



Republic of the Philippines
Supreme Court
Manila

2014 BAR EXAMINATIONS

CRIMINAL LAW

October 19, 2014

2:00 P.M. – 6:00 P.M

INSTRUCTIONS

1. This Questionnaire contains TWELVE (12) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are TWENTY-SIX (26) Essay and Multiple Choice Questions (MCQs) to be answered within *four (4) hours*.

The essay portion contains questions that are equivalent to *not less than 80%* of the whole examination, while the MCQ portion contains questions equivalent to *not more than 20%*.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only on the *front*, not the back, page of every sheet in your Notebook. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back page of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *legibly, clearly, and concisely*. Start each number on a separate page. An answer to a sub-question under the same number may be written continuously on the same page and the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, and to reason logically in a lawyer-like manner to a sound conclusion from the given premises.

A mere “Yes” or “No” answer without any corresponding explanation or discussion will not be given any credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Notebook.

4. MCQs are to be answered by writing in your Notebook the capital letter A, B, C, or D corresponding to your chosen answer. There is only one correct answer to every MCQ; choose the BEST answer from among the offered choices.

5. Make sure you do not write *your name* or any *extraneous note/s* or *distinctive marking/s* on your Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the exam Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

YOU CAN BRING HOME THIS QUESTIONNAIRE OR HAND IT TOGETHER WITH YOUR NOTEBOOK

J. DIOSDADO M. PERALTA
Chairman
2014 Bar Examinations

I.

Ms. A had been married to *Mr. B* for 10 years. Since their marriage, *Mr. B* had been jobless and a drunkard, preferring to stay with his “*barkadas*” until the wee hours of the morning. *Ms. A* was the breadwinner and attended to the needs of their three (3) growing children. Many times, when *Mr. B* was drunk, he would beat *Ms. A* and their three (3) children, and shout invectives against them. In fact, in one of the beating incidents, *Ms. A* suffered a deep stab wound on her tummy that required a prolonged stay in the hospital. Due to the beatings and verbal abuses committed against her, she consulted a psychologist several times, as she was slowly beginning to lose her mind. One night, when *Mr. B* arrived dead drunk, he suddenly stabbed *Ms. A* several times while shouting invectives against her. Defending herself from the attack, *Ms. A* grappled for the possession of a knife and she succeeded. She then stabbed *Mr. B* several times which caused his instantaneous death. Medico-Legal Report showed that the husband suffered three (3) stab wounds. Can *Ms. A* validly put up a defense? Explain. (5%)

II.

Macho married *Ganda*, a transgender. *Macho* was not then aware that *Ganda* was a transgender. On their first night, after their marriage, *Macho* discovered that *Ganda* was a transgender. *Macho* confronted *Ganda* and a heated argument ensued. In the course of the heated argument, a fight took place wherein *Ganda* got hold of a knife to stab *Macho*. *Macho* ran away from the stabbing thrusts and got his gun which he pointed at *Ganda* just to frighten and stop *Ganda* from continuing with the attack. *Macho* had no intention at all to kill *Ganda*. Unfamiliar with guns, *Macho* accidentally pulled the trigger and hit *Ganda* that caused the latter’s death. What was the crime committed? (4%)

III.

City Engr. A, is the city engineer and the Chairman of the Bids and Awards Committee (*BAC*) of the *City of Kawawa*. In 2009, the *City of Kawawa*, through an ordinance, allotted the amount of ₱100 million for the construction of a road leading to the *poblacion*. *City Engr. A* instead, diverted the construction of the road leading to his farm. Investigation further showed that he accepted money in the amount of ₱10 million each from three (3) contending bidders, who eventually lost in the bidding.

Audit report likewise showed that service vehicles valued at ₱2 million could not be accounted for although reports showed that these were lent to *City Engr. A's* authorized drivers but the same were never returned. Further, there were funds under *City Engr. A's* custody amounting to ₱10 million which were found to be missing and could not be accounted for. In another project, he was instrumental in awarding a contract for the construction of a city school building costing ₱10 million to a close relative, although the lowest bid was ₱8 million. Investigation also revealed that *City Engr. A* has a net worth of more than ₱50 million, which was way beyond his legitimate income. (8%)

- (A) If you are the Ombudsman, what charge or charges will you file against *City Engr. A*?
- (B) Suppose the discovered net worth of *City Engr. A* is less than ₱50 million, will your answer still be the same?

IV.

Madam X, a bank teller, received from depositor *Madam Y* a check payable to cash in the amount of ₱1 million, to be deposited to the account of *Madam Y*. Because the check was not a crossed check, *Madam X* credited the amount to the account of her good friend, *Madam W*, by accomplishing a deposit slip. Seven (7) days after, *Madam X* contacted her good friend, *Madam W* and told her that the amount of ₱1 million was wrongfully credited to *Madam W*, thus, *Madam X* urged *Madam W* to withdraw the amount of ₱1 million from her account and to turn over the same to *Madam X*. As a dutiful friend, *Madam W* readily acceded. She was gifted by *Madam X* with an expensive Hermes bag after the withdrawal of the amount. What crime/s, if any, did *Madam X* and *Madam W* commit? Explain. (5%)

V.

Congress passed a law reviving the Anti-Subversion Law, making it a criminal offense again for a person to join the Communist Party of the Philippines. *Reporma*, a former high-ranking member of the Communist Party, was charged under the new law for his membership in the Communist Party when he was a student in the 80's. He now challenges the charge against him. What objections may he raise? (3%)

VI.

A was caught peeping through a small hole in the bathroom door while a young 16-year-old lady was taking a bath. A is liable for: **(1%)**

- (A) Violation of R.A. 9262 or Violence Against Women and their Children
- (B) Violation of R.A. 7610 – Child Abuse Law
- (C) Light coercion
- (D) Acts of lasciviousness

VII.

Filthy, a very rich businessman, convinced *Loko*, a clerk of court, to issue an order of release for *Takas*, *Filthy*'s cousin, who was in jail for a drug charge. After receiving ₱500,000.00, *Loko* forged the signature of the judge on the order of release and accompanied *Filthy* to the detention center. At the jail, *Loko* gave the guard ₱10,000.00 to open the gate and let *Takas* out.

What crime or crimes did *Filthy*, *Loko*, and the *guard* commit? **(4%)**

VIII.

Pretty was a campus beauty queen who, because of her looks and charms, attracted many suitors. Having decided that she would become a nun, *Pretty* turned down all her suitors. *Guapo*, one of her most persistent suitors, could not handle rejection and one night, decided to accost *Pretty* as she walked home. Together with *Pogi*, *Guapo* forced *Pretty* into his car and drove her to an abandoned warehouse where *he* and *Pogi* forced *Pretty* to dance for them. Later, the two took turns in raping her. After satisfying their lusts, *Guapo* and *Pogi* dropped her off at her house. **(4%)**

- (A) What crime or crimes did *Guapo* and *Pogi* commit?
- (B) *Pretty*, after the ordeal, decided to take her own life by hanging herself one hour after the rape. Would *Guapo* and *Pogi* be liable for *Pretty*'s death? Explain.

IX.

A, B, and C agreed to rob the house of *Mr. D* at 10 o'clock in the evening, with C as the driver of the tricycle which they would use in going

to and leaving the house of *Mr. D*, and *A* and *B* as the ones who would enter the house to get the valuables of *Mr. D*. As planned, *C* parked the tricycle in a dark place, while *A* and *B* entered the house thru an open door. Once inside, *A* entered the master's bedroom and started getting all the valuables he could see, while *B* entered another room. While inside the room, *B* saw a male person and immediately *B* brought out his gun but he accidentally pulled its trigger. The bullet went through the window, hitting a neighbor that killed him. Neighbors were then awakened by the gunfire and policemen were alerted. Not long after, policemen arrived. *A* and *B* panicked and got hold of a young boy and shouted to the policemen who were already outside of the house that they would harm the boy if the policemen did not disperse. *A* and *B* demanded that they should be allowed to use a vehicle to bring them to a certain place and that would be the time that they would release the young boy. The policemen acceded. In the meantime, *C* was arrested by the policemen while he was about to flee, while *A* and *B*, after releasing the young boy, were arrested.

What crime/s did *A*, *B*, and *C* commit, and what modifying circumstances attended the commission of the crime/s? (6%)

X.

Loko advertised on the internet that he was looking for commercial models for a TV advertisement. *Ganda*, a 16-year-old beauty, applied for the project. *Loko* offered her a contract, which *Ganda* signed. She was asked to report to an address which turned out to be a high-end brothel. *Ganda* became one of its most featured attraction. What is *Loko*'s liability, if any? What effect would *Ganda*'s minority have on *Loko*'s liability? (4%)

XI.

A, in a public place, fired his gun at *B* with the intention of killing *B*, but the gun did not fire because the bullet is a dud. The crime is: (1%)

- (A) attempted homicide
- (B) grave threat
- (C) impossible crime
- (D) alarm and scandal

XII.

Sexy boarded a taxi on her way home from a party. Because she was already tipsy, she fell asleep. *Pogi*, the taxi driver, decided to take

advantage of the situation and drove *Sexy* to a deserted place where he raped her for a period of two (2) weeks. What crime did *Pogi* commit? (4%)

XIII.

Puti detested *Pula*, his roommate, because *Pula* was courting *Ganda*, whom *Puti* fancied. One day, *Puti* decided to teach *Pula* a lesson and went to a veterinarian (*Vet*) to ask for poison on the pretext that he was going to kill a sick pet, when actually *Puti* was intending to poison *Pula*.

The *Vet* instantly gave *Puti* a non-toxic solution which, when mixed with *Pula*'s food, did not kill *Pula*. (4%)

- (A) What crime, if any, did *Puti* commit?
- (B) Would your answer be the same if, as a result of the mixture, *Pula* got an upset stomach and had to be hospitalized for 10 days?

XIV.

Malo, a clerk of court of a trial court, promised the accused in a drug case pending before the court, that he would convince the judge to acquit him for a consideration of ₱5 million. The accused agreed and delivered the money, through his lawyer, to the clerk of court.

The judge, not knowing of the deal, proceeded to rule on the evidence and convicted the accused. (4%)

- (A) *Malo* was charged with violation of Section 3(b), Republic Act (R.A.) No. 3019, which prohibits a public officer from directly or indirectly requesting or receiving any gift, present, share percentage or benefit wherein the public officer, in his official capacity, has to intervene under the law. He was later charged also with indirect bribery under the Revised Penal Code. *Malo* claims he can no longer be charged under the Revised Penal Code for the same act under R.A. 3019. Is he correct?
- (B) *Malo* was charged with *estafa* under Article 315 because he misrepresented that he had influence, when he actually had none. Is the charge correct?

XV.

Which of the following is not a privilege mitigating circumstance?
(1%)

- (A) 17-year-old offender
- (B) 14-year-old offender
- (C) incomplete self-defense
- (D) incomplete defense of a relative

XVI.

Mr. Benjie is the owner of a hardware store specializing in the sale of plumbing materials. On February 1, 2014, *Mr. Ed*, a friend and regular customer of *Mr. Benjie*, visited the hardware store and purchased several plumbing materials in the total amount of ₱5 million. *Mr. Benjie* readily accepted *Mr. Ed's* payment of three (3) postdated checks in the amount of ₱1 million Pesos each in view of the assurance of *Mr. Ed* that the checks will be honored upon presentment for payment. *Mr. Benjie*, as a consequence, immediately delivered the materials to the house of *Mr. Ed*. The following day, *Mr. Ed* went back to *Mr. Benjie* to tender another two (2) postdated checks in the amount of ₱1 million each to complete the payment, with the same assurance that the checks will be honored upon presentment for payment. When the checks were presented for payment, all were dishonored for insufficiency of funds and corresponding notices of dishonor were sent and received by *Mr. Ed*. One month after receipt of the notices of dishonor, *Mr. Ed* failed to make good the checks. Thereafter, *Mr. Benjie* filed before the public prosecutor's office a complaint against *Mr. Ed*, although no demand letter was earlier sent to *Mr. Ed*.

During the preliminary investigation, *Mr. Benjie* accepted several amounts from *Mr. Ed* as partial payments. The wife of *Mr. Benjie* protested and insisted that the complaint should continue despite the partial payments. On the other hand, *Mr. Ed* counters that no demand letter was earlier sent to him, that the obligation is merely civil in character and that novation took place when *Mr. Benjie* accepted the partial payments. Discuss the criminal liability, if any, of *Mr. Ed*. (6%)

XVII.

Pierce is a French diplomat stationed in the Philippines. While on EDSA and driving with an expired license, he hit a pedestrian who was crossing illegally. The pedestrian died. *Pierce* was charged with reckless

imprudence resulting in homicide. In his defense, he claimed diplomatic immunity. Is *Pierce* correct? (3%)

XVIII.

Manolo, an avid art collector, was invited to *Tonio*'s house. There, *Manolo* noticed a nice painting that exactly looked like the painting which he reported was stolen from him some years back. *Manolo* confronted *Tonio* about the painting, but *Tonio* denied any knowledge, claiming that he bought the painting legitimately from a friend. *Manolo* later proved to *Tonio* that the painting was indeed the stolen painting. (4%)

- (A) What crime/s, if any, may *Tonio* be charged with?
- (B) *Manolo* decided to take matters into his own hands and, one night, broke into *Tonio*'s house by destroying the wall and taking the painting. What, if any, would be the liability of *Manolo*?

XIX.

Clepto went alone to a high-end busy shop and decided to take one of the smaller purses without paying for it. Overcame by conscience, she decided to leave her own purse in place of the one she took. Her act was discovered and *Clepto* was charged with theft. She claimed that there was no theft, as the store suffered no injury or prejudice because she had left a purse in place of the one she took. Comment on her defense. (3%)

XX.

Which of the following is not a qualifying aggravating circumstance? (1%)

- (A) treachery
- (B) evident premeditation
- (C) dwelling
- (D) cruelty

XXI.

During trial for theft in 2014, the prosecution managed to show that accused AA has also been convicted by final judgment for robbery in 2003,

but she eluded capture. A subsequent verification showed that AA had several convictions, to wit:

- (1.) In 1998, she was convicted of estafa;
- (2.) In 2002, she was convicted of theft;
- (3.) In 2004, she was convicted of frustrated homicide;

The judge trying the theft case in 2014 is about to convict AA. What circumstances affecting the liability or penalty may the judge appreciate against AA? (4%)

XXII.

Mr. Red was drinking with his buddies, *Mr. White* and *Mr. Blue* when he saw *Mr. Green* with his former girlfriend, *Ms. Yellow*. Already drunk, *Mr. Red* declared in a loud voice that if he could not have *Ms. Yellow*, no one can. He then proceeded to the men's room but told *Mr. White* and *Mr. Blue* to take care of *Mr. Green*. *Mr. Blue* and *Mr. White* asked *Mr. Red* what he meant but *Mr. Red* simply said, "You already know what I want," and then left. *Mr. Blue* and *Mr. White* proceeded to kill *Mr. Green* and hurt *Ms. Yellow*. (4%)

- (A) What, if any, are the respective liabilities of *Mr. Red*, *Mr. White* and *Mr. Blue* for the death of *Mr. Green*?
- (B) What, if any, are the respective liabilities of *Mr. Red*, *Mr. White* and *Mr. Blue* for the injuries of *Ms. Yellow*?

XXIII.

Carla, four (4) years old, was kidnapped by *Enrique*, the tricycle driver engaged by her parents to drive her to and from school every day. *Enrique* wrote a ransom note demanding that *Carla*'s parents pay him ₱500,000.00 ransom in exchange for her liberty. However, before the ransom note could be received by *Carla*'s parents, *Enrique*'s hideout was discovered by the police. *Carla* was rescued while *Enrique* was arrested. The prosecutor considered that the ransom note was never received by *Carla*'s parents and filed a case of "Impossible crime to commit kidnapping" against *Enrique*. Is the prosecutor correct? If he is not correct, can he instead file a case of grave coercion? (4%)

XXIV.

A, a young boy aged sixteen (16) at the time of the commission of the crime, was convicted when he was already seventeen (17) years of age for

violation of Section 11 of R.A. 9165 or Illegal Possession of Dangerous Drugs for which the imposable penalty is **life imprisonment** and a **fine**. Section 98 of the same law provides that if the penalty imposed is **life imprisonment to death** on minor offenders, the penalty shall be **reclusion perpetua to death**. Under R.A. 9344, a minor offender is entitled to a privilege mitigating circumstance. (8%)

- (A) May the privilege mitigating circumstance of minority be appreciated considering that the penalty imposed by law is **life imprisonment** and **fine**?
- (B) Is the Indeterminate Sentence Law applicable considering that **life imprisonment** has no fixed duration and the Dangerous Drugs Law is *malum prohibitum*?
- (C) If the penalty imposed is more than six (6) years and a notice of appeal was filed by A and given due course by the court, may A still file an application for probation?
- (D) If probation is not allowed by the court, how will A serve his sentence?

XXV.

Mr. Gray opened a savings account with Bank A with an initial deposit of ₱50,000.00. A few days later, he deposited a check for ₱200,000.00 drawn from Bank B and endorsed by *Mr. White*. Ten days later, *Mr. Gray* withdrew the ₱200,000.00 from his account. *Mr. White* later complained to Bank B when the amount of ₱200,000.00 was later debited to his account, as he did not issue the check and his signature thereon was forged. *Mr. Gray* subsequently deposited another check signed by *Mr. White* for ₱200,000.00, which amount he later withdrew. Upon receiving the amount, *Mr. Gray* was arrested by agents of the National Bureau of Investigation (NBI).

Mr. Gray was convicted of *estafa* and attempted *estafa*, both through the use of commercial documents. (4%)

- (A) *Mr. Gray* claims as defense that, except for *Mr. White's* claim of forgery, there was no evidence showing that he was the author of the forgery and *Mr. White* did not suffer any injuries as to the second check (attempted *estafa*). Rule on the defense of *Mr. Gray*.
- (B) *Mr. Gray* claims that he was entrapped illegally because there was no showing that the second check was a forgery and, therefore, his withdrawal based on the second check was a legal act. Is *Mr. Gray* correct?

XXVI.

A was bitten by a dog owned by a neighbor. The following day, angered by the incident, A took the dog without the knowledge of the owner, had it butchered and cooked the meat. He then invited his friends to partake of the dish with his friends who knew fully well that the dog was taken without the knowledge of the owner. What are the friends of A liable for? (1%)

- (A) Theft
- (B) Malicious mischief
- (C) Accessories
- (D) Obstruction of Justice

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