



NATIONAL OPEN UNIVERSITY OF NIGERIA
FACULTY OF LAW
DEPARTMENT OF PUBLIC LAW
2020_1 EXAMINATION

COURSE CODE: PUL446

COURSE TITLE: LAW OF EVIDENCE 11

CREDIT UNITS: 4

TIME ALLOWED: 3 HOURS

INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. QUESTION 1 (ONE) ATTRACTS 25 MARKS WHILE OTHERS ARE 15 MARKS EACH.

1. Ken is a businessman who has made money in import and export business. He imported machinery worth N500 Million Naira. He sold some of the machinery to Machine Tools Industries. It was the agreement between Ken and Machine Tools Industries that the payments will be made by installments. Ken records his transactions in a record book and he recorded in the book that Machine Tools Industries has completed its payment of the goods and that she has decided to waive any outstanding payment due to him from Machine Tools Industries as a result of long standing relationship between him and the company. Several months later Ken died as a result of vehicle accident. After his funeral ceremony, administrators of his estate sought to recover the money owed to the estate by Machine Tools Industries and the company refused to pay. The administrators of the estate commenced action in court against the company. Machine Tools Industries sought to tender in evidence Ken's record book where he stated the completion of the payment and the waiver of any outstanding payment. The administrators of his estate opposed the evidence on the basis that he cannot be called to give evidence on the contents of the record book. The court ruled in favour of the administrators of the estate. Discuss the legal issues. **25 Marks**
2. Anini is known to the police as an ex-convict. He has served prison sentences for offences ranging from armed robbery to manslaughter. Sometime in January this year, Anini planned with others to break into a warehouse belonging to a chemical company for the purpose of stealing the company's equipment in the warehouse. Anini was armed with a short gun. On their way to the warehouse, they were intercepted by a team of police officers and there was exchange of gun fire between Anini and the Police Officers. Anini shot one of the Police men who died on his way to the hospital. Anini has been charged with the offence of murder and during his trial, the prosecution tendered evidence of Anini's previous conviction. He was opposed by the defence counsel. The court admitted the evidence. Discuss the legal issues. **15 Marks**
3. The Judges rules are essential in the criminal administration of justice in Nigeria. Discuss. **15 Marks**

4. Examine the likely evidentiary issues in the following cases.
- (i) Joseph and John stole a truck belonging to Peter. Joseph and John have been arrested, detained and interrogated. Nevertheless, the prosecutor has decided to charge only Joseph with the offence of stealing the truck. He decided not to charge John but intends to use John to testify against Joseph. Discuss.
 - (ii) Stephen is a notorious criminal. On the 10th of December, 2019 he conducted an armed robbery operation on a major highway. In the course of the armed robbery operation, he killed Kate and was subsequently arrested by the Police. Stephen has been charged with the offence of murder and has been convicted. On the 20th of January, 2020 a group of notorious armed robbers were arrested who had earlier carried out robbery operation. Although Stephen did not participate in the operation, he witnessed the crime. The prosecution intends to invite Stephen to testify against the armed robbers. Discuss.
 - (iii) Mrs. Adams is dumb. She witnessed an armed robbery operation. The armed robbers were subsequently arrested, detained and charged with the offence of armed robbery. The prosecution intends to invite Mrs. Adams to testify during the trial. Equally, Cynthia is a seven year old girl who witnessed a murder allegedly committed by Bernard. The prosecution has invited Cynthia to testify against Bernard. **15 Marks**
5. Mr. Emmanuel is a pro-democracy activist. He is a convener of a coalition of prodemocracy and human rights activists. The coalition decided to organize a massive national protest which they referred to as “Revolution now or never”. During the protest, Mr. Emmanuel was arrested and was charged with the offence of treasonable felony. During trial, Inspector Okon gave evidence on behalf of the prosecution alleging that he saw Mr. Emmanuel shout “revolution now or never” and engaged on mass protest. Mr. Emmanuel was convicted on the evidence of Inspector Okon since the prosecution did not bring another witness. Also Mr. Titus who participated in the meetings where the protest was planned but did not participate in the actual protest was charged and convicted for the offence of concealment of treason on the evidence of Duke who was the only witness for the prosecution. Discuss the legal issues raised in the question. **15 marks**
6. Kenny has been having a dispute with Gbemi over a piece of land at Golden Valley Estate. Several efforts were made at settlement of the dispute to no avail. Kenny told his lawyer to commence an action against Gbemi in respect of the land. Kenny filed his Statement of Claim and stated how he acquired the land more than fifty years ago while Gbemi in his Defence narrated how he acquired the land in dispute. When the matter came for trial in court, Kenny was absent. On several occasions the matter came up in court, Kenny was not in court and the Judge dismissed his suit. Kenny has appealed against the judgment of the court dismissing his suit. Discuss the legal issues. **15 Marks**