

**JOSEPH AYO BABALOLA UNIVERSITY
IKEJI-ARAKEJI
COLLEGE OF LAW
LL.B DEGREE EXAMINATION**

SESSION: 2021/2022

FIRST SEMESTER

COURSE TITLE: LAW OF EVIDENCE I

COURSE CODE: PUL 411

INSTRUCTIONS: Answer four questions, two questions from each section

TIME ALLOWED: 3 Hours

SECTION A

1. Presumptions of Law are divided into two, namely, Irrebuttable Presumptions of Law and Rebuttable Presumptions of Law. Critically examine the Rebuttable Presumptions of Law.
2. Tope, Soji and Sunday were charged with obtaining by false pretence, 100 bags of rice worth N200, 000 property of Sope. When the head of the village of Tope told Tope to confess or he would not make him a Chief in the village and that the god of the village would strike him dead, Tope immediately confessed to him that he committed the offence and that his shares of 40 bags of the rice were in his house. These were later recovered by the Police and are expected to be tendered as exhibits.

Soji was called by his father who told him that he would be tied up until he confessed. Soji ran to his mother and confessed and later ran to a nearby Police Station where he confessed that he committed the offence to a Police officer, Sulaiman, and Hausaman who understands Yoruba. Soji made his statement in Yoruba but it was taken down in English and he was not cautioned.

Sunday, on hearing that others had confessed walked up to a Magistrate and admitted that he was guilty of the crime. This statement was taken down. Two days later, his aunty came from the village not knowing that he had confessed and told him to confess, and that he should remember his dead mother who was very religious. Sunday made another statement admitting that he is guilty.

Examine the admissibility of these facts in evidence.

3. (i) The Evidence Act 2011 spells out persons whose admissions are relevant and admissible. Discuss these categories of persons.
(ii) Dayo, a medical practitioner was charged for administering a poisoned injection which led to the death of Tolu, a 3 year old boy. The prosecution testified that the poisoning resulted from an overdose of the drug used in the injection. The defence of Dayo was that Tolu was peculiarly susceptible to the effect of the drug used and therefore unexpectedly succumbed to a dose which would not have produced any harmful result in the case of a normal child. The prosecution was allowed to call evidence of the symptoms, illness and the death of nine other children who were injected with the same drug at the same time as the deceased by Dayo. With the aid of statutory and judicial authorities, consider the culpability or otherwise of Dayo on the basis of the evidence of the prosecution.

SECTION B

4.
 - a. *"Once a piece of evidence is relevant, it is admissible in evidence irrespective of how it was obtained"* Court of Appeal in *Ogu v. M.T. & M.C.S. Ltd. (2011) 8NWLR (Pt. 1249) 345*. Critically examine the above statement in view of the provisions of the Evidence Act 2011
 - b. Mention and explain two instances of facts which may be relevant on special grounds
5.
 - a. Discuss the doctrine of estoppel per rem judicata and the conditions for its operation.
 - b. At the trial of an action against Badmus for declaration of title to a piece of land at Ibule-soro which held at the Akure High Court, Agbaje the claimant called Cornelius as one of his witnesses. The trial judge gave judgement in favour of the defendant, Badmus and dismissed Agbaje's claim. Cornelius has now filed another suit against Badmus for declaration of title to the same piece of land in respect of which Agbaje's action has been dismissed. Analyse the kind of defence that Badmus should raise against the action of Cornelius and the basis for success of such a defence.
6.
 - a. Daga is charged with the murder of Dunku by striking his head with iron rod which led to Dunku's death. Daga's defence is that he was insane and did not know what he was doing at the time he killed Dunku. Discuss the incidence of burden of proof in the case.
 - b. Explain the principle of severance as it relates to standard of proof and operation of the principle.

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INSTRUCTIONS: ANSWER FOUR QUESTIONS IN ALL, TWO QUESTIONS FROM EACH SECTION

TIME ALLOWED: THREE HOURS

SECTION A – ANSWER TWO QUESTIONS FROM THIS SECTION

1. (a) B claims to be the legitimate son of F who denied B's paternity. M, the mother of B, claimed to have conceived him between August and September 1985. B was born in June 1986. F intends to give evidence that although he is married to M, and lived in the same house with her from April, 1985 to August 1986, he only had intercourse with her once, during which he used contraceptives, and that she had committed adultery with Z who is likely to be the father.

Consider the evidential problems.

(b) Dayo, who owns a civil engineering firm, wrote to Joseph Ayo Babalola University, Ikeji-Arakeji to solicit for patronage. His letter was marked "without prejudice". The particular contract that he was interested in was given to another contractor. Unhappy with this development, Dayo came to you for advice on the ground that based on the negotiations he had with Joseph Ayo Babalola University, Ikeji-Arakeji, he incurred some expenses. He would like you to explain to him the legal consequences of marking a letter "without prejudice". Advise him.

2(a). Bola and Amuda are charged with the murder of the deceased a well-known hunch-backed man in the neighbourhood. They (defendants) were said to have used the deceased's hunch for the preparation of "medicine for money". At the police station, Sule, an angry and fierce looking policeman gave Bola serious beating and Bola immediately made a confessional statement stating his role in the murder. Amuda on his part refused to make any statement until his mother came and pleaded with him to "tell the truth and shame the devil". Again, the village head of Amuda told Amuda to confess, otherwise, the god of their village (Ayelala) would strike him dead within seven (7) days. With these, Amuda immediately confessed to his mother and the village head that he committed the murder alongside with Bola. Both statements were made without any form of caution to them by the police. They were recorded by PW3., Sergeant Jacob and properly signed by the defendants.

During the trial, the defendants alleged that those statements were extracted from them by oppression/threats, in other words, that their statements were not voluntarily made. Discuss the legal issues involved.

(b) Consider the status of a retracted confession.

3. "Facts which are judicially noticed constitute another class of facts which need not be proved by evidence."

Using statutory and judicial authorities, examine facts which the courts must take judicial notice of and facts which the courts may take notice of.

SECTION B – ANSWER TWO QUESTIONS FROM THIS SECTION

4. (a) At the trial of Jumbo for the murder of his brother Jingo in the Manchester High Court, England, one of the witnesses called by the prosecution was Saul, Jingo's uncle who testified to the effect that seven hours after Jingo had been shot by Jumbo, Jingo painfully cried: "*Ah Uncle, Jumbo shot me*". Overruling the objection of defence counsel the court admitted the statement as part of the evidence for Jumbo's conviction. The case is now before the Court of Appeal.

(i) Write a submission for or against the admission by the trial court of Jingo's statement given as evidence by Saul. 6 marks

(ii) Will your argument be the same if case had been tried in a Nigerian Court. 6 marks

(b) Explain circumstantial evidence. 5^{1/2} marks

5. (a) Mosafejo family and Ori-okuta family contested the vacant chieftaincy position of Odofin of Ikeji-Arakeji and took the dispute to the palace of the King, Owa-Arakeji of Ikeji-Arakeji. The Owa-Arakeji-in-Council ruled in favour of Ori-okuta family on the ground that Mosafejo family was not a chieftaincy family. Mosafejo family has now commenced a suit in Ilesa High Court claiming for a declaration of title to a vast expanse of land in Ikeji-Arakeji, on the basis of ownership of the said land as a chieftaincy family. Analyse the legal principles of evidence that will be raised in the determination of the case. 12 marks

(b) Analyse the instances when estoppel may be raised in criminal cases. 5^{1/2} marks

6. (a) Distinguish between the general burden of proof and the evidential burden of proof in judicial proceedings. 9 marks

(b) Explain the rules on standard of proof in criminal cases and allegation of crimes in civil cases. 8^{1/2} marks

JOSEPH AYO BABALOLA UNIVERSITY

IKEJI – ARAKEJI, OSUN STATE

COLLEGE OF LAW

FIRST SEMESTER EXAMINATION, 2023/2024 ACADEMIC SESSION

COURSE TITLE: LAW OF EVIDENCE I

COURSE CODE: PUL 411

INSTRUCTIONS: ANSWER FOUR QUESTIONS IN ALL: TWO QUESTIONS FROM EACH SECTION

TIME ALLOWED: THREE HOURS

SECTION A – ANSWER TWO QUESTIONS FROM THIS SECTION

1 (a) Jerome International Company Limited has filed an action at the Ilesha High Court for the damage done to its fixed telecom mast by earth moving machine on JABU campus.

(i) Describe the type of evidence to be received by the court in relation to the fixed telecom mast. **3^{1/2} marks**

(ii) Analyse the procedure to be adopted by the court to receive the evidence described in (i). **7 marks**

(b) Examine any reference to the doctrine of *Res Gestae* in the provisions of the Nigerian Evidence Act 2011. **7 marks**

Total = 17^{1/2} marks

2 (a) Explain the principle of estoppel by deed. **7^{1/2} marks**

(b) Write a comprehensive note on estoppel by record. **10 marks**

Total = 17^{1/2} marks

3 (a) At the trial in the case of fraud, corrupt enrichment and money laundering filed by EFCC against Ojelu at the Akure High Court, Madarikan the prosecuting counsel, without asking whether money was received, put a question to Kadir, the first prosecution witness, thus: "what happened to the sum 700 million received by the defendant to procure vehicles for the ministry of health"

(i) As the defendant's counsel, what would you do after the above question was asked? Give reasons for your action **4 marks**

(ii) What should the presiding judge do in the circumstance? **2marks**

(iii) Would your answer to (ii) be the same if a similar question by Madarikan was put to the defendant thus: "what happened to the sum of 700 million naira you received to procure vehicles for the ministry of health?" Give reasons for your answer.

4 marks

(b) Discuss the importance of cross-examination in judicial proceedings. **7^{1/2} marks**

Total = 17^{1/2} marks

SECTION B – ANSWER TWO QUESTIONS FROM THIS SECTION

4. Deji Scorpion and Wale Danger were arrested for the offence of rape. During their trial, Scorpion's counsel objected to the admissibility of his statement on the ground that he admitted to the crime because he was tortured. Wale Danger on the other hand told the court that his statement was not admissible because he was not the one that wrote it. While the trial judge admitted Scorpion's statement in evidence contrary to his counsel's objection, he called for a trial within trial to resolve Wale Danger's objection.

Answer the following questions with the aid of statutory and judicial authority

- i. Comment on the decision of the trial judge on Scorpion's confessional statement. **4 marks**
 - ii. Comment on the nature of Wale Danger's objection and the propriety of the decision of the trial judge to conduct a trial within trial to resolve it. **5 ½ marks**
 - iii. On whom lies the burden of proof in a trial within trial? **3 marks**
 - iv. Enumerate the facts that need not to be proved **2 marks**
 - v. In two to four sentences, differentiate between formal and informal admissions **3 marks**
5. Olamide and Tolani conspired to rob Mr. No Mercy of his Mercedes Benz car. Unfortunately, they were both arrested by the patrol police officers during the operation. The Investigating Police Officer (IPO) detailed to obtain Tolani's statement does not understand Yoruba while Tolani does not speak English. An interpreter was engaged to act between Tolani and the IPO by interpreting from Tolani's language to the IPO who would write the statement in English. During trial, the prosecution tendered Tolani's statement without calling on the interpreter to testify on the statement. Also, Tolani confessed in the presence of Olamide in the open court that herself and Olamide attempted to rob Mr. No Mercy. The trial court convicted the defendants on the sole confession of Tolani.
- i. What is the relevance of Tolani's confessional statement to Olamide's conviction? **7 marks**
 - ii. Comment on the failure of the prosecution to call the interpreter to testify during trial? **4 ½ marks**
 - iii. Can a voluntary confessional statement of Tolani, without any corroborative evidence sustain a conviction against her? **3 marks**
 - iv. What is the standard of proof require of the prosecution? **2 marks**
 - v. Would your answer in "iv" above have been the same assuming it was a civil matter? **2 marks**