

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR OF LAWS

BLAW 311: CRIMINAL PROCEDURE

STREAMS:

TIME: 2 HOURS

DAY/DATE: THURSDAY 13/04/2023

2.30 P.M. – 4.30 P.M.

INSTRUCTIONS**Answer question one and any other two****Marks will be awarded for well cited authorities****QUESTION ONE**

(a) After learning that he was supposed to work for Mzungu for the next 10 years without pay, John left his employment with Mzungu without notice. Mzungu was deducting John's whole salary to cater for sponsorship he granted him. When Mzungu learnt about John's departure and his destination, he swore to teach him a lesson. One day he visited John in person and ordered him to go back to his place of work or otherwise "face the consequences." Although John refused to go back these utterances and threats left him restless and feared for his life and security. 1 week later, John was arrested by police officers who flogged him to the police station alleging that he was involved in theft that took place in Mzungu's residence. He was put in remand for 10 days, where he was tortured in order to force him to sign a statement that he was the one who organized the burglary. When John's mother came to visit him, she was denied access and was told that she was not to see him for the next 3 years. 2 weeks later, Mwai, the local priest at the church where John's Mother worshiped raised the issue in the church sermon. After the mass, members of the Youth wing in John's Catholic Church went direct to Mzungu residence where they formed a mock court and found him guilty. He was sentenced to an immediate punishment. He was dragged on the road, flogged to the gate where he received 10 strokes while naked. John

was released one day after this incident. On his way home, he was attacked by a group of young men and seriously injured. He was found unconscious the following morning and was taken to Kangu Hospital, a mission hospital in the nearby town. Later in the day, his mother went to check on him and found him missing from his hospital bed. On enquiry, John's mother was informed that John was picked by his uncle

(a whiteman) and transferred to Karia Referral hospital for further medication. Wakabi went direct to that hospital and was informed that they had not received such a patient. It is now three months and John's Mother does not know of his whereabouts.

With the aid of relevant authorities, discuss the issues of criminal process that arise in the case.

(16 Marks)

(b) Mgumu was arrested on 1st January 2023 in Munguni village in Tharak Nithi County. He was alleged to have participated in a theft that occurred in Ikku bar and rest. Last week the prosecutor informed the court that investigations had been concluded and they were now ready to proceed to hearing. Mgumu learns that you are a beacon of hope in criminal matters. He has approached you wanting to know how the hearing will be conducted.

With aid of authorities, give Mgumu a detailed explanation of the processes followed at the trial stage of criminal cases.

(8 Marks)

(c) Discuss the law governing searches in Kenya.

(6 Marks)

QUESTION TWO

a) Discuss the criminal jurisdictions of the magistrate's Court in Kenya. (12 marks)

b) James an LLB1 student has been wondering about the circumstances under which a person charged with committing a serious crime can be released awaiting his trial. Lately he has come to know this happens when someone is granted bail or bond. He has come to you for further explanations relating to the two. With use of authorities, explain to him the difference between bail and bond. (8 marks)

QUESTION THREE

a) Critically discuss the law governing arrests in Kenya. (10 Marks)

b) You have been posted as the head of Director of Public Prosecutions in Tharaka County in the Kijani Republic. The Republic has a Constitutional arrangement that is similar to that of Kenya. You have now been tasked with enlightening your juniors, who have been freshly

employed and posted in the area on the power of the prosecution office in deciding whether or not to prosecute a suspect in criminal cases. With aid of authorities, explain to them the considerations made in regard to decision to prosecute. (10 marks)

QUESTION FOUR

- a) James has been appointed to facilitate a high level seminar on criminal process. He notifies you that the first session he has been assigned is on a topic on criminal litigation funding. Write to him a discussion note that he will use to deliver a well thought out presentation on criminal litigation funding. (12 marks)
- b) With use of authorities, discuss the law governing inquests in Kenya. (8 marks)

QUESTION FIVE

- (a) Law enforcement agencies are bound to get evidence to support the prosecution case to a standard required in criminal cases. This includes carrying out investigations in regard to the identity of a suspect. This is sometimes accomplished by conducting identification parades. Critically examine the rules that govern conduct of identification parades in Kenya. (10 marks)
- (b) Examine 10 rights of an accused person protected in the Constitution of Kenya, 2010. (10 marks)
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