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Attachments:

1. Table of Contents (11 pages)

**THIS EXAMINATION CONSISTS OF 3 PAGES (INCLUDING THIS PAGE)
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COMPLETE PAPER**

**THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD FACULTY OF LAW**

**FINAL EXAMINATION
SPRING 2019**

**LAW 221
CRIMINAL LAW**

**Section 4
Professor Harris**

TOTAL MARKS: 100

**TIME ALLOWED: 3 HOURS and 10 minutes
reading time**

NOTE:

1. The examination is closed book, but students may bring to the exam two double sided, or four single sided, pages with notes, and a tabbed unannotated *Criminal Code*.
2. **THIS EXAMINATION CONSISTS OF 3 QUESTIONS. PLEASE ANSWER ALL 3 QUESTIONS.**

Question 1 (60 Marks)

Jake Jar is charged with the assault causing bodily harm of Ivan Inmate contrary to section 267(b) of the *Criminal Code* and the murder of William Warden contrary to section 229(a) of the *Criminal Code*.

Jar has suffered from mental health issues over the past few years and he was recently convicted of fraud. While the fraud was very serious, Jar was only given a 2 year sentence because he had never been in trouble with the law before. Jar just began serving his sentence in a minimum security prison where prisoners during the day have freedom of movement within the institution. Jar did not have money for the prison canteen when he first arrived, so he borrowed some money from Ivan Inmate who was convicted of manslaughter three years ago and is serving an 8 year sentence. A relative who was supposed to send Jar money never did, and Jar was unable to pay Inmate back. One morning, Inmate announced to Jar that if he did not pay him back in 24 hours, Jar would have to fight Inmate. Jar knew this would be a disaster because Inmate was much bigger and stronger than him. Jar immediately went to Willy Warden who is in charge of the prison. Jar told Warden about his situation with Inmate but Warden said he did not believe Jar and refused to do anything.

By the next morning, the 24 hour deadline had passed. Jar was in the prison library, and he saw Inmate walking down a hall towards Jar's living area with a metal rod in his hand. Another prisoner, who knew about the dispute between Jar and Inmate, told Jar he better go fight with Inmate now because people who did not deal with their debts are targeted for violence by everyone in the prison. Jar ran out of the library and punched Inmate three times in the head. Inmate laughed and then punched Jar in the stomach. Jar fell over after being punched and hit his head on the concrete floor.

Jar then walked into Warden's office, picked up a pen on Warden's desk, and stabbed Warden deeply in the chest with the pen. Warden died a minute later. Jar was sitting on a chair in Warden's office when two guards came in the office and apprehended Jar.

A medical expert examined Warden and found that Warden had had a heart attack before Jar entered his office, and found that Warden might possibly have died at the same time regardless of the stabbing. A medical expert also examined Jar and found that he had a concussion and that he had not been taking his medication lately which helps control his mental health problems. Jar will testify at his trial that he remembers the conflict with Inmate outside the library, but that he has no memory of events after Inmate punched him in the stomach.

Do you think Jake Jar will be found guilty of any offences? Please set out your reasons why or why not, and include an analysis of each element of the offences and any relevant defences.

Question 2 (30 Marks)

Alan Accused is charged with assaulting Carry Cop with intent to resist arrest contrary to section 270(1)(b) of the *Criminal Code*. Accused was having a number of beers in a bar when he decided to go outside and have a cigarette. He started walking to an alley behind the bar, but fell because he was having trouble walking straight. Accused eventually got to the alley and noticed that Willy Workout was also in the alley having a cigarette. Both Accused and Workout lift weights at the same gym. Workout told Accused that he did not get enough protein in his diet which was limiting his weight lifting, and Accused told Workout that he had just bought a bunch of jars of the best-selling brand of protein powder and he offered to give Workout one jar. Accused opened up a backpack he was carrying and gave Workout a large clear jar of protein powder with a “Smith’s Protein Powder” label on it.

Carry Cop is a police officer who was on foot patrol and she was passing by the alley. She saw Accused and Workout huddled together, and she knew that a lot of drug dealing took place in that alley. From about 10 metres away she saw Accused hand Workout a large jar. Cop saw that the jar had some kind of label on it and saw that it contained white powder. Accused saw Cop and started running away. Cop then yelled to Accused “you are under arrest for trafficking in cocaine contrary to section 5 of the *Controlled Drug and Substances Act*” and she started running toward Accused to put handcuffs on him. When she was close to Accused, Accused struck Cop in the stomach and she fell to the ground.

Accused plans to testify at his trial for resisting arrest. He will testify that he was really confused about what was happening due to his drinking. He will testify that he felt annoyed when he heard someone yelling something to him about trafficking drugs, so he punched the person.

Do you think Accused will likely be found guilty of violating section 270(1)(b) of the *Criminal Code*? Please explain why or why not considering all elements of the offence and any applicable defences. Section 5(1) of the *Controlled Drug and Substances Act (CDSA)* is found at p. 948 of the 2019 *Pocket Criminal Code*. Please assume that cocaine falls within Schedule 1 of the *CDSA* and that protein powder is not covered by the *CDSA*.

Question 3 (10 Marks)

Comment on the accuracy of the following statement:

The test for directed verdicts and the test for air of reality for defences are very similar.

END OF EXAMINATION

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