

CENTRAL UNIVERSITY



END OF SECOND SEMESTER EXAMINATIONS: 2016/2017

FACULTY OF LAW

LAW 108: Criminal Law II

TIME ALLOWED: 3 HOURS

LEVEL 100 & 200

STUDENT ID NO:

INSTRUCTIONS

There are a total of six (6) questions. Candidates are required to answer three (3) questions only.

Question One (1) is **compulsory** and carries 40 marks. The other questions carry 30 marks each.

Answer sheets will be provided. Each answer must begin on a fresh page.

Any extra answer sheet should be properly tied to the original answer sheet.

Marks will be awarded for good presentation, clarity in legal arguments and proper use of legal authorities.

You are allowed to carry with you the *Criminal Offences Act, 1960 (Act 29)* to the examination hall. The Annotated version is not allowed.

Please write legibly.

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

Examiners: Dr. Isaac Annan & Mr. Reynolds Twumasi Jnr.

QUESTION 1

Mensah, a public servant, who worked with the Ministry of Health (MoH), resigned in June, 2016. As a result, he engages in business as exporter of cashew nuts to Europe and USA. In December 2016, MoH approved upward adjustments of salaries for its staff with retrospective effect from January 2016. Consequently, the Controller and Accountant-General's Department (CAGD) has begun a process of payment into the respective bank accounts of staff of MoH in accordance with the upward salary adjustment, including arrears. MoH and CAGD have failed to update their records resulting in Mensah's bank account being credited with an amount of GHc12,000, which includes a difference in arrears of GHc6,000 (Mensah is entitled to a monthly salary arrears of GHc1,000 from January to June, 2016 amounting to GHc6,000 only). Meanwhile, in July 2016, MoH duly notified Mensah's bank, Rainbow Bank Ltd., about his resignation.

On a visit to the bank to transact business, Mensah finds an unusual balance in his account and requests to know the source of the funds. Amponsah, the Bank Manager, intimates that the balance is as a result of payment by CAGD and poses no problem because it is "government money" due him (Mensah). Elated by the assurance, Mensah withdraws an amount of GHc10,000 and stashes same in his briefcase. Unfortunately, upon his exit from the bank, Nyameba, who has been trailing Mensah, snatches the briefcase, which also contains a brand new 'iphone'. Nyameba removes the cash from the briefcase and sensing that it would be unsafe to keep the briefcase and the 'iphone', offers the two items for sale to his friend, Apache, for GHc200 with the excuse that he needed money urgently to settle his medical bills.

Apache, attracted by the briefcase and the 'iphone', hastily parted with the offer of GHc200 for the two item

Mensah has reported the incident to the Police. Investigations by the Police have culminated in the arrest of Nyameba, Amponsah and Apache.

- a. **With the aid of the Criminal Offences Act, 1960 (Act 29) and decided cases, assess the criminal liability of Nyameba, Amponsah and Apache and the possible charges, if any, that can be preferred against the them.**
- b. **In spite of reporting the loss of his briefcase to the police, will Mensah be liable for any criminal offence?**
- c. **Discuss the defences, if any, available to all the parties should any of them be prosecuted?**

[40 marks]

QUESTION 2

Nana and Kwame are ardent fans of Mighty Eagles and Soccer Angels respectively. Mighty Eagles have trounced Soccer Angels by six goals to one in their local derby. Kwame, a fan of Soccer Angels, appears distraught and crestfallen. Nana, obviously excited about the triumph of his team, has consistently taunted Kwame. In response to the taunts, Kwame has gone to Nana's house and threatened him with a toy revolver. Kwame yells at Nana "*if you are a man come out, and you will be dead!*" Nana is unfazed by the threat and confronts Kwame by hitting him on the head with a stick he has chanced upon, resulting in a fight between the two. Meanwhile, Nana's wife, Akos, who upon sighting the revolver being held by Kwame has collapsed and has been rushed to the hospital; she is diagnosed as having post-traumatic stress disorder.

Ampem, Nana's neighbour, who has rescued Kwame from the incessant pummeling by Nana, has also been severely bruised on the head by Nana. Ampem has reported the incident to the Police resulting in Nana's arrest.

With the aid of the Criminal Offences Act, 1960 (Act 29) and decided cases, discuss:

- a. **the criminal liability, if any, of Nana.**
- b. **Whether Kwame can be held criminally liable for the fate that has befallen Akos?**

[30 marks]

QUESTION 3

Appenteng has been elected the President of the Students' Representative Council (SRC) of New Dawn University (NDU) after beating his closest opponent, Kwesi. Lately, NDU has been experiencing perennial shortage of water and lacks decent places of convenience for academic staff and students alike. Appenteng, as part of his manifesto pledge to the students of NDU, promised to deal with these deficiencies by finding permanent solution to these challenges. After one year in office, no sign has emerged redressing the students' grievances. An audit report in respect of SRC dues has indicted Appenteng of financial impropriety. Dissatisfied with the turn of events, the students have begun mounting pressure on Appenteng to deliver on his promises and account for the alleged financial impropriety.

Kwesi has vowed to "*teach Appenteng a lesson*"; Kwesi has arranged a demonstration against Appenteng led by Niikwei, his campaign manager. Kwesi procures a knife for Niikwei, with the dual purpose of using it to defend himself in case of any reprisal attack on him as well as to frighten Appenteng. The demonstration has turned violent and Kwesi, sensing danger, pulls out. Meanwhile, in the course of the demonstration, Edem, confronts Niikwei regarding the latter's

violent posture resulting in an altercation. As a result, Niikwei removes the knife from the pocket of his jacket and stabs Edem. Meanwhile, Ninja, from whom the knife was procured by Kwesi overheard the conversation between Kwesi and Niikwei regarding the "plan", but has decided to stay away from any 'trouble' and has kept the information concerning the "plan" to himself.

Niikwei is arrested by the police and has mentioned Kwesi as the architect of the "plan".

Discuss, with the aid of relevant legal authorities, possible charges to be preferred against Niikwei, Kwesi and Ninja.

[30 marks]

QUESTION 4

Francis and Jerry, who are friends, stand out in the village of Anansekrom for successfully completing university education. The two friends have become the pride of Anansekrom and serve as source of motivation for other children in Anansekrom. Akweley, a beautiful, budding girl who is determined to chalk the same feat as Francis and Jerry, has excelled in her Senior High Secondary School examination and has gained admission to study law at the University of Goodhope. Akweley decides to seek guidance from Francis and Jerry. She visits Francis and Jerry in the apartment where the two friends commonly reside. Jerry has confided in Francis his insatiable affection and love for Akweley, but finds it difficult to approach her; he therefore sees Akweley's visit as a 'golden' opportunity to express his love.

Jerry offers Akweley a glass of wine and starts a chat regarding life in the university. Francis, who is aware of Jerry's intention to ultimately have sex with Akweley but does not approve of Jerry's approach, leaves to do some washing outside. Fascinated by Jerry's gesture, Akweley takes a second glass of wine and has become ecstatic as the alcohol in the wine takes effect. Jerry starts fondling Akweley and proceeds to have sex intercourse with her. Akweley is aware of what Jerry is doing but she does not physically prevent the act because she feels she is having fun.

Francis returns to the apartment after the washing and sees Jerry in the act, but only looks on and resorts to reading of the daily newspapers. Akweley is unhappy about Jerry's conduct and further accuses Francis of condoning the act. Consequently, she has reported to the Police and Jerry and Francis have been arrested.

With the aid of relevant legal authorities, assess the criminal liability, if any, of Jerry and Francis.

[30 marks]

QUESTION 5

Salifu wins a lottery of GHc50,000 and has decided to purchase land and start, in a phased manner, construction of his own house. He approaches Daddy Cash, a prominent real estate dealer, who, apart from dealing in sale of lands, engages in building houses on the basis of outright sale or hire-purchase. Daddy Cash, has promised to help Salifu own a house outright instead of buying a land for future development. As a result, he advises Salifu to deposit the GHc50,000 with him and assures him of a 3-bedroom house in a month's time since the earmarked house is left with painting and electrical fittings for completion.

In order to assure Salifu of the veracity of his claim, Daddy Cash takes him to one of his building sites and shows him a 2-bedroom house. Unknown to Salifu, Daddy Cash has defaulted in meeting his debt/loan owed his bankers, Trinity Bank. As a result, his properties, including the house earmarked for Salifu, have been mortgaged as collateral and have been judicially sold to KTK Ltd. as new owners of the properties. A week after, Daddy Cash closes down his office and leaves for Europe, but continues to be in contact with Salifu through his 'roaming' mobile phone facility. On the due date, Salifu goes to Daddy Cash's office to collect the keys to his 'house', but is shocked to find same closed. Efforts by Salifu to contact Daddy Cash on phone and through his business friends have proved futile.

Faced with difficulties in settling in Europe, Daddy Cash has returned home after 5 years. He is sighted by others from whom he collected various sums of money for similar purposes. A report is made to the police. Salifu has become aware of the arrest and has also lodged a complaint with the police.

With the aid of relevant legal authorities, assess the criminal liability, if any, of Daddy Cash.

[30 marks]

QUESTION 6

Amidu is a qualified electrician having obtained a Higher Certificate in Basic Electricity, Electrical Installation and Wiring in 1998. On 22 March 2007, Amidu installed an electrical cable used in providing temporary lighting for a wake-keeping at Chorkor.

During the wake-keeping, Oscar was electrocuted when he came into contact with the metal post of one of the canopies.

Amidu maintained that he "fixed" everything and tested it to see whether it was in order. An examination of the electrical cables by experts of the Electricity Company of Ghana revealed that "the electrical cables had several portions of the insulation peeled off exposing the inner copper.

This should have informed any qualified electrician that the cable was in an advanced state of deterioration and was therefore unsafe for installation.”

The police are confused about whether to press the charge of murder or manslaughter against Amidu.

Analyse the relevant criminal offences and advise the Police as to which one they should prefer against Amidu.

[30 marks]