

# ADVOCATES' EXAMINATION

PAPER 3  
CRIMINAL PROCEDURE  
Regulations 7(9)(e)

7 APRIL 2022

09:00-10:15

Total: [50]

***Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 1 hour then follows.***

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Please write only in pen on the right-hand pages, the left side (underside) must only be used for your own notes.
4. Except if a special reason exists, a candidate will not be required to do an oral if 50% or more is attained. If a candidate achieves a score from 40% and below 50% he/she will be required to do an oral. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.
5. Admission papers 1 to 4 have orals for candidates who achieve a score from 40% and below 50%.
6. The legal writing and drafting paper (Paper 5) does not have any orals, candidates must achieve a minimum score of 50% to pass this paper.

**Criminal procedure  
Regulation 7(9)(e)**

7 April 2022

**Read all the text below and answer all the relevant questions  
[TOTAL MARKS 50]**

1. In what circumstances can an accused admit guilt and pay a fine without appearing in court? [2]
2. After the accused has pleaded **not guilty**, the State is unable to proceed with the case against the accused. What do you do now? [3]
3. Your attorney instructs you to defend an accused on a charge of fraud. In the consultation with your attorney and the accused, the accused admits that he committed the fraud. He explains that he needed money to pay for his daughter's university fees which are very expensive. Then he tells both of you that he wants to plead **not guilty**. He says he cannot afford to plead guilty. Not only will he be dismissed from his employment, but he will also be unable to assist his daughter in the future.

“Please good lawyers, I need to plead not guilty. Help me, I beg you.”  
Your attorney is flabbergasted, crestfallen and glum.

What advice do you give to the client (and your attorney) in the circumstances? [5]

4. Your attorney instructs you about a client, Sandra Sidumo, who killed her father, Glen Sidumo. Her father was suffering from stomach cancer and was in catastrophic pain. Your client, Sandra, is a medical doctor. Her father had begged her to kill him. She used an overdose of morphine to kill him. He died without further pain. Sandra accepts that euthanasia (*assisted suicide* is the modern euphemism) is not yet legal in South Africa. Sandra wants to plead guilty to murder but wants to ask the court to be lenient on her sentence.

Draft a **section 112 plea of guilty** in terms of the Criminal Procedure Act 51 of 1977. Even though it is a plea of guilty, you must draft the plea in a manner that makes your client look like a compassionate person who had no other alternative. Yet she accepts that under the current law what she did amounts to murder. [15]

5. A trial court finds that the State has delayed too long in prosecuting its case against the accused. What orders can the trial court make pursuant to its finding that the delay in the prosecution was unreasonable? [5]
6. Your client is convicted and sentenced in the Magistrate's court. You apply for leave to appeal, but leave is refused. Explain briefly what steps you would take to obtain an order enabling the accused to appeal the judgment of the magistrate? [5]

7. The State has obtained relevant evidence against your client by way of illegal, unauthorised surveillance. Your client is accused of being one of twelve masterminds in the July 2021 riots that rocked large parts of KwaZulu-Natal and some parts of Gauteng. How do you mount a defence for your client against illegally obtained evidence which is relevant and, if admitted, will result in a conviction of treason against your client? [15]

**TOTAL: 50 marks**

**FINAL EXAM INSTRUCTION TO CONSIDER:**

Marks are not awarded in accordance with the length of your answer but in accordance with the insight you demonstrate in your answer.

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- THE END -

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