

PCLL CONVERSION EXAMINATION JANUARY 2011

Title of Paper : Evidence
Date : 7 January 2011
Time : 2:30 p.m. – 5:30 p.m.

Instructions

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a three-hour examination.
5. This is an open book examination.
6. **NO** reading time is designated for this paper.
7. This paper consists of 2 pages, including five compulsory questions. A total of 50 marks may be awarded. Candidates must answer **ALL** five questions. There is **NO** element of choice.
8. Each question is worth 10 marks.
9. The passing mark for this paper is 25 marks.

**DO NOT OPEN THIS QUESTION BOOK
UNTIL YOU ARE TOLD TO DO SO**

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Evidence

Question 1 (10 marks)

Eye witness identification evidence in criminal trials raises special risks and as a result entails special rules and protections in its use. Discuss this topic with examples and how the courts typically deal with this type of evidence.

Question 2 (10 marks)

Don is charged with the manslaughter of his wife Vera. Don had suspected for some time that Vera had been unfaithful to him and last week he told his friend Fred that he was “going to deal with Vera once and for all.” The prosecution will try and prove that Don and Vera had an argument and during that argument Don fatally stabbed her and that this act was Don’s intention all along. Consider the admissibility into evidence of the statement that Don made to his friend Fred.

Question 3 (10 marks)

Robert is indicted on one count of indecent assault on a girl aged 15. Robert’s wife Sara was interviewed by Inspector Wong under caution and stated that she had witnessed the assault on the girl. A written statement was given by Sara that confirmed what she witnessed and which she signed. Sara was not charged in relation to the offence but she was given a subpoena and agreed to testify for the prosecution in Robert’s trial. It is three weeks before the trial and Sara now refuses to testify. You are a solicitor and are consulted by Sara. Sara informs you of the circumstances of the case and adds that she has been seeing a psychiatrist for the last year. Sara has consulted you because she wishes to know whether she is competent and/or compellable to testify for: (i) Robert; and (ii) the prosecution. Answer the two questions which Sara has asked you.

Question 4 (10 marks)

The prosecution bears the burden to prove all of the elements of an offence according to the rule in *Woolmington v DPP* [1935] AC 462. List and discuss with examples three exceptions to this rule.

Question 5 (10 marks)

If a witness testifying in a criminal trial is unable to recall an event that has occurred but has a prior record relating to it in what circumstances is the witness able to refer to the prior record?

~ End of Examination Paper ~