

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

TITLE OF PAPER : CRIMINAL PROCEDURE EXAMINATION
(NOVEMBER 2017)

COURSE CODE : L402

TIME ALLOWED: 3 HOURS

TOTAL MARKS: 100

INSTRUCTIONS: 1) ANSWER ALL QUESTIONS

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CRIMINAL PROCEDURE EXAMINATION

Question 1

The Constitution has introduced serious changes in both pretrial and trial procedures in the criminal justice system of the country. With the support of authorities critically analyse whether or not the above statement is correct.

[25 marks]

Question 2

- 2.1 Judge Chigogodza concludes a murder trial by making the following remarks

“It is the finding of this Court that you have failed to establish extenuating circumstances on a balance of probabilities. In light of this, I am enjoined and required by Section 296 of CPE to sentence you to death by hanging. From here you shall be kept in a place of safety and therefrom hanged by your neck, until you are dead. May the Lord have mercy on your soul”.

Discuss citing authorities whether His Lordship was correct in his approach.

[10 marks]

- 2.2 What is a *voire dire*? Discuss the steps that ought to occur in a *voire dire* up to its finality.

[10 marks]

- 2.3 On what grounds may a potential witness refuse to be sworn by a judicial officer before giving evidence?

[5 marks]

Question 3

Bail is a Constitutional right that is accessed within certain limitations which are considered to be in the interests of justice. State those 5 limitations and the factors that are considered when dealing with those limitations. **(25 marks)**

Question 4

4.1 Under what circumstances may a Court order a separation of trials. **[10 marks]**

4.2 The Constitution has changed the face of search of a person, search and entry of premises in Swaziland. Do you agree with this contention? State your reasons whether you agree or not. **[10 marks]**

4.3 An accused who refuses to plead is in contempt of Court and the judicial officer ought to issue a warrant for his detention for not more than 8 days, in accordance is this the legal position? Discuss.

[5 marks]