

INSTRUCTIONS

1. This Questionnaire contains ten (10) 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 22 items (I to XXII) to be answered within/our (4) hours.

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, to reason logically in a lawyer-like manner, and to form 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. 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 SUBMIT IT TOGETHER WITH YOUR NOTEBOOK

JUSTICE TERESITA J. LEONARDO-DE CASTRO
Chairperson
2015 Bar Examinations

- I. a) How are felonies committed? Explain each. (3%)
b) What is *aberratio ictus*? (2%)
- II. Distinguish between *ex post facto* law and bill of attainder. (3%)
- III. The Regional Trial Court (RTC) found Tiburcio guilty of frustrated homicide and sentenced him to an indeterminate penalty of four years and one day of *prision correccional* as minimum, to eight years of *prision mayor* as maximum, and ordered him to pay actual damages in the amount of 1125,000.00. Tiburcio appealed to the Court of Appeals which sustained his conviction as well as the penalty imposed by the court *a quo*. After sixty days, the Court of Appeals issued an Entry of Judgment and remanded the records of the case to the RTC. Three days thereafter, Tiburcio died of heart attack. Atty. Abdul, Tiburcio's counsel, filed before the RTC a Manifestation with Motion to Dismiss, informing the court that Tiburcio died already, and claiming that his criminal liability had been extinguished by his demise.
 - a) Should the RTC grant the Motion to Dismiss the case? Explain. (2.5%)
 - b) Assuming that Tiburcio's death occurred before the Court of Appeals rendered its decision, will you give a different answer? Explain. (2.5%)
- IV. Procopio, a call center agent assigned at a graveyard shift, went home earlier than usual. He proceeded immediately to their bedroom to change his clothes. To his surprise, he found his wife Bionci in bed making love to another woman Magna. Enraged, Procopio grabbed a knife nearby and stabbed Bionci, who died.
 - a) What crime did Procopio commit, and what circumstance attended the case? Explain. (3%)
 - b) Assuming that Procopio and Bionci were common-law spouses, will your answer be the same? Explain. (2%)
- V. Dion and Talia were spouses. Dion always came home drunk since he lost his job a couple of months ago. Talia had gotten used to the verbal abuse from Dion. One night, in addition to the usual verbal abuse, Dion beat up Talia. The next morning, Dion saw the injury that he had inflicted upon Talia and promised her that he would stop drinking and never beat her again. However, Dion did not make good on his promise. Just after one week, he started drinking again. Talia once more endured the usual verbal abuse. Afraid that he might beat her up again, Talia stabbed Dion with a kitchen knife while he was passed out from imbibing too much alcohol. Talia was charged with the crime of parricide.
 - a) May Talia invoke the defense of Battered Woman Syndrome to free herself from criminal liability? Explain. (2.5%)
 - b) Will your answer be the same, assuming that Talia killed Dion after being beaten up after a second time? Explain. (2.5%)
- VI. Senator Adamos was convicted of plunder. About one year after beginning to serve his sentence, the President of the Philippines granted him absolute pardon. The signed pardon states: "In view hereof, and in pursuance of the authority vested upon me by the Constitution, I hereby grant absolute pardon unto Adamos, who was convicted of plunder in Criminal Case

No. XV32 and upon whom the penalty of *reclusion perpetua* was imposed." He now comes to you for advice. He wants to know if he could run for senator in the next election.

a) What advice will you give Adamos? Explain. (2.5%)

b) Assuming that what Adamos committed was heading a rebellion for which he was imposed the same penalty of *reclusion perpetua*, and what he received was amnesty from the government, will your answer be the same? Explain. (2.5%)

VII. Taylor was convicted of a violation of the Election Code, and was sentenced to suffer imprisonment of one year as minimum, to three years as maximum. The decision of the trial court was affirmed on appeal and became final and executory. Taylor failed to appear when summoned for execution of judgment, prompting the judge to issue an order for his arrest. Taylor was able to use the backdoor and left for the United States. Fifteen years later, Taylor returned to the Philippines and filed a Motion to Quash the warrant of arrest against him, on the ground that the penalty imposed against him had already prescribed.

a) If you were the judge, would you grant Taylor's Motion to Quash? Explain. (2.5%)

b) Assuming that instead of the United States, Taylor was able to go to another country with which the Philippines had no extradition treaty, will your answer be the same? Explain. (2.5%)

VIII. A typhoon destroyed the houses of many of the inhabitants of X Municipality. Thereafter, X Municipality operated a shelter assistance program whereby construction materials were provided to the calamity victims, and the beneficiaries provided the labor. The construction was partially done when the beneficiaries stopped helping with the construction for the reason that they needed to earn income to provide food for their families. When informed of the situation, Mayor Maawain approved the withdrawal of ten boxes of food from X Municipality's feeding program, which were given to the families of the beneficiaries of the shelter assistance program. The appropriations for the funds pertaining to the shelter assistance program and those for the feeding program were separate items on X Municipality's annual budget.

a) What crime did Mayor Maawain commit? Explain. (2.5%)

b) May Mayor Maawain invoke the defense of good faith and that he had no evil intent when he approved the transfer of the boxes of food from the feeding program to the shelter assistance program? Explain. (2.5%)

IX. The Philippine Drug Enforcement Agency (PDEA) had intelligence reports about the drug pushing activities of Rado, but could not arrest him for lack of concrete evidence. SP03 Relio, a PDEA team leader, approached Emilo and requested him to act as poseur-buyer of *shabu* and transact with Rado. Emilo refused, saying that he had completely been rehabilitated and did not want to have anything to do with drugs anymore. But he was prevailed upon to help when SP03 Relio explained that only he could help capture Rado because he used to be his customer. SP03 Relio then gave Emilo the marked money to be used in buying *shabu* from Rado. The operation proceeded. After Emilo handed the marked money to Rado in exchange for the sachets of *shabu* weighing 50 grams, and upon receiving the pre-arranged signal from Ernilo, SP03 Relio and his team members barged in and arrested Rado and Ernilo, who were both charged with violation of R.A. 9165, otherwise

known as the Comprehensive Dangerous Drugs Act of 2002.

a) What defense, if any, may Ernilo invoke to free himself from criminal liability? Explain. (2.5%)

b) May Rado adopt as his own Ernilo's defense? Explain. (2.5%)

X. Honesto and Wilma were married but had been living separately due to irreconcilable differences. Honesto later met Celia and fell in love with her. Thinking that he could marry Celia if Wilma were to die, Honesto decided to kill Wilma. He secretly followed Wilma for weeks to learn her daily routine. He decided to kill her at night on her way home. On the night he was to kill Wilma, Honesto wore dark clothes so that he would not be easily seen. He waited in the dark alley for Wilma to pass by. He saw someone whom he thought looked like Wilma and shot her with a revolver. The bullet passed through the person's head and grazed another passerby's arm. Some bystanders who heard the shot were able to stop Honesto.

It turned out that Wilma did not report for work on that day, and the one who was shot in the head was Melba, who died. The passerby whose arm was grazed by the bullet required medical attendance for two days.

a) What crime(s) did Honesto commit? Explain. (2.5%)

b) Will your answer be the same, assuming that the other passerby was hit in the left eye which caused his/her blindness? Explain. (2.5%)

XI. Nel learned that Elgar, the owner of the biggest house in the place, would be out of town for three days with no one left to watch the house. He called his friends Ben, Ardo and Gorio and they planned to take the valuables in the house while Elgar was away. Nel and Ben would go inside the house, Ardo would serve as the lookout, while Gorio would stay in the getaway car. When Elgar left, they carried out their plan to the letter. Nel and Ben went inside the house through the backdoor which was left unlocked. None of the rooms and drawers inside were locked. They took the money, jewelry and other valuables therefrom and immediately left using the getaway car.

After driving for about one kilometer, Nel realized he left his bag and wallet with IDs in the house and so he instructed Gorio to drive back to the house. Nel just went in thinking that the house was still empty. But to his surprise, Nel found Fermin seated on a bench with Nel's bag and wallet beside him and appeared to be texting using his smart phone. Nel took a golf club near him and hit Fermin with it. Fermin shouted for help, but Nel kept hitting him until he stopped making noise. The noise alerted the neighbor who called the police. Nel, Ben, Ardo and Gorio were caught. Fermin died. What is the criminal liability of Nel, Ben, Ardo and Gorio? Explain. (5%)

XII. Ando, an Indonesian national who just visited the Philippines, purchased a ticket for a passenger vessel bound for Hong Kong. While on board the vessel, he saw his mortal enemy Iason, also an Indonesian national, seated at the back portion of the cabin and who was busy reading a newspaper. Ando stealthily approached Iason and when he was near him, Ando stabbed and killed Iason. The vessel is registered in Malaysia. The killing happened just a few moments after the vessel left the port of Manila. Operatives from the PNP Maritime Command arrested Ando. Presented for the killing of Iason, Ando contended that he did not incur

criminal liability because both he and the victim were Indonesians. He likewise argued that he could not be prosecuted in Manila because the vessel is a Malaysian-registered ship. Discuss the merits of Ando's contentions. (4%)

XIII. Dora gave Elen several pieces of jewelry for sale on commission basis. They agreed that Elen would remit the proceeds of the sale and return the unsold items to Dora within sixty days. The period expired without Elen remitting the proceeds of the sale or returning the pieces of jewelry. Dora demanded by phone that Elen turn over the proceeds of the sale and return the unsold pieces of jewelry. Elen promised to do so the following day. Elen still failed to make good on her promise but instead issued post-dated checks. Thereafter, Dora made several more demands, the last of which was in writing, but they were all unheeded. When the checks were deposited in Dora's bank account, the checks were returned unpaid for insufficient funds. Elen was charged with estafa and violation of Batas Pambansa Big. 22. Will the charges against Elen prosper? Explain. (4%)

XIV. Dela convinced Nita to work in Taiwan, promising Nita that she would take care of the processing of the necessary documents. Dela collected P120,000.00 from Nita purportedly for the processing of her papers. Upon receipt of the money, Nita was made to accomplish certain forms and was told that she would be deployed to Taiwan within one month. After one month, Nita followed up on her application. Dela made some excuses and told Nita that the deployment would be delayed. Another month passed and Dela made other excuses which made Nita suspicious. Nita later discovered that Dela was not licensed to recruit. Nita confronted Dela and demanded the return of her money. Dela promised to return the same in a week's time.

a) A week later, Dela was nowhere to be found. What crime(s) did Dela commit? Explain. (2.5%)

b) Will your answer still be the same, assuming that the promise to deploy for employment abroad was made by Dela to Celia, Digna and Emma, in addition to Nita, and from whom Dela also collected the same amount of processing fee? Explain. (2.5%)

XV. Dancio, a member of a drug syndicate, was a detention prisoner in the provincial jail of X Province. Brusco, another member of the syndicate, regularly visited Dancio. Edri, the guard in charge who had been receiving gifts from Brusco everytime he visited Dancio, became friendly with him and became relaxed in the inspection of his belongings during his jail visits. In one of Brusco's visits, he was able to smuggle in a pistol which Dancio used to disarm the guards and destroy the padlock of the main gate of the jail, enabling Dancio to escape. What crime(s) did Dancio, Brusco and Edri commit? Explain. (5%)

XVI. Erwin and Bea approached Mayor Abral and requested him to solemnize their marriage. Mayor Abral agreed. Erwin and Bea went to Mayor Abral's office on the day of the ceremony, but Mayor Abral was not there. When Erwin and Bea inquired where Mayor Abral was, his chief of staff Donato informed them that the Mayor was campaigning for the coming elections. Donato told them that the Mayor authorized him to solemnize the marriage and that Mayor Abral would just sign the documents when he arrived. Donato thereafter solemnized the marriage and later turned over the documents to Mayor Abral for his signature. In the marriage contract, it was stated that the marriage was solemnized by Mayor Abral. What crime(s) did Mayor Abral and Donato commit? Explain. (4%)

XVII. After a heated argument over his philandering, Higino punched on the head his wife Aika, who was six and a half months pregnant. Because of the impact, Aika lost her balance, fell on the floor with her head hitting a hard object. Aika died and the child was expelled prematurely. After thirty-six hours, the child died.

a) What crime(s) did Higino commit? Explain. (2.5%)

b) Assuming that when the incident occurred, Aika was only six months pregnant, and when she died, the fetus inside her womb also died, will your answer be different? Explain. (2.5%)

XVIII. Lito, a minor, was bullied by Brutus, his classmate. Having had enough, Lito got the key to the safe where his father kept his licensed pistol and took the weapon. Knowing that Brutus usually hung out at a nearby abandoned building after class, Lito went ahead and hid while waiting for Brutus. When Lito was convinced that Brutus was alone, he shot Brutus, who died on the spot. Lito then hid the gun in one of the empty containers. At the time of the shooting, Lito was fifteen years and one month old. What is Lito's criminal liability? Explain. (4%)

XIX. Bruno, a taxi driver, had an indebtedness in the sum of P10,000.00 which would become due in one week. He was starting to worry because he still had not raised the amount to pay for his debt. Every day, he had prayed for divine intervention. One night, while returning the taxi to the garage, he found a wallet on the back seat. Inspecting it, he learned that it contained exactly P1 0,000.00 cash, the amount of his obligation, and IDs. Thinking it was divine intervention, and that his prayers were answered, he took the money and used it to pay his debt.

a) What crime, if any, did Bruno commit? Explain. (2.5%)

b) Assuming that instead of using the money, Bruno turned over the wallet and its contents to the nearby police station, and it was the chief of police of that station who appropriated the money for his own benefit, what crime was committed by the chief of police? Explain. (2.5%)

XX. Senio planned to burn Bal's house. One evening, during a drinking spree at his house, Senio told his friends what he intended to do and even showed them the gasoline in cans that he would use for the purpose. Carlo, a common friend of Senio and Bal, was present at the drinking spree. He was still sober when Senio told them his plans. Before going home, Carlo warned Bal that Senio would burn his house and had already bought gasoline that would be used for the purpose. Bal reported the matter to the police authorities. Meanwhile, Senio went to Bal's house and proceeded to pour gasoline around the walls of the house and it was at that point when he was caught by the police. What crime did Senio commit, if any? Explain. (3%)

XXI. Filipino citizens Hector and Wendy were married in New York, and have been living happily in Manila for the last three years. Hector was removing junk from his basement when he came across an unlabeled recordable cd. He put it in his computer's DVD drive to check its contents. To his surprise, he saw a video of Wendy and another man Ariel, in the act of sexual intercourse in the master's bedroom of his house. Angered by what he saw, he filed a complaint for adultery against Wendy and Ariel. During the course of the trial, and again to the surprise of Hector, it was proved that Wendy was born male and underwent sex reassignment later in life.

a) May Hector's charge of adultery against Wendy and Ariel prosper? Explain. (3%)

b) What is an impossible crime? Can there be an impossible crime of adultery? (2%)

XXII. Charlie was charged for the qualified rape of AAA. The Information alleged that AAA was 14 years old at the time the crime was committed and that Charlie was AAA's stepfather. The presentation of AAA's birth certificate during the trial duly established the following: (1) that AAA was indeed 14 years old at the time of the rape; and (2) that AAA's mother is BBB and her father was the late CCC. BBB and Charlie only became live-in partners after CCC's death. The RTC found Charlie guilty of qualified rape. On appeal, the Court of Appeals convicted Charlie of simple rape. Charlie appealed before the Supreme Court. How will you rule and why? (3%)

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