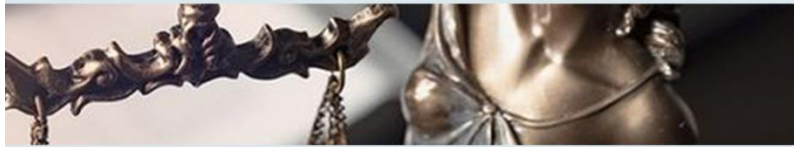


**400+ MULTIPLE  
CHOICE QUESTIONS  
ON ALL THE TOPICS IN**



# **CRIMINAL LITIGATION**

**FOR NIGERIAN LAW  
SCHOOL STUDENTS  
WITH PRECISE  
EXPLANATION ON  
THE ANSWERS**

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&  
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## QUESTIONS

### WEEK 3

#### INTRODUCTION TO CRIMINAL LITIGATION

1. The section of which of the following laws allows English Rules of Practice and Procedures to be applicable where local laws are silent on a particular matter in criminal procedure?

- a. Section 360 of the High Court Law of Northern Nigeria
- b. Section 363 of the Criminal Procedure Law
- c. Section 363 of the Criminal Procedure Code
- d. Section 360 of the High Court Law of Southern Nigeria

2. Which of the following is not a secondary source of Criminal Litigation?

- a. 1999 Constitution of the Federal Republic of Nigeria
- b. Evidence Act
- c. All of the above
- d. None of the above

3. The following except one are instances of the application of English High Court Rules of Practice and Procedure to criminal trials in Nigeria:

- a. Change of plea by an accused person before judgment
- b. Application for bail in the High Court where same has been refused in the Magistrate Court
- c. Procedure for application for leave to file an information against an accused

- d. Issuance of Bench warrant to an accused who has jumped bail

4. The section of which of the following laws expressly prohibits the application of English Rules of Practice and Procedure where there is a lacunae?

- a. Section 35 of the Criminal Procedure Code
- b. Section 35 of the High Court Law of Northern Nigeria
- c. Section 363 of the Criminal Procedure Law
- d. Section 363 of the Criminal Procedure Code

Use this scenario to answer questions 5-8

In your first Criminal Litigation lecture at the Nigerian Law School in Kano, you watched your best friend, Miss Kathy Eze gave a presentation on the settings of a criminal court. She identified the following as essentials of a criminal court room except\_\_\_5\_\_\_.She stated that in a criminal trial, the accused person is placed in the \_\_\_6\_\_\_ while its counterpart, the \_\_\_7\_\_\_ is where witnesses are directed to give their evidence.

5.

- a. The Bench
- b. The Bar
- c. The portrait of the President
- d. None of the above

6.

- a. Duck
- b. Witness box
- c. Coven
- d. Dock

- 7.
- Bar
  - Stand
  - Gallery
  - Witness box
8. Which of the following courts does not have criminal jurisdiction?
- The Customary Court of Appeal
  - The International Criminal Court
  - The Customary court
  - The Magistrate Court in the North
9. All the following are classified as courts of general criminal jurisdiction except:
- State High Court
  - Federal High Court
  - Magistrate Court
  - Customary Court

Thursday the 8th and Friday the 9th of August 2019 were declared public holidays by the Federal Government for the Sallah celebration, marking the end of the Muslim Holy month of Ramadan. In the morning of the 8th of August, a warrant of arrest was issued by the Commissioner of Police in Anambra State for the arrest of Chukwuka DanBauchi upon allegation of kidnapping. He was arraigned at the High Court, Awka the following day. His counsel's oral application for bail was refused on the ground that application for bail at the High Court must be in writing. He thereafter filed an application for bail, supported by a 26 paragraph affidavit and 5 annexures.

Answer the following question 10 and 11

10. Which of the following is true of the proceedings conducted in the above scenario?

- The proceedings in respect of Chukwuka Dan Bauchi was validly conducted on the 9<sup>th</sup> of August
- The proceedings on the 9<sup>th</sup> of August can only be valid if both parties are not muslims
- The proceedings on the 9<sup>th</sup> of August can only be conducted validly with a special permit from the Attorney General of Anambra State
- The proceedings on the 9<sup>th</sup> of August can only be validly conducted with the consent of both parties

11. The principle governing your answer in question 10 above was affirmed in which case?

- Ososanmi v COP
- Nzodinma v COP
- State v Ilori
- Abiola v FRN

Use this scenario to answer questions 12-14

On his first day in court during his court attachment at the Federal High Court, Abuja, Peter Yakubu noticed that the picture of the President of Nigeria, and that of the presiding Judge of the Court and a Nigerian flag hung on the wall of the courtroom. At exactly 8:45am, the Registrar of the court walked into the court and directed all the externs to sit in the inner bar since there was no Senior Advocate in court. This was to enable them observe the proceeding

properly. At exactly 9:00am, the court Registrar banged on the court room door 10 times and the judge came in. There were two members of the Body of Benchers in Court. Paulingo Akpan, a pupil state counsel from the Ministry of Justice, Markurdi called his matter which was number 3 on the cause list.

The accused took his plea in the witness box after the Registrar, who sat behind the Bar had sworn to interpret the proceedings from English to Hausa and vice versa.

12. From the scenario, which of the following items mentioned should not be in a court room?

- a. Portrait of the President
- b. Portrait of the Presiding Judge
- c. Nigerian Flag
- d. All of the above

13. From the scenario, who was supposed to occupy the front row of the Court?

- a. The externs
- b. The members of the Body of Benchers
- c. The Pupil State Counsel
- d. None of the above

14. The Registrar violated the setting of the Court because:

- a. He did not interpret competently
- b. He banged 10 times on the door instead of 3 times
- c. He did not wear a wig and gown
- d. He sat behind the bar

15. At the end of proceedings that day, the Judge said: "The Court will now\_\_\_\_"

- a. Stand
- b. Close
- c. Rise
- d. Arise

## **ANSWERS**

### **WEEK 3**

## **INTRODUCTION TO CRIMINAL LITIGATION**

1. (B) There are four principal legislations for criminal procedure in Nigeria: Administration of Criminal Justice Act (ACJA), Administration of Criminal Justice Law of Lagos State (ACJL), Criminal Procedure Law (CPL) and Criminal Procedure Code (CPC). Where there is a lacuna on a particular matter, section 363 CPL allows the court to adopt the procedure in England. This is however expressly prohibited in the North. While under both ACJA and ACJL, the court shall adopt a procedure that will do substantial justice.
2. (D) There are four primary sources of Criminal Litigation: ACJA, ACJL, CPL and CPC. Anything outside these four laws will fall under the secondary sources of criminal litigation, and that includes the Constitution.
3. (D) Section 363 CPL allows recourse to be made to English rules where CPL does not cover a particular

procedure. Three instances where English Rules have been applied are: (1) change of plea by an accused before judgment as seen in *Board of Customs and Excise v Hassan*, (2) procedure to apply for bail at the High Court where same has been refused by the Magistrate Court as seen in *Simidele v COP* and (3) procedure to follow in making application to a High Court judge for consent to file an information as seen in *Ikomi v The State*.

4. (B)
5. (C) The Portrait of the President is not meant to be displayed in the Courtroom because everyone is equal before the law.
6. (D)
7. (D)
8. (A) The Customary Court of Appeal does not have criminal jurisdiction. The same goes for the Sharia Court of Appeal. See Section 267 of the 1999 Constitution as amended. However, a customary court has criminal jurisdiction and is classified as a court of general criminal jurisdiction.
9. (B) The Federal High Court is classified as a court of special criminal jurisdiction. Others include the court martial, juvenile court.
10. (D) Public holidays are regarded as non-judicial days. The general rule is that proceedings cannot be conducted on judicial days. *Balogun v Odumosu*. One of the exceptions to that is where both parties consent to the arrangement. *Ososanmi v COP*.

11. (A)

12. (D)

13. (B) One of the privileges of the two members of the Body of Benchers present in Court is the right to sit in the inner Bar. See Section 6 of the Legal Practitioners Act.

14. (D) In the setting of a Criminal Court in Nigeria, the Registrar does not sit behind the Bar. Rather, he seats behind the bench.

15. (C)

## QUESTIONS

### WEEK 4

#### SUMMONS, ARRESTS AND SEARCHES

Tiamiyu, Taofeek and Oropo were suspected to have committed the offence of stealing and house breaking under the Penal Code Law of Niger State. The three are currently in their hideout at Tiamiyu's house, Suleja, Niger State.

Answer the following questions 1-3:

1. The attendance of the suspects at the Chief Magistrate's Court, Minna, in the above scenario can be secured by all but one of the following means:

- a. Summons
- b. Arrest with warrant
- c. Subpoena
- d. Arrest without warrant

2. All except one of the following can validly issue a warrant of arrest against the suspects in the above scenario:

- a. A Judge
- b. A Magistrate
- c. A Justice of Peace
- d. None of the above

3. Assuming a warrant of arrest is to be issued against the suspects, by the provision of the law, the warrant:

- a. Must be issued on juridical days
- b. Must be issued between Mondays and Fridays
- c. May be issued on any day
- d. May be issued on any day, except public holidays

Kanyinsola and Kurate, students in the Ladoke Akintola University, Ogbomoso went to rob one of their lecturers, Professor Lambaba in his residential apartment within the campus on 16<sup>th</sup> February, 2020. They beat him, raped his 16 years old daughter and took the sum of ₦1 million from his house. Both of them wore a mask and could not be identified by Professor Lambaba. One month after the operation, forensic analysis of one of the items recovered from the scene of the crime revealed the perpetrators, who by then were living in Osun State. The Police obtained a warrant of arrest from the Chief Magistrate in Ogbomoso, and immediately travelled to Osun State to effect the arrest.

When they got to the suspects' house, as soon as they sighted them, Inspector Gidi, who led the team, gave them a resounding slap and ordered his men to beat them. Subsequently, they forced them into a van and were taken to Ogbomoso, where they were detained for 2 weeks without informing any of their family members of the arrest.

Answer the following questions 4-6:

4. The circumstances warranting the use of reasonable force in executing a warrant of arrest does not include:

- a. Attempt to escape
- b. Seriousness of the offence
- c. Reasonable fear of violence
- d. Order of the court

5. Which of the following statements is correct from the scenario above?



- a. The arrest of the suspects was lawful
- b. The arrest of the suspects was unlawful because the warrant of arrest was not endorsed by a Magistrate or Judge in Osun State
- c. The arrest of the suspects was unlawful because unreasonable force was used in the conduct of the arrest
- d. B and C

6. Assuming the arrest of the suspects was unlawful, which of the following captures the effect of such unlawful arrest?

- a. It attaches to the jurisdiction of the Court
- b. It is an irregularity that goes to the root of the case
- c. A and B
- d. It is a mere irregularity

7. A warrant of arrest issued is terminated in all but one of the following circumstances:

- a. After three months of its issue
- b. Where it has been executed
- c. Where it is cancelled by the issuing authority
- d. None of the above

8. The judicial authority which prohibits the use of the same warrant of arrest that was earlier used to arrest a suspect, who was discharged, from being used to re-arrest the same suspect is?

- a. Simidele v COP
- b. R v Akinyanju
- c. Ikome v COP
- d. Osasomi v COP

9. The appropriate procedure to compel the attendance of a person to answer to a misdemeanor in Court:

- a. Warrant
- b. Arrest
- c. Summons
- d. Writ

Pastor Bufallo Johnson, the founder of Your Miracle Must Come Ministry, on the 30<sup>th</sup> of May, 2020, in Lekki Phase one, organised a Sunday service where there was a church party afterwards to celebrate the birthday of his wife, Mrs Jennison Johnson. In a bid to impress his boss and earn his favour, Inspector Kobiowu Ajimola, ran to the Divisional Police Officer of the region, who issued a warrant of arrest against Pastor and Mrs Buffalo Johnson for violation of the Federal Government lockdown order in Lagos State. Inspector Kobiowu stormed into the church premises with 2 other police officers and arrested the couple.

10. Which of the following statements is false from the scenario?

- a. A warrant of arrest can be issued on any day including Sundays and public holidays.
- b. A warrant of arrest can be executed on any day including Sundays and public holidays.
- c. A warrant of arrest can be executed in a church or a mosque.
- d. A warrant of arrest can validly be issued by a Divisional Police Officer

Sergeant Ekun Kekere, a male Police Officer in Ibeju Lekki Division Police station, Lagos state. On 18th December,

2019, upon receiving the complaint of robbery around Herbert Road within the division, he rushed to obtain a warrant of arrest from a Justice of Peace, Hon. Anifowose; while Sergeant Suberu, who is also a male officer in the same division, obtained an arrest warrant in the same regard from the DPO of the division.

Unable to effect the arrest warrant on the robbers at their hideout, the two Sergeants mounted a road block on the nearby Highway. Not quite long, an eighteen passenger Toyota Hummer bus was in the process stopped for a search and the bag of one Mrs. Adunni Ade was searched by Sergeant Ekun Kekere while Mrs. Adunni herself was searched by Sergeant Suberu.

Based on a hint given by other investigative officers in the division, Sergeant Ekun Kekere got to know that Mr. Esugbayi against whom the arrest warrant was issued had sneaked into a court room where a proceeding was currently on-going.

Answer the following questions 11 and 12 using the above scenario

11. Which of the following is true of the two warrants of arrest in the above scenario?

- a. Both were validly issued
- b. Both were not validly issued
- c. Only the warrant obtained by Sergeant Suberu was validly issued
- d. Only the warrant obtained by Sergeant Ekun Kekere was validly issued

12. Assuming the warrant of arrest obtained by Sergeant Suberu was validly issued,

which of the following is not a content of the warrant?

- a. Name of the alleged offender
- b. Concise statement of the alleged offence
- c. A direction that the offender be released on bail immediately after the arrest
- d. Signature of the issuing authority

13. The following except one are circumstances where a warrant of arrest may be used:

- a. Where the law provides that an offender may be arrested without a warrant
- b. Where summons has been disobeyed
- c. Where the law provides that an offender shall not be arrested without a warrant
- d. None of the above

14. The following persons: Audu, Garba, Sanni and Sulu had different warrants of arrest issued against them. Audu was arrested in a Mosque, where a jumat service was going on. Garba was arrested within the premises of the House of Assembly of Oyo State, Sanni was arrested in a Court room, immediately the Judge rose and went into his chambers, and Sule was arrested in the premises of the Central Bank of Nigeria.

Whose warrant of arrest was invalidly executed in the above scenario?

- a. Garba
- b. Audu
- c. Sanni
- d. Sulu



15. Under the CPL, the circumstances in which a private person can arrest a person without warrant include all but one of the following:

- a. Any person who has escaped lawful custody
- b. Any person required to appear by public summons
- c. Any person he suspects to have committed a felony
- d. A and B

16. Which of the following statutory provisions prohibits arrest of someone in lieu of a suspect?

- a. Section 52 ACJL
- b. Section 35 CPL
- c. Section 7 ACJA
- d. A & B

17. Following a newspaper advert that Mallam Diko had been declared wanted by the Police in connection with the offence of kidnapping the son of the President, a warrant of arrest was issued by the Inspector General of Police (IGP). Because of the high profile of the case, the police fearing that they might likely be punished for their failure, stormed into the house of Mallam Diko's parents and arrested both of them on a Sunday evening, took them to the police custody and questioned them on the whereabouts of their son.

From the scenario above, which of the following is correct?

- a. The arrest of Mallam Diko's parents was validly made because of the high profile of the case

- b. The warrant of arrest was validly issued
- c. It was wrong to have effected the arrest on a Sunday because Sunday is not a juridical day
- d. None of the above

18. The following authorities can generally issue a warrant of arrest except:

- a. The Inspector General of Police
- b. A Judge
- c. A Magistrate
- d. A Justice of Peace

19. A criminal summons is usually addressed to:

- a. Police officers
- b. A Police officer
- c. A suspect
- d. All of the above

Use this scenario to answer the following questions 20-25

Sir, from your explanation, an arrest without warrant can be done by \_\_\_20\_\_\_ categories of people except \_\_\_21\_\_\_

You stated that amongst the several instances where a police officer can execute arrest without warrant, \_\_\_22\_\_\_ is not part of such instances under the CPCL. I however find it difficult to understand the different situations where a private person can effect an arrest without warrant under the different laws. For instance, you said under the CPL, there are three instances in which private persons can effect an arrest without warrant except \_\_\_23\_\_\_

In conclusion, you drew our attention to the fact that where a private person unnecessarily delays the delivery of a suspect to the nearest police station, such person may be liable to \_\_\_\_24\_\_\_\_. And in an instance where the private person dutifully delivers the arrested suspect to a police officer, the police officer shall \_\_\_\_25\_\_\_\_.

20.

- a. 4
- b. 2
- c. 3
- d. 5

21.

- a. A Judge/Magistrate/Justice of peace
- b. Court Sheriffs
- c. Police Officers
- d. Private persons

22.

- a. A person who has deserted the police force
- b. A person in possession of instruments of house breaking without excuse
- c. A person who cannot give satisfactory account of himself
- d. A person who has committed an offence punishable in Nigeria outside Nigeria

23.

- a. A person who is suspected to have committed a felony
- b. A person who is suspected to have committed a misdemeanor in the night

- c. A person who has committed a triable offence in his presence
- d. A person against whom a public summons has been issued

24.

- a. To be imprisoned
- b. To damages for false imprisonment
- c. To be arrested
- d. None of the above

25.

- a. Take the suspect into custody immediately
- b. File a First Information Report within a reasonable time
- c. Re-arrest the suspect
- d. Apply to Court for a remand order

26. A public summons can be issued in all but one of the following States:

- a. Kano State
- b. Kwara State
- c. Edo State
- d. None of the above

27. Under the CPC, the authority to issue a public summons is:

- a. A Judge
- b. A Magistrate
- c. A Justice of Peace
- d. All of the above

28. All but one of the following are contents of a summons:

- a. A concise statement of the alleged offence
- b. Name of the alleged offender
- c. An order directing the police officer to bring the offender to Court
- d. None of the above

29. Magistrate Olusogo of Ikeja Magisterial District of Lagos State, upon the complaint of Ola Jude that Jide is always fond of driving above the speed limit in their area, issued a summons against Jide. The summons issued can be served on Jide:

- a. Any time of the day
- b. Between 8:00am and 6:00pm
- c. Between 5:00am and 8:00pm
- d. Between 6:00am and 6:00pm

Lere Barawe, Lawson Durosimi and Absalom Tenny were popular Yahoo boys within their premises in Ikorodu, Lagos. They decided to try a new niche in armed robbery. On the 6th of October, 2019, the trio armed with knives, pistols and charms from their Babalawo snatched a Samsung S6, gold Rolex wristwatch and the sum of N200,000 belonging to one Miss Tokyo Arturo and thereafter escaped into a nearby bush. Acting on an information, the police arrested the suspects in Ota, Ogun State on 9th December, 2019. The suspects have been arraigned before the Ikorodu Judicial Division of the High Court of Lagos State.

Answer the following questions

30. Who is the proper person to sign the search warrant that was used to recover the Samsung Phone?

- a. A magistrate
- b. A Justice of Peace
- c. The sergeant who is the exhibit keeper
- d. None of the above

31. What's the appropriate time for the execution of the search warrant?

- a. At any time of thy day
- b. Between the hours of 5:00am and 8:00pm
- c. Between the hours of 6:00am and 6:00pm
- d. Between the hours of 6:00am and 7:00pm

32. Which of the following is not part of the contents of the search warrant issued in the scenario above?

- a. Address of the premises to be searched
- b. Signature of the issuing authority
- c. Items to be searched
- d. Directive that the offenders be brought before the Court

33. In the course of the search, the police officers recovered items including weapons of burglary not covered in the search warrant that was issued. What is the status of the weapons recovered in evidence?

- a. Generally admissible if relevant
- b. Generally inadmissible
- c. Generally admissible whether relevant or not
- d. None of the above

34. Assuming the house is situate in Kaduna which is also occupied by a woman in purdah who is not one of the armed robbers, the police officers are expected to do all but one of the following:

- a. Give notice to such woman
- b. Avail her reasonable facility to withdraw
- c. Exercise the right of ingress and egress immediately notwithstanding
- d. A and B

35. A Superior Police Officer can issue a search warrant in all but one of the following instances:

- a. When the premises in question has been occupied by a person suspected to have received stolen property within the preceding 12 months
- b. When the premises in question has been occupied by a person convicted of the offence of harbouring thieves
- c. When the premises in question has been occupied by persons convicted of offences relating to dishonest and punishable with imprisonment
- d. None of the above

Bobo Ikemson was flagged down by the Police at 12:00am on August 1, 2018 at the popular Bakori junction, Maitama Abuja. He was searched by a female Police Inspector, Josephine Johnson and some substance suspected to be heroine was found in his car. Bobo Ikemson was immediately arrested and taken to Maitama Police Station where he was detained for two days without access to his family or lawyers.

Answer the following questions

36. A search of this nature should be conducted between the hours of:

- a. 5:00am – 8:00pm
- b. 6:00am – 7:00am
- c. 5:00am – 9:00pm
- d. Any time of the day or night

37. The search conducted on Bobo Ikemson by Inspector Josephine Johnson may be held to be unlawful because

- a. A woman can search a man

- b. A search should be conducted by a person of the same sex
- c. The search was conducted without a search warrant
- d. None of the above

38. The judicial authority for the principle that illegally obtained evidence is generally admissible is:

- a. Balogun v Amubikahu
- b. Elias v Passmore
- c. Musa Sadau v State
- d. Muhammed v State

39. A search conducted by a man on a woman is irregular according to?

- a. S.79 CPC
- b. S.80 CPC
- c. S.81 CPC
- d. S.82 CPC

40. The Police Officer authorized to issue a search warrant in certain circumstances must be above the rank of

- a. Cadet Asst. Superintendent of Police
- b. Asst. Superintendent of Police
- c. Inspector
- d. Cadet Inspector

## **ANSWERS**

### **WEEK 4**

#### **SUMMONS, ARRESTS AND SEARCHES**

1. (C) Subpoena is used to secure the attendance of a witness and not a suspect. The three ways of securing the attendance of a suspect in Court are summons, arrest with warrant, and arrest without warrant.
2. (D) Because the jurisdiction here is in the North, the CPC applies. Under the CPC, the authorities to issue a warrant of arrest are a Judge, a Magistrate and a Justice of Peace. Section 56(1) CPCL.
3. (C) A warrant of arrest may be issued and executed any day including a Sunday or a public holiday. Section 38 & 43 ACJA. Note that CPC is silent on this, but it can be issued any day.
4. (B) Section 5 ACJA and Section 2 ACJL provide for the circumstances where the use of force is allowed in arresting a suspect. They include reasonable apprehension of violence, order of court to that effect, attempt to escape and safety of the suspect or person effecting the arrest. The seriousness of the offence is not included.
5. (D) A warrant of arrest issued in one state to be executed in another state must follow certain procedures. Failure to do so makes the arrest unlawful. Also, use of unreasonable force in arresting a suspect makes the arrest unlawful.
6. (D) Where there is any irregularity in the process of issuance or execution of a warrant of arrest, it is treated as a mere irregularity, which does not affect the validity of the arrest. See the case of *Mattaradona v Aliu*, Section 101 CPL.
7. (A) A warrant of arrest, just like a criminal summons, once issued, remains in force until it is either executed or cancelled.
8. (B).
9. (C) Misdemeanor is a simple offence, and summons is usually used for simple offences. One key difference between a summons and a warrant of arrest is that the former is directed to the suspect, while the latter is directed to a third party, usually the police.
10. (D) A Police Officer, no matter the rank, does not have the power to issue a warrant of arrest. Section 22(1) ACJL.
11. (B) The jurisdiction of the scenario is Lagos and in Lagos, neither a Justice of Peace nor a Divisional Police Officer has any authority to issue a warrant of arrest. Section 22, ACJL.
12. (C) See section 22 ACJL for the contents of a warrant of arrest. A direction that an accused be released on bail immediately after an arrest is not part of the contents of a warrant of arrest.
13. (D) The circumstances where a warrant of arrest is used includes where a law provides that an offender may be arrested without a warrant, where a law provides that

- an offender shall not be arrested without a warrant and where summons has been disobeyed.
14. (A) Section 23 of the Legislative Houses (Powers and Privileges) Act, 2017 provides that “notwithstanding the provisions of any law, court process or order shall not be served or executed in the Chamber or precincts of a legislative house”. It must be noted that this provision is not restricted to members of the Legislative House, but it is to protect the sanctity of the house.
  15. (D) See section 12 CPL for the circumstances where a private person can arrest someone in CPL states.
  16. (C)
  17. (D)
  18. (A)
  19. (C)
  20. (C) By law, there are three categories of persons that can arrest without a warrant: the police, A judge/magistrate/justice of peace and a private person.
  21. (B)
  22. (A) The police has the power to arrest any person who has deserted the Army, not someone who has deserted the police.
  23. (D) Public summons is only used under the CPC in the North and under ACJA.
  24. (B) Where a private person arrests a suspect, but unreasonably fails to deliver the suspect to the police as soon as possible, he may be liable for false imprisonment. See the case of *John Lewis & Co Ltd v TMS*
  25. (C)
  26. (C) Public summons is used in the North and FCT.
  27. (A) Under the CPC, only a High Court Judge can issue a public summons. However, under ACJA, a Magistrate and a Judge of the High Court can issue a public summons. Section 67 CPC and Section 41 ACJA.
  28. (C) Summons is usually addressed to the suspect and not given to a police officer. Section 83 and 87, CPL.
  29. (B) Section 81 ACJL.
  30. (A) Section 104 ACJL.
  31. (B) Section 108(1) ACJL.
  32. (D)
  33. (A) Items not covered in a search warrant recovered in the course of a search are generally admissible provided they are relevant. Section 14 of the Evidence Act, *Musa Sadau v State*
  34. (C)
  35. (A) A mere suspicion is not enough. The law requires that the person must have been convicted of the offence.
  36. (D) Unlike in Lagos, in Abuja, a search warrant can be executed at any time of the day. Section 148 ACJA.
  37. (B)
  38. (C)
  39. (D)
  40. (A) It is only a superior police officer that can issue a search warrant. Section 28(1) Police Act. A superior police officer is an officer above the rank of a Cadet (ASP)



## QUESTIONS

### WEEK 5

#### PRE-TRIAL INVESTIGATION AND POLICE INTERVIEW

Abubakar Shekau, a wanted terrorist in Nigeria was recently captured by members of the Armed forces and handed to the appropriate authority for prosecution. Abubakar Shekau was kept in a dark solitary confinement with for 10 days. He made a confessional statement. During his trial, his counsel told the court that he was tortured into making the confession. The Court eventually discharged him on a no case submission made on his behalf.

1. Only one of the following statements is correct from the above scenario:

- a. Abubakar Shekau's right against inhumane treatment and torture was breached while in detention
- b. As a terrorist, Abubakar Shekau has no right to any constitutional safeguard
- c. Only members of the Police are lawfully allowed to captures terrorists in Nigeria
- d. None of the above

2. All but one of the following are constitutional rights of a suspect at the police station:

- a. Right to a fair trial
- b. Right to remain silent
- c. Right to presumption of innocence
- d. Right to dignity of his human person

At the trial of Ganda for the murder of Nairobi, the prosecution sought to tender the

confessional statement of the accused to the Court. The defence counsel objected to the admissibility of the document on the ground that it was made involuntarily and assuming but not conceding that it was made voluntarily, it was not tendered through the appropriate person.

Answer the following questions

3. The proper authority through which the confessional statement should be tendered is

- a. Any witness who was present when the confession was made
- b. Prosecuting officer
- c. Investigating Police Officer
- d. Any of the above

4. To admit the confessional statement, the Court will

- a. Conduct an inquiry
- b. Conduct an inquest
- c. Ask the accused person to examine the IPO
- d. None of the above

5. Assuming the ground on which the admissibility of the confessional statement is being objected to is that the statement was never made by the defendant, what should the Court do?

- a. Order a trial within trial to determine if the statement was made
- b. Simply reject the statement
- c. Simply admit the statement and attach less weight to it
- d. Simply ask the prosecution if the statement was made in the presence of anyone

6. Assuming the defendant raised the defence of alibi during the trial, claiming that he was not in Lagos at the relevant time the alleged offence was committed, one of the following is true of the alibi raised:

- a. It will be entertained by the Court
- b. The prosecution will be granted adjournment to investigate the alibi
- c. The alibi will be discarded by the Court
- d. The weight that will be attached to the alibi is reduced

7. Assuming the defence of alibi was successfully raised, the evidential burden of proof rests on:

- a. The prosecution
- b. The accused
- c. A or B
- d. An expert witness

8. Where the defense of alibi is properly raised but not investigated or disproved by the prosecution, the accused is entitled to a/an \_\_\_\_\_.

- a. Acquittal
- b. Reprimand
- c. Discharge
- d. Any of the above at the discretion of the court

9. Which of these is not one of the elements of the defence of alibi?

- a. It can be raised at any time of the proceedings before judgment
- b. It places an evidential burden on the defence to supply particulars of his whereabouts
- c. The general burden of proof remains on the prosecution
- d. None of the above

10. The following is true about the Judges Rule except

- a. It was formulated in England in 1912
- b. It is applied only in the Superior Courts
- c. It does not have a binding effect
- d. None of the above

Bimpe Ikemson, on the 18th of March, 2018, while coming from her fellowship in Redeemed Christian Fellowship (RCF), Agbowo, Ibadan, was attacked by a person who collected all her belongings, dragged her to a nearby bush, covered her eyes with his hands and raped her mercilessly. When he discovered that Bimpe was going unconscious, he lifted his hands off her face, left her there and ran away. Bimpe was only able to catch a glimpse of the suspect's face but was sure she would be able to identify him.

The suspect was arrested and taken to the police station. An identification parade has been scheduled to give Bimpe the chance of pointing out the suspect among lines of people with similar features with the suspect.

11. What's the least number of persons that must be paraded alongside the suspect?

- a. 7
- b. 6
- c. 12
- d. 8

12. In all but one of the following circumstances, an identification parade will be needed

- a. Where the victim was confronted by the suspect for a short time

- b. Where the victim did not know the suspect before and his first acquaintance with him was at the scene of the crime
- c. Where the victim in the time and circumstance might not have had the opportunity to observe detailed features of the suspect
- d. None of the above

13. The circumstances where the police are not required to investigate an alibi raised by an accused person do not include:

- a. Where the accused was arrested at the scene of the offence
- b. Where a voluntary confessional statement was made by the accused before raising the alibi
- c. Where the accused raised it at the point of arrest but gave vague and inconsistent explanation of his whereabouts
- d. None of the above

At the trial of Jay Jay, the Prosecution sought to tender in evidence, a statement allegedly made by the accused. The accused denied making the statement. Learned Defence Counsel applied for trial within trial but the Judge refused. He rejected the statement on the ground that it was not confirmed by a superior police officer.

Answer the following questions 14-17

14. In this circumstance:

- a. The Judge wrongly rejected the statement.
- b. The Judge rightly rejected the statement

- c. The statement was admissible only upon the fulfillment of a particular condition
- d. None of the above

15. Assuming the statement was wrongly rejected, the right thing the Judge should have done in the circumstance was:

- a. Order a trial within trial
- b. Adjourn the matter to take oral evidence
- c. To admit the document and consider the weight to attach to it later
- d. None of the above

16. From the above scenario, when would it have been appropriate to order a trial within trial?

- a. If the accused had retracted his statement
- b. If the accused denied the voluntariness of the statement
- c. If the witness is perceived to be lying
- d. If the prosecutor is biased

17. Had the Court ordered a trial within trial, who would be the first to give evidence?

- a. The accused.
- b. The Court.
- c. The Prosecutor.
- d. The witnesses.

18. One of the following is not a reason for conducting pre-trial investigation:

- a. To investigate an alibi
- b. To victimize the suspect
- c. To get a confessional statement
- d. To gather sufficient evidence

19. The appropriate time where an objection to the admissibility of a confessional statement should be made is:

- a. At the pre-trial investigation
- b. Point of arraignment of the defendant
- c. Close of the prosecution's case
- d. Point where the confessional statement is sought to be tendered

At the trial of Obikwe Chukwudi for the offence criminal breach of trust and arson before the High Court of Enugu, the defendant refused to plead to the charge. He was angry with the police because during the course of investigation, he simply told them, without more, that he was far away in Maiduguri on a business trip when the alleged offence was committed. But the police refused to investigate the alibi believing that his statement was beautifully prepared lies.

Now answer the following questions

20. Was the police right when it failed to investigate the alibi in the case?

- a. Yes, because alibi is not available as a defence for the offence of arson
- b. No because the alibi is incomplete
- c. Yes, because detailed particulars were not given
- d. A and C only

21. In the circumstance of the case, one of the following is the right comment on the failure of the police to investigate the alibi of the defendant

- a. It is not the business of the police where Obikwe was in the circumstance
- b. The police erred in law when they failed to investigate the alibi
- c. The police's failure to investigate the alibi in this case is not fatal to the prosecution
- d. None of the above

Osas Kewe and Shittu Ahmed were arrested by the Police at Obanikoro, Lagos. One AK47 gun and 4kg of a substance suspected to be Cannabis Sativa, popularly called Indian hemp were recovered from the suspects. At the point of their arrest, contrary to their right to remain silent, the police forced words from their mouth, giving each of them rounds of slaps to make a confessional statement. In the process, Osas Kewe made a confessional statement, when he could not bear the beating, to the effect that they were returning from a robbery operation carried out on the same day at Buy One Get One Free Supermarket, Ilupeju, Lagos.

Answer questions 22-24 using the above scenario.

22. Assuming the confessional statement made by Osas Kewe was rightly made, it binds\_\_\_\_

- a. Osas Kewe alone
- b. Both Osas Kewe and Shittu Ahmed
- c. Only Shittu Ahmed
- d. None of the above

23. The constitutional right of the accused to remain silent at the point of arrest until consultation with a legal practitioner is

contained in what section of the Constitution?

- a. Section 35(2)
- b. Section 36(11)
- c. Section 35(3)
- d. Section 36(2)

24. At the police station, Osas Kewe and Shittu Ahmed are entitled to all but one of the following constitutional rights:

- a. Right to Counsel of their choice
- b. Right to Bail
- c. Right to dignity of human person
- d. Right to fair trial

25. The following are conditions to be fulfilled before a confessional statement will generally be held admissible

- a. It must be voluntary
- b. It must be made in writing
- c. It must relate to admission of guilt by the accused
- d. None of the above

On the 15th of July 2020, Kurate Mumbai was arrested in connection with the murder of Tolulope Arotile that took place at Old Bukuru Park, Kaduna, Kaduna State. During the pre-trial investigation, he made a statement wherein he admitted his involvement in the planned murder of the young leader. The Investigative Police Officer made use of an interpreter, Sergeant Uthman, in obtaining Kurate Mumbai's statement since he could not understand the Hausa spoken by him.

26. Assuming on the day where the confessional statement is sought to be

tendered in Court, the prosecution fails to call Sergeant Uthman, the effect of such failure is none but one of the following:

- a. The confessional statement will be admissible
- b. The confessional statement will be inadmissible
- c. The confessional statement will be admissible but less weight will be attached to it
- d. The confessional statement is rendered irrelevant

Eyu, a very beautiful young lady in University of Abuja was brutally raped and killed. Kuku Martins was suspected to have been the perpetrator of the offence and was arrested and detained, but no evidence was found linking Martins with the commission of the offence. The police, in the course of the investigation, planted one of their own in the same cell where Martins was detained. Pretending to be a hardened criminal and an expert in rape, the agent told Martins his many strange acts. Feeling at home, Martins confessed to the agent that he singlehandedly performed the rape and gave details of the plan. The statement was recorded by the agent. The prosecution now seeks to rely on the recorded confessional statement as evidence against Martins at the trial of the case in the High Court of the Federal Capital Territory, Abuja. The defence objects to the admissibility on the ground that the statement was made orally and it was made involuntarily because he was deceived

27. As the prosecution counsel, your response to the defence's objection would be:

- a. The confessional statement was recorded thus taking it outside of the ambit of being oral, and thus admissible
- b. Oral confession is admissible
- c. A confessional statement does not become inadmissible because it was made in consequence of a deception practiced on the defendant
- d. B and C

28. Assuming the Court ordered a trial within trial in this case, the standard of proof required of the prosecution to establish that the confession was voluntarily made is?

- a. Preponderance of evidence
- b. Balance of probability
- c. Proof beyond every shadow of doubt
- d. Proof beyond reasonable doubt

29. In Lagos, a confessional statement made orally is:

- a. Inadmissible
- b. Partially admissible
- c. Admissible, but less weight is attached to it
- d. At the discretion of the trial judge

On 25<sup>th</sup> July, 2020 at about 7:45pm, a strange scream was heard down the street of Ilupeju, very close to the central bus stop of the area. Upon hearing the scream, some young boys in the street rushed out to find out the source of the strange scream. On getting to the scene, they found a lady around her mid-20 lying on the floor with

bruises all over her, and her clothes torn. One of the young boys immediately sighted a man taking off from the scene, struggling to put his trousers in order. A chase was immediately carried out after the man but to no avail. However, the closest was able to set his eyes upon his figure. Some days later, a mass arrest of suspected male folks was made in the area by the police in respect to the crime.

30. Assuming the victim claims to have known the offender prior to the incident in the scenario, what is the appropriate procedure that should be employed:

- a. Identification parade
- b. Take the victim to the street to identify the offender
- c. Recognition test
- d. None of the above

31. All of the following are instances in which identification parade will not be necessary except

- a. The circumstances of the case sufficiently and irresistibly fixed the offender to the crime
- b. The victim was confronted by the offender for a very short time
- c. The offender was arrested at the scene of the crime
- d. A good case of alibi has been put forward by the suspect

32. Assuming there are two suspects to be identified, the least number of people to be paraded with the suspects is:

- a. 8
- b. 10
- c. 14
- d. 12



33. The form used during identification parade that contains information in relation to the right of the suspects to be paraded is tagged:

- a. Form D35
- b. Form D48
- c. Form C35
- d. Form C48

34. The following are the rights of the suspects to be paraded except:

- a. Right to pick their numbers and positions during parade
- b. Right to make objections to the arrangement of the parade
- c. Right to have other participants with similar physical features
- d. Right to have their counsel schedule the time and be present at the parade

35. Failure to follow the laid down procedures for identification parade of a suspect has one of the following effects:

- a. It renders the result irrelevant
- b. It renders the result inchoate
- c. It renders the result inadmissible
- d. Does not render the result inadmissible but goes to the weight to be attached

36. One of the following is a correct set of judicial authorities on identification parade

- a. Ikemson v State, Muhammed v State, Samuel v Bozin
- b. Ikemson v State, Emenegor v State, Isah v State
- c. Isah v State, Akpan v State, Ikemson v State
- d. Samuel v Bozin, Ikpo v State, R v Turnbull

37. \_\_\_\_\_ is where the list of all exhibits in the custody of the police in a particular station or division is recorded

- a. Exhibit register
- b. Exhibit book
- c. Exhibit file
- d. Exhibit diary

38. Assuming in connection with an arrest for the offence of armed robbery, the police recover several weapons from all the suspects, \_\_\_\_\_ is what is used to chronicle all the items recovered from the suspects in the case

- a. Exhibit list
- b. Exhibit diary
- c. Exhibit chronicle
- d. Exhibit diary

39. The person who keeps custody of all the exhibits in the custody of the police is:

- a. The Exhibit officer
- b. The Diary keeper
- c. The Exhibit keeper
- d. The Exhibit custodian

40. The following except one are remedies available to a suspect where a bail has been refused by the Police:

- a. Application for judicial review to the Magistrate Court
- b. Application for judicial review to a High Court
- c. Application for enforcement of fundamental human rights at the Magistrate Court
- d. A and C

## **ANSWERS**

### **WEEK 5**

#### **PRE-TRIAL INVESTIGATION AND POLICE INTERVIEW**

1. (A) Despite being a terrorist, Abubakar Shekau is still entitled to a right against inhumane treatment.
2. (A) Trial is not conducted by the police but by the Court. So, right to a fair trial is available to an accused when he is tried by a court or tribunal.
3. (C) The proper authority through which a confessional statement should be tendered is the investigating police officer.
4. (D) Where the admissibility of a confessional statement is challenged on the ground that the statement was not made voluntarily, then the court is by practice enjoined to conduct a trial within trial to determine the voluntariness or otherwise of the statement. *Ibeme v The State*.
5. (C) Where the admissibility of a confessional statement is challenged on the ground that it was never made, that is a retraction by the accused, the position of the law is that the court is enjoined to admit it, but attach less weight to it. *Ogunye v The State*.
6. (C) Alibi cannot be raised for the first time in Court. If it is raised for the first time in court, it will be discarded. *Emenegor v State*
7. (B) The accused has the duty to discharge the evidential burden placed on him when he raises the

defence of alibi. This is discharged on the balance of probability. *Mohammed v The State*, *Okosi v The State*.

8. (A) Where a defence of alibi is properly raised but not investigated, the accused is entitled to an acquittal. It will be deemed that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt, and failure of the prosecution in this regard would lead to the acquittal.
9. (A) The defence of alibi cannot be raised at any time. It must be raised immediately after the arrest of the defendant. *Mohammed v The State*.
10. (B) Judges rule is not applicable only in superior courts, it is also applicable in the Magistrate Court, and even the police use it. So, it is untrue to assert that Judges rule is applicable only in superior courts.
11. (D)
12. (D)
13. (D) It is not at every point where an accused raises an alibi that the prosecution is expected to investigate same. There are circumstances where such investigation is not needed, for example where the accused was arrested at the scene of the crime, where the accused gives inconsistent explanation of his whereabouts or where the accused makes a confessional statement preceding the alibi.
14. (A) What the court ought to have done, since this is a retraction, is to admit the statement and attach less

weight to it, where there is no supporting evidence. The idea of confirmation of a confessional statement by a superior police officer is not a requirement of the law, but of good practice, thus failure to do that will not render the confessional statement inadmissible, if it is voluntary. *Ikpo v The State*.

15. (C) Since it is a retraction and not a challenge on the voluntariness, the Court is enjoined to admit and then consider the weight to be attached to it.
16. (B) Trial within trial is the procedure adopted where an accused denies the voluntariness of a confessional statement made by him. The purpose is to determine whether or not the confessional statement was made voluntarily. *Ibeme v The State*.
17. (C) It is the prosecution who gives evidence first during trial within trial. Section 29(2)(b) of the Evidence Act. *Effiong v State*.
18. (B)
19. (D) The appropriate time to raise an objection to the admissibility of a confessional statement is when the statement is sought to be tendered. *Olalekan v The State*
20. (C) In raising the defence of alibi, an accused should not just say 'I wasn't there'. He must go ahead to explain where he was at the time the offence in question was committed. *Mohammed v The State*.
21. (C) Failure of the police to investigate an alibi, where same has not been properly raised by an

accused, is not fatal to the case of the prosecution, all things being equal.

22. (A) A confessional statement binds the maker alone and not his partner in crime, unless the partner admits the statement expressly or by conduct. Section 29(4) of the Evidence Act.
23. (A)
24. (D) Fair trial is a constitutional right which arises at the trial and not at the police station.
25. (B) It is not a condition precedent that a confessional statement must be made in writing before it can be admissible. In *Arogundade v State*, the written confessional statement made by the accused was discarded while the oral one was used to uphold his conviction. See Sec. 15(5) ACJA.
26. (B) Where a confessional statement is obtained through an interpreter as seen in the question, in tendering the statement recorded by the interpreter, the interpreter must be present and it must be tendered through him. Failure to present the interpreter will make the confessional statement inadmissible. *Olelekan v The State*.
27. (D) Oral confession is admissible under ACJA. *Igbinovia v State*. Also, a confessional statement does not become inadmissible because it was obtained by deception practiced on the defendant. *Igbinovia v The State*. Section 31 of the Evidence Act.
28. (D) Section 29(2), Evidence Act
29. (A) Oral confession is inadmissible in Lagos. Section 9(3) ACJL.

30. (C) This is because the witness knew the suspect before the commission of the crime and is only called to point him out. Recognition of an accused arises when the victim sees or acknowledges the identity of a person well known to him committing the offence. *Emenegor v State*
31. (B)
32. (D)
33. (B)
34. (D) The suspect has a right for his counsel to be present, but the counsel does not have the power to schedule the time for the parade
35. (D)
36. (B)
37. (A) Exhibit register is where the record of all exhibits in a particular division are kept.
38. (A)
39. (C)
40. (D) A Magistrate court does not have the power of judicial review; neither does a Magistrate Court have the power to enforce fundamental human rights. Section 46 of the 1999 Constitution.

## QUESTIONS

### WEEK 6

### COURTS WITH CRIMINAL JURISDICTION

A charge of stealing was brought against 15 year old Amara Ibrahim at the Federal High Court, Sokoto without the leave of the Judge. Immediately the charge was read but before the accused took his plea, the counsel raised an objection to the jurisdiction of the Court to try the matter.

Answer the following questions from the scenario

1. The proper stage of a criminal trial in which the issue of jurisdiction should be raised is:

- a. Immediately an accused person takes his plea
- b. Immediately the charge is read to the accused but before he takes his plea
- c. Immediately the case is called by the Registrar
- d. None of the above

2. The Court with jurisdiction to try Amara Ibrahim is:

- a. The Federal High Court, Sokoto
- b. The Federal High Court in any State
- c. The State High Court, Sokoto
- d. The Juvenile Court

Rio, Denver and Helsinki are a gang of armed robbers who specialize in Bank heist. They raided WEMA Bank in Ibadan on the 13<sup>th</sup> of April, 2020. Two weeks later, they paid a visit to Guarantee Trust Bank, Bodija and made a mess of the whole place, killing one of the security men who tried to resist

them. On the 4<sup>th</sup> of May, they proceeded to First Bank of Nigeria, University of Ibadan branch, where many students were left injured in the process. Having completed their operation in Oyo State, they traveled to the Federal Capital Territory (FCT) Abuja, where all of them were apprehended while trying to rob the Central Bank of Nigeria. They have been charged with the offence of armed robbery and murder.

3. The Court with jurisdiction in the scenario is:

- a. Federal High Court, FCT
- b. High Court of the FCT
- c. Oyo State High Court
- d. B or C

4. Where a particular offence is only constituted under the Penal Code, in which of the following places can a suspect accused of committing such offence, be arraigned?

- a. Abuja
- b. Lagos
- c. Ibadan
- d. Any of the above

5. The following except one are courts of special criminal jurisdiction

- a. Juvenile court
- b. Court Martial
- c. Area court
- d. National Industrial court

Olusegun Akpabio was arrested with the offence of stealing of a goat and was charged before the Customary Court of Oyo State. He was tried, convicted and sentenced accordingly. He wishes to appeal his conviction and sentence.

Answer the following questions 6 and 7

6. The highest punishment that can be imposed by the Customary Court is:

- a. ₦1,000 or 5 years imprisonment
- b. ₦1,000 or 2 years imprisonment
- c. ₦500 or 5 years imprisonment
- d. ₦500 or 2 years imprisonment

7. The appropriate Court where Olusegun Akpabio should appeal to is:

- a. Magistrate Court
- b. Customary Court of Appeal
- c. The High Court
- d. Upper Customary Court

8. Customary Courts have original criminal jurisdiction in respect of the following offences except:

- a. Cases of violations of bye-laws
- b. Offences for which jurisdiction is expressly conferred on them by law
- c. Contempt ex facie curiae
- d. None of the above

9. Under the Magistrates Court Law of Lagos 2009, how many grades of Magistrate Courts exist in Lagos?

- a. None; section 92, MCL
- b. None; section 93, MCL
- c. Five; section 93, MCL
- d. Five; section 92, MCL

Akin, Chinwa, Jamiu and Nafiu are members of a dreaded group who went to the mammy market Custom Barracks, Bwari- Abuja with rifles, cutlasses and cudgels to attack customers drinking pepper soup at a beer joint. After the attack, five people were found dead. The Nigerian

police, Bwari later arrested the four suspects to be charged to the appropriate Court.

10. Which court has jurisdiction to try the offence?

- a. The Chief Magistrate Court
- b. The High Court of the FCT
- c. The Federal High Court
- d. Any High Court

11. Under Section 15 of the Area Court Edict, the Court shall have jurisdiction over the following persons except.

- a. Any persons who resides or carries on business in Northern Nigeria
- b. Any person whose parents were members of any tribe indigenous to some parts of Africa and the descendants of such a person
- c. Any person one of whose parents was a member of a tribe indigenous to some parts of Africa
- d. Any person who consents to be tried by an Area Court

Mr. Pochettino, a Canadian without African decent was arraigned before the Area Court Grade 1 in Abuja, presided by Mr. Danjumo Dandu. Sijuade Edegbemi Esq. was employed by Mr. Pochettino to defend him in Court. However, he was denied audience by the Court on each day of trial on the basis of section 28 of the Area Court Edict and section 390 Criminal Procedure Code.

Answer questions 12-18 using the above scenario.

12. Area Courts in the North replaced the former\_\_\_\_\_

- a. Sharia Courts
- b. Customary Courts

- c. District Courts
- d. Native Courts

13. From the scenario, Mr. Pochettino can only be tried by the Area court\_\_\_\_\_

- a. If resides in Abuja
- b. If he carries on his business in the North in any part of Africa
- c. If he consents to be tried
- d. All of the above

14. The Area Court in the scenario will only have jurisdiction when the Presiding judge is\_\_\_\_\_

- a. Learned in the custom of the area
- b. A qualified legal practitioner
- c. 5 years post call
- d. Qualifies as an Upper Area Court Judge

15. Assuming judgment was given against Mr. Pochettino and he wishes to appeal, the most appropriate Court to entertain the appeal is:

- a. The High Court of the FCT
- b. The Magistrate Court
- c. The Sharia Court
- d. The Upper Area Court

16. Criminal appeal of the decision of an Area Court may be brought by all except:

- a. The prosecutor
- b. The accused
- c. Area Court Inspector
- d. None of the above

17. Assuming Mr. Sijuade is to argue against the provision of section 390 of Criminal Procedure Code which of the following authorities can be cited

- a. Alabi v COP
- b. Simidele v COP



- c. Uzodinma v COP
- d. Adeyemi v COP

18. The maximum punishment that can be imposed by an Upper Area Court in the FCT is:

- a. Seven years imprisonment
- b. Fourteen years imprisonment
- c. Twenty one years imprisonment
- d. Unlimited except death penalty

A couple, Agunbiade and Adenike were arrested in connection with a missing iPhone 11 pro Max at the Phoenix Phone Stand inside the Shoprite Mall at Apapa, Lagos. They have been charged with the offence of conspiracy and stealing, the latter attracting the maximum punishment of 14 years' imprisonment under Section 234(2) of the Lagos state Criminal Code Law.

Answer the following questions 19-23

19. The appropriate grade of Magistrate Court to try the offender is:

- a. Magistrate Court Grade 7
- b. Magistrate Court Grade 1
- c. Magistrate Court Grade 2
- d. None of the above

20. The power to increase the jurisdiction of the Magistrate Court of Lagos State to impose punishment exceeding that prescribed by the law is vested in:

- a. The Attorney General of Lagos State
- b. The Governor of Lagos State
- c. The Chief Judge of Lagos State
- d. The Lagos State Judicial Service Commission

21. The exercise of the power above by the appropriate authority is based on the recommendation of:

- a. The House of Assembly
- b. The Chief Judge
- c. The Lagos State Judicial Service Commission
- d. The Attorney General of Lagos State

22. In imposing consecutive sentences on the defendants, the court in the scenario can only do one of the following:

- a. Impose sentences, the aggregate of which should not exceed twice its limit
- b. Impose sentences, the aggregate of which should not exceed four times its limit
- c. Impose sentences, the aggregate of which should not exceed its limit
- d. Impose sentences, the aggregate of which should not exceed one-thirds of its limit

23. The appropriate mode of addressing the sitting Magistrate in the scenario is:

- a. Your Worship
- b. Your Honour
- c. Your Magistracy
- d. Your Lordship

24. In which of the following circumstances is the consent of an accused needed before he can be tried?

- a. Non-indictable offence before a High Court
- b. Non-indictable offence before a Magistrate Court
- c. Indictable offence before a Magistrate Court

- d. Capital offence before a Magistrate Court

25. According to section 2 of the CPL, an indictable offence is:

- a. An offence which may be punished by summary conviction
- b. An offence which on conviction, may be punished by imposition of a fine exceeding ₦400
- c. An offence, which on conviction, may be punished by a term of imprisonment exceeding two years
- d. B and C

26. Under the CPC, where a Magistrate Court convicts a person of more than one offence and imposes consecutive sentences

- a. The sum total of the consecutive sentences must not exceed the limit of the Magistrate Court to impose penalty
- b. The sum total of the consecutive sentences must not be more than four times the limit of the Magistrate Court to impose penalty
- c. The sum total of the consecutive sentences must not be more than twice the limit of the Magistrate Court to impose penalty
- d. All of the above

27. Courts of special criminal jurisdiction do not include

- a. Federal High Court
- b. Customary Court
- c. Juvenile Court
- d. Coroners Court

28. A High Court in the South does not have jurisdiction over

- a. All indictable offences contained in an information
- b. All non-indictable offences
- c. Any non-indictable offence brought by complaints
- d. Appeals from decisions of Area Courts

29. Which of these Courts does not have original criminal jurisdiction?

- a. Court of Appeal
- b. High Court
- c. Upper Area Court
- d. None of the above

Major Adoko John, in charge of the special operation unit against Boko Haram, was arrested and charged with the offence of misconduct (cowardly behaviour). A Court Martial was constituted to try Major Adoko John. The Court Martial was composed of the President (a Brigadier General), 2 members each of the rank of a Captain, a waiting member of the rank of Colonel and a Judge Advocate of the rank of a lieutenant colonel.

Answer the following questions:

30. All but one of the following are subject to service laws:

- a. Members of the Nigerian Navy
- b. Members of the Police Force
- c. Members of the Nigerian Army
- d. Members of the Air Force

31. The Court Martial in the scenario can be convened by all but one of the following:

- a. President of the Federal Republic of Nigeria
- b. Chief of Defence Staff
- c. Attorney General of the Federation
- d. Service Chiefs

32. From the scenario, which of the following is true?

- a. For the offence charged, the Court Martial can impose the punishment of death
- b. The Court Martial was not validly constituted
- c. The Court Martial constituted was a general court martial
- d. None of the above

33. Assuming it was a Special Court Martial that was convened in the scenario, which of the following is not part of the composition of the Court?

- a. The President
- b. Not less than 4 members
- c. A Waiting Member
- d. A Judge Advocate

34. All but one of the following is true of a Judge Advocate in the composition of a Court Martial:

- a. He must be a commissioned officer
- b. He must be a legal practitioner with at least 3 years post call experience
- c. He has no voting right in the Court Martial
- d. None of the above

35. Where there is equality of vote in the sentence to be imposed on an accused person before a Court Martial, then:

- a. The accused is discharged
- b. A re-election is done by the Court

- c. The president shall have a casting vote
- d. The sentence shall be submitted to the confirming authority for a final decision

Jide Bakare, a member of the Nigerian Army and Ola Jude, a cultist, conspired to commit the offence of murder on the person of Miss Kate, a journalist in the FCT, Abuja. They carried out the operation. A few days later, both of them were arrested and charged with the civil offence of conspiracy and murder before the Courts Martial. Counsel Ola Jude objected to the jurisdiction of the Court Martial on the basis that Ola Jude was not a member of Nigerian Army. The objection was overruled and both accused persons were tried and convicted accordingly.

Answer the following questions:

36. Was the Court Martial right to have overruled the objection of Ola Jude's counsel?

- a. No, because Ola Jude is not subject to service laws
- b. Yes, because Ola Jude, although not subject to service laws, conspired with a member of the Army and they both committed the offence
- c. Yes, because the Court Martial is a court of general criminal jurisdiction
- d. No, because the Court Martial cannot try the offence of murder

37. Assuming the objection to the jurisdiction was upheld, the appropriate Court to try Ola Jude is:

- a. Any State High Court
- b. Federal High Court

- c. National Industrial Court
- d. High Court of the FCT

38. Assuming Jide Bajkare was tried and convicted by the Court Martial, and was brought on the same charge before the High Court, which of the accurately captures the position of the law?

- a. The High Court cannot try Jide Bakare
- b. The High Court can try Jide Bakare but must have regard to the punishment already imposed by the Court Martial
- c. The High Court can only try Jide Bakare with the permission of the President of Nigeria
- d. The High Court cannot try Jide Bakare, but can impose another sentence on him

39. If Jide Bakare was tried before the Court Martial, convicted and sentenced to death, for the sentence to be carried into effect, it must be approved by:

- a. The President of FRN
- b. The Attorney General of the Federation
- c. The Chief of Defence Staff
- d. The Supreme Military Council

40. If Jide Bakare wishes to appeal against the sentence of death, he must do so within \_\_\_\_\_ to \_\_\_\_\_

- a. 40 days, Supreme Court
- b. 10 days, Court of Appeal
- c. 20 days, Supreme Court
- d. 30 days, Court of Appeal

41. Assuming Jide Bakare committed the offence in January 2020 and retired from the Army on the 1<sup>st</sup> of February, 2020, for the

Court Martial to be able to try him for the civil offence, the trial must have begun before:

- a. July 1, 2020
- b. June 1, 2020
- c. May 1, 2020
- d. March 1, 2020

42. The following offences can be tried at any time by the Court Martial except:

- a. Mutiny
- b. Murder committed outside Nigeria
- c. Desertion
- d. None of the above

43. Which of the following is the appropriate result of an equality of vote in the finding of guilt of an accused before the Court Martial?

- a. The Presiding officer shall be entitled to a second vote
- b. The meeting shall be adjourned
- c. The accused shall be discharged and acquitted
- d. The accused shall be convicted

44. The member of a Court Martial who must be a qualified legal practitioner is the

- a. President
- b. Liaison Officer
- c. Judge Advocate
- d. Waiting member

Solape, (27 years) and Tolu (14 years) both conspired and killed one Mr. Ojulari, Tolu's master at his Mechanic workshop on 27<sup>th</sup> April, 2018. They have been arrested and taken into custody at the Ajegunle Police Station, Iyanapaja Lagos.

Answer the following questions:

45. Juvenile Courts' jurisdiction over young person does not extend to the following except

- a. Where the child or young person is charged with an offence, which is punishable by the death penalty.
- b. Where the young person is jointly charged with an adult
- c. Where the young person elects to be tried by a regular court
- d. None of the above

46. In which court would Tolu be arraigned?

- a. High Court
- b. Juvenile court
- c. Magistrate court
- d. Any of the above

47. In determining Tolu's actual age, all but one of the following can be used:

- a. Expert witness
- b. Oral testimony by parents or guidance
- c. Ability to understand and give rational answers to questions
- d. Birth Certificate issued by the appropriate authority

48. Assuming Solape and Tolu were arraigned before the High Court of the FCT and found guilty of the offence of murder, the appropriate punishment to be given to Tolu is:

- a. Death by lethal injection
- b. Death by hanging
- c. Detainment at the pleasure of the President
- d. Life imprisonment

49. The following except one are characteristics of a Juvenile Court

- a. Proceedings are conducted in private
- b. Identity of the young person shall not be disclosed under any circumstance
- c. Words like 'conviction' or 'sentence' are prohibited
- d. None of the above

50. In proceedings before a Juvenile Court, the relevant age is the age:

- a. At the time of commission of the offence
- b. At the time of conviction
- c. At the time of arraignment
- d. At the time of arrest

51. The International Criminal Court (ICC) was established by:

- a. The United Nations
- b. The Rome Statute
- c. The Statute of Liberty
- d. The Vienna Convention on the Law of Crimes

52. The ICC has jurisdiction to try the following offences except:

- a. War crimes
- b. Crimes against humanity
- c. Kidnapping
- d. Aggression

53. The ICC is composed of how many judges?

- a. 15 Judges
- b. 16 Judges
- c. 17 Judges
- d. 18 Judges

54. The ICC does not have jurisdiction over the following except:

- a. Members of a Terrorists group
- b. States
- c. International Organisations
- d. None of the above

Idoko Edet was arrested for being in possession of heroine by NDLEA officials. He was detained for 4 days without access to his lawyer. He was tried before the Chief Magistrate Court, Lagos. During the trial, his lawyer applied for bail, which was turned down. His lawyer intends to apply for his bail at the High Court.

55. Assuming the counsel is to contest the jurisdiction of the Court, which Court will have jurisdiction?

- a. The State High Court
- b. The Federal High Court
- c. The Industrial Court
- d. The Magistrate Court

## **ANSWERS**

### **WEEK 6**

## **COURTS WITH CRIMINAL JURISDICTION**

1. (B) The issue of jurisdiction should be raised immediately the charge is read, but before an accused takes his plea.
2. (D) Amara Ibrahim is a young person within the meaning of the Children and Young Person Law, and the offence he was charged with is not a capital offence, thus, the Juvenile Court is the court with jurisdiction to try him.
3. (D) Section 96, ACJA. The position of the law is that where an offence is commenced in a State and is completed in another State or the FCT, both States (FCT) will have jurisdiction. *Okoro v AG Western Union*.
4. (A) The Penal code is not applicable in the South.
5. (C) Area court is classified as a court of general criminal jurisdiction.
6. (A) Section 19 of the Customary Courts Law of Oyo State
7. (A) Appeal from the decision of the Customary Court in Oyo State goes to the Magistrate Court. Section 25 of the Magistrate Court Law of Oyo State.
8. (C) The jurisdiction of Customary Court includes contempt committed in facie curiae and not one committed ex facie curiae. Section 19 of the Customary Courts Law of



Oyo State. See also Part II, Schedule to the FCT Customary Court Act, 2007.

9. (B)
10. (B) The offence an accused is charged, amongst others, determines the court with jurisdiction. The question reveals that the accused were charged with murder committed in FCT. The most appropriate court with jurisdiction is the High Court of the FCT.
11. (A) Residence in the North or the FCT does not confer on the Area Court criminal jurisdiction over that person. The other options are the instances where the Area Court will have criminal jurisdiction over a person.
12. (D)
13. (C) Section 15 of the Area Court Edict
14. (B) Section 17(2) of the Area Court Act
15. (D) Section 53 and 54 of the Area Court Edict
16. (D) An Area Court Inspector can bring an appeal of the decision of the Area Court to the Upper Area Court. Section 56 of the Area Court Edict.
17. (C)
18. (D) (Schedule to the Area Court Edict of 1967).
19. (D) There is no grade of Magistrate in Lagos again.
20. (A) Section 30 of the Magistrates' Court Law of Lagos State (MCL).
21. (C) Section 30 of the MCL.
22. (C) The maximum sentence a Magistrate in Lagos can impose is 14 years. The law is that in imposing consecutive sentences, the sentences shall not exceed 14 years. Section 29(5) of the MCL.
23. (B) Magistrates in Lagos are addressed with 'Your Honour.
24. (C) Consent of an accused is a prerequisite before a Magistrate can try him for indictable offence. Section 304(3) of the CPL.
25. (D)
26. (C) Section 24 CPC.
27. (B)
28. (D) There is no Area Court in the South.
29. (A) The Court of Appeal and the Supreme Court do not have original criminal jurisdiction. This means they cannot sit as the Court of first instance in any criminal case. Section 239(1) CFRN
30. (B) Those subject to service laws are men and officers of the Nigerian Army, the Nigerian Navy and the Nigerian Air Force. Section 291 of the Armed Forces Act (AFA).
31. (C) The AGF does not have the power to convene a Court Martial. Besides, the powers of the AGF do not extend to Court Martials. Section 174 of CFRN.
32. (B) The rule is that under no circumstance is the person to be tried by the Court Martial be higher in rank than the president and/or members of the Court Martial. Definitely, a Major is above the rank of the two captains that were part of the court constituted to try Major Adoko John. On the

authority of *Okoro v Nigerian Army Council*, the court martial was not validly constituted. The court martial constituted in the scenario is a special court martial because among other things, it has 2 members.

33. (B)

34. (D) A judge advocate as a member of the court martial must be a commissioned officer, who is qualified as a legal practitioner and have been so qualified for at least 3 years. However, he is not regarded as a member of the court martial for the purpose of composition, quorum or voting. *Sogbesan v Chief of Naval Staff*.

35. (C) Note that where there is equality in the finding of the Court Martial as to whether the accused is guilty or not, Section 140(2) AFA provides that the accused shall be acquitted. However, if the equality is on the sentence to be passed on the accused as seen in this question, the President shall be entitled to a second or casting vote. See section 140(5) AFA.

36. (A) Court Martial only has jurisdiction to try those subject to service laws. Section 130 AFA.

37. (D) High Court of the FCT is the most appropriate because the charge is murder and it was committed in the FCT.

38. (B) Section 170(2) AFA. The fact that a person subject to service laws has been tried and convicted by a court martial does not prevent a High Court from trying the same offence,

but the High Court is enjoined to have regard to the punishment imposed by the Court Martial.

39. (A) Section 153 AFA.

40. (B) Section 184(2) AFA.

41. (C) Except for the offence of mutiny, failure to suppress mutiny, desertion and civil offences committed outside Nigeria, a person cannot be tried by a court martial after three months of retirement. Three months from the 1<sup>st</sup> of February is 30<sup>th</sup> of April. Section 169(2) AFA.

42. (D)

43. (C) See comment on question 35 and also Section 140(2) AFA.

44. (C) S.133 (6)AFA

45. (C) A young person cannot elect to be tried by a regular court. Ss. 6(2) & 8(2) Children and Young Persons Law (CYPL) Cap 10 Laws of Lagos 2004.

46. (A) Tolu, despite being a young person, would be arraigned before a High Court because the offence is a capital offence. Section 8(2) CYPL.

47. (C)

48. (D) Sec. 405, ACJA.

49. (B) The non-disclosure of the identity of the young person is not absolute. The court may order otherwise.

50. (A) *Guobadia v State*

51. (B) The International Criminal Court (ICC) was established by the Rome Statute of 2002.

52. (C) Kidnapping is not one of the offences that can be tried by ICC.

53. (D)

54. (A) The ICC does not have jurisdiction over States or international organisations as legal entities.

55. (B) The NDLEA Act has conferred jurisdiction on the Federal High Court to try offences committed under the Act.

## **QUESTIONS**

### **WEEK 7**

#### **INSTITUTION OF CRIMINAL PROCEEDINGS**

1. The following categories of persons can institute criminal proceedings except:

- a. The Chief Judge of Oyo State
- b. The Chief Legal Officer of Oyo State
- c. Sergeant Suberu
- d. The EFCC

2. Which of these cases emphasized the overriding powers of the Attorney General to institute proceedings in any Court in Nigeria?

- a. Emelogu v State
- b. Abacha v State
- c. State v Aigbangbee
- d. State v Okpegboro

3. The prosecutorial powers of the Attorney General are provided under

- a. Sections 174 and 188 1999 CFRN
- b. Sections 83 and 174 1999 CFRN
- c. Sections 174 and 211 1999 CFRN
- d. Sections 150 and 195 1999 CFRN

4. The Attorney General of the State can only prosecute the following offences with the fiat of the Attorney General of the Federation except:

- a. Treason and Treasonable Felonies
- b. Armed Robbery under the Firearms Act
- c. All Federal Offences
- d. None of the above

5. A person shall not be qualified to hold or perform the functions of the Attorney General of the Federation unless:

- a. He is a Senior Advocate of Nigeria and has been in the inner Bar for at least 10 years
- b. He is qualified to practice as a legal practitioner in a common law jurisdiction and has been so qualified for not less than 10 years
- c. He is qualified to practice as a legal practitioner in Nigeria and has been so qualified for not less than 10 years
- d. He is a Life Bencher and has been in active legal practice for at least 10 years

6. It is to \_\_\_\_\_ that all the prosecutorial powers in a State are subject to

- a. The Chief Law Officer of the Nation
- b. The Chief Judge of the State
- c. The Judiciary
- d. The Commissioner for Justice

Chinukwe, Charles and Dauda are all students of K. Dairo University Obanikoro, Lagos State. The trio are also members of a cult 'Dreadful Gangs', well notorious for dealing in hard drugs. Their operation is primarily within the school, but extends to the whole Lagos community and other States within the federation. On 25<sup>th</sup> August, 2018, the trio boarded a flight at the Murtala Mohammed International Airport, Lagos going to Sokoto to deliver their 'goods' to customers. They were apprehended by the police at the airport. A search was conducted on their luggage and inside was found packages containing India helm and other narcotics.

Answer the following questions 7-9 using the above scenario:

7. All but one of the following has the prosecuting power to institute a criminal action against the accused persons:

- a. Attorney General of the Federation
- b. Attorney General of the State
- c. NDLEA
- d. None of the above

8. The appropriate mode of commencing the action in the scenario is \_\_\_\_\_

- a. Information
- b. First Information Report
- c. Charge
- d. Complaint

9. Which of the following is untrue if a police takes up prosecution of the accused persons before the appropriate Court?

- a. His power to prosecute is subject to the AGF's power
- b. He has a right of audience before the Court
- c. He must be a legal practitioner
- d. He does not need to obtain the leave of the court to prefer his charge

10. A popular judicial authority on the 'unquestionability' of the prosecutorial power of the Attorney General is \_\_\_\_\_

- a. State v Ilori
- b. Olusemo v COP
- c. State v Chukwurah
- d. Emelogu v State

11. The Chief Law Officer of Lagos State entered a Federal High Court sitting in Lagos State and entered a nolle prosequi orally for the case of Lawal Ahmed against FRN who was being prosecuted for the

offence of treason. The prosecution objected to the nolle prosequi but the judge refused the objection, stating that he is bound by the AG's decision.

You have been asked to comment on the propriety or otherwise of the AG of Lagos State's decision:

- a. The nolle prosequi was wrongly exercised because it was done orally as opposed to being in writing.
- b. The nolle prosequi was rightly exercised
- c. The nolle prosequi was wrongly exercised because the offence is a federal offence in a federal Court
- d. The nolle prosequi was wrongly exercised because there was nothing to show that the President of Nigeria consented to it.

12. The case which emphasised the prosecutorial power of the police for cases in the Supreme Court is:

- a. State v Ilori
- b. AG Kaduna v Hassan
- c. Olusemo v COP
- d. Osahon v FRN

13. All but one of the following is incorrect about nolle prosequi:

- a. It can be exercised in a Court Martial
- b. It can be exercised by the AG orally
- c. It can be exercised on appeal
- d. It can be exercised by a solicitor General where the office of the AG is vacant

At the close of the prosecution's case in the case of COP v Maja Simon before a Magistrate sitting in Igbosere, Lagos, the

defendant opened his case and relied on the defence of mistake in the charge of being in possession of a stolen property. Immediately the defendant closed his defence, the prosecution fearing that he has clearly proved nothing, announced in open court that it has decided to withdraw the case. The Magistrate allowed it.

14. The effect of the withdrawal by the prosecution is one of the following:

- a. It amounts to a discharge of the defendant
- b. It amounts to an acquittal of the defendant
- c. The defendant can be tried for the same offence upon fresh evidence being discovered.
- d. None of the above

Ikechukwu Okpara was caught in the act of rape and was arrested and detained at the Suberu Police Station in Ogun State. The Attorney General of Ogun State has decided to take up the case personally because of his passion to curb the menace of rape in the country. He applied for consent to file the information against Ikechukwu before Honorable Justice Akintola. Justice Akintola refused to grant the consent because he believed no prima facie case has been disclosed.

Answer the following questions 15-19 using the above scenario:

15. The following except one are documents to accompany the application for consent by the Attorney General:

- a. Unedited statement of the accused
- b. Copy of the proposed charge

- c. Affidavit in support of the application
- d. List of witnesses

16. The application for consent to file the information by the Attorney General can be made by:

- a. Written letter
- b. Motion on notice
- c. Motion ex parte
- d. A or C

17. The option opened to the Attorney General after refusal of the consent by the Judge is:

- a. Appeal to the Court of Appeal
- b. Make a similar application to the another Judge
- c. Appeal to the Chief Judge of the State
- d. Make a similar application to the Court of Appeal

18. All of the following except one is a consequence of failure to obtain leave before filing the information:

- a. Any decision arising from the trial will be quashed
- b. The information is rendered incompetent
- c. It renders the proceeding a nullity
- d. A mere irregularity which does not affect the substance of the trial

19. The judicial authority for your answer in question 18 above is:

- a. A.G. Federation v Clement Isong
- b. State v Gwanto
- c. Fawehinmi v Akilu
- d. FRN v Obinna Ezerioha

Olu Johnson was arrested by the Lagos State Police for the offence of Kidnapping of one Mrs Eniola Adepitan. He was brought before Justice Aderemi of the High Court of Lagos state on one count information of Kidnapping. When the charge was read to him, he pleaded not guilty and the case went to trial. At the close of evidence of the prosecution, the Attorney General of Lagos State entered the court and announced his pleasure to enter a Nolle prosequi for the defendant. The judge was dissatisfied because he was related to the victim of the crime, Mrs Eniola Adepitan and already had his judgment written against the accused. As a result, he protested that the AG of Lagos State has no power to enter a nolle prosequi in such a case as all evidence points convincingly to the accused as being guilty. He further sought the advice of Omigogo SAN as a friend of the court on the position of the law in that regard, and the learned silk said he is bound to obey the nolle prosequi entered by the AG of Lagos State. Being bound by the idiosyncrasies of the law, he enforced the nolle.

Answer the following questions 20-21 using the above scenario:

20. The following are not incapable of exercising nolle prosequi except:

- a. The Attorney General of Lagos State
- b. The Solicitor General of Lagos State
- c. The Chief Law Officer of the Federation
- d. A and C

21. The effect of the nolle prosequi entered by the Attorney General of Lagos State is not all but one of the following:



- a. A discharge which amounts to an acquittal
- b. A discharge which does not amount to an acquittal
- c. It is incapable of giving rise to a plea of autre fois convict or acquit
- d. B and C

22. The charge in Magistrate court of Kano State is prepared by

- a. The Magistrate
- b. The Police
- c. The State Counsel
- d. Any of the above

23. In the absence of an incumbent Attorney General, the officers at the office of the Attorney General may do any of the following except:

- a. Enter a nolle prosequi
- b. Withdraw a charge
- c. Prosecute an offence
- d. Apply for leave to bring file an information

24. The police can prosecute criminal cases in the following courts except:

- a. Court Martial
- b. Federal High Court
- c. Supreme Court
- d. State High Court

25. The limitation period for instituting the offence of conspiracy to commit a robbery is:

- a. 7 years
- b. 10 years
- c. 2 years
- d. None of the above

26. All offences can be charged and tried at any time. However, there are some offences which must be charged within a few years, otherwise, they are statute bared. These offences include all but one of the following:

- a. Treason
- b. Sedition
- c. Murder
- d. Custom offences

Badmut, a member of a terrorist group, wanted by the police was arrested and having in his possession dangerous explosives and intention to blow up the Independence House at Maidugiri, Bornu State. A criminal action was commenced against Badmut by the Attorney General of Bornu State at the Magistrate Court. During the trial, the Minister of Foreign Affairs entered an oral nolle prosequi, which the defence counsel did not object to but pleaded with the Judge to acquit his client.

Answer the following questions:

27. The nolle prosequi entered by the Minister for state was:

- a. Constitutionally correct
- b. Unconstitutional
- c. Outdated
- d. None of the above

28. The Attorney-General of Bornu State does not require the fiat of the Attorney-General of the Federation in order to prosecute Badmut in court.

- a. False
- b. True

- c. The fiat of the Minister is enough
- d. Consent of Badmus is enough

29. A first information report is used to institute criminal matters in:

- a. In a Magistrate Court in the north
- b. In a Magistrate Court in the South
- c. In a High Court in the North
- d. In a High Court in the South

30. Funke Akindele and her husband were on the 12<sup>th</sup> of May, arrested by the Police for breaching the provisions of the Infectious Disease Control Law of Lagos State.

To commence criminal proceedings against the defendants in the Magistrate Court of Lagos State, which of the following is most appropriate?

- a. Complaint on oath
- b. First Information Report
- c. Information
- d. Charge

31. The following except one are differences between nolle prosequi and withdrawal of action by the prosecution:

- a. Withdrawal can only be done by the Attorney General while nolle prosequi can be exercised by any officer in the Attorney General's department
- b. The effect of a withdrawal after the defence is an acquittal, while the effect of a nolle prosequi is a mere discharge
- c. Withdrawal can relate to counts, while nolle prosequi always relates to the entire charge

- d. Reasons must be given for withdrawal, while reasons need not be given for nolle prosequi

32. Which of the following exercises of powers is invalid?

- a. Nolle Prosequi entered by the Attorney General in the trial of his personal friend.
- b. Proceedings commenced by a Pupil State Counsel two months after the Attorney General was removed from office.
- c. Power of discontinuance entered orally by the Solicitor General of the State in person
- d. Proceedings taken over by the Attorney General from the EFCC in a matter, the EFCC clearly had powers to commence.

33. Which of these phrases best describes a nolle prosequi?

- a. An end to criminal proceedings
- b. A suspension of criminal proceedings resulting in the mere discharge of an accused person
- c. An unconditional termination and acquittal of an accused person
- d. A stay of execution of a criminal sentence

34. What relief is available to a private person who seeks to commence a criminal action but the Attorney General refuses to endorse his information or charge as required?

- a. He has no relief as the powers of the Attorney General remain unquestionable
- b. Appeal the decision to the Chief Justice of Nigeria
- c. Seek an order of mandamus in Court against the Attorney General
- d. Appeal the decision to the Federal High Court

35. In which of the following jurisdictions is consent to prefer a charge or file an information no longer needed?

- a. Lagos
- b. Abuja
- c. Ogun
- d. A and B

## **ANSWERS**

### **WEEK 7**

## **INSTITUTION OF CRIMINAL PROCEEDINGS**

1. (A) A judicial officer cannot institute criminal proceeding.
2. (B)
3. (C)
4. (B) The Robbery and Firearms Act, by its tenure, has been extended to operate as a state offence, thus the AG of a State does not need the fiat of the AGF to prosecute an offender for that offence.
5. (C) Section 150 CFRN.
6. (D) The Attorney General of a State is the Commissioner for Justice of that State. Section 195 and 211 CFRN.
7. (B) The offence the accused committed is under the NDLEA Act, a federal offence, thus, the Attorney General of Lagos State has no prosecutorial power in that regard. AGF V AG Ondo State.
8. (C) By the decision of the Court in FRN v Obiora Ezerioha, criminal proceedings at the Federal High Court should be commenced by way of charge and not information.
9. (C) A police need not be a legal practitioner before he has a right of audience in Court. Osahon v FRN.
10. (A)
11. (C) The power of the AG of Lagos State is limited to the State and does

- not extend to a federal offence in a federal Court.
12. (D)
  13. (B) A nolle prosequi cannot be exercised on appeal; neither can it be exercised in a court martial. It can only be exercised by the AG and not the SG, and the AG can exercise it orally.
  14. (B) Withdrawal by the prosecution, after close of defence by the accused, amounts to an acquittal.
  15. (C) Where an application for consent to prefer a charge or file an information is made by the AG, the application does not need to be accompanied by an affidavit.
  16. (D) Application for consent to file an information could be made via a letter or motion exparte.
  17. (B) State v Gaji
  18. (D) Failure to obtain consent or leave before filing an information is beyond a mere irregularity, but affects the substance of the information and any decision arising therefrom will be quashed. AGF v Clement Isong.
  19. (A)
  20. (B) Only the Attorneys-General can exercise the power of nolle prosequi. State v Ilori. AG Kaduna v Hassan
  21. (D) Nolle prosequi is a mere discharge and is incapable of giving rise to a plea of autre fois acquit. Clarke v AG Lagos State.
  22. (A) Magistrates are responsible for preparing charges in the Magistrate Court in the North.
  23. (A) Only the AG can exercise the power of nolle prosequi. Where the office of the AG is vacant, the power of nolle prosequi is dormant as no officer in the AG's department can lawfully exercise that power.
  24. (A)
  25. (D) The offence of conspiracy can be tried anytime. There is no limitation period for it.
  26. (C) Murder is not subject to limitation law.
  27. (B) Only the AG can exercise nolle prosequi.
  28. (A) Terrorism is to be tried by the Federal High Court, thus it is deemed to be a federal offence. For the AG of Borno State to be able to prosecute terrorists, the fiat of the AGF must be given.
  29. (A)
  30. (D) The only way of commencing criminal proceeding in a Magistrate Court in Lagos is by charge.
  31. (A)
  32. (C) A solicitor general does not have the power to discontinue an action, that is, enter a nolle prosequi.
  33. (B)
  34. (C)
  35. (D) In Lagos and Abuja (ACJA and AJJL), consent to file an information is no longer applicable. Thus, the AG or other prosecutorial authority can institute an action against the accused without seeking any consent.

## QUESTIONS

### WEEK 8 & 9

#### CHARGES I & II

While shopping at Brent Mall, Preston Avenue, Abeokuta, Ogun State on one Saturday in January, 2018, Miss Aderemi met her classmates who were her friends back in secondary school, Okon Ifon and John Bull who had also come to buy some toiletries. Later that evening, Okon called Aderemi on her mobile phone and she invited Okon and John to her self-contained apartment at No. 52, Jadesinmi Street, Abeokuta.

They honoured the invitation. While they were having their drinks and chatting about their days in school, Okon got up from his seat and sat next to Aderemi who was then sitting on the bed. Immediately, Okon pushed her on the bed and because Aderemi was wearing a mini-skirt, G-string pants and spaghetti top, he easily subdued her and had sexual intercourse with her despite her protest. John was also in the room while this was happening. They then quickly made away with her brand new iPhone 11 pro max valued at N300,000 and an apple Laptop valued at N450,000. Disgusted by their conduct, Aderemi reported the matter to the Jadesinmi Police Station. Having received the case file from the police, the Attorney-General of the State has instructed you, Adegoroye Eniola as a State Counsel to file a charge and prosecute the case in the High Court.

Answer the following questions 1-5 using the above scenario:

1. What will you draft in this instance?
  - a. A First Information Report
  - b. A Charge
  - c. A Complaint
  - d. An Information
2. In drafting the charge sheet, one of these is inappropriate:
  - a. IN THE HIGH COURT OF OGUN STATE
  - b. IN THE ABEOKUTA JUDICIAL DIVISION
  - c. HOLDING AT ABEOKUTA
  - d. HOLDEN AT ABEOKUTA
3. In drafting the charge sheet, in the place where to put the parties, which of these fits in the circumstances?
  - a. State of Ogun
  - b. Accused persons
  - c. Commissioner of Police
  - d. None of the above
4. The head of offence in your draft should be:
  - a. Charge
  - b. Count
  - c. File
  - d. Information
5. In drafting the charge, the following are rules you would pay attention to except:
  - a. Rule against joinder of offenders
  - b. Rule against duplicity
  - c. Rule against ambiguity
  - d. None of the above
6. An information for instituting criminal actions contains:

- a. A preamble, statement of particulars, and particulars of offence
- b. A preamble, statement of offence and particulars of offence
- c. A preamble, count and statement of offence
- d. A preamble, statement of offence and ingredient of offence

7. Criminal proceedings cannot be instituted by information in the following courts except:

- a. A Magistrate Court in Yola
- b. A High Court in Jalingo
- c. A High Court in Maiduguri
- d. A Federal High Court in Abuja

That you Omoluabi Abuad on the 10th day of July, 2009 at No. 20 old Suleja – Abuja Road, Minna in the Minna Magisterial District had unlawful carnal knowledge and assaulted Miss Hotlegs and thereby committed an offence punishable under...

Answer the following questions 8-10 using the scenario:

8. What possible objection will you raise to the above charge?

- a. Bad for misjoinder of offences
- b. Bad for misjoinder of offenders
- c. Bad for duplicity
- d. Bad for ambiguity

9. The charge should be laid under:

- a. The Criminal Code Act.
- b. The Criminal Code Law.
- c. The Penal Code Law.
- d. The Penal Code Act.

10. Who is to draft the above charge?

- a. The Police Prosecutor.
- b. The State Counsel
- c. The Investigating Police Officer
- d. The Presiding Magistrate.

Mrs Getty Ali was charged before the High Court of the Federal Capital Territory Abuja for culpable homicide punishable with death but the charge did not state the section of the law that was contravened. After the charge was read to her, she pleaded not guilty.

Answer the following questions

11. What rule of drafting charges has the charge against Mrs Ali contravened?

- a. Rule against duplicity
- b. Rule against ambiguity
- c. Rule against misjoinder of offenders
- d. Rule against misjoinder of offences

12. The complainant in this case will be

- a. Attorney General of the Federation
- b. Inspector General of Police
- c. Federal Government of Nigeria
- d. Federal Republic of Nigeria

Ovie Kadure, John Bature and Kodo Long are a gang of notorious armed robbers who made Ikorodu, Lagos the capital of their operations. On July 20, 2019, the trio conspired to pay a visit to the House of Chief Olowokere Joseph, a successful businessman, living in 6, Jumofak Streer, Ikorodu, Lagos. On that night, while trying to gain entrance to the house, Ovie Kadure shot and killed two security guards at the gate by name, Mr. Sule and Mr. Jakande. They made their way into the house and carted away the following: the sum of \$20,000 kept in a safe, a box of jewellery worth the monetary value of \$10,000



belonging to Chief Mrs Olowokere, an iPhone 11 worth ₦300,000 and a new Samsung Galaxy worth ₦200,000. On the 1<sup>st</sup> of August, 2020, the trio were arrested by the members of the Ikorodu Police station and have been kept in custody. The Attorney General of Lagos State has instructed you as a Principal State Counsel, to draft the information.

Answer the following questions 13 - 14:

13. In drafting the information, which of the following is the most appropriate in the designation of the prosecution?

- a. State of Lagos -----  
Prosecution
- b. Lagos State -----  
Complainant
- c. State of Lagos -----  
Complainant
- d. Attorney General of Lagos State ----  
--- Complainant

14. All but one of the following are compulsory requirement in the information to be drafted:

- a. The state of origin of the defendants
- b. The place of commission of the offence charged
- c. The date of commission of the offence
- d. The name of the defendants

On the first day of your externship program at the Director of Public Prosecution's Office at the Imo State Ministry of Justice, Owerri, you were handed a charge sheet for your comments. It stated that four persons (Audu, Dada, Shina and Sayo) had

conspired to rob the 'Give and Take' supermarket in Owerri armed with guns, but three of them only made it to the supermarket that night as the last one (Sayo) was sick. Audu waited in the getaway car outside, Dada shot and killed the gateman. Shina went in and brought out ₦200,000 from the safe, one laptop, one iPad and one Samsung phone.

Using the above scenario, answer the following questions:

15. What are the offences that will be charged in the case?

- a. Conspiracy to steal, stealing and murder
- b. Conspiracy to rob, robbery and murder
- c. Conspiracy to commit armed robbery, armed robbery and culpable homicide punishable with death
- d. Conspiracy to commit armed robbery, armed robbery and murder

16. None except one of the following is correct

- a. There will be four counts of robbery
- b. There will be one count of armed robbery
- c. There will be four counts of stealing
- d. There will be four counts of armed robbery

17. How many defendants will be charged in the above case?

- a. Three
- b. Four
- c. Two
- d. One

18. Which of the following is true?

- a. Only Dada who shot and killed the gateman will be charged for the count of murder
- b. All, except Sayo who was not at the scene will be charged with all the offences
- c. All will be charged for all the offences
- d. None of the above

19. Assuming in addition to the above facts, while running away with the stolen items, Audu drove recklessly and hit a roadside hawker, Sisi Bidemi, who died instantly from the accident, which of the following is true?

- a. All will be charged with the offence of manslaughter
- b. All except Sayo will be charged with the offence of manslaughter
- c. Only Audu will be charged with the offence of manslaughter
- d. None of the above

20. Statutory forms is not an exception to the following rules except

- a. Rule against ambiguity
- b. Rule against duplicity
- c. Rule against misjoinder of offenders
- d. Rule against misjoinder of offences

21. The whole idea of charges is rooted in the fact that an accused person shall be informed of the offence against him in the language he understands and in detail of the nature of the offence. This is the gist of what section of the Constitution?

- a. Section 36(6)(a)

- b. Section 36(6)(b)
- c. Section 35(2)
- d. Section 35(6)(a)

22. The rule of drafting charges which admits of no exception is:

- a. Rule against ambiguity
- b. Rule against duplicity
- c. Rule against misjoinder of offenders
- d. Rule against misjoinder of offences

23. Before a charge is drafted in a Magistrate Court in the North, the accused person is brought to Court by:

- a. First Information Result
- b. Fresh Information Report
- c. Frank Information Report
- d. First Information Report

24. After a charge is amended, the following post amendment procedure cannot be waived except:

- a. Reading the new charge to the accused and taking a fresh plea
- b. Endorsement of amendment note on the charge
- c. The right to call or recall witnesses
- d. None of the above

25. In *Youngman v COP* the conviction of the accused person was set aside because

- a. The charge was defective
- b. A fresh plea was not taken after amendment of the charge
- c. The right to fair hearing was breached
- d. The accused had already served the punishment while awaiting trial

## **ANSWERS**

### **WEEK 8 & 9**

#### **CHARGES I & II**

1. (D) The relevant jurisdiction is Ogun State. In the High Court in the South, information is drafted.
2. (C)
3. (D) The complainant in the scenario is 'The State' and Okon and John will be described as the 'defendants'.
4. (B) In courts in the South (Magistrates and High Courts) as well as the Federal High Court, 'count' is used as the head of offence, not 'charge'.
5. (A) It is called rule against misjoinder of offenders, not rule against joinder of offenders.
6. (B)
7. (B) It must be noted that information is used in the High Court in the South as well as Adamawa and Taraba. The capital of Taraba is Jalingo.
8. (C) The rule against duplicity is that two offences must not be lumped in the same count. In the scenario, there are two offences in one count, unlawful carnal knowledge and assault.
9. (C) The State where the offence is being tried is Niger State, and the applicable law is the Penal Code.
10. (D) In the Magistrate Court in the North, charges are drafted by Magistrates.
11. (B) A charge will be bad for ambiguity where it fails to provide for the law that was contravened, among others. Okeke v The Police.
12. (D) The complainant is the Federal Republic of Nigeria (FRN), and not the Federal Government of Nigeria.
13. (A)
14. (A) In drafting the content of a charge, the rule is: ADPOPSE A-Accused's name; D-Date of commission of offence; P-Place of commission of offence; O-Offence (name); P-Person against whom the offence was committed (victim); S-Section of the law violated, E-Enactment (Law violated).
15. (D)
16. (D) There will be four counts of armed robbery for each item robbed: ₦200,000, laptop, ipad, and Samsung phone. It doesn't matter that the items were robbed in the course of a single operation; the position of the law is that they must appear in separate counts. See the case R v Ugo Chima.
17. (B) All the four conspirators will be charged for all the offences, even Sayo who was not present at the scene of the crime because of illness. Section 7 of the Criminal Code.
18. (C)
19. (C) The offence of causing death by driving is an exception to section 7 of the Criminal Code. The position of the law (Federal Highway Act) is that the person driving will be charged.

20. (B) Willie John v The State where the Supreme Court justified the use of Form 16 of the Schedule to CPA to charge for housebreaking and stealing in one count.
21. (A)
22. (A) The rule against ambiguity is absolute and does not admit any exception.
23. (D)
24. (C) Section 164 CPA. The requirements of endorsement note of amendment on the charge and taking of fresh plea cannot be waived by the accused
25. (B)

## QUESTIONS

### WEEK 10

#### BAIL

Kodo Long and John Bull were arrested by the Police in connection with the offence of stealing which they committed in Spark Shopping Complex, Bode Thomas, Surulere, Lagos. Their counsel, Olumide Esq was contacted and he immediately took off to the Police station where the suspects were detained. The Counsel made an oral application for their bail, promising to stand as their surety. The police demanded the sum of ₦10,000 as the bail application fee for the suspects, which was duly paid, and they were released.

Answer the following questions 1-3 from the scenario above:

1. Which of the following is incorrect as regards police bail?

- a. It is free
- b. Application for it can be made orally
- c. It can be granted in the case of armed robbery
- d. It lasts for as long as the matter remains with the police

2. It is unethical for legal practitioners to stand as surety for the bail of their clients. This is provided in Rule \_\_\_\_\_ of the Rules of Professional Conduct:

- a. 36(1)
- b. 37(1)
- c. 37(3)
- d. 36(3)

3. Assuming the bail application of the suspects in the above case was refused by the Police, what possible option(s) do they have?

- a. Application for habeas corpus to the High Court
- b. Appeal the decision of the police to the High Court
- c. Application for enforcement of fundamental human rights at the Magistrate Court
- d. All of the above

Paul Oboli was called to the Nigerian Bar in November, 2019. He joined the law firm of P.C. Okorie & Co in Abuja. The first assignment given to him by his supervisor was to draft Anapplication for bail after which he would proceed to file the application at the High Court of the Federal Capital Territory.

Using the above scenario, answer the following questions 4-6.

4. The application should be supported with one of the following:

- a. Witness statement on oath
- b. A declaration on oath
- c. A and B
- d. An affidavit

5. In this case, who will serve the application on the respondent?

- a. The Administrative Judge
- b. The Registrar
- c. The Commissioner for Oaths
- d. The Court Bailiff

6. Which of the following statements is true?

- a. Where a respondent fails to file a counter affidavit, he cannot oppose a bail application
- b. Where a respondent fails to file a counter affidavit, he may still oppose a bail application on point of law
- c. Where a bail application is refused, a similar application can be filed before a court of coordinate jurisdiction
- d. An oral application for bail cannot be made at the High Court

7. Which of the following is not a factor the court will consider in granting or refusing to grant bail to an accused?

- a. The gravity of the offence
- b. The likelihood that accused will tamper with investigation
- c. The likelihood that accused will commit another offence if granted bail
- d. The economic condition of the accused.

8. Which of these cases relates to factors considered for grant of bail?

- a. Anyebe v The State
- b. Abacha v Fawehinmi
- c. Ibeziakor v Police
- d. Dantata v State

9. Special circumstances must be shown in an application for bail:

- a. At the Police Station
- b. In capital offences at the Magistrate Court
- c. Pending trial at the High Court
- d. Pending appeal

10. A Magistrate Court in the North can grant bail for one of the following offences

- a. Murder cases
- b. Manslaughter
- c. Culpable homicide not punishable with death
- d. None of the above

Mohammed Kurata, who was brought to the Chief Magistrate Court, Kano for the offence of robbery pleaded not guilty to the FIR when it was read to him. Counsel to the accused thereafter applied for his bail which was refused by the Chief Magistrate who ruled that the accused should apply to the High Court for bail because the Magistrate has no jurisdiction to try the matter.

Answer the following questions 11-20

11. Which of the following is true from the scenario?

- a. The ruling of the Magistrate is right because Magistrates Court cannot try the offence of robbery
- b. The ruling of the Magistrate is wrong because although Magistrate Court cannot try the offence of robbery, it has the power to grant bail to an accused charged with the offence
- c. The ruling of the Magistrate is wrong because a Magistrate can try the offence of robbery and can grant bail to an accused charged with the offence
- d. None of the above

12. To make application for his bail at the High Court, Mohammed should use

- a. Motion on notice
- b. Summons to admit to bail

- c. Either a or b
- d. Originating summons

13. Kurata's application for bail at the High Court shall be supported by:

- a. An affidavit of facts
- b. An affidavit of facts relied upon and exhibits
- c. An affidavit of material facts and record of proceeding of the lower Court
- d. An affidavit of material facts, record of the lower Court and a written address

14. When Kurate is granted bail, he shall fulfill the bail conditions at:

- a. The office of the Registrar of the High Court
- b. The Judge's chambers
- c. The office of the prison superintendent
- d. All of the above

15. In considering the bail application of Kurata, the High Court shall consider all but one of the following factors

- a. Nature of the offence
- b. Availability of sureties
- c. Prevalence of the offence
- d. Nature of evidence against the accused

16. Assuming the ground on which Kurate based his bail application is ill-health, the following must be shown in the affidavit except:

- a. Cogent and convincing medical report
- b. That the disease is contagious



- c. It is a terminal disease
- d. No facilities in the prison to cater for the health needs

17. Assuming the State High Court refused Kurata's application for bail, he should:

- a. Appeal to the Court of Appeal
- b. Make another application to the Court of Appeal
- c. Make another application to another State High Court judge
- d. None of the above

18. Assuming Kurata's application in this case is granted on onerous conditions, Kurata should do any of the following

- a. Apply to the Court of Appeal for review
- b. Apply to the High Court for review
- c. Appeal to the Court of Appeal for review
- d. Any of the above

19. Assuming at the end of the trial in the High Court, Kurate was convicted and sentenced to 7 years imprisonment and has appealed the sentence and conviction. If he wishes to apply for bail pending appeal, the application should be brought by:

- a. Motion Ex-parte
- b. Summons
- c. Originating Motion
- d. Motion on Notice

20. Which of the following is not a factor considered before granting bail pending appeal?

- a. The health of the applicant
- b. The need to uphold the presumption of innocence of the applicant
- c. Probability of success of the appeal

- d. None of the above

During Ola's externship programme in the law firm of Oladipo Olosope & Co., he accompanied his field supervisor, Chisom Esq to the Bodija Divisional Police Command to negotiate the bail of one Mr. Bobo who had been detained by the police on allegation of armed robbery. He had been in detention for over 5 days. Mr. Bobo's mother went with them to act as surety.

Answer the following questions 21-

21. The constitutional time frame Mr. Bobo should be brought before a Court after his arrest assuming the closest Court is within a radius of 40 kilometres from the police station is?

- a. One day
- b. Two days
- c. Three days
- d. No time frame because the offence is a capital offence

22. Which of the following is true from the scenario?

- a. Police cannot grant bail in this case
- b. Police can grant bail in this case
- c. Only the Area Commander can grant bail in this case
- d. None of the above

23. The detention of Mr. Bobo for over 5 days by the Police is a breach of which of the following rights?

- a. Right to fair trial
- b. Right to silence
- c. Right to life

d. Right to liberty

24. Which of the following statements is true?

- a. Bobo's mother is not qualified by law to stand as his surety
- b. Bobo's mother is qualified as surety in this case
- c. Bobo's mother needs an affidavit of good character to be a surety in this case
- d. Only male adults can serve as surety

25. All but one of the following are conditions upon which bail may be granted:

- a. Execution of a bond
- b. Undertaking not to commit another offence
- c. Personal or self-recognition
- d. Production of sureties

26. At the Federal High Court, application for bail can be made:

- a. Orally
- b. Formally
- c. All of the above
- d. None of the above

27. The circumstances in which bail can be revoked do not include:

- a. Where there was an error in the procedure adopted in granting the accused bail
- b. Where the surety is discharged or dies
- c. Where the accused fails to appear in Court
- d. Where an accused on bail by a Magistrate is indicted by a law

officer for an offence not bailable by a Magistrate Court

28. Under the Administration of Criminal Justice Law of Lagos State, who is empowered to make regulations for licensing bond persons?

- a. The State House of Assembly
- b. The Chief Judge of Lagos State
- c. The Attorney General of Lagos State
- d. The Governor of Lagos State

29. The power of the Chief Judge to release prisoners under the Criminal Justice (Release from Custody) (Special Provisions) Act 1977 relates to all but one of the following:

- a. Inmates awaiting trial
- b. Those whose trial are ongoing but have stayed the maximum years of imprisonment they could have served if convicted
- c. Those convicted of offences other than capital offence
- d. None of the above

30. What is the maximum or total life span of a remand order under ACJA?

- a. 56 days
- b. 48 days
- c. 20 days
- d. 50 days

31. In total, a remand order can be applied for \_\_\_\_\_ times and each lasts for \_\_\_\_\_ days under ACJA

- a. 4 times, 12 days
- b. 2 times, 10 days
- c. 4 times, 14 days
- d. 2 times, 14 days

32. Under the Administration of Criminal Justice Law of Lagos State, upon the renewal of a remand order the 2<sup>nd</sup> time by a Magistrate and the suspect is still in custody without his trial having commenced, the Court shall do which of the following?

- a. Issue hearing notice to the Commissioner of Police or Director of Public Prosecution to show cause why the suspect should not be released Section 264(7), ACJL
- b. Renew the order
- c. Make an order releasing the suspect
- d. Make an order that the suspect be arraigned within 14 days

## **ANSWERS**

### **WEEK 10**

#### **BAIL**

- 1. (C) The police do not have power to grant bail in a capital offence.
- 2. (B)
- 3. (A) Application for the enforcement of fundamental human rights cannot be made to a Magistrate Court. Section 46 of the 1999 Constitution.
- 4. (D) Application for bail is usually accompanied with an affidavit.
- 5. (D)
- 6. (B) Bail application can be opposed solely on ground of law, in which case, an affidavit need not be filed. Affidavit is used where facts are relied on as the basis for opposing a bail application.
- 7. (D)
- 8. (D)
- 9. (D) The reason special circumstances is required to be shown by the accused in bail pending appeal is because there is no longer presumption of innocence because there has been a conviction. *Nwoke v FRN*.
- 10. (D)
- 11. (C) The Magistrate can try the offence of robbery and can grant bail to an accused charged with the offence.
- 12. (C) In the North, application for bail to the High Court where same had been refused by a Magistrate Court could be by summons or motion.

However, in the South, such application should be made by summons. This situation is where both the CPC and CPA is silent, but because section 363 of the CPA allows recourse to be made to the practice in England, the practice in England is summons. See *Simidele v COP*.

13. (D)

14. (A)

15. (B) Availability of sureties is classified under one of the terms and conditions for the grant of bail, and not under the factors for the grant of a bail.

16. (C) The adjective is that the disease is contagion, and not that it is a terminal disease. There are terminal diseases that are not contagion.

17. (A) Where bail is refused by the High Court, the proper procedure is to appeal to the Court, and not to make a similar application to the Court of Appeal.

18. (B) See the case of *Eyu v The State*, Section 125, CPL. The Court that granted a bail has the power to review the bail conditions.

19. (D) Application for bail pending appeal is done by motion and not summons. The reason is because here, the applicant is not calling on the State to show cause why he should not be granted bail, rather he is coming by way of prayer stating why he should be released on bail.

20. (B)

21. (A) Section 35(5)(a) of the 1999 Constitution.

22. (A) The offence in the scenario is armed robbery, a capital offence, of which the police is not empowered to grant bail.

23. (D)

24. (B) See Section 42 of the 1999 Constitution and also Section 118(3) ACJL which provides that no person shall be denied from standing as surety on the ground that the person is a woman.

25. (B)

26. (C) Bail application at the Magistrate and High Court can be made orally or formally.

27. (A)

28. (B) The Chief of Lagos State is empowered by legislation to register and licence individuals and corporations to act as Bondsperson. Section 138(1) ACJL.

29. (C) The power of the CJ to release prisoners under the Release from Custody Special Provisions Act does not relate to persons convicted for an offence.

30. (A)

31. (C) Section 296 of ACJA.

32. (A) Section 264(7) ACJL.

## QUESTIONS

### WEEK 11 & 12

#### CONSTITUTIONAL SAFEGUARDS TO ENSURE FAIR TRIAL I & II

Olu Jackson was arrested in connection with the offence of Armed Robbery on the 10th of May, 2020. He was in custody for more than two weeks without being informed of his alleged offence or taken to court for his arraignment. On the 31st of May, he was brought before the High Court of Ibadan, where he was arraigned. The Judge called on Miss Temi, a powerful broadcaster from CNBC Africa who was in court to cover the case, to read the charge to the accused. Despite the accused's protest that he did not understand English, the judge refused to translate the charge to him in the Yoruba language which he understood, but forced him to plead to the charge. He pleaded guilty to the charge.

On the day fixed for hearing, the accused was not represented by a Counsel and the Court proceeded with the case. The prosecution called two witnesses who were not cross-examined by the accused. Thereafter, the accused was told to open his defence, but he elected to remain silent. In the prosecution's final address, he urged the Court to convict the accused because his silence was an indication of his guilt. He was convicted and sentenced to death by firing squad after his allocutus was rejected by the Court.

Using the above scenario, answer the following questions 1-8.

1. Which of the following is not a constitutional safeguard to ensure fair trial of an accused person?
  - a. Right to an interpreter
  - b. Right to silence
  - c. Right to bail
  - d. Right to adequate time to prepare for his defence
2. From the scenario, the following rights of the accused were breached except:
  - a. Right to be tried for an offence known to law
  - b. Right to be informed of the offence against him in the language that he understands
  - c. Right to counsel
  - d. Right to silence
3. The constitutional right of an accused to an interpreter is contained in\_\_\_\_\_ of the Constitution?
  - a. Section 36 (5)
  - b. Section 36 (6)(e)
  - c. Section 36 (4)
  - d. Section 36 (6)(d)
4. From the scenario above, which of the following is true of the charge read to the accused?
  - a. It was rightly done as a judge has a power to appoint anyone to read a charge to an accused
  - b. It was wrongly done because the charge ought to have been read by the Court Registrar

- c. It was wrongly done because there ought to have been an interpreter provided by the Court to translate the charge to the understanding of the accused

d. B and C

5. Which of the following is the accurate position of the law where an accused exercises his right of silence in a criminal proceeding?

- a. The Court should treat the silence as an admission of guilt
- b. Neither the Court nor the prosecution should make any comment on the silence of the accused
- c. Only the prosecution and not the Court may comment, but the comment shall not suggest that the accused is guilty
- d. The Court or the prosecution may comment, but the comment shall not suggest that the accused is guilty

6. The right of an accused not to be compelled to give any evidence in a criminal trial is contained in what section of the Constitution?

- a. Section 35(10)
- b. Section 36(10)
- c. Section 35(11)
- d. Section 36(11)

7. The requirement before a person can be an interpreter in a criminal proceeding is:

- a. He must be competent
- b. He must be from the same tribe as the accused

- c. He must possess at least a degree or its equivalent from a Nigerian Institution

d. All of the above

8. Which of the following is likely to happen on appeal on the conviction and sentence of the accused in the scenario?

- a. The entire trial will be declared a nullity
- b. The accused will be discharged and acquitted
- c. The trial procedure will be declared a mere irregularity which does not affect the substance of the conviction and sentence
- d. The trial will be held valid and the conviction and sentence will be upheld

9. The case which emphasised an accused person's right to counsel in a criminal trial is:

- a. Uzodinma v COP
- b. Simidele v COP
- c. FRN v Obiora Ezerioha
- d. Olaopa v COP

10. The right to counsel is a constitutional right provided for under

- a. Section 36(6)(a) 1999 CFRN
- b. Section 36(6)(b) 1999 CFRN
- c. Section 36(6)(c) 1999 CFRN
- d. Section 36(6)(d) 1999 CFRN

On the 10<sup>th</sup> of May, 2020, the trial of the case between State v Olusemo Apoi was to continue. Due to the heavy rain that fell the previous day, the Court room was flooded and could not be used. The Judge, Justice



Akpabio announced that the case would be heard in his hallowed chambers but that only the parties and their witnesses would be allowed in. The defendant objected to this arrangement, but the objection was overruled by the judge. During the trial that day, the defence counsel sought for an adjournment to bring the defence's paramount witness in the case. The prosecution furiously objected to the adjournment, stating that it was a conspiracy between the counsel and the defendant to frustrate the prosecution of the case, and the Court must frown at that arrangement. The defence replied that that's his only witness in the case and without the testimony of that witness, there is no defence for him. The Court acceded to the request of the defendant and adjourned the case.

Answer the following questions 11-15

11. What possible constitutional safeguard was breached in the scenario above?

- a. Right to adequate time and facility to prepare for defence
- b. Right to a fair hearing in public
- c. Right to have all objections sustained
- d. None of the above

12. The conditions precedents for the court to grant adjournment for the attendance of a witness in a trial are the following except:

- a. That the witness is material
- b. That the party is not guilty of negligence in procuring the witness
- c. That witness must be an expert witness
- d. The witness will be available on the adjourned date

13. Which of the following is not an exception to the requirement for criminal trials to be held in public?

- a. In the interest of defence
- b. In the interest of the Presiding Judge
- c. Public safety
- d. Public morality

14. The following except one are essential constituents of fair hearing as one of the constitutional safeguards:

- a. Parties should be given the right to be heard
- b. Trial must be held within a reasonable time
- c. The accused must be heard at all cost
- d. Adjudication must be independent and impartial

15. Assuming on the day of hearing, no counsel appeared for the accused person. What should the court do in the circumstance?

- a. Proceed with the hearing
- b. Refer the case to the legal aid council to get counsel for the accused person
- c. Detain the accused person in custody until they are able to get counsel to represent them.
- d. Detain the accused person and advise their relation to arrange for counsel for them.

16. At what stage of criminal trial can the right to presumption of innocence of an accused be said to have extinguished?

- a. At the closure of the prosecution's case

- b. Upon receiving the testimony of an eye witness against the accused
- c. Upon the conviction of the accused
- d. All of the above

Sergeant Bello was tried before the Court Martial for the civil offence of murder and was convicted accordingly. After serving his punishment, he was arraigned before the High Court of Kano State for the offence of murder, where he pleaded autre fois convict. The plea was rejected by the Court, which proceeded with the trial and was later convicted.

Answer the following questions 17-19

17. Right to a plea of autre fois acquit/convict is contained in what Section of the Constitution?

- a. Section 36 (10)
- b. Section 36 (9)
- c. Section 36 (11)
- d. Section 36 (12)

18. The most probable reason why the Court rejected the plea of autre fois convict of the accused is?

- a. The Court was wrong to have rejected the plea
- b. The jurisdiction of the High Court is not ousted by the decision of the Court Martial
- c. The Court Martial is not a Court of criminal jurisdiction
- d. Maximum punishment of death sentence was not given by the Court Martial

19. Which of the following is not a condition precedent for a successful plea of autre fois convict/acquit?

- a. The first trial must be a criminal charge
- b. The first trial must be before a court of competent jurisdiction
- c. The first trial must have ended in a discharge
- d. The offence which constituted the first and subsequent trial is the same

20. The judicial authority which emphasized the need for compulsory legal representation of an accused charged with a capital offence is:

- a. Ajayi v Zaria Native Authority
- b. Uzodinma v COP
- c. Olabode v State
- d. Josiah v State

21. Only one of the following totally clears the criminal records of an accused person:

- a. Amnesty
- b. Power of release from prison by the Chief Judge
- c. Pardon
- d. Nolle prosequi

22. The power to grant pardon can be exercised by:

- a. The Attorney General of the Federation/State
- b. The Chief Justice of Nigeria
- c. The President/Governor
- d. None of the above

23. The authority for your answer above is provided in what sections of the Constitution?

- a. Sections 150 and 195
- b. Section 151 and 196
- c. Section 174 and 211
- d. Sections 175 and 212

24. The right not to be tried for an offence for which the accused has been pardoned is provided for under section of the Constitution?

- a. Section 36(7)
- b. Section 36(8)
- c. Section 36(9)
- d. Section 36(10)

25. All but one of the following constitutional rights can be waived by an accused person:

- a. Right to fair hearing
- b. Right to an interpreter
- c. Right to silence
- d. None of the above

## **ANSWERS**

### **WEEK 11 & 12**

#### **CONSTITUTIONAL SAFEGUARDS TO ENSURE FAIR TRIAL I & II**

- 1. (C)
- 2. (A)
- 3. (B)
- 4. (D) The charge ought to have been read by the Registrar of the Court in the language that the accused understands to the satisfaction of the Court. If the accused doesn't understand English, then the charge ought to have been translated to him in the Yoruba language he understands.
- 5. (D) Section 181 of the Evidence Act.
- 6. (D)
- 7. (A) An interpreter might be an illiterate, but the basic requirement is that he must be competent enough to interpret in the language of the accused.
- 8. (A)
- 9. (A)
- 10. (C)
- 11. (B) Because the trial was conducted in the Judge's chamber, the right of the accused to be tried in the public was breached. *Oviasu v Oviasu*.
- 12. (C)
- 13. (B) The interest of the presiding Judge is irrelevant and is not an exception to conducting trial in public.
- 14. (C) All that is required is that an opportunity be given to the accused

to be heard, and not that the accused should be heard at all cost.

- 15. (B)
- 16. (C)
- 17. (B)
- 18. (B) The fact that a Court Martial has tried a person subject to service law, and was either convicted or acquitted, is not a bar to the jurisdiction of the High Court to try that same person. Section 170(2) of the Armed Forces Act.
- 19. (C)
- 20. (D)
- 21. (C) The effect of pardon is that it clears the criminal record of the convict, and he will be deemed not to have committed the offence he was convicted of. *Falae v Obasanjo*.
- 22. (C) The power to grant a pardon can only be exercised by the President or the Governor. Section 175 and 212 of the 1999 Constitution.
- 23. (D)
- 24. (D)
- 25. (A) The right to fair hearing cannot be waived by the accused. All the principles must be observed by the Court. *JANG v INEC*.

## QUESTIONS

### WEEK 13

#### TRIAL I

1. The parties to a criminal trial include all but one of the following:

- a. The Prosecution
- b. The Accused
- c. The Victim
- d. None of the above

2. Who among the following is an officer of the Court for the purpose of taking of plea?

- a. Counsel
- b. Orderly of the Judge
- c. Registrar of the Court
- d. None of the above

Nairobi, Tokyo, Berlin and Helsinki were arrested in connection with the offence of conspiracy and kidnapping. They were detained at the Wuse II Police station for one week. The police, after series of pre-trial investigation, decided to commence the criminal trial of the accused. They were brought before the High Court of the Federal Capital Territory for the arraignment and trial. The charge was read to the accused in block and they were asked to take their pleas. Nairobi pleaded guilty with reason. Tokyo pleaded not guilty by reason of insanity. Berlin pleaded not guilty, while Helsinki kept mute. After their plea, their counsel announced in open Court that he has a bail application, which was opposed by the prosecution. The Court adjourned a week's later for the hearing of the application. On the adjourned date, none of the defendant was present in Court, but the Court

proceeded to hear the application and made a ruling refusing it.

Answer the following questions:

3. For proper arraignment of the accused, they would be entitled:

- a. To plead to the charge
- b. To hear the charge read and explained to them to the satisfaction of the Court
- c. To be placed in the dock unfettered
- d. All of the above

4. Whose plea among all the four defendants is seen as an invalid plea in law?

- a. Nairobi's
- b. Tokyo's
- c. Berlin's
- d. Helsinki's

5. Upon the plea of Nairobi, the Court will:

- a. Record a plea of not guilty
- b. Record a plea of guilty
- c. Record a plea of guilty by reason of confusion
- d. Detain her at the pleasure of the President

6. Upon Tokyo's plea, the Court will:

- a. Proceed with trial to determine whether an offence was committed or not
- b. Proceed with the trial to determine if the offence was committed by the 2<sup>nd</sup> defendant
- c. Proceed with the trial to determine if the 2<sup>nd</sup> defendant was insane at the time of commission of the offence

d. All of the above

7. Upon Berlin's plea, he is deemed to have:

- a. Confessed to the commission of the offence
- b. Deny not committing the offence
- c. Joined issues with the prosecution
- d. None of the above

8. Upon Helsinki standing mute, the Court will:

- a. Record a plea of not guilty
- b. Inquire whether the muteness is out of malice or visitation of God
- c. Record a plea of not guilty by reason of insanity
- d. Record that the defendant is exercising his constitutional right of silence

9. Assuming Helsinki refused to plea, and the Court finds out that the refusal is malicious, the Court will:

- a. Convict the accused on summary trial
- b. Record a plea of not guilty and proceed with the trial
- c. Order that the accused be detained at the pleasure of the Attorney General of the Federation
- d. Order that the accused be detained at the pleasure of the President

10. Which of the following is true of the proceeding conducted to hear the bail application without the presence of the defendants?

- a. The proceeding is void as the accused is to be present always
- b. The proceeding is valid because the defendants were present through their Counsel
- c. The proceeding is valid because a defendant need not be present at the hearing of interlocutory applications like bail
- d. The proceeding is valid because the prosecution and the counsel of the defendants consented to it

11. The judicial authority which emphasised the need for the presence of an accused person throughout criminal trial is:

- a. Olabode v State
- b. Olasupo v State
- c. Adeoye v State
- d. Adamu v State

12. Which of the following is not an exception to the general position of law that the accused must always be in court during the whole of his trial?

- a. Misconduct at trial
- b. Hearing of an interlocutory application
- c. Where an accused is charged with a felony in the High Court
- d. Where the court is investigating into the unsound mind of the accused

13. The following are the duties of the judge in a criminal trial except:

- a. To entertain counsel in court
- b. To treat counsel with respect
- c. To give counsel right of audience in court

- d. Not to unnecessarily interfere with the conduct of a case

14. When in the course of an arraignment, an accused refuses to plead to the charge read or keeps mute

- a. The Court may commit him for contempt
- b. The Court must enter a plea of not guilty for him
- c. The Court can go ahead to convict him
- d. The Court may investigate the cause of his refusal or muteness

15. You witnessed criminal proceedings during your court externship programme. You observed a lot of things. From your observations, in what order were the defendants arraigned?

- a. The defendant was placed in the dock fettered, the charge was read to him and he was asked to plead
- b. The defendant was placed on the dock unfettered; the charge was read and explained to him and he was asked to plead
- c. The charge was read to the accused and he was asked to plead
- d. All of the above

At the arraignment of Okon Jude for the offence of manslaughter before the High Court of Ogun State, the accused refused to plead to the charge when read to him. He was angry with the police because during the course of the investigation, he told the police he was far away in Kano State and he could not have committed the offence he was charged with. The Court however, entered a plea of not guilty for the accused



and ordered that the prosecution should proceed with its case.

Answer the following questions:

16. The duty of the prosecution in a criminal case is:

- a. To secure conviction at all cost
- b. To ensure maximum punishment is given to the accused
- c. To ensure that justice is done
- d. All of the above

17. Was the learned trial judge right when he recorded a plea of not guilty for the accused in this case?

- a. Yes, because plea of not guilty is recorded for everyone
- b. Yes, because it puts the accused upon his trial
- c. No, the accused must plea personally
- d. No, the Judge ought to find out the truth of the Accused's situation

18. Assuming the accused, Okon Jude, pleaded guilty to the charge as read to him, the trial judge will:

- a. Call upon the prosecution to narrate the facts of the case
- b. Explain the essential element of the offence to him and if he understands and admits, proceed to convict him
- c. All of the above
- d. Record a plea of 'not guilty' and proceed with the trial

Mrs Hajara Balarabe was arrested on February 12, 2019 at the Kaduna International Airport en route Dubai with 50 grams of a substance which tested positive as heroine. The report of the analysis was made by Dr. Illiyah Musa, a forensic expert

in the employment of National Drug Law Enforcement Agency (NDLEA). Mrs Hajara Balarabe made a confessional statement. She pleaded guilty on March 18, 2019 when she was arraigned at the Federal High Court, Kaduna on a one-count charge of exporting 50 grams of heroine contrary to Section 11(b) of the NDLEA Act.

Answer the following questions:

19. Based on her plea, what is the procedure the prosecution will undertake to establish the charge?

- a. Call Dr. Illiya Musa as expert witness
- b. State the case and tender documents from the Bar
- c. Call the Investigating Narcotics Officer as witness
- d. A and C above

20. Assuming Mrs Balarabe's plea was "not guilty" and the case proceeded to full trial, Dr. Illiya Musa may:

- a. Be allowed to call another witness to corroborate his expert evidence, but not on oath
- b. Be allowed to refresh his memory from his notes
- c. Be allowed to adopt his written statement on oath, testifying from the dock
- d. Depose to speak the truth and nothing but the truth, with the aid of his assistant

Okpaporu was arrested for the offence of murder and was brought before the High Court of Oyo State for his trial. Prior to his arrest, he met with Olumide Esq and confessed the commission of the crime to

him. At the arraignment of Okpaporo, he pleaded not guilty to the charge, and the court ordered the prosecution to proceed with the case.

Answer the following questions.

21. At the trial of Okpaporo, Olumide Esq would be expected to do none of the following except:

- a. Inform the Court that the accused confessed to the commission of the offence to him
- b. Put up the defence of alibi on behalf of the accused
- c. Make an appearance for the accused throughout the trial
- d. None of the above

22. Assuming Okpaporo pleaded guilty to the charge during his arraignment, the Judge is enjoined by law to do one of the following:

- a. Record the plea of guilt for the accused
- b. Proceed on a summary trial of the accused
- c. Record a plea of not guilty for the accused
- d. Convict and sentence the accused on his plea of guilt

23. The judicial authority for your answer in 22 above is:

- a. Olabode v State
- b. Josiah v State
- c. R v Pepple
- d. Adeoye v State

John Bull was charged with the offence of rape. During his arraignment, he pleaded not guilty to the offence of rape but pleaded

guilty to assault. The prosecution refused to consent to the plea of guilt on the assault. The trial of the accused on the offence of rape proceeded and at the end, it was found that the accused was not guilty of rape, but was guilty of assault.

24. Which of the following represents the appropriate judgment to be given by the judge in the case?

- a. That the accused is convicted of the offence of rape as charged
- b. That the accused is convicted of the offence of assault on his own admission
- c. That the accused is not guilty of rape and is hereby discharged
- d. That the accused is not guilty of rape and is hereby discharged and acquitted

25. The types of plea bargain do not include:

- a. Sentence bargain
- b. Conviction bargain
- c. Charge bargain
- d. None of the above

26. Which of the following is true of an appeal of a sentence of a judge given in respect of plea bargain?

- a. There is no right of appeal unless fraud is alleged
- b. Appeal is of right
- c. Appeal can only lie with the leave of the High Court
- d. Appeal can only lie with the leave of the Court of Appeal

## **ANSWERS**

### **WEEK 13**

#### **TRIAL I**

1. (C) A victim of a crime is not a party to the trial.
2. (C)
3. (D) *Grange v FRN*.
4. (A) Pleading with reason amounts to an invalid plea in law. *Aremu v COP*.
5. (A) A plea must be unequivocal. When an accused pleads guilty with reason, the Court will enter a plea of not guilty for the accused. *Aremu v COP*.
6. (D) Where an accused pleads not guilty by reason of insanity, the Court is enjoined to do three things: 1) determine whether an offence was committed; 2) determine whether the accused committed the offence; 3) determine whether the accused was insane at the time of committing the offence.
7. (C) When an accused pleads not guilty, he is deemed to have placed himself on trial or to have joined issues with the prosecution.
8. (B) The position of the law is that where an accused stands mute, the Court will inquire into the cause of the muteness, whether it is act of malice or as a result of visitation of God. *Yesufu v The State*.
9. (B)
10. (C) Generally, an accused must be present throughout the trial (*Adeoye v The State*), however, under ACJA,

Section 266 provides that an accused need not be present at the hearing of an interlocutory application. Bail is an example of an interlocutory application.

11. (C)
12. (C) In all the jurisdictions, it is not an exception that an accused need not be present at his trial where he is charged with a felony in the High Court.
13. (A)
14. (D)
15. (B) The order of a criminal arraignment is as follows: the accused is placed in the dock unfettered, the charge is read and explained to him in the language he understands and he is then asked to take his plea. *Sunmabo v The State*.
16. (C) Rule 37(4) of the Rules of Professional Conduct (RPC).
17. (D) The court ought to have found out the reason for the refusal.
18. (C) When an accused pleads guilty to a charge, the Court cannot go ahead and convict the accused immediately. There are additional duties placed on the Court, like calling on the prosecution to narrate the facts to the accused and explain the essential elements of the offence to the accused, so that he understands and admits to the commission.
19. (A) Before an accused can be convicted for a drug offence, there must be expert evidence before the Court. This is notwithstanding any

confession made by an accused.  
*Stevenson v The Police*.

20. (B) Refreshing memory is permissible for any witness, and expert witnesses are not exempted from the rule. Section 239 of the Evidence Act. However, a witness cannot be allowed to call another witness to corroborate his testimony.
21. (C) Where an accused confesses to the commission of an offence to his counsel, it is a privileged communication and the Counsel must not disclose that fact to the Court. Rule 15 RPC. However, the Counsel must not put up any evidence in Court inconsistent with the fact, like the defence of alibi for the accused. Rule 37(3) RPC.
22. (C) Where an accused pleads guilty to a capital offence, the Court is enjoined to record a plea of not guilty to him. *Olabode v The State*.
23. (A)
24. (D) The question reveals a situation where an accused charged with an offence (rape) pleads not guilty to that offence, but pleads guilty to a lesser offence (assault). If at the end of the trial, the accused is found not guilty of the offence he was charged with, but of the lesser offence, the position of the law is that the accused will be discharged and acquitted. *R v Kelly*.
25. (B) There are two types of plea bargain: charge bargain and sentence bargain.
26. (A) Section 270(18) ACJA. The judgment of the Court given in

respect of a plea bargain is final and no appeal shall lie in any Court against such judgment unless fraud is alleged.

## QUESTIONS

### WEEK 14

#### TRIAL II

Mrs. Salawudeen of No. 22 Onikoko Street, Igede, Ekiti state approached Barrister Suleiman Tajudeen of Success Based Chambers in No. 10 Onireke Street, Ado Ekiti to represent her as the defendant in a criminal case trial of stealing already instituted against her at the High Court I Ado Ekiti. The defendant, while in detention, was privileged to explain the fact of the case to Barrister Tajudeen.

Answer the following questions:

1. In preparing for the trial of the case, Barrister Tajudeen is expected to develop a \_\_\_\_\_ which is the line of argument to be adopted by him.

- a. Written address
- b. List of questions
- c. Case theory
- d. Trial plan

2. A tabular or diagrammatic illustration of the practical approach to employ in the defence of the case by Barrister Tajudeen is:

- a. Theory of the case
- b. Evidence of the defence
- c. Trial advocacy
- d. Trial plan

3. The prosecution's opening address usually takes place at what stage:

- a. After taking of plea
- b. Presentation of the trial plan
- c. Case management hearing

d. Before arraignment

4. The proper contents of a prosecution's opening address are all but one of the following:

- a. Name of the alleged offence
- b. The evidence available
- c. The correspondence between the parties
- d. Preparedness to go on with trial

5. Assuming during the course of the trial, Barrister Tajudeen seeks to tender a video footage of a Closed Circuit Television (CCTV) camera close to the scene of the crime, all but one of the following are the conditions that must be fulfilled:

- a. A certificate affirming the fulfillment of the conditions
- b. That the footage was produced during the regular use of the CCTV camera
- c. That the CCTV was in the best position to record at that period
- d. That the CCTV camera recorded the video during its normal course of operation

6. One of the following is a popular judicial authority on the admissibility of computer generated evidence

- a. Solala v State
- b. Kubor v Dickson
- c. Woolmington v DPP
- d. Yohana v FRN

7. If the prosecution wishes to establish the evidence of bad character of Mrs. Salawudeen through her previous conviction, this can be done through all but one of the following means:

- a. Certificate of conviction
- b. Certificate of conviction signed by the clerk or scribe of a customary court
- c. Certificate of criminal psychological test record
- d. Certificate signed by the Director of Prison or officer in charge

8. Generally, evidence of bad character of Mrs. Salawudeen is \_\_\_\_\_

- a. Admissible
- b. Can ground a conviction
- c. Inadmissible
- d. Needs corroboration

9. The circumstances in which a person can give evidence otherwise on oath include all but one of the following:

- a. An atheist who has no religious belief
- b. A person whose religion forbids oath taking
- c. A child below the age of 14 years
- d. An expert witness

10. Which of the following is a means of compelling the attendance of a witness in a Magistrate's Court?

- a. Witness summons
- b. Warrant of arrest
- c. Subpoena
- d. Bench warrant

11. The requirement that before receiving the testimony of a witness, other witnesses should be ordered out of court and out of hearing does not relate to all but one of the following:

- a. The accused who is a witness for himself
- b. An expert witness
- c. The counsel of the accused
- d. None of the above

12. In all but one of the following offences, evidence of one witness which is uncorroborated cannot ground a conviction:

- a. Treason and treasonable offences
- b. Armed robbery
- c. Perjury
- d. Sedition

Tom (13 years old) and Jones (8 years old) saw Bindo in Avenis Supermarket at Kalgo Close, Wuse 2, Abuja, secretly taking and hiding a pack of golden necklace worth ₦4 million with the intention of stealing it. He was arrested and made a statement to the police, confessing to the crime. He was taken to Court, convicted and sentenced to 3 years imprisonment without option of fine after the final addresses.

Answer the following questions:

13. Which of the following is true of the evidence of Tom and Jones in this case?

- a. Both of them can only give unsworn evidence
- b. Both of them can give both sworn and unsworn evidence
- c. Tom can give sworn evidence, while Jones can only give unsworn evidence
- d. Both are capable of giving sworn evidence but can decide not to on ground of religion

14. For the evidence of Tom and Jones to be admissible in Court:



- a. Their respective ages must be established by expert witness
- b. The Court shall conduct a preliminary investigation to ascertain whether they understand the effect of speaking on oath, the duty of speaking the truth and the capacity of giving rational answer to question
- c. The prosecution will require the consent of their parents or guardians before they can give evidence
- d. The prosecution has to first establish that they understand and can speak the language of the Court

Jide Bakare was arrested in connection with the offence of rape and was brought before the High Court, Suleja, Niger State. At his arraignment, he pleaded not guilty to the charge, which was recorded by the Judge. Out of the 10 witnesses listed on the back of the charge, the prosecution called on three, excluding the only eye witness and the Investigating Police Officer. When the first witness was about to testify, the Court ordered the other witnesses out of court and hearing, but one of the witnesses remained in court, claiming not to hear the announcement. At the end of the testimony of the three witnesses, the prosecution closed his case. The defence raised a no case submission, which was discarded and he was eventually convicted.

Answer the following questions:

15. The act of the prosecution in calling three witnesses in the above scenario has none but one of the following effects:

- a. It is inconsequential as the prosecution is not bound to call any number of witnesses

- b. It is fatal because the prosecution must call all the 10 witnesses listed on the charge
- c. It is inconsequential because the three witnesses call have proved the case
- d. It is fatal because although the prosecution is not bound to call any number of witnesses, he must call vital witnesses, which include the only eye witness and the IPO

16. The evidence of the prosecution witness who remained in court should have been:

- a. Disregarded by the court
- b. Inadmissible in its entirety
- c. Admitted but the court should attach less weight to it
- d. All of the above

17. Assuming the accused pleaded not guilty by reason of insanity, to discharge the evidential burden of proof, the standard of proof required is:

- a. Preponderance of evidence
- b. Balance of probability
- c. Beyond reasonable doubt
- d. A or B

18. Which of the following rights accords with the principle that a defendant is a competent witness but not a compellable witness?

- a. Right to presumption of innocence
- b. Right to silence
- c. Right to fair hearing
- d. Right to cross examine the compellable witnesses of the prosecution

19. A testimony given by a dumb witness in writing and by signs in a criminal case is deemed to be:

- a. Hearsay evidence
- b. Oral evidence
- c. Documentary evidence
- d. Indirect evidence

20. In criminal trials, the evidential burden of proof will shift on an accused in all but one of the following circumstances:

- a. Where he raises a no case submission
- b. Where he raises the defence of alibi
- c. Where he claims a qualification or exemption
- d. None of the above

21. All the following except one are the instances where a spouse becomes a competent and compellable witness against his/her spouse:

- a. Rape
- b. Fraud
- c. Offences against property of the spouse
- d. Offence involving violence against the spouse

22. For the prosecution to discharge the legal burden of proof placed on him in a criminal case, he must prove the case:

- a. On the balance of probability
- b. Beyond any shadow of doubt
- c. Based on preponderance of evidence
- d. Beyond reasonable doubt

## **ANSWERS**

### **WEEK 14**

#### **TRIAL II**

1. (C) Case theory is used in preparing for trial, and it contains the summary of the facts and the line of arguments to be presented by a Counsel.
2. (D)
3. (A)
4. (C)
5. (C) The question is on the conditions for the admissibility of computer generated evidence. See section 84 of the Evidence Act.
6. (B)
7. (C) The various ways in which the previous conviction of an accused can be proved are contained in Section 248 of the Evidence Act. A certificate of criminal psychological test record is not one of them.
8. (C) Section 82(1) of the Evidence Act
9. (D)
10. (A) Witness is used in the Magistrate Court to compel the attendance of a witness in Court. A magistrate does not have the power to issue a subpoena.
11. (B) The Evidence Act does not exempt an expert witness. The express mention of something is to the exclusion of others. Expert witness is not mentioned in Section 212 of the Evidence Act. However, some authors submit that expert witnesses are not bound by the rule.

Clarify the position with your lecturers.

12. (B)
13. (A) The position of the law is that a child who has not attained the age of 14 years cannot give sworn evidence. Section 209 of the Evidence Act.
14. (B) Section 209 of the Evidence Act.
15. (D) The act of the prosecution in not calling the only eye witness in the case is fatal to proving the guilt of the accused beyond reasonable. The law is that although the prosecution is not bound to call any number of witnesses, he must call vital witness(es). *Adaje v The State*.
16. (C) Where witnesses are ordered out of court and hearing, a witness who remains in Court will be guilty of contempt, his evidence will be admissible but less weight might be attached to it. *Falaju v Amosu*.
17. (D) The evidential burden placed on an accused in a criminal case shall be discharged on the balance of probabilities. Section 137 of the Evidence Act.
18. (B) Section 36(11) of the 1999 Constitution.
19. (B) Section 176 of the Evidence Act.
20. (A) Evidential burden does not shift on the accused where he raises a no case submission.
21. (B) Section 182 of the Evidence Act.
22. (D) The standard of proof in a criminal case is proof beyond reasonable doubt.

## QUESTIONS

### WEEK 15

#### TRIAL III

1. The circumstances where leading questions may be asked during examination-in-chief do not include:

- a. Where the defence counsel allows it
- b. Introductory matters
- c. Matters which in the opinion of the Court have been proved
- d. Undisputed facts

On the first day of your externship programme, you followed your principal to the High Court of Lagos State where you witnessed a criminal proceeding between *State of Lagos v Baddo Opalaye*.

Answer the following questions:

2. From your observation, the order in which witnesses are examined in criminal trial is:

- a. Cross-examination, examination-in-chief and re-examination
- b. First examination, second examination and third examination
- c. Examination-in-chief, cross-examination and re-examination
- d. Opening examination, cross-examination and re-examination

3. You also observed that before the testimony of each witness, the Judge would ask the Registrar to:

- a. Put the witness on oath
- b. Warn the witness sternly not to mislead the Court
- c. Inform the witness about the Court rules and regulations

- d. All of the above
4. You observed that during the examination in chief of the Prosecution Witness (PW1), the prosecution counsel employed more of:
- a. Close ended questions
  - b. Open ended questions
  - c. Balanced questions
  - d. All of the above
5. The defence counsel objected to the attempt to re-examine PW1 on the ground that:
- a. There was no ambiguity from the cross-examination
  - b. The prosecution covered the ground during examination in chief
  - c. There was no ex-improviso matter
  - d. All of the above
6. Where an objection is not raised to a leading question, which of the following is true of the answer given by the witness to such question?
- a. The answer becomes irrelevant
  - b. The answer is automatically inadmissible
  - c. The answer is admissible and the Court can act on it
  - d. None of the above

Sam Rascal (1<sup>st</sup> defendant) and John Hitman (2<sup>nd</sup> defendant) were tried for armed robbery by the High Court of Bayelsa State. Each of the defendants was represented by a separate counsel. The counsel to Sam objected to the prosecution calling a witness not listed at the back of the information. The objection was overruled. The witness (Hamidat) who testified for and on behalf of John was cross-examined by each of the prosecution and

counsel to Sam. At the close of the defence case, all parties to the case gave their final address after which the Judge convicted each of the accused persons for armed robbery and sentenced each of them to 5 years imprisonment.

Answer the following questions

7. The trial judge overruled the objection raised by Sam's counsel because:
- a. It was too early to raise the objection
  - b. The prosecution was not bound to call any particular witness
  - c. The objection ought to have been raised by John's counsel
  - d. The witness was already in Court
8. During the cross-examination of the witness who testified for and on behalf of John, the following order of cross-examination was followed:
- a. The court, Sam's counsel and then the prosecution
  - b. The prosecution, the Court and then Sam's counsel
  - c. The prosecution and then Sam's counsel
  - d. Sam's counsel and then the prosecution
9. The order of presentation of the final address of parties mentioned in the above case was:
- a. 1<sup>st</sup> defendant, 2<sup>nd</sup> defendant and then the prosecution
  - b. The prosecution, 1<sup>st</sup> defendant and then the 2<sup>nd</sup> defendant
  - c. 2<sup>nd</sup> defendant, 1<sup>st</sup> defendant and then the prosecution
  - d. 1<sup>st</sup> defendant, the prosecution and then 2<sup>nd</sup> defendant

10. Hamidat that testified in the above case can be re-examined by:

- a. The prosecution
- b. Sam's counsel
- c. John's counsel
- d. The Court

11. In Criminal litigation, the following is true about examination in chief except:

- a. It is done by the party who brought the witness
- b. Open questions are also used
- c. Leading questions can be used without restriction
- d. Counsel cannot impeach the credit of the witness during examination in chief

At the trial of Janson Almagarahi and Turow Makanji on 3<sup>rd</sup> April, 2019 at the Lagos State High Court, Igboere for the offence of kidnapping and murder, the following questions were asked in the examination-in-chief of the prosecution witness.

Question 1: Prosecution Counsel: Your name is Dr. Thomas Stansfield, a medical doctor with 10 years practice experience and Chief Pathologist at the Lagos State University Teaching Hospital

Answer: very well, My Lord.

Question 2: Prosecution Counsel: Do you remember making a statement in this case?

Defence Counsel: Objection my Lord, the question is most irrelevant in this proceedings.

Court: Objection sustained

Question 3: Prosecution Counsel: You informed this Court earlier that you conducted a post-mortem examination of the deceased, am I correct?

Defence Counsel: This is a terrible question

Court: Objection sustained! Counsel, rephrase please

Question 4: Prosecution counsel: What exactly was your role in this case?

Answer: I conducted a post-mortem examination on the deceased body

Question 5: Prosecution counsel: part of your findings was that the deceased was stabbed three times in the neck?

Defence Counsel: Objection my Lord, Leading Questions

Court: Objection sustained.

Question 6: Prosecution counsel: At the post-mortem examination, what did you do?

Answer: I wrote a report

Question 7: Prosecution counsel: How would you identify the report if you see it?

Answer: Let me refer to the piece of paper in my pocket I will immediately remember the answer I wrote down on how well I will identify it.

Defence Counsel: Objection my Lord, the procedure is strange

Court: Objection sustained

Question 8: Prosecution Counsel: You are a hostile witness. I declare you a hostile witness. Leave the witness box immediately.

Answer the following questions 12-18 using the scenario above.

12. What type of question is question 1 above?

- a. Introductory question
- b. Leading question
- c. Open ended question
- d. Misleading question

13. As the defence Counsel, would you have objected to question 1 in the scenario?

- a. Yes, because the witness is an expert and his qualification is in issue
- b. No, because the question is not leading
- c. No, because the question, although is leading, relates to introductory matter
- d. Yes, because the question is misleading

14. Is question 3 by the Prosecution counsel allowed at this stage of the trial?

- a. Yes, because it is relevant
- b. No, because it is misleading
- c. No, because it is a close ended question
- d. No, because it is leading

15. What type of question is question 4?

- a. Leading question
- b. Close ended question
- c. Balanced question
- d. Open ended question

16. The advantage of question 4 is that:

- a. It allows the witness to be easily mislead the Court
- b. It gives an opportunity for the witness to say more than what is needed
- c. It afford the witness the opportunity to tell his story without interruption
- d. All of the above

17. In laying proper for tendering the report by the Doctor, which of the following questions will not be necessary?

- a. What is your qualification?
- b. Where is the document?
- c. If you see the document, can you recognize it?
- d. How will you recognize it?

18. The answer to question 7 in the scenario is an attempt at what?

- a. Laying foundation for tendering the evidence
- b. Refreshing memory
- c. Delaying proceedings
- d. Remembering details



19. All but one of the following is true about refreshing memory under the Evidence Act

- a. Time is not of the essence
- b. The time in question relates to the time between when the document was prepared and when it was sought to be used to refresh the memory of the witness
- c. The document may have been prepared by another person
- d. A witness cannot testify to the facts in the document if he has no specific recollection of the facts

20. The belief that the sky is the limit in cross examination is not true because only one following questions is allowed in cross-examination:

- a. Questions intended to insult
- b. Questions injuring a witness character to shake his credit
- c. Questions intended to annoy
- d. Questions which appear to be needlessly offensive

Use this scenario to answer questions 21 – 24.

During the trial of Steven Maduka before the FCT High court for causing death by dangerous driving, the following took place between Prosecuting Counsel and PW I:

Counsel: You said you were an eyewitness to the accident that claimed the life of the deceased?

Witness: I said I was inside the car that killed the deceased.

Counsel: So you saw the accident happen?

Witness: I was there when the accident happened but I cannot say I saw everything.

Counsel: Please tell this Honourable Court what you saw.

Witness: I cannot remember all that I saw.

Counsel: Please tell this Court what you can remember you saw.

Witness: (said nothing just looking at the floor)

Counsel: You informed this Honourable court earlier on that you are an eyewitness, can you remember telling the Court like that?

Witness: Do you understand that to mean I saw everything?

Counsel: You are dogging the question; you are not a witness of truth. I am going to show you your previous statements to show that you are bloody liar.

21. By Counsel's last comments, he is stating that:

- a. The witness is a doggy witness
- b. The witness is an unreliable one
- c. The witness is of weak intellect
- d. The witness is a hostile witness

22. If counsel's statements in the last paragraph are true, the right procedure is ?

- a. To pronounce the witness a hostile witness.

- b. To apply to Court to declare the witness a hostile witness.
  - c. To discontinue further questioning.
  - d. To apply to discharge the witness.
23. If the witness is declared a hostile witness, then:
- a. Counsel can cross-examine him
  - b. The court can filter his evidence
  - c. The witness can apply to step down.
  - d. None of the above.
24. If the witness is declared a hostile witness in this case:
- a. Only his previous statements will be acted upon.
  - b. Only subsequent statements will be acted upon.
  - c. Both his previous and subsequent statements will be discountenanced.
  - d. None of the above
25. The following except one are instances where corroboration is needed:
- a. Evidence of an eye witness
  - b. Unsworn evidence of a child
  - c. Treason and treasonable offences
  - d. Sedition
26. Which of the following is not generally inadmissible?
- a. Opinion evidence
  - b. Evidence of a child below 14 years
  - c. Hearsay evidence
  - d. Evidence of bad character
27. The following except one are the limitations to the power of the court in putting questions to a witness
- a. Question must be based on facts that are relevant and duly proved
  - b. The court cannot compel a witness to answer a question he is entitled not to answer
  - c. It can only be exercised after the re-examination of a witness
  - d. Questions intended to injure the character of the witness should not be asked
28. The following except one are the techniques used in cross examination
- a. Probing technique
  - b. Insinuation technique
  - c. Confrontation technique
  - d. Defensive techniques
29. All the following are helpful tips in cross examination except \_\_\_\_
- a. Do not cross examine
  - b. Avoid use of leading questions
  - c. Insist on an answer on a question asked
  - d. Be adroit
30. Which of the following is not a purpose of re-examination?
- a. To clear ambiguities
  - b. Settle doubts
  - c. Elicit more evidence
  - d. Make consistent facts made inconsistent
31. In all but one of the following circumstances, hearsay evidence will be admissible:
- a. Dying declaration
  - b. Statement made by a person who cannot be called as a witness
  - c. Affidavit evidence
  - d. None of the above

## **ANSWERS**

### **WEEK 15**

#### **TRIAL III**

1. (A) There are three circumstances where leading questions may be asked during examination-in-chief: introductory matters, undisputed matters or matters which have been sufficiently proved. Section 221(3) of the Evidence Act.
2. (C) Section 215(1) of the Evidence Act.
3. (A) Note that only a witnessed summoned to appear before the Court is to be cautioned. See section 206 of the Evidence Act.
4. (B)
5. (B)
6. (C) See the case of Garba v R.
7. (B)
8. (D) Where more than one defendant is charged for an offence and represented by different counsel, a witness called by one defendant may be cross-examined by the other defendant before any cross-examination by the prosecution. Section 217 of the Evidence Act.
9. (A)
10. (C) Only the party that brought a witness can re-examine that witness.
11. (C) The general rule is that leading questions are not allowed in examination-in-chief.
12. (B)
13. (A) As the defence Counsel, I would object because, although there are circumstances where leading

questions may be allowed during examination in chief, one of which is for introductory matters, the prosecution in the scenario, has gone introduction to establish the expertise of the witness. Meanwhile, whether or not a witness is an expert is for the court to determine; this cannot be established by leading questions of the party examining the witness in chief.

14. (D)
15. (D)
16. (C)
17. (A)
18. (B)
19. (A) In refreshing memory, time is of essence. Section 239 which contains the conditions for refreshing memory shows that time is of the essence.
20. (B) Question injuring the character of a witness in order to shake his credit is lawful in cross examination. Section 223(b) of the Evidence Act.
21. (D)
22. (B) Section 230 of the Evidence Act. When a witness proves adverse to the party bringing him, the counsel is to apply to the Court for the witness to be declared hostile, so he can cross examine the witness or tender evidence of the witness bad character.
23. (A)
24. (C) When a witness is declared hostile, the law is that none of the statements of the witness will be acted upon by the Court.
25. (A)

26. (B) Opinion evidence, hearsay evidence and evidence of bad character are generally inadmissible.
27. (C) There is no requirement in the Evidence Act that such power can only be exercised after reexamination of a witness.
28. (D)
29. (B)
30. (C) Reexamination is not a point to elicit more evidence from a witness. New matter cannot be introduced during reexamination unless permitted by the Court.
31. (D)

## QUESTIONS

### WEEK 16

### TRIAL IV

Jide Bakare was arrested in connection with the offence of rape and was brought before the High Court, Suleja, Niger State. At his arraignment, he pleaded not guilty to the charge. The counsel to the accused brought the attention of the judge to the alibi that was raised by the accused at the time of the investigation. Out of the 10 witnesses listed on the charge, the prosecution called on three, excluding the only eye witness to the murder and the Investigating Police Officer. At the end of the prosecution's case, the Court told the defence to open his case. The defence raised a no case submission, which was discarded and he was eventually convicted.

Answer the following questions 1-5 using the scenario above

1. One of the following is not part of the options opened to an accused person at the close of the prosecution's case:

- a. Make an allocutus before the Court
- b. Make a no case submission
- c. Open his defence
- d. Rest his case on that of the prosecution

2. Assuming in the scenario above, the accused decided to rest his case on that of the prosecution, if that option fails, then the accused can proceed to:

- a. Open his defence
- b. Call a witness to prove his case
- c. Make a no case submission

d. None of the above

3. In which of the following circumstances would it have been wrong for the accused to make a no case submission?

- a. Where the accused has enough evidence to discharge the evidential burden
- b. Where the prosecution has proved a non-essential element of the crime
- c. Where the defence did a good cross examination on the prosecution witnesses
- d. Where the prosecution evidence is out rightly unreliable

4. The purposes of a no case submission do not include:

- a. To save the accused from entering needless defence where the prosecution has failed
- b. To afford the prosecution enough time to prepare for the case
- c. To save the time of the court
- d. None of the above

5. Assuming the no case submission was rightly overruled, the option available to the accused in the scenario is:

- a. Rest his case on that of the prosecution
- b. Enter his defence
- c. Keep silent
- d. All of the above

At the trial of Bubu Shinzu for stealing before Chief Magistrate Akpan in the Federal Capital Territory, the charge was read to the accused in plain English by the Registrar of the Court. The defendant refused to plead. In anger, the Magistrate

recorded a plea of not guilty for him and ordered the prosecution to open his case. At the close of the prosecution's case, the defendant opted for a no case submission. The Magistrate overruled the no case submission as follows; "This no case submission is without merit and same is hereby overruled". The matter was adjourned for defence.

Answer the following questions:

6. When the defendant was called to enter his defence at the close of prosecution's case, the Court informed him of the options opened to him under Section 358(1) ACJA. The Court said the options are exercisable by him

- a. Only if he is represented by a counsel
- b. Only if he asked for them
- c. Only at the discretion of the Court
- d. Whether he is represented by counsel or not

7. Which of the following is true of the no case submission ruling by the Magistrate?

- a. It is wrong because a Magistrate has no power under ACJA to make a ruling on a no case submission
- b. It is wrong and liable to be set aside on appeal because it is too short
- c. It is apt as a Magistrate is expected to be brief when overruling a no case submission
- d. The rightness or wrongness of the ruling has no effect

8. What effect does the short ruling on the no case submission have on the trial assuming the ruling is appeal against?

- a. The trial is on hold until the appeal is determined
- b. The trial continues notwithstanding the appeal
- c. The entire case is automatically transferred to the appellate court
- d. Another Magistrate will be charged with conducting the trial

9. Assuming the no case submission raised by the defendant was upheld in the scenario, the effect is not all but one of the following:

- a. Discharge and acquittal
- b. Gives rise to a plea of autre fois convict
- c. Mere discharge
- d. B and C

10. During the course of the trial at the Magistrate Court, the Court made a visit to the house where the stealing was alleged to have taken place to ascertain the entrance and other features. This was done without the company of Bubu Shinzy, although his counsel was present. He was eventually convicted. Which of the following is a correct position of the law?

- a. The conviction will be set aside on appeal
- b. His absence is a mere irregularity and will not affect the conviction, unless there is a miscarriage of justice
- c. The Court of Appeal can reduce the length of the sentence due to this irregularity
- d. The conviction remains notwithstanding the irregularity.

11. The rule that the length of a ruling on a no case submission alone does not invalidate the ruling was laid down in:

- a. Ekanem v R
- b. Ibeziakor v COP
- c. Emedo v State
- d. Atano v AG Bendel

12. The case of COP v Olaopa relates to:

- a. Ex improviso rule
- b. No case submission
- c. Visit to locus in quo
- d. Meaning of an accomplice

At the trial of Kubwa Wuse for the offence of armed robbery, after the close of the case of the prosecution, Kubwa Wuse decided to raise a no case submission, which was wrongly overruled by the trial Court. The Court then mandated the accused to enter his defence. The accused decided to rest his case on that of the prosecution. The accused was effectually convicted based on evidence that was later used after the no case submission was wrongly overruled.

Answer the following questions

13. What is the effect of the conviction of the accused?

- a. It is valid
- b. It is a nullity
- c. It can't be set aside on appeal
- d. The sentence will be reduced on appeal

14. All but one of the following is correct when an accused rests his case on that of the prosecution

- a. If that option fails, the accused can then enter his defence
- b. The accused chooses to remain silence and not give evidence



- c. That the court should decide the case based on the evidence given by the prosecution
- d. If the option fails, the accused cannot open his defence again

15. The effect of a no case submission rightly upheld in the Magistrate court in the North is not all but one of the following

- a. A mere discharge
- b. A discharge, which means an acquittal
- c. It gives rise to a plea of autre fois acquit
- d. All of the above

At the trial of Okon Jude for the offence of manslaughter before the High Court of Ogun State, the accused refused to plead to the charge when read to him. He was angry with the police because during the course of the investigation, he told the police he was far away in Kano State and he could not have committed the offence he was charged with. The Court however, entered a plea of not guilty for the accused and ordered that the prosecution should proceed with its case. The prosecution called two witnesses, including an eye witness and closed its case. When the accused was invited to open his defence, he opted to rest his case on that of the prosecution because his only witness refused to appear in Court. In the course of the final address, the prosecution counsel commented that the accused's refusal to call evidence was an admission of guilt.

Answer the following questions:

16. Was the accused right when he rested his case on that of the prosecution?

- a. Yes, because it is the only option available to him
- b. No, because he should have caused a subpoena to be issued to call his witness
- c. Yes, because no prima facie case was established
- d. None of the above

17. Where an accused rests his case on that of the prosecution and nothing more, then:

- a. The Court is enjoined to deliver a short ruling
- b. The Court is enjoined to deliver a short interlocutory decision
- c. The Court is enjoined to deliver a final judgment
- d. The Court is enjoined to deliver a long ruling

18. Assuming in the course of cross-examination of the prosecution witnesses, the defence counsel tenders a document then:

- a. He is deemed to have adduced evidence
- b. He is only deemed to open his defence if he calls his witnesses
- c. He can still rest his case on that of the prosecution
- d. None of the above

19. The comment of the prosecution counsel in this case is true only where:

- a. Accused refused to enter defence
- b. Where there is overwhelming evidence against the accused
- c. Where there is prima facie case against the accused
- d. None of the above

20. Assuming, when the accused was called upon to enter his defence, he decided to make a statement from the dock; the effect of the decision is all but one of the following:

- a. The accused will not be sworn
- b. The statement becomes inadmissible as unsworn evidence
- c. The accused will not be subject to cross examination
- d. The statement is admissible but the Court will attach little weight to it

21. Where evidence is adduced by both parties, final address is usually given first by:

- a. The prosecution
- b. Depends on the discretion of the Judge or Magistrate
- c. The Amicus curiae
- d. The defence

22. The ex-improviso rule can be used:

- a. Both by the prosecution and the defence
- b. By the prosecution alone when defence has raised an alibi
- c. By the defence alone when the prosecution has made an opening speech
- d. By the prosecution when the defence has introduced something new which no human ingenuity would have envisaged

23. Final address by the defence is important because:

- a. It is part of the evidence of the defence
- b. It is the sole determinant of who win a criminal case

- c. It assists the Court in identifying the strength of a party's case and the weakness of the other based on their respective evidence adduced before the Court
- d. It helps the trial Court to avoid going through the bulky evidence adduced by the parties

24. One of the following does not have a right of reply to a final address to the defendant's final address:

- a. Solicitor General
- b. A Pupil State Counsel
- c. Private Legal Practitioner
- d. Director of Public Prosecution

25. The following except one are instances where the prosecution who is a law officer has a right of reply to a final address:

- a. The witness called by the defence solely gave evidence of his character
- b. The defence witness tendered documentary evidence
- c. Where the defendant called no witness and tendered no evidence
- d. None of the above

## **ANSWERS**

### **WEEK 16**

#### **TRIAL IV**

1. (A) At the close of the prosecution's case, an accused has three options: make a no case submission, rest his case on that of the prosecution or open his defence. Allocutus only comes in when an accused is convicted.
2. (D) Among the three options open to an accused, once he decides to rest his case on that of the prosecution and it fails, the other options are foreclosed. The accused will be precluded from raising a no case submission and entering his defence. The only option available is to appeal against the decision of the Court in the event that it is a conviction. *Onogoruwa v The State*.
3. (A) Where an accused has enough evidence to discharge any evidential burden on him, all other factors being equal, it will be wrong for him to raise a no case submission.
4. (B)
5. (D) Where a no case submission raised by an accused is overruled, the accused has the option of resting his case on that of the prosecution, entering his defence. However, it will be bad to choose the former because a major reason for overruling a no case submission is because a prima facie case has been established by the prosecution.
6. (D) The options opened to an accused under Section 358(1) of ACJA are exercisable by the accused whether or not he is represented by a counsel.
7. (C) The practice is that where a no case submission is to be overruled, the Judge or Magistrate is enjoined to deliver a short ruling. It must not be long so as to fetter the discretion of the Court because the Court has not had the opportunity of hearing the defence. See *Odofin Bello v The State*.
8. (B) An appeal against any ruling in a criminal trial does not affect the trial. This is because stay of proceeding in respect of a criminal action is prohibited. Section 306 ACJA.
9. (A) In the Magistrate Court in the FCT and even in the High Court, where a no case submission is upheld, the effect is a discharge which amounts to an acquittal. This gives rise to a plea of autre fois acquit (acquittal), not a plea of autre fois convict (conviction). Section 302 and 357 ACJA
10. (B)
11. (D)
12. (C)
13. (B) Where a no case submission was wrongly overruled, any evidence subsequently discovered which leads to conviction cannot stand. *Mumuni v The State*.
14. (A) See comment on question 2.
15. (A) The effect of a no case submission in the Magistrate Court

in the North is a mere discharge.  
Section 159(3) CPC.

16. (B)
17. (C) Akpan v The State.
18. (A) Tendering of document is considered adducing evidence.
19. (D) Section 181 of the Evidence Act. The prosecution shall not comment on the silence of an accused as amounting to an admission of guilt.
20. (B) The statement made by the accused from the dock is admissible, but less weight will be attached to it because it is not subject to cross examination.
21. (D) In criminal litigation, it doesn't matter whether or not the defence adduced evidence; the rule is that final address is given first by the defence.
22. (D) The ex-improviso rule is applicable to the prosecution alone. The purpose is to allow the prosecution to call evidence in rebuttal of the evidence of the defence. It is only allowed when the defendant introduces a new matter that is not within the reasonable contemplation of the prosecution. Onuoha v The State.
23. (C)
24. (C) A private legal practitioner is not a law officer
25. (D) The prosecution who is a law officer, irrespective of how an accused conducts his case, has a right of reply always.

## QUESTIONS

### WEEK 17

## JUDGMENT AND SENTENCING

Bobo Ajasco was arraigned before the Magistrate Court in Ojoh, Ibadan for the offence of stealing. He pleaded not guilty to the charge when read to him and the matter proceeded to trial. During the course of the trial, the Magistrate scribbled some points at the end of the testimony of each witness and immediately the defence closed his case, without giving the parties the opportunity of filing final address, the Magistrate deliver his judgment from the scribbled notes he had since the beginning of the trial where he convicted the accused and sentenced him to 14 years imprisonment.

Answer the following questions:

1. Which of the following is the correct order in criminal proceeding?

- a. Trial, Allocutus, Conviction, Sentence
- b. Trial, Sentence, Conviction, Allucutus
- c. Trial, Conviction, Sentence, Allocutus
- d. Trial, Conviction, Allocutus, Sentence

2. Only one of the following is true of the judgment delivered by the Magistrate in the above scenario:

- a. It is invalid because Magistrate cannot deliver judgment from scribbled note

- b. It is invalid only because the judgment was delivered without giving the parties the opportunity to file final written address
- c. The judgment is valid because Magistrates can deliver judgment from scribbled notes and immediately after close of evidence
- d. None of the above

3. Assuming after the conviction of Bobo Ajasco for the offence as charged, his counsel addressed the Court as follows:

“My Lord, the accused person is a first-time offender. He is the only surviving son of his parents who are aged and he is responsible for thire sustenance. I urge your Lordship temper Justice with mercy”

The above statement is meant to:

- a. Forestall sentence
- b. Mitigate sentence
- c. Alter the conviction
- d. Reduce the imprisonment to fine

4. Failure of the Court to call for the statement would:

- a. Nullify the trial and conviction.
- b. Nullify the conviction alone.
- c. Nullify the sentence alone.
- d. None of the above,

5. At the stage when the statement is made, the right term to use to describe the offender is:

- a. Accused person
- b. Accused/Applicant
- c. Convict
- d. Offender

6. The following are elements of a valid judgment except:

- a. It must be in writing
- b. It must contain in details, the facts of the case
- c. It must contain the point(s) for determination
- d. It must be dated and signed

7. In relation to the judgment of a trial court and when the time to appeal starts running, the relevant date is:

- a. The date written on the judgment
- b. The date the judgment was delivered
- c. 7 days after the judgment was delivered
- d. One week after the judgment was delivered

Chukwuma Chiroma was charged with the offence of kidnapping and was arraigned before Honorable Justice Kuramo Kamiye of High Court 12 of the Ogun State High Court. Justice Kuramo heard the case from the beginning of the trial up to the final address of the parties, which was adopted on the 30<sup>th</sup> of June, 2020. Justice Kuramo started writing his judgment on all the 5 points for determination. Before he could start the fifth point, he tested positive for corona virus and was moved to the Abeokuta Isolation Centre. His condition worsened there and unfortunately, he died on the 1<sup>st</sup> of July, 2020. His close friend, Justice Olayinka, who was aware of the case of Chukwuma Chiroma and who had access to the manuscript of the judgment written by Justice Kuramo, requested for the record of proceedings, and continued the judgment from where Justice Kuramo stopped. Thereafter, he delivered the judgment in open court and the accused was convicted and sentenced to 35 years imprisonment.

Answer the following questions:

8. One of the following will be the appropriate decision of the Court of Appeal if the judgment is appealed against:

- a. The judgment will be declared a nullity
- b. The judgment will be upheld in its entirety
- c. The conviction will be upheld, but the sentence will be reduced
- d. None of the above

9. Assuming the matter was appealed to the Court of Appeal, in delivering the judgment of the Court, the Court would be properly constituted:

- a. By at least three Justices
- b. By at least one Judge
- c. By at least three Judges
- d. By at least one Justice

10. All of the following are true about delivery of a judgment except:

- a. It must be delivered in open court
- b. It must be delivered within the stipulated time
- c. It can be delivered in the absence of the accused where leave to be absent has been given by the Court
- d. It can be delivered orally in some circumstances

11. The Judgment of the trial Court in criminal trials must be delivered within:

- a. 90 days of close of evidence
- b. 90 days of final address
- c. 3 months of final address
- d. 3 months of close of evidence

12. Failure to comply with the stipulated time for delivery of judgment has one of the following effects:

- a. The trial is nullified
- b. The judgment is rendered void
- c. The judgment is rendered voidable
- d. The trial is vitiated

13. Allocutus may come after \_\_\_\_\_but before \_\_\_\_\_

- a. Sentence, conviction
- b. Plea of guilty, sentence
- c. Sentence , verdict
- d. Plea of guilty,conviction

14. In a conviction for all but one of the following offences, allocutus is a waste of time:

- a. Armed robbery
- b. Treason and treasonable felony
- c. Kidnapping
- d. None of the above

James Bakare was tried before Justice Akano of the High Court of Ondo State for the offence of kidnapping and arson and was convicted of the offence. Before the sentence, the counsel urged the court to take into consideration 2 other offences James Bakare was charged with before the Magistrate Court Akure, Ondo State.

15. For Justice Akano to consider the offences pending against James Bakare before sentencing him, the following are conditions that must be in place except:

- a. James Bakare must have admitted guilt of those other offences



- b. The prosecutor of the offences in the Magistrate Court need not consent
- c. Justice Akano must have jurisdiction to try the two other offences
- d. None of the above

During your externship programme in April, 2019, you witnessed a criminal trial at the Federal High Court, Abuja. The defendant was standing trial for treason for trying to overthrow the government. He was alleged to have committed the offence in August, 2018. The defendant pleaded guilty and the Court consequently convicted him.

Answer the following questions:

16. One of the following is correct about the punishment the Court can impose on the defendant:

- a. Life Imprisonment
- b. Beheading
- c. Death by electrocution
- d. Death by lethal injection

17. Upon the conviction, the defendant in the above scenario shall be:

- a. Immediately remanded in prison custody
- b. Allowed to make allocutus
- c. Sentenced to death instantly
- d. None of the above

18. Assuming the Court decided to sentence the defendant to death, the most appropriate form of pronouncing the death sentence in the circumstance is:

- a. The sentence of the court upon you is that you be hanged by the neck

until you be dead or by lethal injection

- b. The sentence of the court upon you is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul
- c. The sentence of the court upon you is that you be hanged by the neck or by lethal injection until you be dead
- d. The sentence of the court upon you is that you be electrocuted by lethal injection until you be dead

Bimbo Maikudi and John Bosco were arraigned before the High Court of the Federal Capital Territory, Abuja on a one count information of armed robbery and culpable homicide punishable with death. At the conclusion of the trial, but before judgment was delivered, the court was informed that Bimbo was pregnant. The accused persons were found guilty of the alleged offences.

19. Since Bimbo was found to be pregnant, the Court can:

- a. Convict and sentence her to life imprisonment
- b. Discharge and acquit her for the sake of the unborn child
- c. Convict and sentence her to death, but she will be executed after the delivery of her child
- d. Convict and sentence her, but she will be executed after the child is delivered and weaned

20. Assuming Bimbo Maikudi and John Bosco were tried for the same offence before the High Court of Lagos State, if before the conviction, the court was

informed of the pregnancy of Bimbo and she was later found guilty of the offence, then:

- a. The Court will sentence her to death by hanging, but the execution will be stayed until after the child is delivered and weaned
- b. The Court will sentence her to death by firing squad, but the execution will be stayed until after the child is delivered and weaned
- c. The Court will sentence her to life imprisonment
- d. The Court will sentence her to death by lethal injection but the execution will be stayed until after the child is delivered and weaned

21. Assuming Bimbo Maikudi was 18 years and John Bosco was 24 when the offence of murder was committed, if they were both found guilty by the High Court of Ogun State, then:

- a. Both of them will be sentenced to death
- b. Only John Bosco will be sentenced to death, while Bimbo Maikudi will be sentenced to life imprisonment
- c. Only John Bosco will be sentenced to death, while Bimbo Maikudi will be detained at the pleasure of the Governor
- d. Both of them will be sentenced to life imprisonment

22. Under the Administration of Criminal Justice Act 2015, where a young person is guilty of a capital offence, the Court is enjoined to:

- a. Sentence him to death by hanging or lethal injection

- b. Sentence him to death by hanging or lethal injection but delay the execution until he has attained the age of 21
- c. Sentence him to life imprisonment or other terms as the Court deems fit
- d. Detain him at the pleasure of the President

23. The death sentence for armed robbery under the Robbery and Firearms Act is by:

- a. Firing squad
- b. Hanging
- c. Lethal injection
- d. All of the above

24. Where the Court sentence an accused to imprisonment and it is silent on whether it is with hard labour or not, then:

- a. That will be determined by the Prison officer
- b. It is deemed to be with hard labour
- c. It is deemed to be without hard labour
- d. It will be determined by the Prison warden

25. \_\_\_\_\_ is a pecuniary punishment

- a. 5 strokes of cane
- b. Fine of ₦250,000
- c. Three weeks of community service
- d. Three months confinement at the rehabilitation centre

26. Generally, life imprisonment means not more than \_\_\_\_\_ years jail term:

- a. 50
- b. 40
- c. 30
- d. 20

27. Kunle Jackson was charged with the offence of stealing before the High Court of the Federal Capital Territory and was convicted accordingly. Which of the following is not a punishment that the court can impose on Kunle Jackson?

- a. 15 strokes of cane
- b. Fine of ₦250,000
- c. Seven years imprisonment
- d. None of the above

28. For there to be a sentence of canning, the offence must carry an imprisonment term not below \_\_\_\_

- a. 6 months
- b. 3 months
- c. 9 months
- d. 12 months

29. The sentence of caning cannot be passed on all but one of the following persons:

- a. A convict sentenced to death
- b. Female offenders
- c. A Juvenile
- d. Male offender of 45 years above

30. All but one of the following is incorrect of the sentence of caning:

- a. It cannot be passed on a Juvenile
- b. It is applicable in Lagos State
- c. The number of strokes must not be more than 15
- d. Execution of the sentence shall not be by installment

31. Haddi-lashing as a form of punishment can only be enforced in all but one of the following offences:

- a. Morality

- b. Adultery
- c. Stealing
- d. Drunkenness

32. Anuga Ogbole was tried before the Chief Magistrates' Court, Otukpo on a four count charge of theft, assault, criminal intimidation and forgery (counts 1-4 respectively) and at the end of the trial, the court acquits him of count 3 but finds him guilty of counts 1, 2 and 4 and passed the sentence thus: on count 1, convict is sentenced to 2 years imprisonment; on count 2, convict is sentenced to 6 months imprisonment; and on count 4, convict is sentenced to 5 years imprisonment. If the Court directs that the sentences are to run concurrently, what this means is that the convict is sentenced to:

- a. 7 years imprisonment
- b. 8 years imprisonment
- c. 7 years, 6 months imprisonment
- d. 5 years imprisonment

33. When Anuga Ogbole is released from prison before the completion of his prison term upon certain conditions, he is said to be under:

- a. Binding over
- b. Probation
- c. Parole
- d. Bail

34. Under the Administration of Criminal Justice Act, probation period shall not exceed:

- a. 2 years
- b. 12 months
- c. 3 years
- d. 90 days

35. Under the Administration of Criminal Justice Act, where a Magistrate passes consecutive sentence on a convict, the aggregate term shall not exceed:

- a. 14 years imprisonment
- b. 4 years of the limit of its jurisdiction
- c. Twice the limit of its jurisdiction
- d. The limit of its jurisdiction

36. Under the Criminal Procedure Code, your answer in 35 above would be:

- a. 14 years imprisonment
- b. 4 years of the limit of its jurisdiction
- c. The limit of its jurisdiction
- d. Twice the limit of its jurisdiction

37. Suspended sentence cannot be applied under the Administration of Criminal Justice Act in all but one of the following

- a. Offences punishable with imprisonment for less than 3 years
- b. Offence involving the use of arms or offensive materials
- c. Sexual offence
- d. None of the above

38. Where the President of Nigeria wishes to grant a prerogative of mercy, he is to consult:

- a. The Minister of the Federal Capital Territory
- b. The Chief Justice of Nigeria
- c. Advisory Council on Prerogative of Mercy
- d. Council of States

Kuye Odunayo was arraigned at the Abia State High Court for the offence of rape. At the trial, the defendant when called upon to

enter his defence, decided to rest his case on that of the prosecution, despite a prima facie case being made against him. Eventually he was convicted and the Court sentenced him to life imprisonment and 32 strokes of Haddi-lashing.

Answer the following questions:

39. The correct punishment the Court should have imposed is:

- a. 40 strokes of Haddi lashing only
- b. 15 strokes of cane and terms of imprisonment only
- c. Terms of imprisonment and 12 strokes of Haddi lashing
- d. Terms of imprisonment only

40. Which of the following statements is correct?

- a. A person sentenced to death can in addition be subjected to hard labour
- b. A person sentenced to death cannot in addition be subjected to hard labour
- c. A person sentenced to death can make a plea of leniency and the Court may reduce the sentence
- d. None of the above

## **ANSWERS**

### **WEEK 17**

#### **JUDGMENT & SENTENCING**

1. (D)
2. (B)
3. (B) The purpose of an allocutus is to mitigate or reduce the sentence to be given to an accused charged with a criminal offence.
4. (D) Failure to call for an allocutus does not nullify the sentence of the Court.
5. (C) Allocutus comes after conviction, but before sentence, so the offender is properly described as a convict at the point where allocutus is made.
6. (B)
7. (B)
8. (A) Judgment must be delivered by a judge who heard the case from the outset, wrote the judgment and signed it. The only exception where another judge who did not hear the case can deliver judgment is where the judge who heard the case wrote the judgment and signed it, but due to some reasons like ill health, is unable to deliver it. AGF v ANPP.
9. (D) The general composition of the Court of Appeal is at least three Justices, but for the purpose of delivering judgment, the Court can be duly composed of at least one Justice. Section 294(4) of the 1999 Constitution.
10. (C) A judgment cannot be delivered in the absence of an accused. Lawrence v R
11. (B) Section 294(1) of the 1999 Constitution.
12. (C) Section 294(5) of the 1999 Constitution.
13. (B)
14. (C) Capital offence attracts mandatory sentence. Thus, an accused charged with a capital offence and convicted will only waste his time making allocutus, because it will have no effect on his sentence.
15. (B) It is very important for the prosecution to consent to the arrangement of taking into consideration other offences an accused is charged with before sentence is passed on the accused.
16. (D) Treason is a capital offence and under ACJA, the death is by hanging or lethal injection.
17. (B)
18. (A)
19. (D) The position in ACJA is that a pregnant woman convicted of a capital offence shall be sentenced to death, but the execution of the sentence shall be delayed until the baby is delivered and weaned. Section 404 and 415(4) of ACJA. However, under CPL, CPC and ACJA, such pregnant woman shall be sentenced to life imprisonment.
20. (C)
21. (A) The relevant law is CPL, and under CPL, a young person is a person who has attained the age of

14 years but below 17 years. Bimbo Maikudi is 18, thus can be sentenced to death.

- 22. (C) Section 405 ACJA.
- 23. (A)
- 24. (B)
- 25. (B)
- 26. (D) Section 70 of the Penal Code
- 27. (A) There is no sentence of caning in ACJA and ACJL
- 28. (A)
- 29. (C)
- 30. (D) Sentence of caning can be passed on a juvenile, it is not applicable in both Lagos and Abuja, the maximum number of strokes is 12, and it cannot be executed by installments.
- 31. (C)
- 32. (D) For the sentences to be running concurrently, it means all of them are running together.
- 33. (C)
- 34. (C)
- 35. (B)
- 36. (D)
- 37. (A) Section 460(3)ACJA
- 38. (D)
- 39. (D) Haddi lashing is not applicable in the South and the highest number of strokes in a sentence of caning is 12.
- 40. (B)

## QUESTIONS

### WEEK 18 & 19

### APPEALS I & II

1. Which of the following is not true of an appeal in criminal litigation?

- a. It is a retrial of a case
- b. It is an invitation to review the decision of a lower court
- c. There are basically two parties: Appellant and the Respondent
- d. None of the above

Jerry Musa was arraigned before a Magistrate Court, Lafia in Nasarawa State on a one count charge as follows:

“Jerry Musa, on the 1<sup>st</sup> day of January, 2019 at No. 10 Abuja Road, Lafia Nasarawa in the Lafia Magisterial District stabbed Mallam Bitrus Kolo and also assaulted Miss Binta Kolo and thereby committed an offence punishable under sections 35 of the Penal Code Law of Nasarawa State”

Answer the following questions:

2. Assuming the accused was convicted and wants to appeal against his conviction, how many days does he have after the conviction to do that?

- a. 60 days
- b. 90 days
- c. 30 days
- d. 1 month

3. The notice of appeal by Jerry Musa shall be filed where:

- a. Registry of the Magistrate Court
- b. Registry of the High Court
- c. Registry of the Court of Appeal



- d. Office of the Chief Magistrate
4. The composition of the Court in hearing the appeal shall be:
- At least one Judge
  - At least three Justices
  - At least two Justices
  - Two Judges
5. If the accused person was convicted and sentenced to caning, how many days does he have to appeal against his conviction and sentence?
- 15 days
  - 45 days
  - 30 days
  - 1 month
6. Who can appeal against the judgment of the Court in this matter?
- Mallam Bitrus Kolo and Binta Kolo
  - Jerry Musa or Prosecutor
  - The Magistrate
  - None of the above
7. Which of the following laws allows oral notice of appeal to be given in a criminal case?
- CPC
  - ACJL
  - ACJA
  - CPL
8. When can a person who is neither the prosecution nor the accused appeal as of right in a criminal case?
- When the punishment is life imprisonment
  - Where the person is the victim and has suffered grossly
  - Where the sentence is only imprisonment

- d. None of the above
9. In all but one of the following instances, appeal is of right in a criminal case:
- Where the grounds of appeal involve questions of law alone
  - Where the appeal is against the decision of a High Court sitting on appeal
  - Where the appeal is against the conviction of a sentence of death
  - Where the appeal involves interpretation of the Constitution
10. \_\_\_\_\_ is a reference to a higher court by a lower court to give its opinion on points of law or interpretation of the Constitution which will be used by the lower court to decide the case before it
- Opinion
  - Case stated
  - Appeal
  - Referral

During your externship programme in the law firm of Oladipo Olasope & Co., you accompanied your field supervisor, Chisom Esq to the High Court of Oyo State, Ring Road for a criminal case your field supervisor was representing the accused on. When you got to the Court, the first activity you observed was the judgment of the Court being read in a case where the accused was charged with the offence of kidnapping. The Judge convicted the accused and sentenced him to 21 years imprisonment. After the sentence, counsel for the accused stood up, thanked the Court and informed the judge of his intention to appeal the conviction and the sentence. On getting back to the office, your

field supervisor gave you the following questions in relation to your observation in court to answer.

11. Within how many days after the judgment must the accused appeal his conviction and sentence?

- a. 30 days
- b. 3 months
- c. 7 days
- d. 90 days

12. The appeal will be commenced by the appellant filing \_\_\_\_\_ at \_\_\_\_\_

- a. Notice of Intention to Appeal, Registry of the Court of Appeal
- b. Grounds of Appeal, Registry of the High Court
- c. Notice of Appeal, Registry of the High Court
- d. Grounds of Appeal, Registry of the Court of Appeal

13. The document you have identified above is to be signed by:

- a. The Appellant
- b. The Counsel to the Appellant
- c. A or B
- d. A and B

14. The Registrar of the trial Court is to compile and transmit the records of appeal to the Court of Appeal within:

- a. 60 days of filing Notice of Intention to Appeal
- b. 60 days of filing the Grounds of Appeal
- c. 30 days of filing Notice of Appeal
- d. 60 days of filing Notice of Appeal

15. If the Registrar of the Court fails to compile the records within the stipulated time frame, the Appellant shall do same within \_\_\_\_\_ days of the Registrar's failure?

- a. 60
- b. 45
- c. 30
- d. 15

16. Under the Court of Appeal (Fast Track) Practice Direction 2014, your answer in 15 above would be:

- a. 15 days
- b. 20 days
- c. 14 days
- d. 10 days

17. Where both the Registrar and the Appellant fail to compile the record of appeal within the stipulated time frame, the Respondent may;

- a. Compile the record accordingly
- b. File a motion exparte for the appeal to be struck out
- c. File a motion on notice for the appeal to be struck out
- d. File a notice of motion for the appeal to be dismissed

18. Assuming the time for appeal against the conviction has elapsed and the Appellant still wishes to appeal, what step would you advise him to take:

- a. File an application for extension of time to the High Court by motion on notice supported with an affidavit and a written address

- b. File an application for extension of time to the Chief Judge of the State by motion on notice supported with an affidavit and a written address
  - c. File an application for extension of time to the Court of Appeal by motion of notice supported with an affidavit and a written address
  - d. Nothing can be done as the time to appeal is of strict application and the Rules does not provides for extension
19. Assuming there is to be a notice of preliminary objection to the hearing of this appeal, it is usually filed by:
- a. The Respondent, giving the other party three clear days notice before the hearing
  - b. The Appellant, giving the other party three clear days notice before the hearing
  - c. The Respondent, giving the other party five clear days notice before the hearing
  - d. The Appellant, giving the other party five clear days notice before the hearing
20. Upon the receipt of the record of appeal from the High Court, by the Court of Appeal Rules 2016, the appellant is required to file his brief of argument within:
- a. 30 days
  - b. 45 days
  - c. 10 weeks
  - d. 40 days
21. Assuming the appeal is a fast track appeal, the appellant will be required to file his brief within how many days of receipt of the record?
- a. 21 days
  - b. 14 days
  - c. 15 days
  - d. 30 days
22. Assuming the Appellant fails to file his Brief of Argument within the stipulated time frame, the effect is none but one of the following:
- a. Judgment will be given for the Respondent
  - b. The appeal will be struck out
  - c. The appeal will be dismissed
  - d. The appeal will be adjourned sine die
23. Within how many days after receipt of the Appellant's brief is the Respondent expected to file his Brief of Argument under the Court of Appeal Rules 2016?
- a. 30 days
  - b. 21 days
  - c. 45 days
  - d. 15days
24. If it were to be a fast track appeal governed by the Fast Track Practice Direction, your answer above would be:
- a. 10 days
  - b. 14 days
  - c. 7 days
  - d. 12 days
25. If the Appellant wishes to file a reply brief to the Respondent's brief, he is required to do so within \_\_\_\_ under the Court of Appeal Rules, while \_\_\_\_\_ under the Fast Track Practice Direction

- a. 14, 7 days
- b. 10, 5 days
- c. 10, 7 days
- d. 14, 5 days

26. The Appellant and Respondent's Brief at the Court of Appeal must not exceed how many pages?

- a. 25
- b. 30
- c. 35
- d. 40

27. The Appellant's reply brief at the Court of Appeal must not exceed how many pages?

- a. 15
- b. 20
- c. 14
- d. 7

28. Assuming the convict is in custody and wishes to appeal, the time he is deemed to have filed his appeal is:

- a. When he hands over the notice of appeal to the detaining authority
- b. Where the detaining authority files it at the appropriate registry
- c. Where he is given notice that the detaining authority had filed the notice of appeal in the appropriate court registry
- d. All of the above

Mallam Idoga Usman and Miss Hafisatu James-Nurideen are childhood friends. Both of them are final year students of law at the Mainassaru University, Abuja. Mallam Usman made a marriage proposal to Hafisatu sometime in June 2018 and both

families have been working towards it until May, 2019 when a dispute arose between the two families. By January 2020, it was clear to the love birds that the relationship had hit the rocks when Hafisatu's mother and Usman's mother had a fight in the Wuse Central Market over parking space. On 28<sup>th</sup> January, 2020, Mallam Usman sent a message to Hafisatu to come over to his room at the Students village to collect her law school admission form and as Hafisatu got there, Mallam Usman forcefully had sexual intercourse with her. He covered her mouth and her nose in the process, which led to difficulty in breathing for Hafisatu. Before the end of the enjoyment, Hafisatu died from shortness of breath. Eventually, Mallam Usman was arrested for rape and murder. On the 30<sup>th</sup> of August, the court convicted him and sentenced him to death accordingly.

29. If Mallam Usman intends to appeal against his conviction and sentence, he must do so within how many days of passing the sentence on him?

- a. 30 days
- b. 90 days
- c. 14 days
- d. 7 days

30. In hearing the appeal, the Court of Appeal would be properly constituted by:

- a. At least three Judges
- b. At least three Justices
- c. At least five Judges
- d. At least five Justices

31. Mallam Usman's appeal to the Court of Appeal will be deemed to have been entered at what point?

- a. When notice of appeal has been filed at the Registry of the High Court
- b. When record of appeal has been duly and conclusively compiled by the Registrar
- c. When the record of appeal has been transmitted to the Court of Appeal
- d. A and B

32. Assuming the judgment of the trial Court was affirmed by the Court of Appeal, and Mallam Usman desires to appeal to the Supreme Court, he must do so within how many days:

- a. 7 days
- b. 90 days
- c. 3 months
- d. 30 days

33. The Notice of Appeal to the Supreme Court will be signed by:

- a. Mallam Usman
- b. The Counsel to Mallam Usman
- c. A or B
- d. A and B

34. Assuming after informing his counsel to commence the appeal at the Supreme Court and after transmitting the records to the Supreme Court, Mallam Usman dies, what happens to the appeal?

- a. The appeal is deemed withdrawn
- b. The appeal abates
- c. The appeal is deemed abandoned
- d. The appeal continues for the purpose of developing the law

35. By the Supreme Court Rules, the record of appeal must be compiled and transmitted to the Supreme Court within \_\_\_\_\_ after filing the appeal

- a. 60 days
- b. 6 months
- c. 45 days
- d. 3 months

36. Your answer above would be \_\_\_\_\_ under the Supreme Court (Criminal Appeal) Practice Direction:

- a. 30 days
- b. 15 days
- c. 14 days
- d. 10 days

37. The constitution of the Supreme Court at the hearing of the appeal will be:

- a. At least 5 Justices
- b. At least 7 Justices
- c. 5 Justices
- d. 7 Justices

38. The Supreme Court (Criminal Appeal) Practice Direction 2013 applies to all but one of the following offences:

- a. Kidnapping
- b. Murder
- c. Terrorism
- d. Human Trafficking

39. Under the Supreme Court Rules, the Appellant must file his brief of argument within how many days and the respondent must file his brief of argument within how many days of receiving the appellant's brief?

- a. 10 and 8 weeks

- b. 8 and 6 weeks
  - c. 60 and 30 days
  - d. 60 and 45 days
40. Which of the following is not a content of a Notice of appeal?
- a. The heading of the Court
  - b. The issues for determination
  - c. The Grounds of appeal
  - d. Persons directly affected by the appeal
41. All of these except one are correct about appeal process:
- a. Notice of appeal though headed in appellate is brought in the trial court
  - b. Notice of appeal is entered in the appellate court
  - c. Grounds of appeal are classified into grounds of law, of facts or mixed law and facts
  - d. Notice of appeal must always be signed by the appellant and no other person
42. All of these except one are correct about the grounds of appeal to be filed:
- a. Omnibus ground of appeal will require no particulars
  - b. Issues for determination are formulated from grounds of appeal
  - c. Grounds of appeal are more than issues for determination
  - d. Grounds of appeal are contained in brief of argument
43. All of these except one are incorrect about Notice of appeal
- a. Notice of appeal initiates criminal appeal process
  - b. Notice of appeal is filed by the Respondent
  - c. Notice of appeal should be filed within 90 days after any decision
  - d. Notice of Appeal, Application for leave to appeal and Application for extension of time to appeal perform essentially the same appeal function
44. All of these except one are correct about Brief of Argument:
- a. Brief of argument is filed by all parties to criminal proceedings
  - b. The Respondent's Brief of Argument precedes the Appellant's Brief of Argument
  - c. Brief of Argument is filed and served in order of 45,30,14 by parties at the Court of Appeal
  - d. Brief of Argument contains written arguments canvassed by parties on appeal
45. The omnibus ground of appeal in a criminal case is:
- a. The decision of the trial court is unreasonable, unwarranted and against the weight of evidence
  - b. The judgment of the trial court is against the weight of evidence
  - c. The decision of the trial court is unreasonable and cannot be supported having regard to the evidence
  - d. The decision of the trial court is unreasonable, cannot be supported and against the balance of evidence
46. Where the prosecutor appeals to the Court of Appeal, the Notice of Appeal shall be in:
- a. Criminal Form B
  - b. Criminal Form 1



- c. Criminal Form 5
- d. Criminal Form A

## **ANSWERS**

### **WEEK 18 & 19**

#### **CRIMINAL APPEALS I & II**

1. (A) Appeal does not amount to a retrial of a case.
2. (C) Appeal against the decision of a Magistrate Court should be filed within 30 days after delivery of the decision.
3. (A) Notice of appeal generally filed at the Court below, in this case, the Registry of the Magistrate Court.
4. (D) The High Court in the North is to be constituted by two Judges when sitting on an appeal from the Magistrate Court. Section 63 of the High Court Law of Northern Nigeria.
5. (A) Appeal against the sentence of caning should be made within 15 days.
6. (B) Only the prosecution and the accused have the right to appeal a judgment in criminal litigation.
7. (A) Section 280(2) CPC.
8. (D)
9. (B) Section 241 and 242 of the Constitution.
10. (B)
11. (D) Section 24(2)(b) of the Court of Appeal Act.
12. (C) Notice of Appeal initiates criminal appeal process and it is filed at the Registry of the lower court.
13. (C) Notice of appeal can be signed wither by the appellant or his counsel. Order 17 R 4(1) CAR.
14. (D) The Registrar of the trial Court is to compile and transmit the record of appeal to the Court of Appeal within 6 months of filing a notice of appeal by an appellant. Order 8 Rule 1, CAR.
15. (C) If the Registrar fails to compile the record of appeal within 60 days, after the end of the period, the appellant has 30 days to compile and transmit the record to the Court of Appeal. Order 8 Rule 4 CAR.
16. (A) Rule 13(3) of the Court of Appeal (Fast Track) Practice Direction 2014.
17. (D) Order 8, Rule 18, CAR 2016
18. (C) Application for extension of time should be filed at the Court of Appeal, not at the High Court, because the High Court does not have the power to extend the time to appeal to the Court of Appeal. Section 24(4) Court of Appeal Act. *Owoniboy Tech Services Ltd v John Holt Ltd; Ogunremi v Dada.*
19. (A) Notice of preliminary objection is usually filed by the respondent, and in doing so, he shall give three clear days notice to the appellant. Order 10, Rule 1, CAR.
20. (B) Under the Court of Appeal Rules, appellant brief must be filed within 45 days, respondents brief must be filed within 30 days and

reply brief must be filed within 14 days. Order 19, CAR.

- 21. (B)
- 22. (C) On the application of the Respondent, the Court will dismiss the appeal for want of diligent prosecution. Order 19 Rule 10(1) CAR.
- 23. (A)
- 24. (A)
- 25. (D)
- 26. (C) Order 19 Rule 3(6)(a).
- 27. (A) Order 19 Rule 3(6) (a).
- 28. (A)
- 29. (B)
- 30. (B)
- 31. (C)
- 32. (D)
- 33. (A)
- 34. (B)
- 35. (B)
- 36. (D)
- 37. (D) Sentence of death is involved, so it will be a full court, comprising 7 Justices.
- 38. (B)
- 39. (A)
- 40. (B)
- 41. (D)
- 42. (B)
- 43. (A)
- 44. (B)
- 45. (C)
- 46. (C)