

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2006

TITLE OF PAPER : CRIMINAL PROCEDURE

COURSE CODE : L 402

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER FOUR (4) QUESTIONS.**
- 2. ALL QUESTIONS CARRY EQUAL MARKS.**

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QUESTION 1

The law of criminal procedure has increasingly come to terms with the prejudice that may be suffered by an unrepresented accused in a criminal trial. Several duties are imposed by the common law as well as by the Constitution Act, 2005 on the judicial officer which reflect an attempt to ensure that the accused participates meaningfully in the trial, as is expected in an adversarial system of criminal justice.

Citing decided cases, discuss the common law duties that have since been entrenched in the Constitution of Swaziland.

[25 MARKS]

QUESTION 2

The law pertaining to Bail in Swaziland has undergone a process of metamorphosis much to the detriment of the accused person. Do you agree?

[25 MARKS]

QUESTION 3

Describe the criminal jurisdiction of courts in Swaziland.

[25 MARKS]

QUESTION 4

The accused, Mr. Jiggy Hips was arrested at 12 noon on the 2nd of February, 2006 for the possession of 600g of dagga. He was kept incommunicado until 2 pm when he was brought to court and charged with the offence of dealing in dagga. After the explanation of the presumption contained in the Habit Forming Drug Act, 1970 and an enquiry as to whether he required an attorney, he was called upon to plead. He pleaded guilty and he was convicted of dealing in dagga, only to realize then that the mandatory sentence is five years' imprisonment. The accused claimed that he had been confused, bewildered and nervous and had no knowledge of court procedure. He approaches you for legal advice.

Making reference to decided cases, advice Mr. Jiggy Hips on what steps to take under the circumstances.

[25 MARKS]

QUESTION 5

Using case law examples, distinguish between "mere harmless irregularities" and "irregularities which result in a failure of justice." In your answer explain if there is an objective justification for this distinction.

[25 MARKS]