

# INDEPENDENT EXAMINATIONS BOARD

## GHANA SCHOOL OF LAW

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POST CALL EXAMINATION, ACADEMIC YEAR 2016/2017

### CRIMINAL PROCEDURE

DATE: TUESDAY 27 JUNE, 2017

TIME: 10.00AM - 1.00PM; TIME ALLOWED: THREE (3) HOURS

#### INSTRUCTIONS TO CANDIDATES

Read these instructions very carefully before writing down your answers:

1. Answer Question One (1) and any other three (3) Questions.
  2. Answer All Four (4) Questions in the Answer Booklet
  3. Please indicate your Index Number Only on the Answer Booklet
  4. Do NOT Write or Sign Your Name anywhere on the Answer Booklet
  5. Credit will be given for legible handwriting, clarity of expression and orderly presentation of answers.
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#### Question 1.

GLOBAL AID is an NGO based in Elmina in the Central Region. Edmund Kwao is the Head of the said NGO. Theodore Opuni is the Accountant. The Cashier is Gershon Oku. Mawusi Sewoe and Esinam Gakpo are both Field Assistants working with the NGO whose duty it is to collect data from identifiable persons in the local fishing community. The fishermen that are identified are provided with periodical financial and material support.

On 9<sup>th</sup> December, 2016 at Elmina, Percy Kubi who is a seamstress and a friend of Esinam Gakpo advised her to add fictitious names to the list being compiled

by her for the NGO in order to make extra money. Esinam Gakpo on that same day informed Mawusi Sewoe about the advice and both of them agreed to alter fifty of the actual names collected. The two on 10<sup>th</sup> December, 2016 altered the list by adding 50 (fifty) fictitious names. The total list stood at 100 (one hundred).

On 11<sup>th</sup> December 2016, Esinam Gakpo informed the Cashier and the Accountant about what they had done. The Cashier and the Accountant are the two responsible for the actual payment of the monies to the beneficiaries. Each beneficiary was to be given GH¢2,000.00 (Two Thousand Ghana Cedis). The Accountant initially refused to consent to the illegal act but was encouraged by the Cashier and he finally gave in. The four agreed to take the money earmarked for the fictitious names to share among themselves.

On 12<sup>th</sup> December, 2016, the Cashier agreed with Esinam Gakpo that the services of one Ebow Sarbah, a private printer, should be engaged to forge identity cards to use in supporting the fictitious registered names. That same day the cashier contacted Ebow Sarbah and instructed him to forge 50 I.D. cards with fake pictures generated from the internet. Ebow Sarbah did exactly as instructed and cleverly inserted them on the list of the NGO. The money was disbursed to the fishermen on 14<sup>th</sup> December, 2016 and on that same day, the Cashier gave Ebow Sarbah the cash sum of GH¢2,000.00 (Two Thousand Ghana Cedis) and in addition bought him a brand new Samsung Smart Television. The remaining money was shared on that very day by the Cashier, Accountant and the two Field Assistants.

On the 14<sup>th</sup> January 2017, the two Field Assistants were tasked to inspect the outboard motor fishing machines of the fishermen to enable the NGO provide those to be identified with financial assistance to buy new ones. One beneficiary was GH¢10,000.00 (Ten Thousand Ghana Cedis). The Cashier instructed Esinam Gakpo to add ten (ten) fictitious names to list of the intended beneficiaries. Esinam Gakpo agreed with her colleague Mawusi Sewoe to do as instructed and they did exactly that by adding ten (10) fictitious names, making the total list to be forty (40). The next day, the cashier agreed with the Accountant to once again forge I.D. cards to cover at ten (10) fictitious names. The Cashier accordingly invited Ebow Sarbah on the 18<sup>th</sup> January 2017 and instructed him as planned. However, while Ebow Sarbah was in the process of

forging the ID cards, he was caught in the act by the audit team of GLOBAL AID.

Proffer appropriate charges against all the culprits for prosecution before the appropriate court. The charges should **not be more than thirteen (13)** counts.

[25 marks]

### Question 2

Narrate the stages of committal proceedings before the District Court and the use of the Statutory Statement at the trial court.

[25 marks]

### Question 3

Write short notes on any of the following:

- (a) What is the effect of an unsworn statement given by an accused person from the dock after being called upon by the Court to open his defence? [4 marks]
- (b) The meaning and scope of particulars of offence in a Charge Sheet or Bill of Indictment. [5 marks]
- (c) Appeals from a conviction based on a **plea of guilty**. [4 marks]
- (d) The role of the complainant in a criminal case. [4 marks]
- (e) Under what circumstance will a retrial be ordered by an appellate criminal court. [4 marks]
- (f) The need for the prosecution to call all material witnesses. [4 marks]

[Total marks 25]

### Question 4

Fiifi Eshun, aged 37, is charged with the offence of Harboring of persons committing terrorism acts under section 12 of the Anti-Terrorism Act (Act 762) of 2008.

- i. In not more than one sentence, state the mode of trial.
- ii. Carefully narrate the procedure that follows after Fiifi Eshun refuses to plead to the charge till he is convicted and sentenced.

[25 marks]

### **Question 5**

Abbey Lamptey, an apprentice tailor aged 17, was on 6<sup>th</sup> June, 2016 tried and convicted by the Circuit Court, Tema for defiling Ama Biney, a girl aged 17 and sentenced to 30 years I.H.L. by the Presiding Judge, Her Honour Ms. Sika Nyantey.

Draft an appropriate petition of appeal and an application for bail pending appeal based upon the facts narrated in the episode.

**[25 marks]**

### **Question 6**

Enumerate twelve differences between trial by jury and trial with the aid of assessors in Ghana. State what court/s may employ these modes of trial.

**[25 marks]**