



THE HONOURABLE SOCIETY OF KING'S INNS

ENTRANCE EXAMINATION

AUGUST 2019

Examination: LAW OF EVIDENCE

Date: Friday 16 August 2019

Time: 10.00 a.m. - 1. p.m.

Internal Examiner: Ms Ruth Cannon BL

External Examiner: Mr Patrick Marrinan SC

INSTRUCTIONS:

Candidates MUST attempt Question 1 and any other TWO questions.

Question 1 carries 50 marks. All other questions carry 25 marks each.

This paper is 4 pages long including the cover sheet. You should check that

you have all the pages and inform the invigilator immediately if any are missing.

QUESTION 1

Maria, a 19 year old student, leaves her college library at 10 p.m. after staying late to study for an exam the next day. She is wearing a blue dress with an orange belt. Maria does not return home, and the next day her fully-clothed body is found near a lake on the college campus. She has been strangled but not sexually assaulted.

Maria's former boyfriend, Quincy, is charged with her murder. The evidence against Quincy is as follows:-

- (i) The evidence of a fellow student, Geoffrey, that, when passing by the college in his car at about 10.15 p.m. on the evening of the murder, he saw Maria leave through the front gates of the college and cross the street to a nearby restaurant, "Don's Diner."
- (ii) The evidence of Merle, an employee of "Don's Diner", that she served a girl in a blue dress in the diner between 10 p.m. and midnight that same evening. According to Merle, the girl was accompanied by a man approximately 6 foot tall, with dark hair. Quincy is 6 foot 1 inches tall, and his hair is auburn, but can appear dark in some lights. However, Merle fails to pick Quincy out in an informal identification parade. No formal identification parade is subsequently held.
- (iii) Maria's diary, kept in her college locker in the library building, which details her difficult relationship with Quincy and records several incidents in which he was verbally and physically abusive to her. The last entry in the diary, made the day she died, records her decision to break up with Quincy and start dating another man.
- (iv) A statement made by Quincy to the head of the college, Dr Holmes, in which he stated, without giving details: "I am the person responsible for her death. I bear the sole guilt in this matter." Quincy now asserts that this statement was made immediately after hearing of Maria's death, at a time when he was in a state of shock. He also says that the statement is being misinterpreted as its meaning was simply that he should have looked after Maria better, collecting her from the college library rather than allowing her to walk home alone. Quincy asserts that he and his best friend Stanford were in the computer room of their fraternity house from 9 p.m. on the

evening of the murder to 9 a.m. the following morning, completing continuous assessment projects.

- (v) A written statement, made by Stanford to police some days after the murder, confirming Quincy's account as to how he and Stanford spent the night of the murder. Unfortunately Stanford, who was hit by a taxi cab during a visit to New York some weeks afterwards, is now deceased. There were no other students present in the fraternity house on the night of the murder.

You are assisting Quincy's defence team. Advise them as to whether or not **each** of the items of evidence at (i)-(v) above are admissible in evidence against him at his trial and, if admissible, such directions or warnings, if any, as would need to be given by the trial judge to the jury in relation to same.

[50 marks]

QUESTION 2

Critically discuss the extent to which evidence obtained in breach of constitutional rights may be admissible in this jurisdiction even in the absence of extraordinary excusing circumstances justifying the breach.

[25 marks]

QUESTION 3

Critically discuss the circumstances, if any, in which the legal burden of proof may be placed on the accused in criminal proceedings in Ireland, having regard to the constitutional status of the presumption of innocence in this jurisdiction.

[25 marks]

QUESTION 4

Oliver, a middle-aged acting coach, is charged with sexually assaulting a number of his female students, aged between 15 and 17 years at the time of the alleged sexual assaults. In the 1990s, Oliver was charged with the sexual assault of a former girlfriend, Veronica, but the charges were dropped after

Veronica's subsequent assertion that she had made up the allegation. Veronica was 23 years old at the time and Oliver was 25 years old. Advise the prosecution as to whether or not it will be possible to draw this previous charge to the attention of the jury in Oliver's current trial.

[25 marks]

QUESTION 5

Hector, a property developer, has a boundary disagreement with Helen, whose land adjoins one of the properties which Hector is developing. Hector emails his friend Maurice, a barrister, outlining his position and looking for advice. Maurice replies advising that he cannot act for him in the absence of instructions from a solicitor, but that he is happy to give him some basic informal advice as a friend. Hector subsequently informs Helen of the advice given to him by Maurice.

Helen has now initiated civil proceedings against Hector and is seeking discovery of the email correspondence between Hector and Maurice (who is not the barrister acting for Hector in the case).

Advise Hector's legal team as to whether or not the earlier email correspondence between Hector and Maurice is covered by legal professional privilege.

[25 marks]