Concord University School of Law
Practice Essay

SOS -- Start on Skills

Instructions:

These are the Instructions to take this SOS essay under "test-conditions." You may, however, take the essay any way that works for the group. You may set a 2 hour time-limit; you may set no time limit at all. You may even write the essay together, step-by-step, stopping to review whether IRAC has been properly followed.

This is a timed practice, and you should take no more than one hour to complete this exercise. Set a timer and allow no interruptions. Before you write, be sure you have memorized all of your definitions and rule statements so that you can recite them in the appropriate place. Remember that you cannot demonstrate your best analysis unless you use the IRAC formula. If necessary, review IRAC before you begin to write.

This is closed book and designed to test your ability to recognize legally significant facts, to reproduce on paper the proper rule statements and definitions, and to apply the relevant facts to the elements of the rule in order accurately to predict the legal outcome. You will need these skills to do your best on your final exams as well as on the FYLSE, if you are required to take it.

The best practice is to write an outline or an "issues list" before you begin to write. Under no circumstances should you spend more than 5 or 6 minutes on this overview. Yet, under no circumstances should you ignore it. If you make an issues checklist before you begin, you can go back and check off the issues at the end. On the other hand, if you do not have a checklist, it is too easy to lose your way as your write and totally forget to include an issue you, in fact, actually identified. To lose points through inadvertent omission is a frustrating -- and unnecessary -- outcome.

Getting Started: Set a timer and write your outline or issues list. Then, write the essay itself. When the timer rings, stop, draw a line across the page -- and keep going until completion. Note your Total Time clearly in parentheses for your reviewer. This will become an important diagnostic tool to help you improve your skills.

Finally:

1. Make and keep clean copies of this essay so you can practice rewriting it, especially if you find you cannot complete it in the required hour allotted. Candidly, you cannot practice writing too many essays. First, you will learn to think more rapidly, a real advantage on finals as well as on the FYLSE, if you are required to take it. Second, you will begin to recognize common and recurring fact patterns, another incalculable advantage, especially under time pressure. Certainly, if your time is running well over an hour, you should practice writing the same essay several times as your exams approach -- until you can complete it in time.

2. When you receive your assessment back, pay attention to your weakest areas.
Do you need to work on memorizing the Rule Statements? Organizing? Applying the Facts? Stating a conclusion without being inconsistent or unsure? Does the structure of the essay wobble from Rule to Conclusion and back to the Issue? Are the facts analyzed before the Rule Statement if provided? Have you omitted the Rule Statement altogether?

Above all, remember that the tasks are familiar ones to all students everywhere. Hard work pays off. Cramming does not work. There are no short cuts to memorization.

Good luck.
Doug was watching television in his ground floor apartment. When outside noise made it difficult to hear the sound, he looked out and saw a party in progress on the lawn. Doug yelled at the party-goers to be quiet and threw an empty bottle at them. The bottle hit a woman on the leg. Her boyfriend, Tom, ran to Doug’s apartment, broke down the door, and approached Doug shaking his fist. Doug, who had been drinking heavily, reached into a drawer, removed a pistol, and immediately shot and killed Tom.

Doug fled, but was stopped the next day at the boarding gate of a publicly operated inter-city bus terminal when the pistol, which was in his pocket, activated a metal detector. The privately owned bus company had instituted the boarding procedure because it had been the object of several bomb threats in the preceding weeks.

Security personnel of the bus company detained Doug. Because they had read of Tom’s death, and the pistol Doug was carrying was of the same caliber as that believed to have been used in the homicide, they seized the pistol. They released Doug. Later that day, they took the pistol to the police and told the police why they had taken it from Doug.

Thereafter, Doug was arrested on a city street by police officers on a charge of carrying a concealed weapon. The arresting officers told him that ballistics tests had proved his pistol had fired the bullets which killed Tom. Doug then blurted out, "I shot Tom in self-defense."

Doug has been charged with murder.

Assuming that all of the above facts are proved by competent evidence at trial, may Doug properly be convicted of first degree murder, or of any lesser included offenses, and if so, what offenses? Discuss.