



PROFESSIONAL GRADUATE DIPLOMA IN RISK AND SECURITY MANAGEMENT

NOVEMBER 2020 ASSIGNMENT QUESTIONS

Level 2

LAW OF EVIDENCE

COURSE CODE: RSM 203

INSTRUCTIONS TO CANDIDATE

1. This question paper comprises of **3** printed pages.
2. The assignment is marked out of **75 marks**.
3. **ANSWER ALL QUESTIONS**
4. Start each question on a new page.
5. The assignment is due on the 9th of November 2020 and shall be uploaded on the CIRSM Student online learning portal website: www.cirsm.com.
6. Students should subscribe to the subjects they seek to write examinations on the website portal between the 18th of October 2020-8th of November 2020.
7. Students are expected **NOT** to exceed **4 pages** per question.
8. Students must submit the assignments in Microsoft Word format.
9. **Assignments expire after every examination sitting.**

You are reminded of the need for good English and clear presentation in your answers.

NB: PLAGIARISM AND COPYING IS AN ACADEMIC OFFENSE THAT MAY RESULT IN DISCIPLINARY ACTION. ALL PAPERS WILL BE SCANNED BY ANTI-PLAGIARISM SOFTWARE.

QUESTION 1

Mr. Pervert is charged with three counts of indecent assault. The prosecutor leads the following evidence: Mary aged 10 says that on a Sunday in October she was walking near a pond in the park. A tall man with a “funny” accent gave her some bread to feed the ducks. He invited her to see some “pretty” flowers and while they were walking he gave her some sweets. But once behind the bushes he began stroking her hair, he then took off her dress folding it neatly and began “playing” with her.

Mrs. Higgins says that in early November her daughter Lisa aged 8, came home crying. Lisa had been to church and the shortest way home lay through the park. She declined to tell her mother what had happened, but her mother says that in her sleep, Lisa said “Leave my hair” and a medical examination revealed tenderness and bruising to Lisa’s private parts. The next day Mrs Higgins



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walked the path to the church and found some written letter behind some bushes, which she produces. She also produces a sweet she found in Lisa's pocket.

Leslie says that he went to a fancy dress party dressed like a girl. He ran home through the park, hiding behind the bushes because he was embarrassed. He met Mr. Pervert, the accused, who gave him a peppermint. The accused stroked his hair, and said "Cherie you are pretty, but your hair is so short". Leslie let the accused take his dress off and ran away while the accused was carefully examining the dress. A detective produces a French passport and a document, both found in a room occupied by the accused.

The detectives say the accused would not comment on the writing on the document but he (the detective) thinks the writing is very similar to that on the letter found by Mrs. Higgins. The accused denies the charges. The defense then calls the following evidence: Mrs. Pervert under cross-examination says she divorced Mr. Pervert because he was "always chasing after other women", and she also says that one Sunday, he said he had helped a little girl feed the ducks, but she added that she thought she was safe and he could not have harassed the complainants because he was fond of little children.

Required:

Discuss the questions of evidence raised by these facts.

[25 MARKS]

QUESTION 2

- a) John and Kenny are tried together. They are charged with indecently assaulting L, a girl of 18 and M, a girl of 10. The offence occurred one evening when the two girls were walking home together and were offered a lift by two men in a car. Shortly after the offence took place M was seen by a policeman. She was in a distressed state and in reply to the question "What is the matter?" She told the policeman that she had been assaulted. The policeman then asked her if she knew who had committed the offence and she said, "No, I could not really see because it was dark in the car." Subsequently both girls picked out John and Kenny at an identification parade. At the trial, in his evidence in chief, John denies that he has ever been in the same car as Kenny, but under cross-examination he admits that he was in Kenny's car on the day in question, but that they had used the car to go to an evening greyhound meeting together and had never seen the girls. In his evidence in chief Kenny states that John was responsible for both offences, while he (Kenny) had merely been an unwilling bystander.

Required:

Discuss the evidentiary issues raised by these facts.

[15 MARKS]



- b) What do you understand by the term “*res gestae*” and explain why is the admissibility of such evidence often contentious? **[10 MARKS]**

QUESTION 3

- a) Give an analysis of your country’s law relative to the parol evidence rule. Motivate your answer by explaining whether, the position of the law is satisfactory? If so explain why and if not, explain why not? **[10 MARKS]**

- b) In **R v P [1991] 3 All ER 337**, Lord Mackay explained that in relation to the admissibility of similar fact evidence, the test in every case must be not whether the events sought to be proved by the prosecution are strikingly similar to the offence charged but whether their probative value is such as to outweigh the prejudice to the accused ...”

Required:

Discuss the above statement in light of the position of your country’s courts towards the admissibility of similar fact evidence. **[15 MARKS]**

*****END OF ASSIGNMENT QUESTIONS*****