THIS EXAMINATION CONSISTS OF 3 PAGES

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THE UNIVERSITY OF BRITISH COLUMBIA

PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION - DECEMBER 2022

LAW 221

Criminal Law & Procedure

Section 2

Professor Nikos Harris

**TOTAL MARKS:** 100

**TIME ALLOWED:** 1 HOUR and 10 minutes reading time

**NOTE:**

1. This is an open book examination. Students may use course materials and their own notes but not other materials including other persons notes or CANS and non-course texts.

2. THIS EXAMINATION CONSISTS OF 1 QUESTION.

**Question 1 (100 Marks)**

Alan Accused is charged under the following charging sheet:

Alan Accused, on or about the 15th day of March 2022, in the City of Vancouver, in the Province of B.C., did commit an offence contrary to section 130(1)(a) of the *Criminal Code* in the Urban Art Gallery.

Section 130(1)(a) of the *Criminal Code* reads as follows:

130 (1) Everyone commits an offence who

(a) falsely represents himself to be a peace officer or a public officer

Alan Accused and Brent Buddy met in a training program to become Vancouver Police Officers. Once a person has completed the training program and passed a final interview, that person becomes a Vancouver Police Officer. Buddy dropped out of the program after a month, but Accused completed the program and then had his final interview with the Police Board. Accused’s interview started out very poorly, but it gradually improved, and by the end of the interview Accused thought he had likely passed the interview. The Board told Accused that they would soon let him know their decision by a letter.

On March 15, 2022, two weeks after the Board interview, Buddy told Accused that the Urban Art Gallery in Vancouver, B.C. was showing a very rare painting worth millions of dollars and suggested that they steal it. Accused thought that Buddy’s idea was stupid because there would be a lot of people in the Gallery, but he went with Buddy to the Gallery to see what would happen. Just before they entered the Gallery, Buddy pulled out a fake police badge and told Accused that the badge could be useful if anyone tried to stop him from taking the painting. Accused told Buddy that the badge was an obvious fake.

Accused and Buddy entered the Gallery and there were very few people inside. The valuable painting was hanging near a back door. Accused and Buddy ran up to the painting, both grabbed it, and then carried it outside through the back door. Willy Worker, a Gallery employee, was on a break and was smoking a cigarette just outside the back door. Worker saw Buddy and Accused with the painting outside the Gallery, and he asked them why they were removing the painting. Buddy said that he was a police officer, showed Worker the badge, and said he was removing the painting because there was an allegation that it was stolen property. Worker told Buddy that the badge looked very fake. Accused then said to Worker that Buddy was not a police officer, but that he was a police officer, and he would deal with Buddy and the painting.

Worker told Accused that he did not believe that Accused was a police officer. Accused pulled a sealed envelope from the Police Board from his pocket. Accused told Worker that he had got this envelope in the mail yesterday and that the letter inside would say that he had passed his final interview and was a police officer.

**(Question 1 continued)**

Worker asked Accused to open the envelope. After pausing for a while, Accused opened the envelope and took out the letter. The letter was from the Police Board and it said that Accused had failed the interview and would have to retake the training course.

The above evidence was called in Accused’s trial. Accused then testified and stated that he was shocked when Buddy said he was a police officer, and said that he never expected Buddy to use the badge. Accused also testified that although he had not opened the envelope, he had assumed that the letter would state that he had passed the interview.

**Please provide an opinion concerning whether Alan Accused will likely be found guilty of the charge. In your opinion, please include a discussion of all essential elements of the offence. Please assume that section 130(1)(a) is constitutional.**

**END OF EXAMINATION**