

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2007

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.

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

QUESTION 1

The right to a fair trial is one of the fundamental aspects of a criminal trial. Critically assess this statement and support your answer with relevant authorities.

[25 MARKS]

QUESTION 2

“Under the Due Process Model of criminal justice the aim is not merely to secure a conviction in as much as it is to ensure that such results are achieved in terms of rules which duly and properly acknowledge the rights of an individual at every critical stage during pre-arrest, investigation and pre-trial, trial and post-trial proceedings.” Critically assess this statement. State how the due process model is different from the crime control model of criminal justice.

[25 MARKS]

QUESTION 3

Your client Mr. Mnotfo Lubhedze has been indicted for bribery, theft, fraud and corruption. It is alleged that on divers occasions in the months between August and September, 2005 he engaged in corrupt practices and accessed E6,000,000 (Six Million Emalangen) from the public treasury. It is alleged that Mr. Lubhedze accessed this amount of money through bribing public officials. Mr. Lubhedze is also indicted for fraud in that he misrepresented to the Accountant General that as of the 8th September, 2005 the Chakijane Pty Ltd was already incorporated under the laws of Swaziland. In truth however, the certificate of incorporation was issued on the 11th November 2005. On the 11th November, 2005 Mr. Lubhedze filed an invoice for payment from the treasury for work that had ostensibly been done by Chakijane Pty Ltd. Mr. Lubhedze is the sole director of this company. The Directorate of Public Prosecution has charged Mr. Lubhedze under the Prevention of Corruption Act, 2007.

You are required to write an opinion stating Mr. Lubhedze’s prospects of success on the criminal charges he is facing.

[25 MARKS]

QUESTION 4

You are approached by Miss Stop Nonsense who is very upset. She tells you that she is a regular customer of the Spar Supermarket, Lundzi. She confides in you that she is a medical practitioner based at Lundzi. On the 4th January she was in the company of a male white friend who was visiting from Sweden at the Spar. She was stopped by an uncompromising and rude security guard who ordered her to open her hand bag so they could search it. The security that confronted her was a male. Her male colleague, who carried a bigger bag was not subjected to similar treatment. Mrs. Stop Nonsense tells you

that she was humiliated by the conduct of the Security at the SPAR especially as it happened in the glare of the public. She wants to know if this search was justified and if she can institute legal action against the Spar Supermarket.

Advise Mrs. Stop Nonsense citing relevant authorities.

[25 MARKS]

QUESTION 5

The Constitution Act, 2005 makes radical inroads on the criminal jurisdiction of the High Court and the Supreme Court. Critically evaluate the validity or invalidity of this statement.

[25 MARKS]