



Republic of the Philippines
Supreme Court
Manila

2022 BAR EXAMINATIONS

**CRIMINAL LAW
(WITH PRACTICAL EXERCISES)**

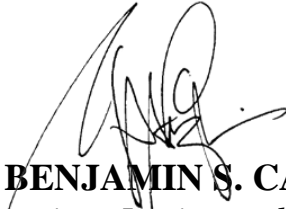
November 13, 2022

8:00 a.m. to 12:00 nn

INSTRUCTIONS

1. **This is a 4-hour examination consisting of 15 items, each worth 5 points.** If the item contains sub-questions, please mark your answer separately with “(a)” followed by the corresponding answer, then “(b)” followed by the answer.
2. **Read each question carefully.** Do not assume facts that are not provided in the question.
3. **Answer the questions clearly and concisely.** Your answer should demonstrate your ability to analyze the facts, identify issues, apply the law and jurisprudence, and arrive at a sound and logical conclusion. A mere “Yes” or “No” answer, or a mere legal conclusion without an explanation will not be given full credit.
4. **Allocate your time efficiently.** The items are in random sequence. You may skip items and move to items that you may find easier to answer. Use the 'Flag' feature so that you can return to the unanswered items.
5. **Do not write your name, distinguishing marks, or extraneous words or phrases in any of your answers.** This may be considered cheating and may disqualify you from the entire Bar Examinations.
6. **Do not type your final answer in the notes box, which is an optional tool.** Any text written in the notes box will not be included in your final answer.
7. **Technical issues during the exam are rare, but if you experience one, do not panic. Do not attempt to submit your exam answers.** Call the attention of your proctor for assistance.
8. If you need to step out of the room, **use the Hide Screen feature** to prevent anyone else from seeing your answers.

9. **You have until 12:00 noon to finish the exam.** Make sure you have completed and reviewed your answers before then. When submitting, the system will ask you one more time to confirm if you are ready to submit your answer file, to give you another opportunity to review your answers.
10. **Once done, show your proctor the green screen confirming your submission.** If the green screen does not appear, check with your proctor before leaving the room.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice and
2022 Bar Examinations Chairperson

1. Police officer John ran after Randy who had just killed Willy in John's presence. John fired at Randy in an attempt to stop him in his tracks. In response, Randy fired back at John, hitting him. John was seriously wounded but survived due to timely medical assistance. Randy was then charged with Frustrated Homicide. During the trial, Randy claimed self-defense.

Is Randy's claim of self-defense tenable? Explain briefly. (5 points)

2. Moe, Curly, and Larry were drinking and singing inside a karaoke bar when suddenly, Buboy entered the bar and without warning, immediately shot all three of them using a caliber .45 pistol. Thereafter, Buboy ran out of the bar to escape. Moe, Curly, and Larry died instantly due to gunshot wounds in their heads and bodies. With the help of eyewitnesses, Buboy was arrested. After inquest, the prosecutor charged Buboy with three counts of Homicide.

Do you agree with the charge of Homicide against Buboy? Explain briefly. (5 points)

3. Michael was driving along the highway when he executed a prohibited U-Turn. Dyords, a police officer, accosted Michael for the traffic violation. A verbal argument ensued between them. Dyords suddenly drew his service firearm, and pointed it at Michael. Dyords ordered Michael to alight from his car, which the latter obeyed. Dyords then handcuffed Michael and pinned his head and body against the pavement until he could no longer breathe. Michael died. Charged with Homicide, Dyords interposed the exempting circumstance of accident as a defense.

If you were the judge, how would you resolve Dyords' defense? Explain briefly. (5 points)

4. Bernardo, a mayoralty candidate of Osram City, wanted to eliminate Yori, his political opponent. Yori announced his intention to run for mayor of the same city. A month before the filing of candidacy, Bernardo and Benjamin met at a hotel and discussed their plan to kill Yori on the day when he would file his certificate of candidacy. Based on their agreement, Bernardo would provide the guns and the money, while Benjamin would provide the personnel to cordon off all roads leading to the COMELEC's local office.

On the day of the execution of the plan, however, Benjamin flew to Manila to avoid being involved in the planned killing of Yori. Bernardo, determined to kill Yori, convened his own armed group and laid out a new plan to kill Yori, and in accordance with it, his armed group patrolled all the roads leading to the COMELEC's local office. Bernardo remained in his house and monitored the execution of the plan from there. As soon as Yori and his supporters passed by the main road at around 2:00 p.m., Bernardo's armed group opened fire at them. Yori was unharmed as he was inside a bulletproof vehicle, but ten of his supporters were killed. Bernardo, the members of his armed group, and Benjamin were later charged with ten counts of Murder for the death of Yori's supporters and one count of Attempted Murder of Yori.

Discuss the criminal liability for the crimes charged against each of the following: (i) Bernardo, (ii) the members of Bernardo's armed group, and (iii) Benjamin. Explain briefly. (5 points)

5. A police officer responded to a disturbance call at around 1:30 p.m. in an apartment in Quezon City. Upon his arrival, the police officer encountered Sisa stabbing her 1-year old child with a kitchen knife. The police officer grabbed Sisa and the latter threw the knife on the floor. Sisa was immediately taken into custody. Despite suffering multiple stab wounds on her back, the child survived. During the trial, Sisa insisted that she can only be held liable for Attempted Parricide because she voluntarily desisted when she threw down the knife.

Is Sisa's contention tenable? Explain briefly. (5 points)

6. Anna and Barbara, while working inside their *sari-sari* store, saw Javier and Jorge robbing an elderly woman of her purse and brutally beating her to death. Anna and Barbara immediately ran outside and, when they tried to help the elderly woman, Javier and Jorge stabbed both of them. Thereafter, Javier and Jorge ran away with the elderly woman's purse. Anna suffered one stab wound which punctured her lung, but she survived due to timely medical assistance. Barbara, however, died as a result of nine stab wounds, one of which pierced through her spleen.

If you were the prosecutor, what crime/s will you file against Javier and Jorge for: (i) the death of the elderly woman, (ii) the death of Barbara, and (iii) the injuries sustained by Anna? Explain briefly. (5 points)

7. Jesusa, a mayoralty candidate of the Municipality of Jaen, Nueva Ecija during the 2019 local elections, was ambushed and gunned down by Jhudas, a gun for hire. Jhudas was arrested at a COMELEC checkpoint just after the incident. The firearm he used, a baby Armalite, was verified to be without any license. During the interrogation, Jhudas admitted that Pontio, the rival mayoralty candidate of Jesusa, paid him Php 1,000,000.00 to assassinate Jesusa. Due to Jhudas' admission, coupled with the sworn statement of an eyewitness, the prosecutor filed two Informations, one for Murder and one for Illegal Possession of Firearm, against both Jhudas and Pontio.

Do you agree with the prosecutor's charges against Jhudas and Pontio? Explain briefly. (5 points)

8. Jenny obtained a fire insurance from YG Insurance Co. (YG). In payment of the policy, she issued a postdated check payable to cash in the amount of Php 15,000.00 which was handed to Lisa, YG's sales agent. Lisa did not remit the check to YG. Instead, Lisa deposited it in her husband's bank account, but the check was dishonored for having been drawn from a closed account.

What crime, if any, was committed by Lisa and, if there was any, what is its prescribed penalty? Explain briefly. (5 points)

9. Madame X, with the promise of money, and without the use of force, intimidation, or threat, enticed Zia, a 15-year-old, to engage in oral sex by allowing Madame X to lick Zia's vagina. Zia consented because she needed the money.

What crime, if any, was committed by Madame X? Explain briefly. (5 points)

10. During the 2022 national elections, Bern posted on her Facebook page a statement that Alfredo, an incumbent mayor vying for re-election, has a pending corruption case with the Sandiganbayan for pocketing Php 20,000,000.00 of public funds under his custody. Czarina, Bern's friend, saw the post and commented online, stating: "*Bhie, true yan. Alfredo is so corrupt. Marami ding binabahay yan. Sugarol pa!*" Donnabel, also Bern's friend, reacted to Bern's post by clicking the "like" button. Another person, Justine, who is a stranger to Bern and her friends, but who claims to be a crusader for good governance, came across the said post. Finding it relevant to her advocacy and crusade, Justine shared the link to Bern's post on her Twitter account.

Who among Bern, Czarina, Donnabel, and Justine, if any, are liable for the crime of Cyberlibel? Explain briefly. (5 points)

11. On May 15, 2013 at around 3:00 a.m., Lucy, Mary, and Raphael were on board a passenger jeepney, with Raphael behind the wheel. They were traversing the highway on the southbound lane.

Meanwhile, a Virgen Bus, driven by Kiko, was traveling along the northbound lane. Kiko overtook the vehicle in front of him, which caused him to occupy the opposite lane where the jeepney was on. With the Virgen Bus traveling at a high speed, Raphael tried to avoid the collision but failed. The bus hit the jeepney which resulted in Raphael's death, serious physical injuries to Lucy and Mary, and extensive damage to the jeepney amounting to Php 500,000.00.

The public prosecutor filed two Informations charging Kiko for two separate offenses: (i) Reckless Imprudence resulting in Serious Physical Injuries for the injuries suffered by the passengers; and (ii) Reckless Imprudence resulting in Homicide and Damage to Property for Raphael's death and the damage to the jeepney.

Is the public prosecutor correct? Explain briefly. (5 points)

12. Sometime in 2011, while police officers were conducting a foot patrol in connection with the report of rampant illegal activities in the area, police officer Pepe saw Raul inside a small shanty holding a disposable syringe. Being a police officer for almost 15 years and having previously made more than ten arrests involving possession of drug paraphernalia, Pepe entered through the

open door of Raul's shanty and arrested him. Inside the shanty, 23 more pieces of disposable syringes and empty ampules were seized from Raul. Pepe immediately marked the seized items, took photographs thereof, and conducted an inventory in the presence of Raul, a barangay *kagawad*, a representative from the Department of Justice (DOJ), and a media practitioner. The seized items were turned over to the evidence custodian, who kept them in a sealed container in the police station.

During the trial of Raul for the crime of Illegal Possession of Drug Paraphernalia, police officer Pepe, the sole witness for the prosecution, testified as narrated above. After which, the prosecution rested its case. The defense did not present any evidence.

If you were the judge, would you convict or acquit Raul for the crime charged? Explain briefly. (5 points)

13. Joben, a school principal, called high school students Paula and Gina, both 15 years old, to the faculty room regarding the sexual text message circulating around campus which made reference to Joben's daughter. In front of teachers and some students, Joben shouted at Paula and Gina, asking them who sent the said text message. Joben also threatened to sue them and said: "*Siguro nainggit kayo sa anak ko kasi maganda sya, matalino at mayaman. Sabihin nyo kasi sa mga magulang nyo magsumikap sila para maging mayaman din kayo. Di yung tatamad-tamad.*" Joben then raised her middle finger in front of Paula and Gina, saying "*Mga burikat (whore)!*"

Later that day, Paula and Gina narrated the incident to their parents and said that they were ashamed of going back to school.

Is Joben guilty of violating Section 10(a) of Republic Act No. 7610 for other acts of child abuse? Explain briefly. (5 points)

14. On February 25, 2019, Bob approached Edward to borrow Php 100,000.00 purportedly to settle some obligations, promising that he would pay the loan using a postdated check. Convinced by Bob's promises of repayment with interest, and because of their closeness as former classmates in high school, Edward agreed to lend the said amount. As payment, Bob made, drew, issued in favor of, and delivered to Edward in the latter's residence at No. 112 Maria Orosa St., Ermita, Manila, CBC Savings Bank Check No. 32710 postdated August 25, 2019 in the amount of Php 105,000.00. When the check was presented for payment on its due date in CBC Savings Bank Quezon City Branch, it was dishonored due to: "Drawn Against Insufficient Funds" (DAIF).

On January 22, 2020, Edward sent a demand letter to Bob to pay the face value of the check, but said demand, although received by Bob, was not heeded. Hence, the check remained unpaid, with no arrangement for its payment.

Draft the appropriate Information, complete with caption and title, charging Bob for violation of Batas Pambansa Blg. 22. (5 points)

15. In 2003, the Province of Davao del Sur purchased two vehicles for the use of the Governor and Vice Governor, respectively. The purchase requests, which were all signed by Luis as then Governor of the province, requested for the acquisition of one unit of Ford Ranger XLT 4x4 and one unit of Toyota Hilux 4x4. The procurement of the subject vehicles did not undergo competitive public bidding as it was effected through direct purchase. The mode of procurement was approved by the members of the Bids and Awards Committee (BAC) of the province. The two vehicles were delivered to the provincial government, and after inspection and acceptance by the concerned officials, payments were issued to the suppliers.

Subsequently, a complaint was filed by a concerned citizen before the Office of the Ombudsman-Mindanao (OMB) claiming that the purchase of the provincial government violated the procurement law. The OMB, after due investigation, verified that the provincial government did not comply with the required procedure of the procurement law. Based on this finding, the OMB filed with the Sandiganbayan an Information against Luis and the members of the BAC for violation of Section 3(e) of Republic Act No. 3019.

The Sandiganbayan found Luis and the members of the BAC guilty on the sole reason that violation of the procurement law constitutes evident bad faith and manifest partiality on the part of the accused.

Is the Sandiganbayan correct? Explain briefly. (5 points)