



RIARA LAW SCHOOL

UNIVERSITY EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE

AND

PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAMME

JANUARY-APRIL 2024

RLB 204: EVIDENCE LAW I

INSTRUCTOR: MS. KENDI MUTUNGI

INSTRUCTIONS

1. This is the final examination in Administrative Law 1. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **FOUR** questions. Please answer **ANSWER QUESTION ONE AND ANY OTHER TWO QUESTIONS**
3. This examination has 3 pages, including this one.
4. Time allocated for this examination is **TWO** (2) hours. You must stop writing when time is called.
5. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is a **CLOSED BOOK** examination. This means you are not permitted to bring ANY hard or soft materials to the examination room, save for clear copies of the Constitution of Kenya, which shall be supplied for the exam. You are also not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, statutes, notes, outlines, or books. Neither should you bring to the examination room books or materials unrelated to this course. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
7. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

QUESTION ONE

Awinja, a 19-year-old student, leaves her college library at 10 p.m. after staying late to study for an exam the next day. She is wearing a blue dress with an orange belt. Awinja does not return home, and the next day her fully clothed body is found near a lake on the college campus. She has been strangled but not sexually assaulted.

Awinja's former boyfriend, Msapondi, is charged with her murder. The evidence against Msapondi is as follows:-

- (i) The evidence of a fellow student, Lawi, that, when passing by the college in his car at about 10.15 p.m. on the evening of the murder, he saw Awinja leave through the front gates of the college and cross the street to a nearby kiosk, "Mama Samaki."
- (ii) The evidence of Atieno, an employee of "Mama Samaki", that she served a girl in a blue dress between 10 p.m. and midnight that same evening. According to Atieno, the girl was accompanied by a man approximately 6 foot tall, with dark hair. Msapondi is 6 foot 1 inches tall, and his hair is dyed gold, but can appear red in some lights. However, Atieno fails to pick Msapondi out in an informal identification parade. No formal identification parade is subsequently held.
- (iii) Awinja's diary, kept in her college locker in the library building, which details her difficult relationship with Msapondi and records several incidents in which he was verbally and physically abusive to her. The last entry in the diary, made the day she died, records her decision to break up with Msapondi and start dating another man.
- (iv) A statement made by Msapondi to the head of the college, Dr Winston, in which he stated, without giving details: "I am the person responsible for her death. I bear the sole guilt in this matter." Msapondi now asserts that this statement was made immediately after hearing of Awinja's death, at a time when he was in a state of shock. He also says that the statement is being misinterpreted as its meaning was simply that he should have looked after Awinja better, collecting her from the college library rather than allowing her to walk home alone. Msapondi asserts that he and his best friend Kitaka were in the computer room of their hostel from 9 p.m. on the evening of the murder to 9 a.m. the following morning, completing continuous assessment projects.
- (v) A written statement, made by Kitaka to police some days after the murder, confirming Msapondi's account as to how he and Kitaka spent the night of the murder. Unfortunately, Kitaka, who was hit by a taxicab during a visit to Kisii some weeks afterwards, is now deceased. There were no other students present in the hostel on the night of the murder.

You are assisting Msapondi's defence team. Advise them as to whether or not each of the items of evidence at (i)-(v) above are admissible in evidence against him at his trial and, if admissible, such directions or warnings, if any, as would need to be given by the trial judge to the jury in relation to same.

(30 marks)

QUESTION TWO

Kitindamimba, a middle-aged acting coach, is charged with sexually assaulting a number of his female students, aged between 15 and 17 years at the time of the alleged sexual assaults. In the 1990s, Kitindamimba was charged with the sexual assault of a former girlfriend, Vero, but the charges were dropped after Vero subsequent assertion that she had made up the allegation. Vero was 23 years old at the time and Kitindamimba was 25 years old. Advise the prosecution as to whether or not it will be possible to draw this previous charge to the attention of the jury in Oliver's current trial. **(20 marks)**

QUESTION THREE

Write Short notes on the following: -

- a) Judicial Notice (5 Marks)
- b) Estoppel by Conduct (5 Marks)
- c) Cross Examination (5 Marks)
- d) Accomplice evidence (5 Marks)

QUESTION FOUR

“Courts require evidence to act, not opinions“. Using appropriate authorities examine this statement with regard to opinion evidence in Kenya **(20 marks)**