

Exam number: _____

Criminal Justice - Professor Hench

Final Examination Fall Semester, 2006

December 2006

Two (2) Hours

1. **EXAMINATION NUMBERS:** Please make sure that your examination number appears on your copy of this Examination, and on EACH of your bluebooks. **Do not put your name or other identifying mark anywhere on the examination materials or bluebooks or in your answer.**

2. **QUESTIONS:** This examination consists of **one question** based on one fact pattern. Please answer in the bluebooks provided or type on ExamSoft[©] and return the examination when you turn in your bluebooks. Each bluebook should be numbered in sequence [*e.g.*, 1 of 2; 2 of 2]. **If you hand-write, skip every other line and write on one side of each page only. Ignoring this instruction will hurt your grade.**

3. **There are three (3) pages to this examination, including this instruction page/** Feel free to mark up the examination question sheet in any way that will help you, but no-thing that you write on the question pages will count either for you or against you.

4. This is an **open book examination**. You may consult books, notes, or other materials brought with you, whether prepared by you or by someone else. You may NOT consult or log onto any form of electric, electronic, or other data storage or recording or communication or playback device *in any way*. You may NOT consult materials outside of the examination room, and you may NOT consult any other person, either in person or via any communication medium, during the exam, EXCEPT that you may address questions concerning the exam process itself to the proctor on duty.

5. **TIME AND ORGANIZATION:** Two (2) hours have been allotted for the examination. Please note carefully what you are asked, and answer in the manner indicated by each Question.

6. Make your answer succinct and organized, and **do** write legibly. I cannot give credit for anything I cannot read! I advise leaving space at the end of each major part of your answer in case you want to add something later.

7. **ASSUMPTIONS AND FACTUAL INFERENCES:** Base your answers on the facts given and *logical* inferences which can be drawn from the facts. If you think it necessary to make assumptions or to draw inferences, (for example, if significant facts appear to have been omitted or are ambiguous) state CLEARLY what assumptions you are making, and analyze accordingly. You may NOT assume, however, that facts given are untrue, and you may not make assumptions contrary to the stated facts.

8. **LAW AND STATUTES:** Your answer should apply Hawai'i law.

9. **NON-RESPONSIVENESS:** Do not overlook the importance of answering what was asked. Points will be deducted for non-responsive portions of any answer. **Do not simply "dump" your outline into your answer!** You should address all issues reasonably raised by the fact pattern, but not matters that have no possible bearing on the case. Your ability to discern the difference is part of what is being tested.

CRIMINAL JUSTICE EXAM 2006

Fact Pattern: One Question, Two Hours

Alice and Bob, who were girlfriend and boyfriend, came up with a plan to steal the cash from an ATM, and they borrowed D's heavy truck, to help them execute the plan. Alice & Bob tried to pull the front off the ATM by attaching one end of a chain to the ATM and the other to the bumper of the truck. However, instead of pulling the front panel off the ATM, they pulled the bumper off the truck. Cashier Carrie was killed by a flying piece of debris from the ATM. Alice & Bob panicked and fled, leaving the chain still attached to the machine, their bumper still attached to the chain, and their car's license plate still attached to the bumper.

Fleeing the scene, Alice & Bob encountered Bob's brother Doug, and told him what had happened. Doug realized that leaving the license plate was a bad idea, especially since it was registered to Doug. Doug ran to the scene to remove the plate from the bumper. Frustrated by his inability to remove the license plate, Doug shot at the license plate bolt, thinking he could shoot it off as he had seen on tv. The bullet ricocheted and lodged in the leg of Eddie, a police officer who had arrived to investigate the ATM / bumper incident.

A crowd began to form, shouting for the police. Bystander Fiona, tried to stop Doug, who punched Fiona in the nose and tried to run. Fiona grabbed a chihuahua from her car and waved it menacingly at Doug, shouting threats. Doug jumped into Fiona's car, which had the keys in the ignition, and left the scene.

Meanwhile, Alice was nowhere to be found, and Bob was alone. As Bob fled the ATM incident, Bob ducked into a store, where he saw canvas cash bags on the counter. Bob shoved aside the store security officer, and grabbed the closest four bags of money. It turned out they contained \$800 in pennies, weighed 30 pounds each, and slowed him to a stagger during his getaway. Just then, Doug came by, and Bob was able to get himself and the pennies into the car. Doug and Bob fled the scene.

Doug was convinced by now that Alice had betrayed Bob and Doug, and became enraged to the point of near-incoherence. Too emotional to think straight, Doug told Bob that Alice had to die, and that Bob owed it to the family honor to kill Alice. Bob did not believe that Alice had betrayed them, but he always did what Doug told him, so when they spotted Alice, who tried to flag them down to pick her up on the street, Bob threw one of the bags of pennies at Alice from the moving car, believing it was heavy enough to kill Alice, but secretly hoping it would not. Alice was severely stunned by the impact, stepped back, tripped over the chihuahua which was running loose after getting away from Fiona. Alice fell forward into the street, on the point of death. As Alice lay dying, Alice was struck and killed by Officer Eddie's patrol car. Eddie was trying to get to the hospital to have the bullet taken out of his leg, but passed out from loss of blood while driving, and crashed the patrol car into Alice, killing both Alice and Eddie.

You are the new associate in the prosecutor's office. Your assignment is to write a memo explaining all crimes with which Doug may legitimately be charged under **Hawai'i** law, explaining and ANALYZING the strong and weak points of each, explaining why some crimes might have to be ruled out and why others should be included. Your memo should also address any defenses (affirmative or otherwise) that Doug might raise based on these facts, and the likelihood that he would succeed in defeating the charges. It is extremely important to give your REASONING on all points.

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