

CHUKA UNIVERSITY

UNIVERSITY EXAMINATIONS

2022/2023 ACADEMIC YEAR

EXAMINATION FOR THE BACHELOR OF LAWS

BLAW 311- CRIMINAL PROCEDURE

Programme Regular

TIME 2 HRS

DAY:

DATE:

INSTRUCTIONS

Answer question one and any other two

Marks will be awarded for well cited authorities

QUESTION ONE

(a) John left his employment with Mzungu without notice after learning that he was supposed to work for Mzungu for the next 10 years without pay. 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 else he was to 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 demanding him to sign a statement that he is the one who organized the burglary. When John 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 where John's Mother worshiped raised the issue in the church sermon. After 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 where he was dragged on the road, flogged to the gate and 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 him. She found John 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 has not known his whereabouts.

With the aid of well cited authorities discuss the criminal process issues raised in the case.

(16 Marks)

(b) Mgumu was arrested on 1st January 2023 in Munguni village in Tharak Nithi County. He is alleged to have participated in theft that occurred in Ikku bar and rest. Last week the prosecution informed the court that investigations had been concluded and they are 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 is 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 magistrates court in Kenya (12 marks)
- b) James an LLB1 student has been wondering on 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 in enlightening your juniors who have been freshly employed and posted in the area about the power of the prosecution office in deciding whether or not to prosecute 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 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 investigations in regard to identity of a suspect. This is sometimes accomplished through 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 2010 Constitution of Kenya (10 marks)