

PCLL CONVERSION EXAMINATION JUNE 2018

Title of Paper : Evidence
Date : 19 June 2018
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 3 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**

PCLL Conversion Examination June 2018

Evidence

Question 1 (10 marks)

In the past, there have been many instances of miscarriage of justice resulting from mistaken identification. Critically examine the extent to which the decision in *R v Turnbull* [1977] QB 224 has succeeded in reducing the problems associated with identification evidence.

Question 2 (10 marks)

Angel and Beatrice were charged with committing burglary in several flats in a residential block in Wah Fu Estate. Angel chose not to give evidence during the trial. However, when he was cross-examining Candy, a prosecution witness, Angel's counsel put to Candy that Candy had made up her evidence against Angel because Angel had previously had an argument with Candy and Candy was still angry with Angel.

Beatrice gave evidence in her own defence and claimed that she was in Sham Shui Po at the time the offences were committed. During cross-examination, when the prosecutor said to Beatrice that she was lying, Beatrice started crying hysterically and shouted, "Your assertion is absolutely false because there isn't anyone in this room more honest than me. I am a true believer of Jesus Christ and I have never told a single lie."

Angel has a previous conviction for theft and Beatrice has one previous conviction for assault occasioning actual bodily harm.

Discuss the evidential issues that arise.

Question 3 (10 marks)

Critically examine the justifications for legal professional privilege and evaluate whether they are convincing.

Question 4 (10 marks)

Alison is being prosecuted at the Eastern Magistracy on one count of common assault. The prosecution case is that Alison had a verbal argument with Bonnie in the clubhouse of their residential building and that during the argument, Alison punched Bonnie. Alison has pleaded not guilty because she contends that Bonnie slipped and fell when she got too excited during their verbal argument and that all of Bonnie's injuries were caused by the fall.

- (a) During the trial, Alison calls her husband David to give evidence. David observed the incident and gave a statement to the police a week after the incident.

- (i) Before he goes into court, David asks you that he wants to refresh his memory about the incident by referring to his witness statement. Is he allowed to do so? Give reasons for your answer.
 - (ii) Assume that David makes the request to refresh his memory by referring to his witness statement not before going into court but whilst giving his evidence in the witness box during the trial. Would your answer be different? Give reasons for your answer.
- (b) After David's evidence, Alison calls Eason, her friend who also witnessed the incident. Although Eason answers a few preliminary questions without any issue, upon further questioning by Alison's counsel, Eason begins to show animosity against Alison and at one point refuses to give any more responses to even non-leading questions by Alison's counsel.
- (i) What application should Alison's lawyer consider making to the magistrate?
 - (ii) What are the possible options available to the magistrate after Alison's counsel makes the application in question (b)(i)? and
 - (iii) What will be the consequences if the magistrate grants the application?

Question 5 (10 marks)

Alvin, a chemist, has been charged with the murder of his wife Betty. Betty was found dead in her apartment having died after drinking a cup of tea that was laced with cyanide (a poison). Although the prosecution have no direct evidence that Alvin administered the cyanide, they want to adduce evidence that five years before Alvin married Betty, his former wife Cindy also died under similar circumstances after drinking a cup of tea laced with cyanide.

- (a) Generally, evidence of a person's previous convictions or bad character is inadmissible but there can be circumstances when the courts will not exclude it. Explain the basis for the restricted admissibility of such evidence in most instances and also the rationale for the admissibility of evidence of bad character as similar fact evidence.
- (b) Advise Alvin whether the evidence of Cindy's death would be admissible as similar fact evidence.

~ End of Examination Paper ~