



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

MODULE CODE : LLB 223
MODULE TITLE : CRIMINAL PROCEDURE (4)
SPECIAL REQUIREMENTS:
DURATION : 3 HOURS
LEVEL : 2.2
DATE :

11.1 OCT 2023

INSTRUCTIONS TO CANDIDATES:

- i. You are required, in your own interests to write legibly.
- ii. You are directed to avoid using short hand and poor grammar.
- iii. Answer four (4) questions. Question 1 is compulsory.
- iv. In your answers, you must refer to any relevant case law, legal principles and legislation that may be applicable.
- v. Please note that each answer must be written on a new page.

QUESTION 1

Joe, a police officer, forcibly opens the cellar of the accused's (Wendy) house without Wendy's consent and without a warrant to search. Joe then searches the cellar and finds a bag full of methylenedioxymethamphetamine (**Crystal Methy**), 100kg of dagga and documents, addressed to Wendy's lawyer. During the trial Wendy argues that the search was illegal because Joe did not act upon a warrant, and in accordance with the provisions of the **CRIMINAL PROCEDURE AND EVIDENCE ACT [Chapter 9:07]**, and that Joe's evidence relating to the dependence producing substances and the documents must be excluded as evidence as it was obtained unlawfully. The prosecution argues that Joe acted lawfully, and the court must allow Joe's evidence.

Discuss whether the arguments of Wendy or the State should be accepted by the court. Your answer must also reflect the classes of articles that are susceptible to seizure. [25 MARKS]

QUESTION 2

Describe and discuss briefly the phases of a criminal trial from indictment through to sentencing. **[25 MARKS]**

QUESTION 3

- (a) What would be the effects of withdrawing a charge after plea as compared to a withdrawal before plea. **[10 Marks]**
- (b) As a defence counsel, how would you deal with a defective charge? **[5Marks]**
- (c) Explain your understanding of improper splitting of the charges. **[5 Marks]**
- (d) List any 5 pleas which can be tendered by an Accused person. **[5 Marks]**

QUESTION 4

Discuss the various methods of securing the attendance of an accused in court indicating the circumstances under which each should be used. **[25 MARKS]**

QUESTION 5

Discuss the risks and factors which must be considered by a court when deciding a bail application. **[25 MARKS]**

QUESTION 6

Discuss the powers of the police to arrest and search a person without the necessary warrants. **[5 MARKS]**

QUESTION 7

(a) Your client was charged with housebreaking with the intent to steal and theft. He pleaded guilty and his plea was accepted and recorded by the presiding officer. Explain to your client what the procedure is regarding sentencing. **[15 MARKS]**

(b) Explain your understanding of the concepts:-

(i) "Autrefois acquit". **[5 MARKS]**

(ii) "Autrefois convict" **[5 MARKS]**

THE END

0/50 (pm)