

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION, JULY 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

QUESTION 1

The accused is a full legal subject, and as such he is entitled to participate in his trial to his own autonomous decisions and to be assisted, if he so wishes, by a legal representative. Critically assess this statement.

[25 MARKS]

QUESTION 2

“Legal controls on police powers are a clog on police efforts in fighting crime. Police powers need to be enlarged, not circumscribed so as to enable them to effectively meet the threat posed to society by criminals”. Critically assess this statement.

[25 MARKS]

QUESTION 3

Mr. Horrible Past was charged with bestiality and was tried and convicted by the Swazi National court, Manzini, He was sentenced to two years imprisonment without an option of a fine. He applied for bail while he awaited his matter to be finalised by the National Court. Bail was denied him and no reasons were given by the National Court President for refusing Mr. Horrible Past bail. Mr. Horrible Past is presently serving his sentence doing time at Big-bend Correctional Services. You are approached by Lokusa Past a daughter to Mr. Horrible Past. She wants to know if her father was properly tried and convicted by this court. She also wants to know if she can take her father’s matter to any other court. Advise Lokusa, citing relevant authorities.

[25 MARKS]

QUESTION 4

Outline the procedure to be followed in cases where the accused pleads guilty in the Magistrate’s Court and in the High Court. What is the effect of a plea of guilty in criminal proceedings.

[25 MARKS]

QUESTION 5

The law of Criminal Procedure is increasingly coming 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 on a 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.

Discuss five of these duties.

[25 MARKS]