



NATIONAL OPEN UNIVERSITY OF NIGERIA
UNIVERSITY VILLAGE, PLOT 91, NNAMDI AZIKWE EXPRESSWAY,
JABI, ABUJA
FACULTY OF LAW
JULY 2017_1 SEMESTER EXAMINATION

COURSE CODE: LAW 446
COURSE TITLE: LAW OF EVIDENCE II
COURSE UNIT: 4 UNITS
TIME ALLOWED: 2 ½ HOURS
INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)

1. Mr. Blair and Jonathan were taking a stroll in the evening. While taking the stroll, they saw Raphael and Paul fighting. In the course of the fight, Paul decided to withdraw from the fight and went away. Raphael still pursued him, insisting they must continue with the fight. When Raphael reached where Paul was, Raphael drew a knife from his pocket and stabbed Paul in the chest. Jonathan called an emergency number for ambulance and Paul was rushed to the hospital by the ambulance. When Paul got to the hospital, Emilia, his elder sister was alerted that Paul is in the Intensive Care Unit (ICU) of the General Hospital. She rushed to the hospital to see her brother. At the ICU, the nurses and Doctors fought to save Paul's life because Paul was in the pool of his own blood. At that point, the doctors had difficulty in controlling John's loss of blood because it was discovered that the knife pieced his heart. When Paul saw his sister, he said "Emilia I am going, see how I have ended". Emilia asked Paul "Who did this to you?" Paul answered, "Raphael did this to me. Raphael has killed me. I am going. Take care of our parents" and he died. Unknown to them, Mr. George Bull, the Ambassador of Australia to Nigeria witnessed the fight and saw when Raphael stabbed Paul. Raphael was charged to court for the offence of murder of Paul. Mr. Bernard is one of the prosecution witnesses. Mr. Bernard's evidence is to the effect that Mr. Blair told him that it was Raphael that killed Paul by stabbing him. Emilia, Paul's sister, also gave evidence that her brother told her that "Emilia I am going, see how I have ended". When Emilia asked him, "Who did this to you?" Paul answered, "Raphael did this to me. Raphael has killed me. I am going. Take care of our parents". The prosecution Counsel has invited Mr. George Bull, to give evidence on the matter. Mr. George Bull ignored him and the prosecution intends to apply to the court to issue subpoena against Mr. George Bull. Mr. James a 105 year-old-man also witnessed the incident and has been invited to give evidence. One of the defense witnesses testified that Raphael is a gentleman, incapable of violent act. The prosecution

has called a witness who testified that on five different occasions, Raphael has been arrested by the Police for violent assault on five different people and that he was dismissed from his place of work because he brutalized his boss who later got hospitalized due to grievous bodily injury which he sustained as a result of that assault.

Also, Mr. Blair has a matter in court relating to the customary law of his ethnic nation. The customary law matter deals with the manner of sharing the property of a deceased person. Mr. Blair intends to call Professor Alaye who has Ph.D. in Customary law of Mr. Blair's ethnic nation. The defendant counsel has opposed Professor Alaye's effort in providing evidence in the matter. At the end of the case, the presiding judicial officer in his judgment dismissed Mr. Blair's case because Mr. Blair did not prove his case beyond reasonable doubt. **Discuss all legal issues relating to the case.** 25 Marks.

2. Any statement made by persons other than the witness testifying is generally not receivable under the Law of Evidence, to prove the truth of the fact stated. Such statement is said to be hearsay evidence. Discuss.
3. As a general rule, the evidence of good character of the accused is admissible in judicial proceedings while the evidence of bad character is not admissible except in exceptional circumstances. Discuss.
4. The confession of an accused person is perhaps the best evidence in the hands of the prosecutor in criminal proceedings. Critically evaluate this statement illustrating your answer with relevant decided cases.
5. Mr. Dominic Tump was elected President of the UCS. Subsequently, the Intelligence community of that country concluded that Rusty Republic intervened in the election that brought Mr. Dominic Tump into office. The FDI, the domestic intelligence arm of UCS, decided to investigate the alleged meddling in the election in issue. Mr. Dominic Tump held a meeting with the Vice President, the Attorney General and the Director of the FDI. After the meeting, Mr. Dominic Tump asked the Vice President and the Attorney General to leave so that he can have a private meeting with the Director of FDI. During the private meeting, the FDI Director alleged that Mr. Dominic Tump directed him to stop all further investigations into the alleged Rusty Republic meddling in their election. After the meeting, the FDI Director went to his office and reduced the substance of the meeting into writing. He complained to the Attorney General about his concern about having private meetings with the President and complained about the President's directive to him.

Nevertheless, the FDI Director continued with the investigation and he was dismissed by Mr. Dominic Tump. Mr. Dominic Tump later confirmed that he dismissed the FDI Director because of the investigation into the election meddling. Mr. Dominic Tump made similar requests to other intelligence Chiefs investigating the election meddling. The Parliament has commenced impeachment proceedings against Mr. Dominic Tump and one of the grounds against him is that he obstructed the course of justice by directing the FDI Director to stop the investigation into the election meddling. Mr. Dominic Tump has denied the allegation of obstruction of justice against him and denied that he directed the FDI Director to stop the investigation. In proving the obstruction of justice, the Parliament intends to rely on the memos made by the FDI Director, the evidence of the Attorney General confirming that Mr. Dominic Tump asked him and the Vice President to leave his office after the meeting and that the FDI Director complained about the directive of Mr. Dominic Tump. The Parliament also intends to rely on the evidence of other Intelligence chiefs, that Mr. Dominic Tump ordered them to stop the investigation. Discuss the legal issues.

6. The Judges rules are mere administrative directions lacking the force of law but Judges often insist on their observance. Discuss