

BOWEN UNIVERSITY, IWO, OSUN STATE

FACULTY OF LAW

SECOND SEMESTER EXAMINATIONS, 2022/2023 SESSION

LAW OF EVIDENCE 2: PIL 406

JUNE, 2023

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

PIL 406 LAW OF EVIDENCE

1. Natty and Betty got married in 2008 in Iwo, Osun State. The marriage is blessed with two children, Yemi and Tosin. Following a domestic dispute, Natty beat up Betty and injured her in her right eye. Not satisfied with that, Natty held Betty by the hair and dragged her on the concrete floor of their compound, further inflicting grievous injuries on her. She was rescued by neighbours and taken to the hospital. As a result of excessive bleeding, Betty died two days later in hospital. Natty was arrested and charged to court with murder. Answer the following questions.
 - a) Lagbaja, one of the neighbours that rescued Betty, had earlier recorded a video clip of the beating in his Galaxy Note 10 smart phone. The prosecution intends to rely on the video clip in evidence at the trial. How will the prosecution ensure that the video clip is admissible in evidence?
 - b) Yemi, the older son of the couple, aged 13, witnessed the fight and is to testify in court for the prosecution too. Is he competent to testify? If yes, what procedure will be adopted to render his evidence admissible?
 - c) During cross-examination at the trial, Natty's counsel asked a prosecution witness, "Betty attacked Natty, first. Isn't it?" The prosecution counsel objected to this question for being a leading question. If you were Natty's counsel, how would respond to the objection?
 - d) Otunba Balablu, the governor of the State and Betty's paternal uncle, has witnessed how violent Natty could be when provoked. Prosecution counsel has applied to court to issue a witness summons for Otunba Balablu to come and give evidence of such propensity. Examine the legal implication of this application by the prosecution.

- e) The death certificate issued by the Government Teaching Hospital, where Betty died, has been misplaced by the police investigating officer. Can a photocopy from the hospital be tendered in evidence?
2. a) Distinguish between competence and compellability of witnesses in evidence.
b) Discuss five circumstances where a witness is not compellable.
 3. a) Analyze the phrase, "laying proper foundation", in the tendering of evidence.
b) Discuss the objectives of examination-in-chief, cross-examination and re-examination.

SECTION B

4. (a) Is it correct to affirmatively 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) Briefly explain the factors that can affect the incidence of burden of proof in civil matters.
5. (a) Identify any two factors that can lead to wrongful admission or rejection of evidence.

(b) Briefly discuss the legal consequences of the wrongful admission of inadmissible evidence and the 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 accused person was convicted and accordingly sentenced 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 properly admitted without any search warrant since the search warrant was only a condition, 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.**
6. (a) Critically examine any three key factors that determine the corroborative value of evidence, justifying in the process the dichotomy between corroboration as a matter of law and corroboration as a matter of practice.
(b) Briefly comment on the main exceptions to the general rule on opinion evidence.