

Set A

**MULTIPLE CHOICE QUESTIONS (MCQs)
INSTRUCTIONS**

The following questionnaire consists of seventy-five (75) MCQs numbered 1 up to 75 contained in TWENTY THREE (23) pages.

Answer each question on the MCQ Answer Sheet by shading completely the appropriate circle corresponding to the letter you have chosen. (Read the Marking Instructions on the Answer Sheet)

Avoid erasures on the Answer Sheet. If you need to make corrections, erase completely the answer you want to change.

Do not explain your answers in the MCQ portion of the exam. You will not earn any credit for that.

Keep the Answer Sheet clean. Do not make unnecessary marks on it. Do not fold, roll, scratch, crumple or tear it.

You may write on the questionnaire and use it as scratch paper but make sure to transfer your answer to the Answer Sheet. Provide ample time to transfer the answers if you choose to do this.

Answer first the MCQs completely before going to the essay-type questions.

HAND IN YOUR ANSWER SHEET. THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.

GOODLUCK!!!

MARTIN S. VILLARAMA, JR.

Chairperson

2012 Bar Examinations Committee

PLEASE CHECK THAT THIS SET CONTAINS TWENTY FOUR (24) PAGES (INCLUDING THIS PAGE).

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CRIMINAL LAW

1. The wife of AAA predeceased his mother-in-law. AAA was accused of defrauding his mother-in-law under a criminal information for estafa, but the actual recital of facts of the offense

charged therein, if proven, would constitute not only the crime of estafa, but also falsification of public document as a necessary means for committing estafa. AAA invokes the absolatory cause of relationship by affinity. Which statement is most accurate?

- a. The relationship by affinity created between AAA and the blood relatives of his wife is dissolved by the death of his wife and the absolatory cause of relationship by affinity is therefore no longer available to AAA.
- b. The death of spouse does not sever the relationship by affinity which is an absolatory cause available to AAA for estafa through falsification of public document.
- c. If AAA commits in a public document the act of falsification as a necessary means to commit estafa, the relationship by affinity still subsists as an absolatory cause for estafa which should be considered separately from the liability for falsification of public document because there is no specific penalty prescribed for the complex crime of estafa through falsification of public document.
- d. Considering that under the given situation, the two (2) crimes of estafa and falsification of public document are not separate crimes but component crimes of the single complex crime of estafa and falsification of public document, the absolatory cause of relationship by affinity is not available to AAA.

2. Under which of the following circumstances is an accused not liable for the result not intended?

- a. Accused is not criminally liable for the result not intended when there is mistake in the identity of the victim.
- b. Accused is not criminally liable for the result not intended when there is mistake in the blow.
- c. Accused is not criminally liable for the result not intended when the wrongful act is not the proximate cause of the resulting injury.
- d. Accused is not criminally liable for the result not intended when there is mistake of fact constituting an involuntary act.

3. Can there be a frustrated impossible crime?

- a. Yes. When the crime is not produced by reason of the inherent impossibility of its accomplishment, it is a frustrated impossible crime.
- b. No. There can be no frustrated impossible crime because the means employed to accomplish the crime is inadequate or ineffectual.
- c. Yes. There can be a frustrated impossible crime when the act performed would be an offense against persons.
- d. No. There can be no frustrated impossible because the offender has already performed the acts for the execution of the crime.

4. FF and his two (2) sons positioned themselves outside the house of the victim. The two (2) sons stood by the stairs in front of the house, while the father waited at the back. The victim jumped out of the window and was met by FF who instantly hacked him. The two (2) sons joined hacking the victim to death. They voluntarily surrendered to the police. How will the attendant circumstances be properly appreciated?
 - a. Treachery and abuse of superior strength qualify the killing to murder.
 - b. Only treachery qualifies the killing to murder because abuse of superior strength is absorbed by treachery.
 - c. Treachery is the qualifying aggravating circumstance, while abuse of superior strength is treated as a generic aggravating circumstance.
 - d. The qualifying circumstance of treachery or abuse of superior strength can be offset by the mitigating circumstance of voluntary surrender.
5. Which of the following circumstances may be taken into account for the purpose of increasing the penalty to be imposed upon the convict?
 - a. Aggravating . circumstances which in themselves constitute a crime specially punishable by law.
 - b. Aggravating circumstances which are inherent in the crime to such a degree that they must of necessity accompany the crime.
 - c. Aggravating circumstances which arise from the moral attributes of the offender.
 - d. Aggravating circumstances which are included by the law in defining a crime.
6. Who among the following convicts are not entitled to the benefits of the Indeterminate Sentence Law?
 - a. Those who are recidivists.
 - b. Those whose maximum term of imprisonment exceeds one (1) year.
 - c. Those convicted of inciting to sedition.
 - d. Those convicted of misprision of treason.
7. Proposal to commit felony is punishable only in cases in which the law specifically provides a penalty therefor. Under which of the following instances. are proponents NOT liable?
 - a. Proposal to commit coup d'etat.
 - b. Proposal to commit sedition.
 - c. Proposal to commit rebellion.

- d. Proposal to commit treason.
8. AA misrepresented to the complainant that he had the power, influence, authority and business to obtain overseas employment upon payment of placement fee. AA duly collected the placement fee from complainant. As per certification of the Philippine Overseas Employment Administration, AA did not possess any authority or license for overseas employment. Is it proper to file two (2) separate Informations for illegal recruitment under the Labor Code and for estafa by means of deceit?
- No. The filing of two (2) separate Informations for illegal recruitment under the Labor Code and for estafa by means of deceit for the same act is violative of the principle against double jeopardy.
 - No. One Information for a complex crime of illegal recruitment with estafa by means of deceit should be filed, instead of two (2) separate Informations.
 - No. A person convicted of illegal recruitment under the Labor Code may not, for the same act, be separately convicted of estafa by means of deceit.
 - Yes. A person convicted of illegal recruitment under the Labor Code may, for the same act, be separately convicted of estafa by means of deceit.
9. When are light felonies punishable?
- Light felonies are punishable in all stages of execution.
 - Light felonies are punishable only when consummated.
 - Light felonies are punishable only when consummated, with the exception of those committed against persons or property.
 - Light felonies are punishable only when committed against persons or property.
10. AA was appointed for a two-year term to serve the unexpired portion of a resigned public official. Despite being disqualified after the lapse of the two-year term, PA continued to exercise the duties and powers of the public office to which appointed. What is the criminal liability of AA?
- AA is criminally liable for malfeasance in office.
 - AA is criminally liable for prolonging performance of duties and powers.
 - AA is criminally liable for disobeying request for disqualification.
 - AA incurs no criminal liability because there is no indication that he caused prejudice to anyone.
11. For treachery to qualify killing to murder, the evidence must show:
- The time when the accused decided to employ treachery, the overt act manifestly

indicating that he clung to such determination, and a sufficient lapse of time between the decision and the execution, allowing him to reflect upon the consequence of his act.

- b. Unlawful aggression, reasonable necessity of the means to prevent or repel the aggression, and lack of sufficient provocation on the part of the victim.
- c. That the accused employed such means, methods or manner to ensure his safety from the defensive or retaliatory acts of the victim, and the mode of attack was consciously adopted.
- d. Actual sudden physical assault or threat to inflict real imminent injury to an unsuspecting victim.

12. What is the criminal liability, if any, of a pregnant woman who tried to commit suicide by poison, but she did not die and the fetus in her womb was expelled instead?

- a. The woman who tried to commit suicide is not criminally liable because the suicide intended was not consummated.
- b. The woman who tried to commit suicide is criminally liable for unintentional abortion which is punishable when caused by violence.
- c. The woman who tried to commit suicide is criminally liable for abortion that resulted due to the poison that she had taken to commit suicide.
- d. The woman who tried to commit suicide occurs no criminal liability for the result not intended.

13. Chris Brown was convicted of a complex crime of direct assault with homicide aggravated by the commission of the crime in a place where public authorities are engaged in the discharge of their duties. The penalty for homicide is reclusion temporal. On the other hand, the penalty for direct assault is pns10n correccional in its medium and maximum periods. What is the correct indeterminate penalty?

- a. Twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum.
- b. Ten (10) years of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum.
- c. Eight (8) years of prision mayor as minimum to eighteen (18) years and four (4) months of reclusion temporal as maximum.
- d. Twelve (12) years of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum.

14. A, B, and C organized a meeting in which the audience was incited to the commission of the crime of sedition. Some of the persons present at the meeting were carrying unlicensed firearms. What crime, if any, was committed by A, B and C, as well as those who were

carrying unlicensed firearms and those who were merely present at the meeting?

- a. Inciting to sedition for A, B and C and illegal possession of firearms for those carrying unlicensed firearms.
- b. Inciting to sedition for A, B and C and those carrying unlicensed firearms.
- c. Illegal assembly for A, B, C and all those present at the meeting.
- d. Conspiracy to commit sedition for A, B, C and those present at the meeting.

15. Is the crime of theft committed by a person who, with intent to gain, takes a worthless check belonging to another without the latter's consent?

- a. Yes. All the elements of the crime of theft are present: that there be taking of personal property; that the property belongs to another; and that the taking be done with intent to gain and without the consent of the owner.
- b. No. The taking of the worthless check, which has no value, would not amount to the crime of theft because of the legal impossibility to commit the intended crime.
- c. Yes. Theft is committed even if the worthless check would be subsequently dishonored because the taker had intent to gain from the check at the time of the taking.
- d. Yes. Theft is committed because the factual impossibility to gain from the check was not known to the taker or beyond his control at the time of taking.

16. B was convicted by final judgment of theft. While serving sentence for such offense, B was found in possession of an unlicensed firearm. Is B a quasi-recidivist?

- a. B is a quasi-recidivist because he was serving sentence when found in possession of an unlicensed firearm.
- b. B is not a quasi-recidivist because the offense for which he was serving sentence is different from the second offense.
- c. B is not a quasi-recidivist because the second offense is not a felony.
- d. B is not a quasi-recidivist because the second offense was committed while still serving for the first offense.

17. What crime is committed by one who defrauds another by taking undue advantage of the signature of the offended party in a blank check and by writing the payee and amount of the check to the prejudice of the offended party?

- a. estafa with unfaithfulness or abuse of confidence;
- b. estafa by false pretense;

- c. estafa through fraudulent means;
- d. estafa by other deceits.

18. What crime is committed by a person who kills a three-day old baby?

- a. infanticide;
- b. homicide;
- c. murder;
- d. parricide.

19. What crime is committed by a person who kills his legitimate brother on the occasion of a public calamity?

- a. parricide;
- b. homicide;
- c. murder;
- d. death caused in a tumultuous affray.

20. What is the crime committed by any person who, without reasonable ground, arrests or detains another for the purpose of delivering him to the proper authorities?

- a. unlawful arrest;
- b. illegal detention;
- c. arbitrary detention;
- d. grave coercion.

21. A killed M. After the killing, A went to the Barangay Chairman of the place of incident to seek protection against the retaliation of M's relatives. May voluntary surrender be appreciated as a mitigating circumstance in favor of A?

- a. Yes. A surrendered to the Barangay Chairman who is a person in authority.
- b. Yes. The surrender of A would save the authorities the trouble and expense for his arrest.
- c. No. A did not unconditionally submit himself to the authorities in order to acknowledge his participation in the killing or to save the authorities the trouble and expenses necessary for his search and capture.
- d. No. The surrender to the Barangay Chairman is not a surrender to the proper

authorities.

22. Who among the following is liable for estafa?

- a. The seller of a laptop computer who failed to inform the buyer that the laptop had a defect.
- b. The person who ran away with a cell phone which was handed to him upon his pretense that he had to make an emergency call.
- c. The person who assured he will pay interest on the amount but failed to do so as promised.
- d. The son who induced his father to buy from him a land which the son is no longer the owner.

23. What is the nature of the circumstance which is involved in the imposition of the maximum term of the indeterminate sentence?

- a. qualifying circumstance;
- b. aggravating circumstance;
- c. modifying circumstance;
- d. analogous circumstance.

24. A, B and C, all seventeen (17) years of age, waited for nighttime to avoid detection and to facilitate the implementation of their plan to rob G. They entered the room of G through a window. Upon instruction of A, G opened her vault while B was poking a knife at her. Acting as lookout, C had already opened the main door of the house when the helper was awakened by the pleading of G to A and B to just take the money from the vault without harming her. When the helper shouted for help upon seeing G with A and B inside the room, B stabbed G and ran towards the door, leaving the house with C. A also left the house after taking the money of G from the vault. G was brought to the hospital where she died as a result of the wound inflicted by B. Under the given facts, are A, B and C exempt from criminal liability? If not, what is the proper charge against them or any of them?

- a. A, B and C, being under eighteen (18) years of age at the time of the commission of the offense, are exempt from criminal liability and should be merely subjected to intervention program for child in conflict with the law.
- b. There being no indication of having acted with discernment, A, B and C are exempt from criminal liability, subject to appropriate programs in consultation with the person having custody over the child in conflict with the law or the local social welfare and development officer.
- c. Considering the given facts which manifest discernment, A, B and C are not exempt from criminal liability and should be charged with the complex crime of robbery with homicide, subject to automatic suspension of sentence upon finding of guilt.

- d. Under the given facts, A, B and C are not exempt from criminal liability because they conspired to commit robbery for which they should be collectively charged as principals, and in addition, B should be separately charged with homicide for the death of G, subject to diversion programs for children over 15 and under 18 who acted with discernment.
25. The guard was entrusted with the conveyance or custody of a detention prisoner who escaped through his negligence. What is the criminal liability of the escaping prisoner?
- The escaping prisoner does not incur criminal liability.
 - The escaping prisoner is liable for evasion through negligence.
 - The escaping prisoner is liable for conniving with or consenting to, evasion.
 - The escaping prisoner is liable for evasion of service of sentence.
26. What crime is committed when a person assumes the performance of duties and powers of a public office or employment without first being sworn in?
- anticipation of duties of a public office;
 - usurpation of authority;
 - prohibited transaction;
 - unlawful appointment.
27. What crime is committed by a public officer who, before the acceptance of his resignation, shall abandon his office to the detriment of the public service in order to evade the discharge of the duties of preventing, prosecuting or punishing the crime of treason?
- abandonment of office or position;
 - qualified abandonment of office;
 - misprision of treason;
 - negligence in the prosecution of offense.
28. The key element in a crime of parricide other than the fact of killing is the relationship of the offender to the victim. Which one of the following circumstances constitutes parricide?
- Offender killing the illegitimate daughter of his legitimate son.
 - Offender killing his illegitimate grandson.
 - Offender killing his common-law wife.
 - Offender killing his illegitimate mother.

29. What is the minimum age of criminal responsibility?
- a) fifteen (15) years old or under
 - b. nine (9) years old or under
 - c. above nine (9) years old and under fifteen (15) who acted with discernment
 - d. above fifteen (15) years old and under eighteen (18) who acted with discernment
30. When the adoption of a child is effected under the Inter-Country Adoption Act for the purpose of prostitution, what is the proper charge against the offender who is a public officer in relation to the exploitative purpose?
- a. acts that promote trafficking in persons;
 - b. trafficking in persons;
 - c. qualified trafficking in persons;
 - d. use of trafficked person.
31. What crime is committed when a mother kills the three-day old child of her husband with their daughter?
- a. parricide;
 - b. infanticide;
 - c. murder;
 - d. homicide.
32. When is a crime deemed to have been committed by a band?
- a. When armed men, at least four (4) in number, take direct part in the execution of the act constituting the crime.
 - b. When three (3) armed men act together in the commission of the crime.
 - c. When there are four (4) armed persons, one of whom is a principal by inducement.
 - d. When there are four (4) malefactors, one of whom is armed.
33. The period of probation of the offender sentenced to a term of one (1) year shall not exceed:
- a. two (2) years;
 - b. six (6) years;

- c. one (1) year;
- d. three (3) years;

34. What is the criminal liability, if any, of a mayor who, without being authorized by law, compels prostitutes residing in his city to go to, and live in, another place against their will?

- a. The mayor is criminally liable for violation of domicile.
- b. The mayor is criminally liable for expulsion.
- c. The mayor is criminally liable for grave coercion.
- d. The mayor incurs no criminal liability because he merely wants to protect the youth against the indecency of the prostitutes.

35. How is the crime of coup d'etat committed?

- a. By rising publicly and taking arms against the Government for the purpose of depriving the Chief Executive of any of his powers or prerogatives.
- b. When a person holding public employment undertakes a swift attack, accompanied by strategy or stealth, directed against public utilities or other facilities needed for the exercise and continued possession of power for the purpose of diminishing state power.
- c. When persons rise publicly and tumultuously in order to prevent by force the National Government from freely exercising its function.
- d. When persons circulate scurrilous libels against the Government which tend to instigate others to meet together or to stir up the people against the lawful authorities.

36. What is the proper charge against public officers or employees who, being in conspiracy with the rebels, failed to resist a rebellion by all means in their power, or shall continue to discharge the duties of their offices under the control of the rebels, or shall accept appointment to office under them?

- a. disloyalty of public officers or employees;
- b. rebellion;
- c. conspiracy to commit rebellion;
- d. dereliction of duty.

37. What is the proper charge against a person who, without taking arms or being in open hostility against the Government, shall incite others to deprive Congress of its legislative powers, by means of speeches or writings?

- a. inciting to sedition;

- b. inciting to rebellion or insurrection;
- c. crime against legislative body;
- d. unlawful use of means of publication or unlawful utterances.

38. What is the crime committed when a group of persons entered the municipal building rising publicly and taking up arms in pursuance of the movement to prevent exercise of governmental authority with respect to the residents of the municipality concerned for the purpose of effecting changes in the manner of governance and removing such locality under their control from allegiance to the laws of the Government?

- a. sedition;
- b. coup d'etat;
- c. insurrection;
- d. public disorder.

39. When is a disturbance of public order deemed to be tumultuous?

- a. The disturbance shall be deemed tumultuous if caused by more than three (3) persons who are armed or provided with means of violence.
- b. The disturbance shall be deemed tumultuous when a person causes a serious disturbance in a public place or disturbs public performance, function or gathering.
- c. The disturbance shall be deemed tumultuous when more than three (3) persons make any outcry tending to incite rebellion or sedition or shout subversive or provocative words to obtain any of the objectives of rebellion or sedition.
- d. The disturbance shall be deemed tumultuous when at least four (4) persons participate in a free-for-all-fight assaulting each other in a confused and tumultuous manner.

40. What is the criminal liability, if any, of a police officer who, while Congress was in session, arrested a member thereof for committing a crime punishable by a penalty higher than prison mayor?

- a. The police officer is criminally liable for violation of parliamentary immunity because a member of Congress is privileged from arrest while Congress is in session.
- b. The police officer is criminally liable for disturbance of proceedings because the arrest was made while Congress was in session.
- c. The police officer incurs no criminal liability because the member of Congress has committed a crime punishable by a penalty higher than prison mayor.
- d. The police officer is criminally liable for violation of parliamentary immunity because

parliamentary immunity guarantees a member of Congress complete freedom of expression without fear of being arrested while in regular or special session.

41. What is the proper charge against a group of four persons who, without public uprising, employ force to prevent the holding of any popular election?
 - a. sedition;
 - b. disturbance of public order;
 - c. grave coercion;
 - d. direct assault.

42. Which of the following circumstances may be appreciated as aggravating in the crime of treason?
 - a. cruelty and ignominy;
 - b. evident premeditation;
 - c. superior strength;
 - d. treachery.

43. What is the crime committed by a public officer who discloses to the representative of a foreign nation the contents of the articles, data or information of a confidential nature relative to the defense of the Philippine archipelago which he has in his possession by reason of the public office he holds?
 - a. espionage;
 - b. disloyalty;
 - c. treason;
 - d. violation of neutrality.

44. A foreigner residing in Hong Kong counterfeits a twenty-peso bill issued by the Philippine Government. May the foreigner be prosecuted before a civil court in the Philippines?
 - a. No. The provisions of the Revised Penal Code are enforceable only within the Philippine Archipelago.
 - b. No. The Philippine Criminal Law is binding only on persons who reside or sojourn in the Philippines.
 - c. No. Foreigners residing outside the jurisdiction of the Philippines are exempted from the operation of the Philippine Criminal Law.

- d. Yes. The provisions of the Revised Penal Code are enforceable also outside the jurisdiction of the Philippines against those who should forge or counterfeit currency notes of the Philippines or obligations and securities issued by the Government of the Philippines.

45. Can the crime of treason be committed only by a Filipino citizen?

- a. Yes. The offender in the crime of treason is a Filipino citizen only because the first element is that the offender owes allegiance to the Government of the Philippines.
- b. No. The offender in the crime of treason is either a Filipino citizen or a foreigner married to a Filipino citizen, whether residing in the Philippines or elsewhere, who adheres to the enemies of the Philippines, giving them aid or comfort.
- c. No. The offender in the crime of treason is either a Filipino citizen or an alien residing in the Philippines because while permanent allegiance is owed by the alien to his own country, he owes a temporary allegiance to the Philippines where he resides.
- d. Yes. It is not possible for an alien, whether residing in the Philippines or elsewhere, to commit the crime of treason because he owes allegiance to his own country.

46. A jailer inflicted injury on the prisoner because of his personal grudge against the latter. The injury caused illness of the prisoner for more than thirty (30) days. What is the proper charge against the jailer?

- a. The jailer should be charged with maltreatment of prisoner and serious physical injuries.
- b. The jailer should be charged with serious physical injuries only.
- c. The jailer should be charged with complex crime of maltreatment of prisoner with serious physical injuries.
- d. The jailer should be charged with maltreatment of prisoner only.

47. AA was convicted of proposal to commit treason. Under Article 115 of the Revised Penal Code, proposal to commit treason shall be punished by prison correccional and a fine not exceeding P5,000.00. Is the Indeterminate Sentence Law applicable to AA?

- a. Yes. The Indeterminate Sentence Law is applicable to AA because the maximum of prison correccional exceeds one (1) year.
- b. Yes. The Indeterminate Sentence Law is applicable to AA because there is no showing that he is a habitual delinquent.
- c. No. The Indeterminate Sentence Law is not applicable to AA considering the penalty imposable for the offense of which he was convicted.
- d. No. The Indeterminate Sentence Law is not applicable considering the offense of which he was convicted.

48. What is the proper charge against a lawyer who reveals the secrets of his client learned by him in his professional capacity?
- The lawyer should be charged with revelation of secrets of private individual.
 - The lawyer should be charged with betrayal of trust.
 - The lawyer should be charged with unauthorized revelation of classified materials.
 - The proper charge against the lawyer should be revealing secrets with abuse of office.
49. AB was driving a van along a highway. Because of her recklessness, the van hit a car which had already entered the intersection. As a result, CD who was driving the car suffered physical injuries, while damage to his car amounted to P8,500.00. What is the proper charge against AB?
- AB should be charged with complex crime of reckless imprudence resulting in damage to property with slight physical injuries.
 - AB should be charged with reckless imprudence resulting in slight physical injuries and reckless imprudence resulting in damage to property.
 - AB should be charged with complex crime of slight physical injuries with damage to property.
 - AB should be charged with slight physical injuries and reckless imprudence resulting in damage to property.
50. What crime is committed by one who, having received money, goods or any other personal property in trust or on commission, or for administration, defrauds the offended party by denying receipt of such money, goods or other property?
- He commits violation of the Trust Receipt Law.
 - He commits estafa through fraudulent means.
 - He commits estafa by false pretenses.
 - He commits estafa with unfaithfulness or abuse of confidence.
51. What is the criminal liability, if any, of AAA who substitutes for a prisoner serving sentence for homicide by taking his place in jail or penal establishment?
- AAA is criminally liable for delivering prisoner from jail and for using fictitious name.
 - AAA is criminally liable as an accessory of the crime of homicide by assisting in the escape or concealment of the principal of the crime.
 - AAA is criminally liable for infidelity in the custody of prisoners.

- d. AAA is criminally liable for misrepresentation or concealing his true name.
52. A child over fifteen (15) years of age acted with discernment in the commission of murder. What is the duty of the court if he is already over eighteen (18) years of age at the time of the determination of his guilt for the offense charged?
- The court shall pronounce the judgment of conviction.
 - The court shall place the child under suspended sentence for a specified period or until he reaches twenty-one (21) years of age.
 - The court shall discharge the child for disposition measures.
 - The court shall place the child on probation.
53. What is the criminal liability, if any, of a private person who enters the dwelling of another against the latter's will and by means of violence or intimidation for the purpose of preventing some harm to himself?
- The private person is criminally liable for qualified trespass to dwelling.
 - The private person is criminally liable for simple trespass to dwelling.
 - The private person incurs no criminal liability.
 - The private person is criminally liable for light threats.
54. AAA was convicted of theft by a Manila Court and sentenced to a straight penalty of one (1) year of prision correccional. After serving two (2) months of the sentence, he was granted conditional pardon by the Chief Executive. One of the conditions of the pardon was for him not to be found guilty of any crime punishable by the laws of the country. He subsequently committed robbery in Pasay City. Can the Manila Court require AAA to serve the unexpired portion of the original sentence?
- Yes. The Manila Court has the authority to recommit AAA to serve the unexpired portion of the original sentence in addition to the penalty for violation of conditional pardon.
 - No. The penalty remitted by the conditional pardon is less than six (6) years.
 - Yes. The penalty for violation of conditional pardon is the unexpired portion of the punishment in the original sentence.
 - No. AAA must first be found guilty of the subsequent offense before he can be prosecuted for violation of conditional pardon.
55. What is the criminal liability of a person who knowingly and in any manner aids or protects highway robbers/brigands by giving them information about the movement of the police?
- He is criminally liable as principal by indispensable cooperation in the commission of

highway robbery or brigandage.

- b. He is criminally liable as an accessory of the principal offenders.
- c. He is criminally liable as an accomplice of the principal offenders.
- d. He is criminally liable as principal for aiding and abetting a band of brigands.

56. With intent to kill, GGG burned the house where F and D were staying. F and D died as a consequence. What is the proper charge against GGG?

- a. GGG should be charged with two (2) counts of murder.
- b. GGG should be charged with arson.
- c. GGG should be charged with complex crime of arson with double murder.
- d. GGG should be charged with complex crime of double murder.

57. RR convinced WW to take a job in Taiwan, assuring her of a good salary and entitlement to a yearly vacation. WW paid to RR the processing fee for passport and visa, but no receipt was issued for the payment. WW was made to use the alien certificate of registration of another person with a Chinese name and instructed on how to use the Chinese name. The application of WW was rejected by the Taiwanese authorities. Cases were filed against RR for illegal recruitment and estafa. The case of illegal recruitment was dismissed. Is RR liable for estafa?

- a. RR is liable for estafa with unfaithfulness or abuse of confidence.
- b. RR is liable for estafa by means of false pretenses.
- c. RR is not liable for estafa because WW participated in the illegal travel documents.
- d. RR can no longer be held liable for estafa because with the dismissal of the case against him for illegal recruitment, double jeopardy has already set in.

58. A entered the house of B. Once inside the house of B, A took and seized personal property by compulsion from B with the use of violence and force upon things, believing himself to be the owner of the personal property so seized. What is the criminal liability of A?

- a. A is criminally liable for robbery with violence because he employed violence in the taking of the personal property from B, robbery characterized by violence being graver than ordinary robbery committed with force upon things.
- b. A is criminally liable for robbery with force upon things in an inhabited house because the act was committed in a house constituting the dwelling of one or more persons.
- c. A is criminally liable for grave coercion because the presumption of intent to gain is rebutted.
- d. A is criminally liable for qualified trespass to dwelling because he employed violence.

59. What is the criminal liability, if any, of a physician who issues a false medical certificate in connection with the practice of his profession?
- The physician is criminally liable for falsification of medical certificate.
 - The physician is criminally liable if the false medical certificate is used in court.
 - The physician incurs no criminal liability if the false medical certificate is not submitted to the court.
 - The physician incurs no criminal liability if the false medical certificate does not cause prejudice or damage.
60. Under which of the following circumstances is probation not applicable?
- Probation is not applicable when the accused is sentenced to serve a maximum of six (6) years.
 - Probation is not applicable when the accused has been convicted by final judgment of an offense punished by imprisonment of less than one (1) month and/or fine of less than P200.00.
 - Probation is not applicable when accused is convicted of indirect assault.
 - Probation is not applicable when accused is convicted of indirect bribery.
61. What crime is committed by a person who, having found a ring, fails to deliver the same to the owner or to the local authorities?
- The finder commits theft.
 - The finder commits concealment.
 - The finder commits qualified theft.
 - The finder commits usurpation of property.
62. At a wake, there were people watching a game of dice. With treachery and use of unlicensed firearms, AA fired successively several gunshots at their direction. During the shooting, four (4) persons were killed and fourteen (14) others were injured and brought to the hospital for the treatment of gunshot wounds. What should be the proper charge against AA?
- AA should be charged with multiple murder and attempted murder.
 - AA should be charged with four (4) counts of murder and fourteen (14) counts of attempted murder.
 - AA should be charged with four (4) counts of murder, fourteen (14) counts of serious physical injuries and illegal possession of firearms.

- d. AA should be charged with complex crime of murder and attempted murder with illegal possession of firearms.

63. A, B, C and D are members of the police department of a municipality. Conspiring with one another, they arrested E, without reasonable ground, for the purpose of delivering him to the proper authorities by imputing to E the crime of bribery. While E was being investigated by A, B, C and D, one of them placed a marked five hundred peso bill, together with the money taken from E, to make it appear that E, an employee of the Office of the Local Civil Registrar, agreed to perform an act not constituting a crime in connection with the performance of E's duties, which was to expedite the issuance of a birth certificate. What is the crime committed by A, B, C and D?

- a. A, B, C and D committed incriminatory machination through unlawful arrest.
- b. A, B, C and D committed intriguing against honor with unlawful arrest.
- c. A, B, C and D committed slight illegal detention.
- d. A, B, C and D committed corruption of public official.

64. Felonies are classified according to manner or mode of execution into felonies committed by means of deceit (dolo) and by means of fault (culpa). Which of the following causes may not give rise to culpable felonies?

- a. Imprudence;
- b. Malice;
- c. Negligence;
- d. Lack of foresight.

65. Which of the following acts does not constitute estafa or other forms of swindling?

- a. When a person mortgages a real property by pretending to be the owner thereof.
- b. When a person disposes of the real property knowing it to be encumbered.
- c. When a person wrongfully takes real property from its lawful possessor to the prejudice of the latter.
- d. When a person mortgages real property while being a surety given in a civil action without express authority from the court.

66. DD, intending to kill EE, peppered the latter's bedroom with bullets, but since the intended victim was not home at that time, no harm came to him. What crime is committed?

- a. DD committed the crime of attempted murder.
- b. DD committed the crime of attempted homicide.

- c. DD committed the crime of impossible crime.
- d. DD committed the crime of malicious mischief.

67. What crime is committed when a person ill-treats another by deed without causing any injury?

- a. The offender commits maltreatment.
- b. The offender commits slander by deed.
- c. The offender commits assault.
- d. The offender commits coercion.

68. The baptism of A was solemnized by B, an ecclesiastical minister, in the absence of C, one of the godparents. Upon request of the mother of A, B caused the inclusion of the name of C in the baptismal certificate of A as one of the godparents and allowed a proxy for C during the baptismal ceremony. What is the criminal liability, if any, of the ecclesiastical minister?

- a. The ecclesiastical minister is criminally liable for falsification of baptismal certificate by causing it to appear that C participated in the baptismal ceremony when he did not in fact so participate.
- b. The ecclesiastical minister is not criminally liable because the insertion of the name of C in the baptismal certificate will not affect the civil status of A.
- c. The ecclesiastical minister is not criminally liable because he is not a public officer, employee or notary.
- d. The ecclesiastical minister is not criminally liable because he did not take advantage of his official position nor cause damage to a third party.

69. Is the penalty for impossible crime applicable to one who attempts to commit a light felony of impossible materialization?

- a. No. The evil intent of the offender cannot be accomplished.
- b. No. An attempt to commit light felony constitutes an employment of inadequate or ineffectual means.
- c. No. The penalty for consummated light felony is less than the penalty for impossible crime.
- d. No. In impossible crime, the act performed should not constitute a violation of another offense.

70. What crime is committed by a public officer who, having control of public funds or property by reason of the duties of his office and for which he is accountable, permits any other person through abandonment to take such public funds or property?

- a. The public officer commits malversation.
- b. The public officer commits technical malversation.
- c. The public officer commits the crime of failure of accountable or responsible officer to render accounts.
- d. The public officer commits the crime of failure to make delivery of public funds or property.

71. AA knowingly and willfully induced BB to swear falsely. BB testified as told in a formal hearing of an administrative case under circumstances rendering him guilty of perjury. Is AA criminally liable?

- a. AA is not criminally liable because his act constitutes subornation of perjury which is not expressly penalized in the Revised Penal Code.
- b. AA is not criminally liable because he was not the one who gave false testimony in the administrative case.
- c. AA is not criminally liable because the witness suborned testified in an administrative case only.
- d. AA is criminally liable for perjury as principal by inducement with BB as the principal by direct participation.

72. What should be the proper charge against an offender who unlawfully took and carried away a motor vehicle belonging to another without the latter's consent, killing the driver in the process?

- a. The proper charge against the offender should be murder with the use of motor vehicle.
- b. The proper charge against the offender should be qualified carnapping or carnapping in an aggravated form.
- c. The proper charge against the offender should be carnapping and homicide.
- d. The proper charge against the offender should be robbery with homicide.

73. Conspiracy to commit felony is punishable only in cases in which the law specifically provides a penalty therefor. Under which of the following instances are the conspirators not liable?

- a. Conspiracy to commit arson.
- b. Conspiracy to commit terrorism.
- c. Conspiracy to commit child pornography.
- d. Conspiracy to commit trafficking in persons.

74. With intent to cause damage, AAA deliberately set fire upon the two-storey residential house of his employer, mostly made of wooden materials. The blaze spread and gutted down seven neighboring houses. On the occasion of the fire, six (6) persons sustained burn injuries which were the direct cause of their death. What crime was committed by AAA?
- AAA committed the complex crime of arson with multiple homicide.
 - AAA committed arson and multiple homicide.
 - AAA committed simple arson.
 - AAA committed arson and multiple murder.
75. What crime is committed by a utility worker in government who destroys office files as an act of revenge against his supervisor?
- The utility worker commits infidelity in the custody of papers.
 - The utility worker commits malicious mischief.
 - The utility worker commits estafa by removing, concealing or destroying office files.
 - The utility worker commits crime involving destruction.

- NOTHING FOLLOWS -

HAND IN YOUR ANSWER SHEET.

THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.

**2012 BAR EXAMINATIONS
CRIMINAL LAW**

21 October 2012

3:30 P.M.-5 P.M.

Set B

**ESSAY TYPE QUESTIONS
INSTRUCTIONS**

The following questionnaire consists of ten (10) questions (numbered I to X) contained in THREE (3) pages.

Begin your answer to each numbered question on a separate page; an answer to a sub-question/s under the same number may be written continuously on the same page and succeeding pages until completed.

Answer the question directly and concisely. Do not repeat the question. Write legibly.

HAND IN YOUR NOTEBOOK. THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.

GOODLUCK!!!

MARTIN S. VILLARAMA, JR.
Chairperson
2012 Bar Examinations Committee

PLEASE CHECK THAT THIS SET CONTAINS FOUR (4) PAGES (INCLUDING THIS PAGE).

WARNING: NOT FOR SALE OR UNAUTHORIZED USE

TAXATION LAW

I

- a. What are the elements of the crime of bigamy? (5%)
- b. If you were the judge in a bigamy case where the defense was able to prove that the first marriage was null and void or a nullity, would you render a judgment of conviction or acquittal? Explain your answer. (2%)

Assuming the existence of the first marriage when accused contracted the second marriage and the subsequent judicial declaration of nullity of the second marriage on the ground of psychological incapacity, would you render a judgment of conviction or acquittal? Explain your answer. (3%)

II

- a. What is a privileged mitigating circumstance? (5%)
- b. Distinguish a privileged mitigating circumstance from an ordinary mitigating circumstance as to reduction of penalty and offsetting against aggravating circumstance/s. (5%)

III

- a. Is the crime of theft susceptible of commission in the frustrated stage? Explain your answer in relation to what produces the crime of theft in its consummated stage and by way of illustration of the subjective and objective phases of the felony. (5%)
- b. What are the constitutional provisions limiting the power of Congress to enact penal laws?

(5%)

IV

A postal van containing mail matters, including checks and treasury warrants, was hijacked along a national highway by ten (10) men, two (2) of whom were armed. They used force, violence and intimidation against three (3) postal employees who were occupants of the van, resulting in the unlawful taking and asportation of the entire van and its contents.

- a. If you were the public prosecutor, would you charge the ten (10) men who hijacked the postal van with violation of Presidential Decree No. 532, otherwise known as the Anti-Piracy and Anti-Highway Robbery Law of 1974? Explain your answer. (5%)
- b. If you were the defense counsel, what are the elements of the crime of highway robbery that the prosecution should prove to sustain a conviction? (5%)

V

- a. Who is an accomplice? (5%)
- b. Distinguish an accomplice from a conspirator as to their knowledge of the criminal design of the principal, their participation, the penalty to be imposed in relation to the penalty for the principal, and the requisites/elements to be established by the prosecution in order to hold them criminally responsible for their respective roles in the commission of the crime. (5%)

VI

- a. What is the fundamental principle in applying and interpreting criminal laws, including the Indeterminate Sentence Law? (5%)
- b. How is the Indeterminate Sentence Law applied in imposing a sentence? (5%)

VII

- a. Who are brigands? (5%)
- b. Distinguish brigandage from robbery in band as to elements, purpose of the offender and agreement among the offenders. (5%)

VIII

- a. Who is a habitual delinquent? (5%)
- b. Distinguish habitual delinquency from recidivism as to the crimes committed, the period of time the crimes are committed, the number of crimes committed and their effects in relation to

the penalty to be imposed on a convict. (5%)

IX

- a. Define conspiracy. (5%)
- b. Distinguish by way of illustration conspiracy as a felony from conspiracy as a manner of incurring liability in relation to the crimes of rebellion and murder. (5%)

X

- a. Explain and illustrate the stages of execution of the crime of homicide, taking into account the nature of the offense, the essential element of each of the stages of execution and the manner of committing such international felony as distinguished from felony committed through reckless imprudence. (5%)
- b. AA was arrested for committing a bailable offense and detained in solitary confinement. He was able to post bail after two (2) weeks of defection. During the period of detention, he was not given any food. Such deprivation caused him physical discomfort. What crime, if any, was committed in connection with the solitary confinement and food deprivation of AA? Explain your answer. (5%)

- NOTHING FOLLOWS -

HAND IN YOUR NOTEBOOK.

THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.