Court of your jurisdiction.

You are a junior prosecutor in the Office of the Director of Public Prosecutions in your jurisdiction, and you are assigned to assist a senior prosecutor in trial preparation.

Each complainant in her statement spoke of her initial admiration of R. Steady and that she sought his assistance in pursuing a musical career. Each said she was invited to his home for career discussions and went voluntarily. Each alleged that they passed out after having a drink he offered and only woke up the next morning half-naked. Each alleged that while she was sleeping, R. Steady took compromising photos of them, which he threatened to publish on social media, if any report were to be made to the police.

The investigations by the police into the allegations were lengthy.

On the file you note the following:

- (a) statements of the complainants in which they said that they made reports of the alleged rape to friends or relatives. In some instances, there are statements to the police by these relatives or friends confirming the reports, but none in other cases;
- (b) some complainants cannot be found despite all reasonable steps to find them; and
- (c) a statement by former bodyguard of R. Steady who, on his instructions, bought drugs for him on a regular basis (the effect of which is to render persons sleepy and helpless). He said that R. Steady instructed him to lace the drink of each complainant and he did so.

The bodyguard gave his statement to the police after receiving immunity from prosecution by the Director of Public Prosecutions.

Your senior does not intend to lead 'similar fact evidence' of each complainant in relation to the other and this issue does not arise for your advice.

Advise your senior on the following for the upcoming trial:

- (i) the admissibility and evidential value, if any, of the proposed evidence of the complainants of their reports to relatives or friends where those relatives or friends have given statements and are available to attend;
- (ii) the admissibility of the proposed evidence of the complainants of their reports to relatives or friends where those relatives or friends have not given statements and are unavailable to attend (in those cases the complainants said they spoke to the relatives or friends and told them "what happened");
- (iii) any basis to proceed with only the statements of the complainants who cannot be found, and if so, any special directions that may be required; and
- (iv) any special directions (to the jury or to himself in a judge alone trial) in relation to R. Steady's bodyguard's evidence.

END OF PAPER