THIS EXAMINATION CONSISTS OF 4 PAGES

PLEASE ENSURE YOU HAVE A COMPLETE PAPER

THE UNIVERSITY OF BRITISH COLUMBIA

PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2023

LAW 476

Evidence

Section 1

Professor Gordon

**TOTAL MARKS:** 100

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

(Students can type or write their exam answers during the reading time)

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**NOTES:**

1. This is an open book examination. You may refer to the required textbook (Hamish Stewart et al, *Evidence: A Canadian Casebook)*, materials posted on the course Canvas website, and your own notes. Other books or materials are not permitted.
2. Answer all questions.
3. Full case citations are not needed; short-form case names are fine (e.g. “Kahn”).
4. For candidates writing by hand, please write legibly, and preferably on every second line of your exam paper. Be sure to identify your exam code.
5. Communication devices such as mobile phones are not permitted.
6. Thanks for a great term and good luck!

**THIS EXAM CONSISTS OF 6 QUESTIONS**

Prologue: This is a true story. Many of these facts are taken directly from news coverage of this event, though I have changed some of the facts for purposes of this exam. In particular, Sandeson was convicted of first-degree murder in 2017, but appealed that ruling. The Nova Scotia Court of Appeals ordered a new trial and Sandeson was re-tried earlier this year. For purposes of this exam, I have combined facts and testimony from the two trials; if you otherwise know of this story, you should only use the facts that are provided in the fact pattern and the questions below. In addition, you should not address Sandeson’s appeal or the Court’s decision to order a new trial.

\*\*\*\*\*\*\*\*\*\*\*\*\*\*

Around 10pm on August 15, 2015, Taylor Samson (Taylor), a physics student at Dalhousie University in Nova Scotia, told his girlfriend Mackenzie that he needed to go out for a while and would be back soon. Mackenzie never saw Taylor again.

The following day, when Taylor failed to show up for Sunday dinner and wasn’t responding to text messages, his mother contacted the police and reported him missing. Police obtained Taylor’s cell phone records and eventually tracked down William Sandeson, another Dalhousie student, who was the last person Taylor called before he disappeared. After interviewing Sandeson several times and searching his Halifax apartment, police arrested Sandeson and charged him with first-degree murder.

During their investigation, police discovered that both Taylor and Sandeson were known drug dealers in the Halifax area. Sandeson, who was about to begin his first year of medical school, also had approximately $78,000 in debt. The Crown’s theory of the case is that Sandeson lured Taylor to his apartment with the prospect of a very large marijuana deal, but that instead of paying him, Sandeson shot Taylor in the head. The Crown alleges that Sandeson was motivated by greed to kill Taylor and steal the nine kilograms of marijuana Taylor had brought to Sandeson’s apartment to sell.

Taylor’s body has never been found, but police suspect that Sandeson dismembered the body and dissolved parts of it in lye.[[1]](#footnote-1)

**The Crown in Sandeson’s trial has applied to admit the following evidence. As to each piece of evidence, do you think that the Crown’s application will be successful? Please explain why or why not, including how the factfinder will be able to use the evidence. (50 marks)**

1. Testimony from Taylor’s girlfriend Mackenzie that she knew Taylor was selling marijuana and had been for years to pay his way through school, though Taylor had always tried to shield her from the details.
2. A series of text messages Sandeson sent to a friend describing how he'd kill his girlfriend Sonja if he found out she was cheating on him. The texts said that he would dump her head and hands in lye to disintegrate them and leave her body at the farm his family owned. He also said he’d tried out the lye thing with some dead animals on the farm so he knew it would work.
3. A voicemail Sandeson left for his father in early August of 2015, where Sandeson said, “Hey Dad, it’s me. Just wanted to let you know not to worry about me – if everything goes well, I’ll have my debt paid off by September.”
4. Testimony from Sandeson’s girlfriend Sonja. The Crown expected Sonja to testify about Sandeson’s drug dealing and relationship with Taylor but, when Sonja takes the stand, she claims to have no knowledge of any of Sandeson’s illegal activities. She testifies that the relationship was casual, and she didn’t see or hear anything about drugs the entire time they were together.

The Crown was not expecting this testimony and will now apply to admit a transcript of a police interview Sonja gave shortly after Sandeson’s arrest. In that interview, Sonja told police the following:

“I don’t know if he’s capable of murder, but Sandeson has been selling pot for years. I know he’s sold to Taylor before and he told me once that he thought Taylor was weak, you know, not very smart, and that he’d be easy to take advantage of. And he’s paranoid. Who knows what he’ll do to me if he finds out I’ve talked to you guys.”

Sonja’s police interview was given under oath, but the police station’s video equipment malfunctioned that day and there is no video recording of the interview.

**At the close of the Crown’s case, Sandeson has applied to admit the following evidence in defence. As to each piece of evidence, do you think that Sandeson’s application will be successful and can the Crown cross-examine these witnesses in the manner detailed below? Please explain why or why not, including how the factfinder will be able to use the evidence. (50 marks)**

1. Sandeson’s testimony that he shot Taylor during a drug deal gone wrong, but that it was in self-defence, and he fired the gun because he feared for his life when Taylor lunged at him during an argument over payment. He will also testify that Taylor, who was over six feet tall and 220 pounds, was “a scary dude.”

On Cross, the Crown would like to ask Sandeson about a text message he sent the night of August 15th to Jordan MacEwan, another Dalhousie student who knew both Sandeson and Taylor through drug dealing. In his texts to MacEwan, Sandeson said Taylor never showed up to meet him that night.

1. Sandeson’s mother Gloria’s testimony that Sandeson was known in their neighborhood and at their church as an accomplished student athlete and a leader. She will testify that he was repeatedly honored as an “All-Canadian Scholar,” a student who maintained a grade point average of 80 percent or better while also competing in a varsity sport, and that he worked in a group home for teens with disabilities.

On cross, the Crown would like to ask Gloria if she knows that her son has been dealing drugs for years and that he was convicted of selling MDMA at a music festival in 2013.

**End Of Examination**

1. Ugh, I know. Again, this is a true story, and I did not make this up. [↑](#footnote-ref-1)