

CENTRAL UNIVERSITY



END-OF-SECOND SEMESTER EXAMINATIONS: 2015/2016

FACULTY OF LAW

LAW 108 & 208

CRIMINAL LAW II

TIME ALLOWED: 2 HOURS, 15 MINUTES

LEVEL 100 & 200

STUDENT ID No.....

INSTRUCTIONS:

Answer **three (3)** questions in all

Answer Question One (1) which is compulsory and any other two questions

DO NOT TURN OVER THIS PAGE UNTIL YOU HAVE BEEN TOLD TO DO SO BY THE INVIGILATOR

Examiners: Mr Ernest Kusi, Mr. Martin Kpebu, & Dr. Isaac Annan

COMPULSORY QUESTION

1. New Generation Fun Club (NGFC) is a social club dedicated to the promotion of the general welfare of its members. As part of activities to bolster its financial viability, NGFC organised a fund-raising dinner dance at Bignity Hotel. Nii Darku, a member of NGFC, who was late in leaving the hotel premises after the dinner dance, found a designer ladies handbag called MK ladies handbag containing a 'fashion fair' make-up kit, a Barclays Bank credit card (both bearing the name of Jamilla Kyere, the owner of the handbag), an amount of GH¢1,000.00 and US\$400.00. Nii Darku removed the cash from the handbag, dumped the credit card into a dustbin at the hotel, and threw the handbag behind the fenced wall of the hotel.

The next day, on his usual morning jogging, Atongo found the handbag; he was excited, especially having noticed the MK designer label, which his girlfriend cherishes. Nii Darku and Atongo kept quiet about their respective finds. Disturbed by the loss of her handbag, Jamilla Kyere, who also is a member of NGFC, reported the incident to Charlie Mann, Manager of the hotel. Charlie Mann recalled seeing Nii Darku as the last person to leave the hotel carrying an MK ladies handbag. Charlie Mann also stated that he had seen Atongo loitering behind the hotel carrying a handbag with a similar mark.

Charlie Mann has reported the matter to the police who have arrested Nii Darku and Atongo.

With the aid of case law and relevant statutory authorities, advise on:

- (a) possible charge(s) the police may press

(b) Sustainability or otherwise of the charge(s) that the police could press against Nii Darku and Atongo.

(c) Defences, if any, available to Nii Darku and Atongo.

2. Elsie K (EK) is chairperson of APP, a political party registered under the laws of Ghana with the Electoral Commission. On 1st May 2016, EK sent Ms Benin (MB), Ms Lantana (ML) and Jemima T (JT) to post the party's campaign posters on the walls of Block E of the Miotso Campus of Central University and on any vehicle found parked at Block E. These instructions were dutifully carried out by MB, ML, and JT.

Agwunobi S, Ahichemy Y and Chukuka A on whose cars some of the posters were pasted are aggrieved about the conduct of EK, MB, ML, and JT as they cannot remove the posters without scratching their cars.

Agwunobi S, Ahichemy Y and Chukuka A EK, have come to you for advice. Advise them with the aid of case law and relevant statutory authorities on:

- a. possible charge(s) they may press;
- b. possible defences that EK, MB, ML and JT may raise; and
- c. assess the chances of success of these defences.

3. Kwesi is a regular visitor to the West Hill Shopping Mall (the Mall), where he operates mainly as a porter assisting shoppers with their shopping. In the course of assisting Mr. and Mrs. Goodfellow with their shopping, Kwesi spotted a golden Rolex on Mr. Goodfellow's wrist. Kwesi feigned tiredness as a result of the 'unbearable weight' of the shopping bags he was carrying. Consequently, Mr. Goodfellow approached Kwesi to offer him

help. Determined to make a fortune out of the wrist watch, Kwesi pushed Mr. Goodfellow, removed the watch and bolted with it.

Mensah, a private security guard at the Mall, who was monitoring the situation, accosted Kwesi and demanded an amount of GHC200.00 from him, failing which he would cause Kwesi's arrest and prosecution. Kwesi obliged.

Utterly distressed by the turn of events, Mr. Goodfellow has reported the matter to the police and Kwesi and Mensah have been arrested.

Identify and discuss the charge(s) that could be preferred against Kwesi and Mensah. Assess the state's chances of successfully prosecuting Kwesi and Mensah.

4. It has been argued that the law presumes sanity of the accused person until the contrary is proved. In this connection, there must be proof that at the time of committing the offence the accused person was labouring under a defect of reasoning to the extent that he must be deemed to be suffering from a *disease of the mind* so as not to be capable of knowing the *nature and quality of the act* he was involved in or has been occasioned was wrong. (**R v. Codere (1916) 12 CAR 21**)

Discuss, this statement with reference to case law and relevant statutory provision(s), in relation to elements of the defence of insanity as elaborated under the 'M'Naghten rules' and their application in the Ghanaian legal system.

[15 marks]

5. On 16th July, 2015 Yaw Iboman arrived at the Kotoka International Airport to board a KLM flight to Amsterdam. While undergoing

pre-boarding formalities, he was arrested by officials of the Narcotics Control Board (NACOB) on duty at the airport, on suspicion of possessing narcotics on his body. He was taken to the 37 Military Hospital for an X-ray examination which proved negative. Iboman was taken back to the Airport by the officials to conduct a search of his hand luggage. Four parcels of powdery substance suspected to be a narcotic drug were found concealed in a small green bag that Iboman was holding together with his Puma carry-on bag at the time of his arrest.

A test conducted by the Ghana Standards Board proved that the substance was cocaine weighing 1, 656, 8215 grammes. Iboman claimed that the green bag was given to him at the Airport by one Kenny to be given to a mutual friend Marvin in Holland saying it contained personal effects left by Marvin at home. Subsequent investigations however revealed that the green bag actually belonged to Yaw Iboman.

The Attorney-General has subsequently charged Yaw Iboman with two counts of attempted exportation of narcotic drug and possession of narcotic drug.

With the aid of decided cases and other relevant statutory provisions, identify the issues involved in the above scenario and discuss same.

[15 marks]