

THE BOARD OF LEGAL EDUCATION
GHANA SCHOOL OF LAW

PROFESSIONAL LAW, PART ONE

2007 2008

LAW OF EVIDENCE

THURSDAY, JUNE 14TH, 2007

TIME ALLOWED: THREE HOURS - 9:30a.m TO 12:30p.m.

INSTRUCTIONS TO CANDIDATES

1. Please read these instructions very carefully before beginning your answers.
2. Answer Any Four (4) Questions
3. Credit will be given to legible handwriting, clarity of expression and orderly presentation of material.
4. Do not write your name on your answer booklet, but do put your seat number
5. Adhere strictly to the instructions on the front cover of your Answer Booklet.

QUESTION 1

The Adenta Police suspected that Akwei and Martey were dealing in drugs. Without a warrant they broke into a house occupied by the two men solely in order to look for evidence while Akwei and Martey were away. The police discovered a quantity of cocaine in their room. As a result of their discovery, Akwei and Martey were arrested several days later and taken to the police station for questioning. The two have denied ownership of the substance. The police placed them together in a cell in which a listening device had been secretly installed which recorded their conversation. At one stage, Akwei was overheard saying to Martey: 'One thing's for sure, they can never prove we didn't have the stuff for our own use'. Martey replied: "I wish I'd made as much out of it as you. I'd be in Paris by now". They then heard the sound of two men laughing in front of the cells. Nothing further of significance was overheard.

As Counsel for the two accused, advice them on the admissibility or otherwise of the recording evidence.

QUESTION 2

At the end of the prosecution's case in the trial of Abele for rape, defence counsel Djokoto made a submission of 'no case'. In dismissing the application, Jamal J among others said:

"Counsel is inviting this court to dismiss the charges against the accused on the grounds that the prosecution has failed to prove the case beyond all reasonable doubt and that the evidence against the accused was but circumstantial. But what evidence has the accused at this stage adduced before me to persuade me that he did not commit the offence. It is trite learning that where the prosecution succeeds in creating a reasonable doubt in the mind of the court that the accused committed the offence, the court then can convict in the absence of persuasive evidence to the contrary".

Identify and discuss the appropriate rules of evidence raised in Jamal J's ruling

QUESTION 3

In a trial for murder, Counsel objected to the admissibility into evidence of the potency of the talisman of the prisoner on the sole ground that the evidence was irrelevant to the offence charged. Ruling on the application, Filson J stated as follows:

"Counsel's application is misconceived and misplaced. The admissibility or otherwise of evidence in any trial is in the bosom of the judge. Notwithstanding anything to the contrary, the law in Ghana is clear that a court should apply the provisions of the Evidence Decree in as much as to secure fair trial. If fair trial demands, then the court holds that even irrelevant evidence could be admitted".

With reference to relevant statutory provisions and case law, comment on the statement by Filson J.

QUESTION 4

Ojojo, a native of Sirigu is charged with the murder of Dornipea. The prosecution admitted that there was no eye-witness to the murder but rather offered the following evidence in support of conviction:

That the accused and the deceased lived close by; that the accused suspects the deceased flirting with his wife; that the accused on several occasions have reported the deceased to the chief of Sirigu threatening of a dire consequence if the deceased persisted in his diabolic acts; that a day before the murder the accused threatened the