

FINAL EXAMINATION
CRIMINAL PROCEDURE II
Professor Moskovitz
Spring, 2007

1. You have three (3) hours to complete this exam.
2. This is a closed book exam.
3. This exam consists of two parts.

Part I consists of 29 True/False and multiple-choice questions. Please mark your responses to the multiple choice questions on the separate "ParSCORE TEST FORM" using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer.

Part II consists of two (2) essay questions. Please write your response in the blue books provided. Please write clearly. Write on every other line and every other page to permit instructor comments.

4. Write your exam number on your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, each blue book, and the "ParSCORE TEST FORM." **Do not** use your name, student ID number or Social Security Number on any exam materials.
5. At the conclusion of the exam, return all test materials, including blue books, ParScore answer sheet, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam may not have their exams graded.

GOOD LUCK!

ESSAY QUESTION I
Recommended time: One Hour

To: My Law Clerk
From: Rhoda Ruin, Esq.

My client, Dan Dork (D), was charged with assault with a deadly weapon. Peter Putz (P) faces the same charge. At the preliminary hearing, police officer Carl Copp testified as follows:

I was walking my beat on Mission Street when I saw Dork and Putz using tire irons to beat Ali Baba (AB), a bearded, dark-skinned man wearing a turban. When I arrested them, Putz said, "We don't like Muslims. They are all terrorists."

Before trial, I moved to sever Dork's trial from Putz's trial, but the judge denied my motion.

During *voir dire*, prospective juror Saddam Saddam (S) said that he was a Muslim, and "I'm not a terrorist, and I don't like people who think all Muslims are terrorists." The judge then asked Saddam, "Could you follow my instructions to base your verdict solely on the evidence in this case?" Saddam said, "Yes, I think I can, Your Honor." I challenged Saddam for cause, but the judge denied my challenge. After consulting with Dork, I then exercised a peremptory challenge against Saddam. The judge asked me, "Is this because he's a Muslim?" I said, "Partly, Your Honor. My client doesn't think Mr. Saddam can put aside his feelings in this case." The judge then denied my peremptory challenge.

The jury convicted Dork (and Putz). I am appealing Dork's conviction. Will the appellate court reverse?

Essay Question II

Recommended time: 1 hour

Propose changes to at least one and no more than two features of the American criminal justice system that we discussed in this course. Draft a short statute that would implement each of your proposed changes.

Include the following in your discussion:

1. What policy objections to your statute(s) are likely to be made, and what is your response to them?
2. What arguments can be made that your statute(s) are unconstitutional, as the Constitution is presently written and interpreted by the Supreme Court? How will the Court rule on these arguments? If the Court might strike down your statute(s), how would you amend the Constitution to ensure that your statutes are constitutional?

Have a nice summer!

