

BOWEN UNIVERSITY, IWO, OSUN STATE

COLLEGE OF LAW

SECOND SEMESTER EXAMINATION, 2023/2024 SESSION

COURSE CODE: PIL 406

COURSE TITLE: LAW OF EVIDENCE II .

INSTRUCTION(S): Answer two (2) questions from Section A and two (2) questions from Section B. Each question carries 17 ½

TIME ALLOWED: Three (3) hours

SECTION A

1. (a) Write short but reasonable notes with the aid of judicial and statutory authorities on the following:
- i. Examination-in-Chief;
 - ii. Cross Examination;
 - iii. Hostile Witness; and
 - iv. Re-examination

- (b) The following are paragraphs in an affidavit in support of a motion for extension of time to file a statement of defence.

- i. That it is trite law that right to fair hearing must not be fettered; and
- ii. That I was told that refusal to grant this application will be against the interest of justice.

With your knowledge of the rules regulating the drafting of affidavit, comment on the above.

2. On the 20th of March, 2023, Nwokwocha reported the theft of 25 bags of Dangote Cement at his construction site to the Police at Area K Police Station. Few days later, Akamu attended church service at Bowen University Chapel, Iwo where he surrendered his life to Jesus Christ after the preaching of the Chaplain. Akamu went to the Chaplain and confessed to have stolen the 25 bags of cements. He was arrested few days later, and he disclosed that he confessed the theft to the Chaplain. During Akamu's trial, however, the Chaplain testified that his confidential conversation with Akamu must remain confidential.
- Hungbeji Esther entered into a contract to supply military apparels to the Nigerian Army for the sum of ₦ 5,000,000. Despite her fulfillment of her obligation under the contract, the Nigerian Army has failed and refused to pay her. As a result, she took out a writ of summons at the High Court of Justice, Iwo. While her counsel led her in evidence to tender a document that was given

to her by the Army, showing the numbers of army personnel at the cantonment where the supply was done, the defendant (Army) objected to the tendering and admission of the document.

With the aid of statutory and judicial authorities, advise on all the legal issues involved.

3. Mr. Nika Ojogbon entered into a contract with Hunsui Kartel for the sale of cement to be imported from Hong Kong. Hunsui Kartel imported the cement after payment. The cement arrived Nigeria and Mr. Nika Ojogbon alleged that it is not of the quality he ordered for, which he saw on the website of Hunsui Kartel. He has sued Hunsui Kartel at the High Court of Justice, Oyo State, Ibadan, for specific performance. During the trial, through his counsel, he sought to tender the electronic receipt of the online payment he made. The counsel to Hunsui Kartel objected to the admissibility of the document, arguing that it failed to comply with the requirements of the law.

With your knowledge of admissibility of various types of evidence under the Evidence Act 2011, identify and address the possible grounds of objection.

SECTION B

4. (a) In an arson trial conducted by Justice Joe Papanjo on the 31st day of December, 2019, Saheed Akanmu, who was born on the 31st day of December, 2008, gave evidence against the accused person, Kayowa Afilejona. The learned trial judge convicted the accused person solely on the evidence of Saheed Akanmu.
- (b) Omoga Adis, an insane person in Aarewa Area of Lagos State, gave strong evidence against Mike Okahe in the latter's trial for an act of treason committed against the President of the Federal Republic of Nigeria, Oba Hammed. Mike Okahe was convicted accordingly.
- (c) Pa Chukwu Ogbuagu, a nonagenarian, testified in court against his daughter's fiancé in a suit for breach of promise of marriage filed by the daughter, Agnes Ogbuagu. The court awarded damages against the fiancé based on the nonagenarian's evidence.
- (d) Ade Ajanaku and Bade Alao were both charged for exceeding speed limit. The court relied on the evidence of Ade Ajanaku in convicting his co-accused person, Bade Ajao.

The aggrieved parties in the hypothetical cases above have filed appeals on the grounds of competency and corroboration of the evidence of each of the witnesses in the cases. With the aid of relevant statutory and judicial authorities, discuss the prospects or otherwise of their respective appeals.

5. (a) Is it correct to assert that burden of proof is not distinguishable from standard of proof?
- (b) The general principle is that the burden of proof in criminal cases always lies on the prosecution and never shifts under any circumstance(s) whatsoever. To what extent is this statement correct?

- (c) Explain briefly the factors that could affect the incidence of burden of proof in civil matters.
6. (a) Identify any two factors that could lead to wrongful admission or rejection of evidence.
- (b) Discuss briefly the legal consequences of wrongful admission of inadmissible evidence and wrongful rejection of admissible evidence.
- (c) Sgt. Ayuba Chris tendered a cutlass recovered from the scene of a murder incident involving Liadi Aguno at the latter's trial before Justice Innocent Sam. The court convicted the accused person accordingly and sentenced him to death. The defence counsel raised the issue of search warrant before the Court of Appeal. The Court of Appeal held that the cutlass was admitted properly without any search warrant since the search warrant was a condition only, and its absence was not fatal to the issue of admissibility. The defence counsel is prepared to file an appeal at the Supreme Court against the decision on admissibility. Advise the defence counsel.