

**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**14/16 AHMADU BELLO WAY, VICTORIA ISLAND, LAGOS**  
**FACULTY OF LAW**  
**DEPARTMENT OF PUBLIC LAW**  
**2017\_2 EXAMINATION QUESTIONS**  
**JANUARY 2018 EXAMINATION**

**COURSE CODE: LAW 446**

**COURSE TITLE: LAW OF EVIDENC 11**

**TIME ALLOWED: 2 ½ HOURS**

**INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)**

1. Examine the likely evidentiary issues in the following cases.
  - (i) Bola and Segun stole a car belonging to Biodun. Bola and Segun has been arrested and interrogated. However, the prosecutor has decided to charge only Segun with the offence of stealing the car. He decided not to charge Bola but intends to use Bola to testify against Segun.
  - (ii) Adamu is a notorious armed robber. On the 24<sup>th</sup> of December, 2017 he conducted an armed robbery operation on a major highway at the height of the Christmas celebrations. He killed Chinelo and was subsequently arrested by the Special Armed Robbery Squad. Adamu has been charged with the offence of murder and has been convicted. On the 20<sup>th</sup> of January, 2018 a group of notorious armed robbers were arrested who had earlier carried out robbery operation March 2017. Although Adamu did not participate in the operation he witnessed the crime. The prosecution intends to invite Adamu to testify against the armed robbers.
  - (iii) Dr. Bull is the Norwegian ambassador to Nigeria. He witnessed an incident along Lagos/Ibadan Expressway in which Policemen in a road block opened fire on innocent road users and killed five of them. The prosecution has invited Dr. Bull as a witness but he has declined to testify. The prosecution intends to issue subpoena to Dr. Bull to ensure that he attends court to give evidence.
  - (iv) Mr. Isong is dumb. He witnessed a kidnaping operation. The kidnapers were subsequently arrested and charged with the offence of kidnaping. The prosecution intends to invite Mr. Isong to testify during the trial.
  - (v) Chibuike is a ten year old boy who witnessed a murder allegedly committed by John. The prosecution has invited Chibuike to testify against John.
2. Discuss the evidentiary issues in the following cases.
  - (i) Ekaete during a quarrel with Beatrice called Beatrice a prostitute. Ada was present during the quarrel and heard when Ekaete called Beatrice a prostitute. Ada informed Amaka about this

incident. Beatrice has brought an action in slander against Ekaete and has called Amaka to testify that Ekaete called her a prostitute.

- (ii) Mr. Nweke has been having dispute over the boundary of his land with one of his neighbours. On the 16 of January, 2018 Mr. Nweke went to his farm. After about an hour Mr. Nweke was heard shouting in agony and in a loud voice. Mr. Nwanta was in a nearby farm and rushed to Mr. Nweke's farm and saw him in a pool of his own blood. Mr. Nwanta was horrified and asked Mr. Nweke what happened to him to which Mr. Nweke replied "Nkwocha has killed me. Oh! I am finished. I never knew I will end this way." Mr Nweke died and Nkwocha has been charged with the murder of Mr. Nweke. The prosecution has invited Mr. Nwanta to give evidence of what Mr. Nweke told him before he died.
  - (iii) Inspector Paul investigated a kidnaping incident. He recorded the outcome of his investigation in a police report book. Inspector Paul was killed in an operation to stop an armed robbery operation. The prosecution intends to use Inspector Paul's report contained in the Police report book during the trial for the offence of kidnaping.
3. Discuss the evidentiary issues in the following cases.
- (i) Mr. Peter published a story in the Daily News in which he alleged that Mr. John is a fraudster. Mr. John has commenced a defamation case against Mr. Peter and Mr. Peter in his defence has pleaded justification and intends to call evidence in support of Mr. Peter's fraudulent activities.
  - (ii) Biodun has been charged with the offence of stealing a car in an estate. The prosecution has invited some members of the estate to give evidence that Biodun is a gangster, keeps late night and is always in company of bad elements in the society. They also intend to show that he is an ex-convict.
  - (iii) Mr. Elijah has been charged with the offence of obtaining goods with false pretenses which is notoriously called 419. During his trial Mr. Elijah gave evidence that he is a God fearing man and that in his place of worship he is highly regarded, occupies sensitive and positions of trust. The prosecution intends to call evidence that Mr. Elijah was once suspended in his place of worship for stealing funds of some organizations where he belonged.
4. Discuss the evidentiary issues in the following cases.
- (i) Chief Oloto filed a case in court against Rose Gardens Estate Limited claiming the ownership of a piece of land at Katakata estate. During trial Chief Oloto did not offer any evidence in proof of his case. The trial judge dismissed his case. Chief Oloto is aggrieved and intends to appeal the decision.
  - (ii) Christopher was charged with the offence of murder. After trial, the judge in his judgment held that the prosecution ought to prove the offence charged on the preponderance of evidence.

- (iii) Joel and Moses entered into contract for the construction of a housing estate. Moses commenced an action in court against Joel for breach of contract and the court dismissed the case on the ground that Moses did not prove the case beyond reasonable doubt.

5. Discuss the following -

- (i) Res gestae
- (ii) Similar fact evidence

- 6a. The confession of an accused person is perhaps the best evidence in the hands of the prosecutor in criminal proceedings. Critically evaluate this statement illustrating your answer with relevant decided cases.
- 6b. The Judges rules are mere administrative directions lacking the force of law but Judges often insist on their observance. Discuss