

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL. B EXAMINATIONS

L3305: LAW OF CRIMINAL PROCEDURE

January, 2024

Marks: 100

Time: 3 Hours

Instructions

1. Answer any **four (4)** questions
2. All questions carry equal marks
3. Answer clearly and refer to relevant authorities
4. Allocate 45 minutes to each question

QUESTION 1

The courts will not hear a matter over which they lack jurisdiction.

Discuss the five factors that are used to determine jurisdiction of the court in a criminal matter.

[25 Marks]

QUESTION 2

Explain the following

(a) *Certificate nolle prosequi*

5 Marks

(b) Reasonable grounds for suspicion

10 Marks

(c) Section 12 of the Constitution of Lesotho

10 Marks

[25 Marks]

QUESTION 3

The danger of section 42 of the Criminal Procedure & Evidence Act lies in its misuse to justify the use of excessive force in effecting arrest.

Mention the requirements that have to be met to justify use of force in effecting arrest.

[25 MARKS]

QUESTION 4

The concept of bail is an important pre-trial right that has caused the community not to have faith in the criminal justice system.

Discuss and explain the concept of bail.

[25 MARKS]

QUESTION 5

“The decision whether to prosecute or not is fundamental to democracy under a constitutional dispensation such as ours. It is therefore imperative that the office of the Director of Prosecutions, located as it is, at the center of delivery of criminal justice, not only executes its functions without fear or favor but it must be non-partisan, non-political and free from interference from the powerful, the well-connected, the rich and the peddlers of political influence.”

Per Bertelsmann J in *The State v. Yengeni* 2006 (1) SACR 405

Discuss the above statement with reference to the office of the Director of Public Prosecutions (DPP) in Lesotho.

[25 Marks]

QUESTION 6

Matsoso and Borotho stole one hundred and twenty packets of 12.5 kg of hullets sugar from Bingo wholesale in Maseru. They divided the loot between them and Matsoso took 50 and Borotho 70 respectively. Matsoso sold his share to his uncle Robert who runs a restaurant at Roma; while Borotho sold 50 of his packets to James a farmer in Hlotse and gave the other 20 packets to his cousins Simon and Thabo who have a shop in Maputsoe.

Matsoso and Borotho were arrested and upon the arrest M5000 was found on the person of Borotho but nothing was found on Matsoso except a bank deposit slip of M10000.

Simon and Thabo were arrested and charged with receiving stolen property knowing it to have been stolen.

The evidence against James and Robert was circumstantial at best and the prosecution dropped the charges.

- (a) Discuss the statutory provisions that the court needs to rely on when deciding search and seizure of perishables.

15 Marks

- (b) Discuss the implications of search and seizure on the property belonging to Bingo wholesalers with respect to his options as the owner of the property.

10 Marks

[25 MARKS]