



جامعة السلطان الشريف علي الإسلامية
UNIVERSITI ISLAM SULTAN SHARIF ALI
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

Faculty of Shariah and Law
Semester II, 2020/2021 Academic Session

Final Examination Question Paper

Course Code : LB4304
Course Name : Criminal Procedure II
Course Level : Bachelor of Laws (LL.B) & Bachelor of
Shariah Law (BSL)
Time : 3 hours

Reference allowed:
Criminal Procedure Code 1951 (Cap. 7)

Instructions:

1. Answer any four of the following questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

QUESTION 1 (15 Marks)

Andy anak Gading, a 37 year old man of Iban race has been charged in court for theft under Sec 379 of the Penal Code. When the charge was read to him, Andy anak Gading informed the court that he understood the charge and penalty read to him. Andy anak Gading then pleaded to the charge against him accordingly. He was then duly sentenced to \$2,000 fine in default of 2 months imprisonment.

Andy anak Gading is now dissatisfied with the outcome and intends to appeal. He is claiming that he did not understand the charge read to him as it was not read to him in the Iban language. He also claims that he misunderstood the consequences of pleading guilty to the charge.

The Courts Notes of Proceedings was duly given to both parties for the preparation of the appeal. The Notes states that the court had adhered to Sec 175 of the CPC whereby the accused understood the charge and penalty read to him and understands the consequences of pleading guilty.

As the DPP, lay out your arguments in reply to the arguments stated by Andy anak Gading. Provide relevant provisions and case law in support of your answer.

QUESTION 2 (15 Marks)

Judgment after trial has just been delivered onto Mr Haikal who has committed an offence of rape. Mr Haikal has been convicted and sentenced to 3 years imprisonment. He is dissatisfied with the outcome and wishes to appeal.

- 1) What types of appeal are available to the accused? (5 Marks)
- 2) Upon appealing to the High Court and was unsuccessful, what other options is available to the accused? (5 Marks)
- 3) In delivering judgment of appeal what must the court ensure before any alteration is made onto the order by the lower courts. State your answer with case law by explaining the judgment of the case law. (5 Marks)

Support your answer with relevant provisions and case law.

QUESTION 3 (15 Marks)

Mohd Sadik was charged for an offence of causing grievous hurt under section 325 of the Penal Code. Mohd Sadik claimed trial. Before prima facie stage, the Prosecution amended the particulars of the charge against Mohd Sadik. After completion of trial, the court found Mohd Sadik guilty and sentenced him to 2 years imprisonment.

- (a) Consider the principles surrounding the amending of a charge against an accused. (7.5 Marks)
- (b) In sentencing an accused person, the court is guided by certain considerations. What are the considerations guiding the court in sentencing starting with the foremost consideration. (7.5 Marks)

Support your answer with relevant provisions and case law.

QUESTION 4 (15 Marks)

Describe the process of a trial when the accused pleads not guilty. You may draw up a flow chart in stating your answer. Support your answer with relevant sections of the Brunei Criminal Procedure Code and case law.

QUESTION 5 (15 Marks)

Alex was found guilty of an offence and after hearing mitigation, the Judge sentenced Alex to five years imprisonment. 2 months after being sentenced, he now decides to appeal. Alex claims that he was saving up money to pay for filing fees. In his notice, Alex states that he wishes to appeal against his sentence as it is manifestly high. He also states that the sentence will cause hardship to him and his family and therefore prays for it to be reduced.

- a) As a DPP, how would you argue on the issue of filing the appeal 2 months after sentence. (7.5 Marks)

- b) How would you argue on the issue of hardship raised by Alex in his Notice of Appeal. (7.5 Marks)

Support your answer with relevant provisions and case law.

QUESTION 6 (15 Marks)

Upon a tip off received through an informer, Akmal was arrested by officers of the Narcotics Control Bureau at his premises. He was alone at the said premises which belongs to him. At the premise, the officers also found, some crystalline substances, plastic sheets, a weighing scale, some pipes, syringes, white powder, a huge amount of cash, and a list of names.

- 1) Explain the powers the Narcotics Control Bureau has in arresting Akmal. (5 Marks)
- 2) Looking at the scenario, and as an Investigation officer, what investigation would you advise to conduct first and foremost? (5 Marks)
- 3) Looking at the scenario, what possible charges can Akmal be faced with? (5 Marks)

بالتوفيق والنجاح