

INSTRUCTIONS

This questionnaire consists of seventeen (17) numbers contained in ten (10) pages. Read each question very carefully. Answer *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 immediately succeeding pages until completed. Do not repeat the question. A mere "Yes" or "No" answer without any corresponding discussion will not be given any credit.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE

GOOD LUCK!!!

Signed **ANGELINA S. GUTIERREZ**

Chairperson

20006 Bar Examination Committee

PLEASE CHECK THE NUMBER OF PAGES IN THIS SET

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CRIMINAL LAW

- I -

Motive is essential in the determination of the commission of a crime and the liabilities of the perpetrators.

What are the instances where proof of motive is not essential or required to justify conviction of an accused? Give at least 3 instances. 5%

- II -

1. When can a Filipino citizen residing in this country use an *alias* legally? Give 3 instances. 2.5%
2. Under what situations may a private person enter any dwelling, residence, or other establishments without being liable for trespass to dwelling? 2.5%

- III -

1. What are the 3 ways of committing arbitrary detention? Explain each. 2.5%
2. What are the legal grounds for detention? 2.5%
3. When is an arrest by a peace officer or by a private person considered lawful? Explain. 5%

- IV -

1. Enumerate the differences between pardon and amnesty. 2.5%
2. Under Presidential Proclamation No. 724, amending Presidential Proclamation No. 347, certain crimes are covered by the grant of amnesty. Name at least 5 of these crimes. 2.5%
3. Can former DSWD Secretary Dinky Soliman apply for amnesty? How about columnist Randy David? (You are supposed to know the crimes or offenses ascribed to them as published in almost all newspapers for the past several months.) 2.5%
4. General Lim and General Querubin of the Scout Rangers and Philippine Marines, respectively, were charged with conduct unbecoming an officer and a gentleman under the Articles of War . Can they apply for amnesty? 2.5%

- V -

There are at least 7 instances or situations in criminal cases wherein the accused, either as an adult or as a minor, can apply for and/or be granted a suspended sentence. Enumerate at least 5 of them. 5%

- VI -

1. In 1982, the Philippine National Bank (PNB), then a government banking institution, hired Henry dela Renta, a CPA, as Regional Bank Auditor. In 1992, he resigned and was employed by the Philippine Deposit Insurance Corporation (PDIC), another government-owned and controlled corporation. In 1995, after the PNB management unearthed many irregularities and violations of the bank's rules and regulations, dela Renta was found to have manipulated certain accounts involving trust funds and time deposits of depositors. After investigation, he was charged with malversation of public funds before the Sandiganbayan. He filed a motion to dismiss contending he was no longer an employee of the PNB but of the PDIC.

Is dela Renta's contention tenable? 2.5%

2. After his arraignment, the prosecution filed a motion for his suspension *pendente lite*, to which he filed an opposition claiming that he can no longer be suspended as he is no longer an employee of the PNB but that of the PDIC.

Explain whether he may or may not be suspended. 2.5%

- VII -

1. While the 5.5. Nagoya Maru was negotiating the sea route from Hongkong towards Manila, and while still 300 miles from Aparri, Cagayan, its engines malfunctioned. The Captain ordered the ship to stop for emergency repairs lasting for almost 15 hours. Due to exhaustion, the officers and crew fell asleep. While the ship was anchored, a motorboat manned by renegade Ybanags from Claveria, Cagayan, passed by and took advantage of the situation. They cut the ship's engines and took away several heavy crates of electrical equipment and loaded them in their motorboat. Then they left hurriedly towards Aparri. At daybreak, the crew found that a robbery took place. They radioed the Aparri Port Authorities resulting in the apprehension of the culprits.

What crime was committed? Explain. 2.5%

2. Supposing that while the robbery was taking place, the culprits stabbed a member of the crew while sleeping.

What crime was committed? Explain. 2.5%

- VIII -

Commissioner Marian Torres of the Bureau of Internal Revenue (BIR) wrote solicitation letters addressed to the Filipino-Chinese Chamber of Commerce and Industry and to certain CEOs of various multinational corporations requesting donations of gifts for her office Christmas party. She used the Bureau's official stationery. The response was prompt and overwhelming so much so that Commissioner Torres' office was overcrowded with rice cookers, radio sets, freezers, electric stoves and toasters. Her staff also received several envelopes containing cash money for the employees' Christmas luncheon.

Has Commissioner Torres committed any impropriety or irregularity? What laws or decrees did she violate? 5%

- IX -

Eduardo Quintos, a widower for the past 10 years, felt that his retirement at the age of 70 gave him the opportunity to engage in his favorite pastime - voyeurism. If not using his high-powered binoculars to peep at his neighbor's homes and domestic activities, his second choice was to follow sweet young girls. One day, he trailed a teenage girl up to the LRT station at EDSA-Buendia. While ascending the stairs, he stayed one step behind her and in a moment of bravado, placed his hand on her left hip and gently massaged it. She screamed and shouted for help. Eduardo was arrested and charged with acts of lasciviousness. Is the designation of the crime correct? 5%

- X -

Jaime, Andy and Jimmy, laborers in the noodles factory of Luke Tan, agreed to kill him due to his arrogance and miserliness. One afternoon, they seized him and loaded him in a taxi driven by Mario. They told Mario they will only teach Luke a lesson in Christian humility. Mario drove them to a fishpond in Navotas where Luke was entrusted to Emil and Louie, the fishpond caretakers, asking them to hide Luke in their shack because he was running from the NBI. The trio then left in Mario's car for Manila where they called up Luke's family and threatened them to kill Luke unless they give a ransom within 24 hours. Unknown to them, because of a leak, the kidnapping was announced over the radio and TV. Emil and Louie heard the broadcast and panicked, especially when the announcer stated that there is a shoot-to-kill order for the kidnapers. Emil and Louie took Luke to the seashore of Dagat-dagatan where they smashed his head with a shovel and buried him in the sand. However, they were seen by a *barangay kagawad* who arrested them and brought them to the police station. Upon interrogation, they confessed and pointed to Jaime, Andy, Jimmy and Mario as those responsible for the kidnapping. Later, the 4 were arrested and charged.

What crime or crimes did the 6 suspects commit? 5%

- XI -

Ana has been a bar girl/GRO at a beer house for more than 2 years. She fell in love with Oniok, the bartender, who impregnated her. But Ana did not inform him about her condition and, instead, went home to Cebu to conceal her shame. However, her parents drove her away. So, she returned to Manila and stayed with Oniok in his boarding house. Upon learning of her pregnancy, already in an advanced state, Oniok tried to persuade her to undergo an abortion, but she refused. Because of their constant and bitter quarrels, she suffered birth pangs and gave birth prematurely to a live baby girl while Oniok was at his place of work. Upon coming home and learning what happened, he prevailed upon Ana to conceal her dishonor. Hence, they placed the infant in a shoe box and threw it into a nearby creek. However, an inquisitive neighbor saw them and with the help of others, retrieved the infant who was already dead from drowning. The incident was reported to the police who arrested Ana and Oniok. The 2 were charged with parricide under Article 246 of the Revised Penal Code. After trial, they were convicted of the crime charged.

Was the conviction correct? 5%

- XII -

Judge Rod Reyes was appointed by former President Fidel Ramos as Deputy Ombudsman for the Visayas for a term of 7 years commencing on July 5, 1995. Six months thereafter, a lady stenographer filed with the Office of the Ombudsman a complaint for acts of lasciviousness and with the Supreme Court a petition for disbarment against him. Forthwith, he filed separate motions to dismiss the complaint for acts of lasciviousness and petition for disbarment, claiming lack of jurisdiction over his person and office.

Are both motions meritorious? 5%

- XIII -

Dang was a beauty queen in a university. Job, a rich classmate, was so enamored with her that he persistently wooed and pursued her. Dang, being in love with another man, rejected him. This angered Job. Sometime in September 2003, while Dang and her sister Lyn were on their way home, Job and his minor friend Nonoy grabbed them and pushed them inside a white van. They brought them in an abandoned warehouse where they forced them to dance naked. Thereafter, they brought them to a hill in a nearby *barangay* where they took turns raping them. After satisfying their lust, Job ordered Nonoy to push Dang down a ravine, resulting in her death. Lyn ran away but Job and Nonoy chased her and pushed her inside the van. Then the duo drove away. Lyn was never seen again.

1. What crime or crimes were committed by Job and Nonoy? 2.5%
2. What penalties should be imposed on them? 2.5%
3. Will Nonoy's minority exculpate him? 2.5%
4. Is the non-recovery of Lyn's body material to the criminal 2.5%

- XIV -

In a crime of homicide, the prosecution failed to present any receipt to substantiate the heirs' claim for an award of actual damages, such as expenses for the wake and burial.

What kind of damages may the trial court award to them and how much? 5%

- XV -

1. What is that offense? Explain. 2.5%

During the preliminary investigation and up to the trial proper, Rene and Dante contended that if they were to be held liable, their liability should be limited only to the newly-cut logs found in their possession but not to those found outside the gate.

If you were the judge, what will be your ruling? 2.5%

- XVI -

After receiving a reliable information that Dante Ong, a notorious drug smuggler, was arriving on PAL Flight No. PR 181, PNP Chief Inspector Samuel Gamboa formed a group of anti-drug agents. When Ong arrived at the airport, the group arrested him and seized his attach case. Upon inspection inside the Immigration holding area, the attach case yielded 5 plastic bags of heroin weighing 500 grams. Chief Inspector Gamboa took the attach case and boarded him in an unmarked car driven by PO3 Pepito Lorbes. On the way to Camp Crame and upon nearing White Plains corner Edsa, Chief Inspector Gamboa ordered PO3 Lorbes to stop the car. They brought out the drugs from the case in the trunk and got 3 plastic sacks of heroin. They then told Ong to alight from the car. Ong left with the 2 remaining plastic sacks of heroin. Chief Inspector Gamboa advised him to keep silent and go home which the latter did. Unknown to them, an NBI team of agents had been following them and witnessed the transaction. They arrested Chief Inspector Gamboa and PO3 Lorbes. Meanwhile, another NBI team followed Ong and likewise arrested him. All of them were later charged.

What are their respective criminal liabilities? 5%

- XVII -

Aling Maria received an urgent telephone call from Junior, her eldest son, asking for P2,000.00 to complete his semestral tuition fees preparatory to his final exams in Commerce. Distressed and disturbed, she borrowed money from her compadre Mang Juan with the assurance to pay him within 2 months. Two months lapsed but Aling Maria failed to settle her obligation. Mang Juan told Aling Maria that she does not have to pay the loan if she will allow her youngest 10-year old daughter Annie to work as a housemaid in his house for 2 months at P1,000.00 a month. Despite Aling Maria's objection, Mang Juan insisted and brought Annie to his house to work as a maid.

1. Was a crime committed by Mang Juan when he brought Annie to his house as maid for the purpose of repaying her mother's loan? 2.5%
2. If Aling Maria herself was made to work as a housemaid in Mang Juan's household to pay her loan, did he commit a crime? 2.5%

NOTHING FOLLOWS.