

2012 Mid-Term Exam

EXAM NO.

RAW SCORE	ADJUSTED SCORE

ESSAY QUESTION ONE:

Dustin Charged, Bank Robbery; His Wife Testifies

	ISSUE	POSSIBLE POINTS	YOUR POINTS
(1)	<u>Prosecution Asks About A Bank Robbery Committed By Dustin Two Years Ago.</u>		
	I. <u>Rule 501 Spousal and Marital Confidential Communication Privileges</u>	1	
	II. <u>Rule 611(a)/(c) Form of the Question</u>	1	
	III. <u>Rule 401 Relevance</u>	3	
	IV. <u>Rule 404 & 405 Character/Rule 403 Unfair Prejudice</u>	5	
	V. <u>Rule 801 Hearsay</u>	4	
(2)	<u>Prosecution Asks What Dustin Said To Wendy On The Day Of The Robbery.</u>		
	I. <u>Rule 401 Relevance</u>	2	
	II. <u>Rule 801 Hearsay</u>	3	
	III. <u>Rule 501 Marital Communication Privilege</u>	1	
(3)	<u>Prosecution Asks If Wendy Spoke With Anyone Else.</u>		
	I. <u>No Objectionable Question or Answer</u>	2	

(4)	<u>The Prosecution Asks What Nancy, A Friend, Said To Wendy Later That Evening.</u>		
	I. <u>Rule 801 Hearsay/801(d)(2)(E) Co-Conspirator/803(2) Excited Utterance</u>	5	
	II. <u>Rule 401 Relevancy</u>	2	
(5)	<u>Prosecution Asks Wendy What Nancy Meant By Saying, “Pulled Off A Big Job.”</u>		
	I. <u>Rule 602 Personal Knowledge/Rule 611(a) Speculation/Rule 701 Lay Opinion</u>	1	
	II. <u>Rule 801 Hearsay</u>	3	
(6)	<u>Prosecution Asks What Else Dustin Might Have Said About This Robbery Case Against Him.</u>		
	I. <u>Rule 501 Marital Communication Privilege</u>	1	
	II. <u>Rule 801 Hearsay</u>	3	
	A. <u>Dustin’s Statement To The Police Officer</u>		
	B. <u>The Police Officer’s Statement Back To Dustin</u>	3	
	III. <u>Rule 410 Plea Bargaining</u>	5	
	IV. <u>Rule 411 Liability Insurance</u>	5	
	Overall Clarity, Persuasiveness, Organization, Creativity, etc.	5	
	TOTAL FOR ESSAY QUESTION ONE	55	

ESSAY QUESTION TWO:

Manslaughter Case Against David; Death of Vic

	ISSUE	POSSIBLE POINTS	YOUR POINTS
(1).	<u>Testimony Of Vic's Wife, Wanda, Regarding: Vic's Telephone Call With David; Vic & David's Altercation On The Military Base, And David's Alleged Sexual Assault.</u>		
	I. <u>Vic's Statement About His Telephone Call With David</u>	2	
	A. <u>Rule 801 Hearsay/Rule 805 Hearsay Within Hearsay</u>		
	B. <u>Rule 801(d) Hearsay Exclusions/Rule 803 Exceptions</u>	2	
	C. <u>Rule 901 Authentication of David's Voice</u>	1	
	II. <u>Military Base Actions</u>	2	
	A. <u>Rule 801 Hearsay -- David's Gesture</u>		
	B. <u>Rule 801(d) Hearsay Exclusions/Rule 803 Exceptions</u>	2	
	C. <u>Rule 801 Hearsay -- Vic's Threat</u>	2	
	D. <u>Wanda's Testimony About Fight/Actions Valid</u>	1	
	III. <u>David's Violent Sexual Assault</u>	1	
	A. <u>Rule 801 Hearsay</u>		
	B. <u>Rule 401 Relevance, Rule 403 Prejudice</u>	2	
	C. <u>Rule 404 Character/Rule 405(a) Specific Instance</u>	3	
	D. <u>Rule 413-415 Inapplicable</u>	1	
(2)	<u>Cross-Examination Of Wanda, Her Sworn Statement That She Knew The Violent Sexual Assault Story On The Internet Was Not True</u>		
	I. <u>Rule 401 Relevance -- Credibility</u>	1	
	II. <u>Rule 801 Hearsay -- Sworn Statement</u>	1	
	II. <u>Rule 613/801(d)(1)(A) Prior Inconsistent Statement</u>	3	
(3)	<u>Testimony Of David During Defense Case</u>		
	I. <u>Rule 404(a) "First Aggressor" Testimony</u>	2	
	II. <u>Rule 801 Hearsay -- Two Other Fights</u>	2	
	III. <u>Rule 404 Character of Victim/Rule 405 Specific Instances</u>	3	
	IV. <u>Rule 401 Relevancy/Rule 404(b) -- David's Fear (Self-Defense)</u>	2	
	A. <u>First Fight Rule 401/404(b) Relevant</u>		

	B. <u>Second Fight Rule 402/404(b) Irrelevant</u>	2	
	C. <u>But Both Involve Weapons v. No Weapon Here</u>	1	
(4)	<u>Prosecutions' Rebuttal Testimony Evidence About Vic And David</u>		
	I. <u>Rule 404(a) "First Aggressor" Testimony -- Homicide/Manslaughter Case: David Gave "Keys" to Open Door on Vic's Peaceful Character</u>	3	
	II. <u>Rule 404(a) "First Aggressor" Testimony -- Was Door Also Opened On David's Bad Character, Or Limited to Vic's Character?</u>	3	
	III. <u>Rule 404 Character/Rule 405(a) Specific Instances/Rule 406 Habit Of "Picking Fights With Vic"</u>	3	
	Overall Clarity, Persuasiveness, Organization, Creativity, etc.	5	
	TOTAL FOR ESSAY QUESTION TWO	50	

FINAL RAW SCORE

EXAM SECTIONS	POSSIBLE POINTS	YOUR POINTS
ESSAY QUESTION ONE	55	
ESSAY QUESTION TWO	50	
TOTAL SCORE	105	

PLEASE NOTE THAT YOUR "ADJUSTED SCORE" – NOT YOUR "RAW SCORE" -- IS YOUR ACTUAL GRADE FOR THE MID-TERM EXAM