

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, MAY, 2012

228

TITLE OF PAPER: CRIMINAL PROCEDURE

COURSE CODE: L 402

TIME ALLOWED: THREE 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.

Occasionally, in the conduct of a criminal trial, counsel will deal with a hostile and/or an intransigent witness. Criminal procedure provides for mechanisms that counsel must follow in dealing with either witness. Discuss the said mechanisms and proffer recommendations on how the law may be improved.

(25 Marks)

QUESTION 2.

Mary Shaw is fifteen years old. She is charged with the offence of murder in that on or about the 13th June, 2011, and at or near Fairview, Manzini, she intentionally and unlawfully killed one Brenda Seven, a female minor aged sixteen years. The bone of contention is that the accused was a girlfriend of the deceased and they were in love relationship-however unconventional. The deceased is said to have communicated to the accused her intention of ending the love relationship, and in her words-“because the accused was lousy in bed.” This infuriated the accused who proceeded to stab the deceased once on the chest with a bread knife which was on the kitchen table when the altercation began. The accused is an unsophisticated minor who has been kept in custody for almost a year now. She has languished in custody simply because the system forgot her. Your attention has been drawn into this case and, as an expert in criminal procedure you agree to help. What will your first action be, if the accused must be assisted to get out of her incarceration so she can pursue her education?

Draft the necessary papers to help the accused person in this matter.

(25 Marks)

QUESTION 3.

The Protection of Witnesses' Act has made radical inroads in the manner witnesses will now be catered for in our criminal justice system. Do you agree? Give reasons for your answer making reference to authorities.

(25 Marks)

QUESTION 4.

The prosecution of environmental crime in Swaziland is not a priority mainly because the Directorate of Public Prosecutions is not aware of how simple the Environment Management Act (EMA) has made such prosecutions. Explain the pertinent provisions of this Act to the DPP, in the process allaying his fears on the fallacy of holding that the EMA has usurped the powers of the DPP.

(25 Marks)

QUESTION 5.

In the context of Swaziland, it is now settled law that the issue of credibility of witnesses will not be considered at the close of the case for the prosecution. Do you agree? Critically evaluate the validity of this statement making reference to authorities.

(25 Marks)