JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

SCHOOL OF INFORMATICS AND INNOVATIVE SYSTEMS

UNIVERSITY EXAMINATION FOR THE DEGREE OF BSC IN COMPUTER SECURITY AND FORENSIC

3RD YEAR 1ST SEMESTER 2018/ 2019 ACADEMIC YEAR

MAIN CAMPUS

COURSE CODE: BLB 3216

COURSE TITLE: LAW OF EVIDENCE

EXAM VENUE:

DATE: STREAM: BSC FORENSICS

TIME: 2 HOURS   EXAM SESSION:

INSTRUCTIONS

1. **Answer Question 1 and any other TWO questions.**
2. **Support each of your answers with relevant case law, statutory provisions and/or any other relevant authorities**
3. **Marks may be lost for illegibility, prevarication or vagueness**
4. **Your answer sheet must bear your Student Registration Number**

QUESTION ONE 30 MARKS

(a)"A, who witnessed an act of dangerous driving, some weeks later said to B that the car in question was blue and at the same time made a written note to the same effect. B reported to C what A had said to him. If A is subsequently called as a witness in proceedings concerned with the incident in question, he may of course make a statement from the witness box in the course of giving his evidence to the effect that the colour of the car he saw was blue. Evidence may not be given, however, by A, B, or C of the oral statement made by A out of court. Likewise, the written statement made by A is inadmissible. If A were to give evidence that the car in question was blue, and it were suggested to him in cross-examination that his evidence had been recently fabricated, his former out-of-court statements would be admissible, but not as evidence that the car was in fact blue. If A were to give evidence that the car in question was red, and under cross-examination about his previous out-of-court statements were to deny having made them, they could be proved against him, again not as evidence that the car was in fact blue."_____ANONYMOUS

Discuss the legal position.   **(20 Marks)**

(b)Digital evidence can be very fragile, and inherently has several challenges unlike evidence encountered during traditional investigations. Discuss.   **(5 Marks)**

(c)Why is it prudent to regulate social media?   **(5 Marks)**

QUESTION TWO 20 MARKS

(a) The principles governing admissibility of illegally obtained evidence are based on two Conflicting policy objectives. Discuss.   **(10 Marks)**

(b) There are three approaches to solving these conflicting policy objectives. Explain.
        (10 Marks)

QUESTION THREE 20 MARKS

"The modern law of competence and compellability of witnesses may be stated in two general rules. The first is that any person is a competent witness in any legal proceedings. The second is that all competent wit nesses are compellable. At common law, there were numerous exceptions to these two general rules. The exceptions have been slowly whittled down by judicial and statutory reforms over the last two centuries, but some of them still persist to the present day."__Anonymous.

        Discuss   **(20 Marks)**

QUESTION FOUR 20 MARKS

"The main general rule governing the entire subject [of Evidence Law] is that all evidence that is sufficiently relevant to an issue before the court is admissible and that all that is irrelevant, or

insufficiently relevant, should be excluded…The general rule that all relevant evidence is admissible is subject to numerous exceptions because 'our law…undoubtedly excludes evidence of many matters which anyone in his own daily affairs of moment would regard as important in coming to a decision.'"___ Taper, C. (2010) Cross & Tapper on Evidence, 12th Edition, Oxford University Press, New York, at pp.64-66.

Discuss any four of the "numerous exceptions" alluded to by the eminent author.

(20 Marks).

QUESTION FIVE 20 MARKS

Write short notes on the following**:**   **(20 Marks).**

(a)Burden of proof

(b) Standard of proof

(c) Judicial Notice

(d) Presumptions