

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2008

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

What is the procedure for impeaching one's own witness in criminal trials? When is it permissible to impeach a witness in criminal trials? Discuss making reference to authorities. [25 MARKS]

QUESTION 2

Outline the procedure to be followed when an application for the recusal of a judicial officer is sought. When is it necessary to make an application for recusation? [25 MARKS]

QUESTION 3

Accused persons Tshani Dlongolo (a Swazi male adult of Sidzakeni in the Shiselweni District) and Dumsile Thomo (a female Swazi citizen of Makholweni in the district of Hhohho) were caught with counterfeit notes with a face value of E1,000, 400-00 at Mathendele location on the 10th March, 1999.

The accused were arrested by 20 000 Detective Constable Mtfunywa Tfumbatsi and 30 000 W/DSGT Pholile Ludwala at Mathendele location Shiselweni district after they received a tip-off from members of the public. Upon arrival at Mathendele location, they met 30055 Constable Nyosi Dlamini on his motor bike which was stationery in front of motor vehicle SD 403 BN.

Tshani Dlongolo was standing by the driver's door of the said motor vehicle while Dumsile Thomo was standing next to the passenger's door. Detective constable Mtfunywa Tfumbatsi introduced himself to both accused persons and requested for permission to search the motor vehicle. Tshani Dlongolo granted him permission to search the vehicle. Detective Constable Mtfunywa Tfumbatsi conducted a search but decided to do a thorough search at the police station as they were on a busy road. He then asked both accused to proceed to Nhlanganano Police Station and both agreed. Upon arrival at the Police Station, Detective Constable Tfumbatsi proceeded with his search in the presence of both accused persons.

At the back seat, Constable Tfumbatsi found a blue plastic bag and opened it. He opened it and found a light blue cloth (umgcula). He opened the cloth and found ten bundles of counterfeit E200.00 notes. The counterfeit notes were counted in the presence of the accused and it amounted to E1,000, 400-00 i.e. 5,002 counterfeit notes.

The accused persons were then cautioned and charged. The counterfeit notes were confirmed as such after examination by an expert.

You are Prosecuting Counsel in this matter. Draft the papers that will ensure commencement of the criminal trial.

[25 MARKS]

QUESTION 4

The prosecution of environmental crime is a new phenomenon with far reaching consequences on the principle of locus standi. Critically evaluate the validity of this statement, citing relevant authorities.

[25 MARKS]

QUESTION 5

The law pertaining Bail in Swaziland has undergone a metamorphosis to the detriment of the accused person. Critically examine this statement with reference to authorities.

[25 MARKS]