

NLS BAR FINALS · REVISION SERIES

MIDE'S GUIDE TO CRIMINAL LITIGATION

Arrest · Charges · Trial · Bail · Evidence · Appeals

A revision guide by Mide **Alabi Esq.**

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Compiled for students of the Nigerian Law School. For educational purposes only. Not a substitute for official study materials. In any conflict between this guide and official materials, official materials prevail.

How to Use This Guide

Criminal Litigation is the most procedural paper in the Bar Finals. The examiner rewards candidates who know the correct sequence, the correct jurisdiction-specific rule, and the correct document format — not just general awareness of the law.

Every Criminal Litigation question has a diagnostic moment: What is the nature of the offence? What stage of trial are we at? What is the location? Answer those three and the rest follows — which court, which procedure, which document, which party bears which burden.

The three variables that change everything in this paper: (1) Nature of offence — federal or state, capital or felony or simple. (2) Stage — pre-trial, trial, or post-trial. (3) Location — Lagos, Kano, or Abuja. Check all three before writing a single answer.

—a

THE MASTER DIAGNOSTIC MAP

Three Questions. Answer These First. Every Time.

Before writing any Criminal Litigation answer, work through this map in sequence. Get the nature of offence wrong and you will cite the wrong court. Get the stage wrong and you will describe procedures that do not yet apply. Get the location wrong and every jurisdiction-specific rule you cite will be incorrect.

Nature of Offence	Stage of Trial	Location
Federal — enacted by National Assembly; tried at Federal High Court State — enacted by State House of Assembly; tried at State High Court Concurrent — armed robbery, unlawful possession of firearms: both FHC and SHC	Pre-trial — suspect not yet arraigned. Issues: arrest, search, bail, charges, alibi, confessional statement Trial — accused in court. Issues: arraignment, pleas, bail, prosecution case, defence case, final address, judgment Post-trial — court is functus officio. Issues: bail pending appeal, appeals	Lagos — uses ACJL Lagos 2021 Kano — uses ACJL Kano 2019 Abuja/FCT — uses ACJA 2015 Each jurisdiction has specific rules on summons timing, charge type, bail conditions, and probate timeframes

Offence Category	Bail Position
Capital offence (death penalty) — murder, treason, armed robbery	Magistrate court: NO jurisdiction to grant bail. High Court: can grant bail. Kano & Abuja: only in exceptional circumstances (illness; investigation delayed $\geq$ 1 year; other exceptional circumstance)
Felony (3 years to life imprisonment)	Magistrate court and High Court: can grant bail. Kano & Abuja: only if applicant will not jump bail, commit another offence, or interfere with investigation
Simple offence (less than 3 years)	Bail is automatic. Both magistrate court and High Court can grant

CHAPTER 1

OVERVIEW

*Nature of Offence · Stages · Courts · Regulatory Laws***Appeared in Bar Finals:** 2009 – 2024 (every sitting)

Every Criminal Litigation question is organised around three variables: the nature of the offence, the stage of trial, and the location. The examiner tests these not as abstract knowledge but as applied diagnostics — the scenario will tell you which court and which procedure applies only if you run the right analysis.

Federal vs State Offences

Federal Offences (National Assembly)	State Offences (State House of Assembly)
Tried at Federal High Court Examples: Treason · Drug offences · Unlawful possession of firearms & explosives · Highway offences · Armed robbery · Pipeline vandalism · Money laundering · Fake passport/currency · Human trafficking · NAFDAC & Customs offences (s.251 CFRN)	Tried at State High Court Examples: Murder (culpable homicide punishable with death) · Manslaughter · Kidnapping · Rape · Robbery · Armed robbery · Theft/stealing · Arson
Concurrent jurisdiction (both FHC and SHC): (1) Unlawful possession of firearms (2) Armed robbery	

Regulatory Laws

Class	Laws	Scope
Principal Enactment	ACJA 2015 (Abuja/FCT & Federal Courts) ACJL Lagos 2021 ACJL Kano 2019	Regulate criminal procedure solely
Secondary Enactment	Constitution of the FRN (as amended) Penal Code Criminal Code Police Act Evidence Act	Regulate broadly but apply to criminal procedure
Tertiary Enactment	English received laws	Applied only where there is a lacuna

Courts with Criminal Jurisdiction

Court of General Jurisdiction	Court of Special Jurisdiction
Courts that can try ALL offences and offenders. Original jurisdiction (first instance): Magistrate Court · Area Court · Sharia Court · State High Court · High Court of FCT · Federal High Court Appellate jurisdiction: State High Court / High Court of FCT ·	Courts that cannot try all offences — limited to specific categories: Juvenile Court — children (7–13) and young persons (14–17) Coroner's Court — inquests into public deaths Court Martial — armed forces personnel and those who resign/retire within

Court of Appeal · Supreme Court Note: State High Court and High Court of FCT have BOTH original and appellate jurisdiction

3 months International Criminal Court National Industrial Court — labour and employment offences

Magistrate Court — Key Rules

For Bar Finals purposes, the Magistrate Court applies strictly to Lagos State. It can try criminal offences with punishments not exceeding 14 years. Appeals from the Magistrate Court lie to the State High Court.

Area Court: Established in the Northern states. Can try any person of African descent and foreigners with their consent. Area Court law prohibits counsel from appearing — but this is unconstitutional to the extent it conflicts with s.36(6) CFRN (right to counsel). Appeals: Area Court → Upper Area Court → State High Court.

State High Court: Duly constituted by 1 judge. In Northern Nigeria in appellate jurisdiction: at least 2 judges.

THE THING MOST CANDIDATES MISS

In the Northern states, when the State High Court sits in APPELLATE jurisdiction, it must be constituted by AT LEAST 2 JUDGES. In original jurisdiction anywhere, it is constituted by 1 judge. Candidates confuse these.

Juvenile Court

Feature	Rule
Child	Ages 7–13
Young person	Ages 14–17
Not tried in Juvenile Court where	(1) Capital offence committed — s.8(2) Children & Young Persons Law (2) Jointly committed offence with an adult — s.6(2) Children & Young Persons Law
Age determination conflict	Medical report prevails over birth certificate, parental testimony, affidavit, and physical appearance
Features	Not open to public · Identity subject to leave of court · Parents/guardians must be present unless young person lives alone · Terms 'conviction' and 'sentencing' are not used
Decisions	Probation · Corporal punishment · Approved government institution
Appeal	Juvenile Court → State High Court

Court Martial

Tries persons within service law: Army, Navy, Airforce, and those who resign or retire within 3 months. Two types: General Court Martial (serious offences — can pronounce death penalty, constituted by at

least 7 members for death penalty) and Special Court Martial (simple offences — maximum 1 year imprisonment, at least 2 members).

Rule	General Court Martial	Special Court Martial
Offences tried	Serious offences	Simple offences
Maximum penalty	Death penalty (with ≥7 members)	1 year imprisonment
Composition	President + ≥4 members + awaiting member + Judge Advocate + Liaison Officer	President + ≥2 members + awaiting member + Judge Advocate + Liaison Officer
Quorum	President + ≥2 members + awaiting member (Judge Advocate and Liaison Officer do not count toward quorum)	Same principle
Voting	Equal votes = discharge. Death penalty requires unanimous vote of ALL members	Majority vote
Appeal	Court of Appeal within 40 days (with leave). Death penalty: within 10 days as of right	Same

■ THE THING MOST CANDIDATES MISS

A person tried by Court Martial CAN still be tried by a State High Court for the same offence. The reverse is NOT true — once tried by the High Court, the Court Martial cannot retry. Nolle prosequi does NOT apply in Court Martial proceedings.

CHAPTER 2

ARREST

Summons · Warrant of Arrest · Arrest Without Warrant · Constitutional Safeguards

Appeared in Bar Finals: 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024

Arrest is the mode of bringing a suspect to the police station. In Lagos, Kano and Abuja, arrest in lieu is prohibited. Exception: in Lagos, a surety can be arrested in place of a suspect. The suspect is not yet the 'accused' or 'defendant' at this stage — they are the 'SUSPECT'.

Three Modes of Arrest

Mode	Summons	Warrant of Arrest
When issued	Simple offences and misdemeanours (traffic offences, bye-law disobedience)	Serious offences; where law provides; where summons disobeyed
Form	In writing; in duplicate copies	In writing; issued on oath
Who issues	Magistrate or Judge (Lagos, Kano, Abuja)	Magistrate or Judge (Lagos, Kano, Abuja). Note: superior police officer can NO LONGER issue search warrant — s.48 Police Act 2020
Lagos timing	Monday–Saturday, 8am–6pm. Issued outside timeframe: takes effect next working day (not nullified)	Any day, any time
Kano & Abuja timing	Any day, any time	Any day, any time
Disobedience	Lagos, Kano, Abuja: court issues warrant of arrest	Kano & Abuja: public summons issued. Lagos: bench warrant issued
Execution location	Served personally; substituted service requires leave of court	Executed anywhere, any time. Exception: Kano/Abuja — not while court is in session; Lagos — not on court premises; legislative house precincts — never
Life span	Valid until executed or cancelled. Death/retirement/resignation of issuing authority: no effect	Same. Once executed, expires — cannot be used again for same person (R v Akinyanju)

Content of Summons vs Warrant of Arrest

Summons Contains	Warrant of Arrest Contains
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Name of suspect Alleged offence(s) Invitation to appear within 48 hours Date of issue Signature and seal of issuing authority (rubber stamp suffices — Goodman v Evans)

Name of suspect Alleged offence Name of executing officer Date of issue Signature and seal of issuing authority

Arrest Without Warrant

The following persons can arrest without a warrant where the offence occurs in their presence: judicial officer, magistrate, police officers, special prosecutors (NDLEA, EFCC, NAFDAC), and private persons.

Where a PRIVATE PERSON makes an arrest without warrant, he must take the suspect to the nearest police station or police officer immediately. Failure to do so exposes him to a civil action for false imprisonment.

Constitutional Safeguards for Arrested Persons

- Right to personal liberty
- Right to dignity of human person
- Right to be informed of the reason for arrest
- Right to be represented by counsel of his choice
- Right to remain silent
- Right to be brought to court within a reasonable time

THE THING MOST CANDIDATES MISS

'Summons is SERVED; warrant of arrest is EXECUTED.' These terms are not interchangeable. The examiner tests this distinction in drafting questions. Use the wrong verb and you lose the mark.

CHAPTER 3

SEARCH & PRE-TRIAL ISSUES

*Search · Alibi · Confessional Statement · Identification Parade · Police Bail***Appeared in Bar Finals:** 2009, 2010, 2011, 2013, 2014, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024**Three Modes of Search**

Type	Search Warrant Required?	Key Rules
Search on the body	NO	Same gender required. Abuja exception: opposite gender permitted in 'impossible situations.' Must be conducted with decency
Search on premises	YES (s.37 CFRN — right to privacy)	Exception: no warrant needed if premises occupied by suspect under warrant of arrest. Woman in purdah not named in warrant: give adequate time to withdraw. Ingress and egress (breaking in/out) permitted if officer is prevented from entering or leaving
Search of things (bags, cars, etc.)	NO	A woman's property can be searched by a man

Who can issue a search warrant: Lagos — magistrate only. Kano — magistrate and judge. Abuja — magistrate, judge, and justice of peace. Issued upon complaint made on oath. Lagos execution hours: Monday–Saturday, 5am–8pm.

Exhibits obtained during an ILLEGAL search are still admissible if relevant. The ground for admissibility is RELEVANCY, not the legality of how they were obtained.

Pre-Trial Issues

Issue	Key Rules
Alibi	Must be raised timeously — immediately upon arrest. Must furnish specific details: where the suspect was and who he was with. Police must investigate. If police fail to investigate and defendant raises alibi again at trial: defendant is discharged on the merit
Confessional Statement	Must be made voluntarily (Judges' Rules). Binds the MAKER ONLY — does not bind co-suspects unless they admit by word or conduct. Involuntariness: court orders trial-within-trial to determine voluntariness. Retraction (denial): court admits the statement but weighs it carefully. Interpreter required: interpreter must sign the statement AND be made a witness

Identification Parade	Used when identity of suspect is in doubt. One suspect: 8 persons paraded total (including suspect). Two or more suspects: at least 12 persons paraded. All persons must be of same height, complexion, and stature. Conducted at the police station
Police Bail	Granted at pre-trial stage by police. Application by letter addressed to the District Police Officer. No conditions — police bail is free. If denied: (1) Application to High Court for enforcement of fundamental rights; (2) Apply to court for bail; (3) Order of mandamus; (4) Habeas corpus
Legal Aid Scheme	For indigent suspects (those earning below national minimum wage). Arranged by Legal Aid Council. Available only for serious offences: murder, kidnapping, rape, etc.
Plea Bargain (Pre-Trial)	Arrangement for compensation or lesser charge. Agreement must be in writing and accompany the charge. Lagos: AG's consent is mandatory — AG becomes a third party to the agreement

Draft — Letter of Application for Police Bail

A.B. SMART LAW OFFICE

No. 5 Law School Road, Bwari, Abuja | absmart@gmail.com | 0905 736 388

Our Ref:

15th August 2025

Your Ref:

The Divisional Police Officer,
Police Divisional Headquarters,
Lagos, Lagos State.

Sir,

APPLICATION FOR BAIL

We are solicitors to Mrs. James Bond, our Client, of No. 5 Johnson Street, Ikoyi, Lagos State, who is currently under arrest and detention at your station.

We apply for her bail pending the arraignment of our client. Our client pledges to appear at any time requested.

We recommend Mr. Peters Dibia of No. 15 Broad Street, Lagos Island, Lagos State, an in-law to our client, as surety. He is available and willing to fulfil all bail conditions.

Thanks for your anticipated cooperation.

Yours faithfully,

A.B. Smart Esq.
(Principal Partner)
For: A.B. Smart Law Office

■ THE THING MOST CANDIDATES MISS

Police bail LAPSES automatically once the defendant is arraigned in court. Counsel must make a fresh application for COURT bail immediately after arraignment — unless the warrant of arrest was endorsed with a bail term. This is a sequencing error candidates make repeatedly.

CHAPTER 4

INSTITUTING CRIMINAL ACTIONS

Who Can Institute · Modes · Nolle Prosequi · Withdrawal

Appeared in Bar Finals: 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2020, 2021, 2022, 2023, 2024

Who Can Institute Criminal Actions

- Attorney General of the Federation (s.174 CFRN)
- Attorneys-General of States (s.211 CFRN)
- Police officers
- Special prosecutors (NDLEA, EFCC, NAFDAC)
- Private persons
- Private counsel (with fiat from the AG)
- Judicial officers
- Magistrates

Modes of Instituting by Court

Court	Mode(s) of Institution
Magistrate Court (Lagos, Kano, Abuja)	(1) By preferring a charge — police officer with or without warrant (2) By complaint — written complaint to magistrate (Abuja and southern Nigeria) (3) By First Information Report — charge sheet prepared by presiding magistrate on FIR by victim (Kano and Abuja)
State High Court / High Court of FCT	(1) By charge — no longer requires leave of court. Used in: High Court of Kano; High Courts in northern Nigeria (excluding Taraba and Adamawa); High Court of FCT (excluding AGF and law officers) (2) By information — used in: High Court of Lagos; High Courts in the south; High Courts of Adamawa and Taraba; High Court of FCT (including AGF and law officers)
Federal High Court	By charge — regardless of location. One method only

Documents accompanying information: List of witnesses · Witness statements on oath · List of exhibits · Copy of the charge · Particulars of bail terms · Confessional statement · Previous trial record (if any).

Limitation Periods — Criminal Actions

General rule: criminal actions are NOT subject to statute of limitations. Exceptions:

Offence	Limitation Period
Treason	2 years

Sedition	6 months
Defilement of a child or imbecile	2 months
Customs offences	7 years

Note: the 3-month limitation for public officers does NOT apply in criminal trial.

Powers of the Attorney General

Power	Key Rules
Institute criminal actions	AGF: federal offences at FHC and offences at FCT High Court. AGS: state offences at State High Court
Take over criminal actions	Can take over any action already instituted by another party
Nolle prosequi (power to discontinue)	Absolute power to discontinue criminal action. No leave of court required. Can only be entered BEFORE judgment — does not exist at appeal. Can only be entered while the office of the AG is occupied (power is in the person, not the office) Modes: (1) Orally — by the AG himself only; (2) Written authorisation — by AG or delegated law officer Law officers include: Solicitor General, DPP, Principal State Counsel, Senior State Counsel, State Counsel, Pupil State Counsel (NYSC) Effect if properly entered: DISCHARGE (not acquittal). Defendant can still be re-arrested and retried

Police Withdrawal vs Nolle Prosequi

Nolle Prosequi	Police Withdrawal
Entered by AG or law officer	Entered by police only
No leave of court required	Requires leave of court
Always results in discharge	During prosecution's case: discharge. During defence case: acquittal
Cannot be entered after judgment	Cannot be entered after judgment
Power is in the person of the AG	Subject to oversight of the AG

■ THE THING MOST CANDIDATES MISS

Nolle prosequi results in DISCHARGE — the defendant can still be re-arrested and re-tried. It is NOT an acquittal. Candidates confuse these outcomes. An acquittal bars retrial; a discharge does not.

CHAPTER 5

CHARGES & CHARGE SHEETS

Types · Contents · Rules of Drafting · Defects · Amendment

Appeared in Bar Finals: 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024

The charge sheet is the document read to the defendant during arraignment. It contains the statement of offence and particulars of offence. It is read by the Registrar — in the Registrar's absence, the court clerk reads it. If both are absent, arraignment must be adjourned.

Three Types of Charge Sheet and Where Each Is Used

Type	Courts That Use It	Begins Main Body With
Charge	Magistrate Courts of Lagos, south, Kano High Courts in the north (excl. Adamawa/Taraba) FCT High Court (excl. AGF and law officers) Federal High Court	"Count 1" — Lagos, south magistrate courts, FCT magistrate court, FHC, southern High Courts "Charge 1" — Kano and northern magistrate courts, Kano and northern High Courts
Information	High Court of Lagos High Courts in the south High Courts of Adamawa and Taraba FCT High Court (for AGF and law officers)	Always "Count 1" Main body has TWO paragraphs: Statement of Offence + Particulars of Offence
Charge by FIR	Magistrate Courts of Kano, northern states, FCT	Always "Charge 1" Includes Directional clause

Contents — Charge vs Information vs FIR

Content Element	Charge	Information	FIR
Heading of court	✓	✓	✓
Reference number	✓	✓	✓
Parties	✓	✓	✓
Preamble	X	✓	X
Introduction	X	X	✓
Main body	✓	✓	✓
Directional	X	X	✓
Date	✓	✓	✓
Franking	✓	✓	✓

For service on (FCT magistrate only)	✓ (FCT only)	X	✓ (FCT only)
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Complainant by Court

Court	Complainant
Magistrate Court (general)	Commissioner of Police
FCT Magistrate Court	Commissioner of Police OR Inspector General of Police
State High Court	The State (e.g., 'The State of Lagos')
FCT High Court	Federal Republic of Nigeria
Federal High Court (any location)	Federal Republic of Nigeria

Court Headings — How to Draft

Magistrate Court of Lagos:

IN THE MAGISTRATES' COURT OF LAGOS STATE
IN THE LAGOS MAGISTERIAL DISTRICT
HOLDEN AT LAGOS

High Court of Kano:

IN THE HIGH COURT OF KANO STATE
IN THE KANO JUDICIAL DIVISION
HOLDEN AT KANO

High Court of FCT:

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

Federal High Court:

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE [LOCATION] JUDICIAL DIVISION
HOLDEN AT [LOCATION]

Main Body — Draft Examples

Charge (Count 1 — Lagos/south):

Count 1

That you, Ibrahim Yusuf, on or about the 7th day of October 2025, at Alaba Market Lagos, within the Lagos Magisterial District, did steal a wristwatch belonging to Mr. Kabiru, contrary to Section 319 of the Criminal Code Law of Lagos State.

Charge (Charge 1 — Kano/north):

Charge 1

That you, Ibrahim Yusuf, on or about the 7th day of October 2025, at Kano Main Market, within the Kano Judicial Division, did commit the theft of a car belonging to Mr. Steven, punishable under Section 419 of the Penal Code Laws of Kano State.

Information (Count 1 — Lagos High Court):

Count 1

STATEMENT OF OFFENCE

Armed Robbery contrary to Section 420 of the Criminal Code Law of Lagos State.

PARTICULARS OF OFFENCE

Ibrahim Yusuf, on or about the 7th day of October 2025, at Lagos Market, within the Lagos Judicial Division, while armed with guns, took ₦500,000,000.00 (five hundred million naira) belonging to Mr. James.

FIR Introduction clause:

I, Mallam Idris, Chief Magistrate of the Magisterial District of Kano State, do charge you as follows:

Directional clause (FIR only):

I hereby direct that this court has jurisdiction to try the said offence.

Preamble (Information only — Lagos):

At the session holding at the Lagos Judicial Division on the ____ day of ____ 2025, the court is being informed by the Attorney General of Lagos State on behalf of the State that:

1. Ibrahim Yusuf (M) is charged as follows:

Franking Authority by Court

Court / Mode	Franking Authority
Magistrate court — charge	Investigating Police Officer (IPO)
Magistrate court — charge by FIR	Presiding Magistrate
High Court	Chief Law Officer and/or Law Officer
FCT High Court	Chief Law Officer, Law Officer, and/or Special Prosecutors

Four Rules of Drafting Charges

Rule	What It Means · Exceptions
Rule against Ambiguity (Count-based)	The contents of the main body must not be missing — all required elements must be present. No exceptions.
Rule against Duplicity (Count-based)	Each count must contain only one offence, one property, one victim — no lumping. Exceptions: (1) Statutory forms; (2) Identical offences; (3) Misappropriation of funds — same defendant, same victim, same currency, total amount summed up; (4) Overt acts of treason — placed in single count
Rule against Misjoinder of Offences (Charge sheet-based)	Offences committed in different transactions (different days) must be on separate charge sheets. Exceptions: (1) Offences within 12 calendar months — up to 3 may appear on one sheet; (2) Different offences forming a single act — community of purpose + continuity of action + continuity of time; (3) Alternate offences — where prosecutor is unsure, charge in alternative in separate counts; (4) Offences under different laws
Rule against Misjoinder of Offenders (Charge sheet-based)	Each offender should be on a separate charge sheet. Exceptions: (1) Aiding and abetting; (2) Receiving stolen property (except wife married under the Act); (3) Common purpose; (4) Different offences by different offenders in a single transaction

Bar Finals tip: Ambiguity and duplicity are COUNT-BASED rules — they affect only the main body. Misjoinder of offences and offenders are CHARGE SHEET-BASED rules — they affect the entire document. For ambiguity and duplicity, apply the general rule. For misjoinder, go to the exceptions first to save time.

Defective Charge Sheets & Amendment

Type of Defect	Effect
Fundamental defect — defendant does not understand the charge	Any conviction secured is set aside on appeal
Irregularity — defendant understands despite the defect	Conviction is not set aside

Amendment — before trial (pre-arraignment): prosecutor approaches registrar and exchanges amended charge with defective one — no leave required. Amendment during trial (after arraignment): (1) Seek leave of court; (2) Amended charge read again to defendant; (3) Defendant takes fresh plea; (4) Court endorses amended charge; (5) Court asks if parties wish to continue or adjourn. Effect: matter starts de novo — all witnesses must be recalled. Charge CANNOT be amended after judgment.

Objection to defective charge must be raised during arraignment, specifically BEFORE the defendant takes his plea. Once plea is taken, the defendant has submitted to the jurisdiction of the court.

THE THING MOST CANDIDATES MISS

Once a charge sheet is amended during trial, the entire matter restarts DE NOVO. All witnesses already called must be recalled from scratch. Candidates often treat amendment as a minor correction — it is not. It resets the entire trial.

CHAPTER 6

ARRAIGNMENT & TRIAL

*Procedure · Pleas · Bail · Prosecution Case · Defence · Judgment***Appeared in Bar Finals:** 2009 – 2024 (every sitting)

Criminal trial begins at arraignment — the first time the defendant is brought to court to take his plea. At this stage the person is referred to as the 'ACCUSED' or 'DEFENDANT', not the suspect.

Procedure for Valid Arraignment

1. Defendant placed in the dock UNFETTERED (court may order chains if defendant misbehaves)
2. Charge sheet read to defendant in a language he understands — to the satisfaction of the court.
Read by Registrar; in absence, by court clerk
3. Defendant takes his plea
4. Court records the plea in the exact language of the defendant

Improper arraignment nullifies the entire trial. If both the Registrar and court clerk are absent, arraignment must be adjourned — it cannot proceed.

Options Available to the Defendant at Arraignment

Option	Rules & Effect
Preliminary Objection (before taking plea)	Grounds: (1) Court lacks jurisdiction; (2) Charge sheet is defective — effect is DISCHARGE, not acquittal; (3) Previous conviction or acquittal; (4) State pardon granted
Standing Mute	Court investigates cause: • Malice: court records plea of NOT GUILTY • Visitation of God (medical): court may (a) send defendant to prison until visitation passes; (b) grant bail on application; or (c) detain at Governor's pleasure
Refusal to Plead	Court inquires into reasons. Where unsatisfactory: court records plea of NOT GUILTY
Plea of Guilty	Must not be ambiguous — 'guilty with reason' is improper; court records NOT GUILTY instead. Proper guilty plea: leads to SUMMARY TRIAL (straight to conviction). Exceptions: (1) Capital offence — court records NOT GUILTY regardless of plea; (2) Offence requiring expert (drug-related) — court records guilty but orders REVIEW OF FACTS before conviction
Plea of Not Guilty	Results in FULL TRIAL
Plea of Not Guilty by Reason of Insanity	Court orders medical examination. If unfit: matter adjourned; defendant placed in psychiatric facility. If fit: court enters 'not guilty' and trial continues

Bar Plea (Autre fois acquit / convict)	Conditions: (1) Previous matter was criminal; (2) Previous court had criminal jurisdiction; (3) Previous trial concluded with conviction or acquittal; (4) Same charge. Proven by: certificate of imprisonment (CTC of judgment) or certificate of conviction
Plea Bargain	Prior written agreement between prosecution and defendant. Lagos: AG's consent mandatory. Court ensures agreement was voluntary. Court may vary terms with defendant's consent. Defendant refuses variation: matter starts de novo before another judge

THE THING MOST CANDIDATES MISS

A 'plea of guilty with reason' is UNKNOWN TO LAW and is improper. The court will record NOT GUILTY in its place. A capital offence: court records NOT GUILTY regardless of what the defendant says. These two rules are among the most frequently tested arraignment points.

Bail Pending Trial (Court Bail)

Police bail lapses on arraignment. Court bail must be applied for after arraignment. Application: Kano — motion on notice + affidavit. Lagos and Abuja — summons or motion on notice + affidavit. Affidavit not needed if application is strictly on point of law.

Draft — Motion on Notice for Bail (High Court of Kano)

IN THE HIGH COURT OF KANO STATE
IN THE KANO JUDICIAL DIVISION
HOLDEN AT KANO

CHARGE NO: _____

BETWEEN:

THE STATE _____ COMPLAINANT/RESPONDENT

AND

JAMES IBRAHIM _____ DEFENDANT/APPLICANT

MOTION ON NOTICE

BROUGHT PURSUANT TO SECTION 36(5) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED) AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT.

TAKE NOTICE that this honourable court will be moved on the ____ day of ____ 2025 at the hour of 9 o'clock in the forenoon or so soon thereafter as counsel to the defendant/applicant may be heard praying the court for the following reliefs:

1. AN ORDER FOR the grant of bail for the defendant/applicant.

2. AND SUCH FURTHER ORDER OR ORDERS as this honourable court deems fit in the circumstances.

Dated this ____ day of ____ 2025.

Signed

Clinton Umar
Counsel to the Defendant/Applicant
Kano State

FOR SERVICE ON:
Attorney-General of Kano State.

Affidavit in Support of Bail — Draft

IN THE HIGH COURT OF KANO STATE
IN THE KANO JUDICIAL DIVISION
HOLDEN AT KANO

CHARGE NO: _____

BETWEEN:
THE STATE _____ COMPLAINANT/RESPONDENT
AND
RABIYA JA'AFAR _____ DEFENDANT/APPLICANT

AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE

I, Clinton Jideofor Efejiofor Ofor of No. 3 Law School Road, a businessman and a Nigerian citizen, do hereby make oath and state as follows:

1. [Facts in chronological order]
2. ...
3. That I swear to this affidavit in good faith believing same to be true and correct to the best of my knowledge in accordance with the Oath Laws of Kano State.

DEPONENT

Sworn to at the High Court Registry of Kano State,
On the ____ day of ____ 2025.

BEFORE ME

COMMISSIONER FOR OATHS

Case of the Prosecution

Burden Type	Rule
General/Legal Burden	Always on the prosecution. Never shifts. Standard: BEYOND REASONABLE DOUBT. Flows from the presumption of innocence
Evidential Burden	May shift to the defendant where matters are within the defendant's knowledge. Standard: BALANCE OF PROBABILITIES. Shifts on: insanity, intoxication, exemption/exception, bar plea, state pardon, alibi

Examination of Witnesses

Stage	Leading Questions?	Key Rules
Examination-in-Chief (by own counsel)	NOT allowed Exceptions: introductory matters (name, address, occupation); facts not in dispute; hostile witness declared	Use open questions. At close, do not discharge witness — give adverse party opportunity to cross-examine
Cross-Examination (by adverse counsel)	ALLOWED	Closed questions. Purpose: discredit witness, discredit testimony, strengthen adverse party's case. Sky is no longer the limit — but questions must be relevant. Scandalous/vexatious questions prohibited unless nature of offence is scandalous
Re-Examination (by own counsel)	NOT allowed	Optional. Open questions. Purpose: clarify doubts from cross-examination; address new issues raised

Hostile Witness

Arises only during examination-in-chief. Where witness gives contrary information: (1) Witness is considered unreliable; (2) Counsel applies to court to declare witness hostile; (3) Court acts on previous statement; (4) Court finds contradiction and declares witness hostile. Effect: counsel may now cross-examine, ask leading questions, and act on previous statements.

Competence and Compellability

Competence	Compellability
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Age: 14 years and above Mental capacity: able to give rational answers	All compellable witnesses are competent. NOT all competent witnesses are compellable. Competent but NOT compellable: President, Vice President, Governors, Deputy Governors, Diplomats and their household, Husband and wife married under the Act, Bankers (re: bank statements)
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Corroboration — When Two Witnesses Are Required

- Treason
- Sedition
- Traffic offences (over speeding)
- Evidence of a child below 14 years
- Breach of promise to marry

Case of the Defence — Options

Option	Rules
No-Case Submission	Grounds (s.303 ACJA; s.239(1) ACJL): (1) Prosecution failed to prove a vital element; (2) Prosecution witness discredited in cross-examination; (3) Evidence so unreliable no reasonable court could convict; (4) Prosecution unable to link defendant to offence Upheld: acquittal (discharge on the merit) at High Court. In northern magistrate courts: mere discharge Overruled: court orders defendant to enter defence Appeal: if wrongly upheld, prosecution appeals (COP v Agi). If wrongly dismissed, defendant appeals (Mumini v The State)
Resting on Prosecution's Case	Defendant chooses not to give evidence (remains silent or calls character witnesses only). Effect: court orders final address. Defendant cannot adduce evidence — case determined on prosecution's evidence only (Sulaiman v The State)
Entering Defence (Ajibaye v The State)	Court must first caution defendant on: (1) Right to counsel (mandatory); (2) Right to remain silent; (3) Right to make dock statements (not on oath, not subject to cross-examination); (4) Right to give witness box evidence (on oath; failure to take oath: Abuja 30 days, Kano 7 days, Lagos 8 days imprisonment). Caution may be skipped if defendant is represented by counsel

Ex-Improviso Rule

An application by the PROSECUTION ONLY, brought after the close of the defence's case, where the defendant raised a NEW ISSUE not contemplated at the start of trial. Conditions: (1) brought after defendant closes case; (2) prosecution must seek leave of court; (3) must be based on a new issue (Bala v COP). Refused where: (a) new issue is alibi (Onuoha v The State); (b) defendant has not yet closed his case.

■ THE THING MOST CANDIDATES MISS

Ex-improviso is brought by the PROSECUTION after the DEFENCE closes its case. It is NOT a defence tool. The most common exam error is attributing it to the wrong party or the wrong timing.

Final Address

Rule	Detail
Order of presentation	Defendant presents first. Prosecution replies. Defendant may reply only on point of law
Timeframes	Defendant: 21 days after close of trial. Prosecution reply: 21 days. Defendant's reply on law: 7 days
Prosecution's right of reply	No witnesses called by defendant (or character witnesses only) + prosecutor is NOT a law officer: NO right of reply Witnesses called by defendant: YES right of reply New issue raised in closing address: MAY reply Prosecutor IS a law officer: ALWAYS has right of reply, regardless of how defence was conducted
Effect of denial	Failure to call for final address may set aside the entire trial (constitutional right)

Final Address — Draft Structure

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

CHARGE NO.: _____

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA _____ COMPLAINANT
AND

YUSUF TIMI _____ DEFENDANT

FINAL WRITTEN ADDRESS

1. INTRODUCTION
2. BRIEF STATEMENT OF FACTS
3. ISSUES FOR DETERMINATION
4. LEGAL ARGUMENT
5. CONCLUSION
6. LIST OF AUTHORITIES:
 - a. Judicial Authorities
 - b. Statutory Authorities

Dated this ____ day of ____ 2025.

Signed

A.B. Smart Esq.
Counsel for the Defendant
Abuja

FOR SERVICE ON:
Attorney-General of the Federation,
Ministry of Justice, Abuja, FCT.

Judgment

Judgment is the final determination of criminal trial. The court becomes functus officio on delivery. Must be delivered within 90 days after final address. Late delivery does not invalidate judgment unless it occasions a miscarriage of justice.

Stage	Rule	Notes
Finding of Guilt	Court determines each count	
Conviction	Court adjudges defendant guilty of punishable offence	Court MAY call for Plea of Allocutus (plea of mercy to mitigate sentence) — failure to call it is no issue. Allocutus has no effect for: mandatory punishment (capital offence); minimum sentence (rape)
Sentencing	Consecutive: terms added up. Concurrent: only longest term served	Death sentence: cannot be pronounced on infant or pregnant woman. Lagos: hanging only. Abuja: hanging or lethal injection. Kano: court's discretion. Caning: male convicts only; above 45 years — exempt; instrument: horsewhip; appeal against caning: within 15 days

THE THING MOST CANDIDATES MISS

Sentences run **CONSECUTIVELY** by default — all terms are added together. The court must expressly order concurrent sentences for them to run jointly. Candidates assume concurrency; the default is the opposite.

CHAPTER 7

APPEALS

Types · Time Frames · Procedure · Brief of Argument

Appeared in Bar Finals: 2009, 2010, 2011, 2012, 2013, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024

An appeal is brought by parties dissatisfied with the court's decision or ruling. Parties to criminal appeals are called appellants and respondents. Only parties during trial can appeal — except where the sentence involves a fine, in which case a personal representative may appeal.

Time Frames for Filing Appeals

Appeal	Time Frame
Interlocutory appeal from High Court to Court of Appeal	90 days
Appeal from Magistrate Court to High Court (final decision — imprisonment)	30 days
Appeal against sentence of caning	15 days
Appeal from High Court to Court of Appeal (final decision)	90 days
Appeal from Court of Appeal to Supreme Court (final decision)	30 days

Time begins to run when the appellant has notice (or ought to have notice) of the judgment — Ohuka v The State.

Appeal as of Right vs Appeal with Leave

Appeal as of Right (cannot be refused)	Appeal with Leave (court's permission required)
Final decisions of the High Court Point of law only Interpretation of the Constitution	Interlocutory appeals (unless on point of law or constitutional interpretation — then as of right) Final decisions of Magistrate Court to High Court (double appeal) Mixed law and facts

Procedure for Initiating an Appeal

1. Appellant files Notice of Appeal at the trial court — appeal is 'deemed brought'
2. Registrar of trial court transmits record of proceedings to Court of Appeal within 60 days — appeal is 'deemed entered'. If registrar fails: appellant's counsel transmits within 30 days. Respondent may compile additional records within 15 days

Documents Required

Appeal as of Right	Appeal with Leave
Notice of Appeal only	Leave to appeal + Notice of Appeal (filed separately — joint filing prohibited: Dokpesi v FRN) If leave refused by High Court: within 15 days to Court of Appeal, file: (1) CTC of order refusing leave; (2) CTC of court's ruling; (3) Leave to appeal; (4) Notice of appeal

Brief of Argument — Timeframes

Brief	Filed By	Timeframe
Appellant's Brief	Appellant	Within 45 days
Respondent's Brief	Respondent	Within 30 days of receiving appellant's brief
Reply Brief	Appellant	Within 14 days of receiving respondent's brief

Contents of Brief of Argument

- Heading of the court
- Reference number
- Parties
- Title of the brief of argument
- Table of content
- Main body: Introduction · Brief statement of facts · Issues for determination · Legal argument · Conclusion · List of authorities (judicial first, then statutory)
- Date
- Franking
- Service (For service on)

Powers of the Appellate Court After Hearing Appeal

- Affirm conviction and sentence
- Quash conviction and sentence
- Acquit or order re-trial
- Alter or maintain the finding
- Alter or maintain sentence (increase or reduce)
- Without altering finding: reduce, increase, or alter the nature of sentence
- Annul conviction and substitute special finding of insanity at the time of the act

Limitation: appellate court cannot sentence above the jurisdiction of the trial court (Nworie v Police). Cannot make orders regarding a part of the decision not appealed against.

■ THE THING MOST CANDIDATES MISS

A Notice of Appeal filed JOINTLY (combined with an application for leave) is prohibited — *Dokpesi v FRN*. They must be filed as SEPARATE documents. Candidates consolidate them to save time in the exam and lose those marks.

TWENTY WAYS CANDIDATES LOSE EASY MARKS

Read This the Night Before the Exam

These are not obscure errors. They are marks dropped by well-prepared candidates who moved too fast, assumed a default, or confused two procedurally similar rules. Each entry names the mistake and gives the correct answer.

Mistake	The Correct Answer
1. Suspect vs Accused vs Convict	Wrong label, wrong marks. Pre-trial (police station): SUSPECT. During trial (court): ACCUSED or DEFENDANT. After conviction: CONVICT. After acquittal: ACQUIT.
2. Police bail lapses at arraignment	Candidates assume police bail continues into trial. It LAPSES on arraignment. Counsel must apply for COURT BAIL immediately after the defendant is arraigned, unless the warrant of arrest was endorsed with a bail term.
3. Nolle prosequi = discharge, not acquittal	Nolle prosequi results in DISCHARGE. The defendant can still be re-arrested and retried. Acquittal bars retrial. These are different outcomes with different legal consequences.
4. Wrong charge type for FCT High Court	The FCT High Court uses CHARGE if the prosecution is by police officers. It uses INFORMATION if the prosecution is by the AGF or law officers. Both run in the same court.
5. 'Count 1' vs 'Charge 1'	Count 1: Lagos and southern courts, FCT magistrate court, FHC, southern High Courts. Charge 1: Kano and northern courts, northern High Courts. Using the wrong numbering in a drafting question loses the mark.
6. Plea of guilty with reason	'I am guilty because...' is improper and unknown to law. The court records NOT GUILTY. A guilty plea must be unambiguous — no reasons attached.
7. Capital offence — guilty plea overridden	Where a defendant pleads guilty to a capital offence (murder, treason, armed robbery), the court records NOT GUILTY regardless. No exceptions.
8. Sentences run consecutively by default	Sentences run CONSECUTIVELY (added up) unless the court expressly orders them to run concurrently. Never assume concurrency.
9. Summons is served; warrant is executed	These are not interchangeable. Summons is SERVED. Warrant of arrest is EXECUTED. Using the wrong verb in a drafting question costs marks.
10. Amendment during trial restarts the case	Amending a charge during trial (after arraignment) does not merely correct the document — the entire matter starts DE NOVO. All witnesses already called must be recalled from scratch.
11. Magistrate court has no bail jurisdiction for capital offences	A magistrate court CANNOT grant bail for capital offences. Only the High Court can. Candidates forget this jurisdictional limit and draft bail applications to the wrong court.

12. Objection to defective charge — timing	Objection must be raised BEFORE the defendant takes his plea. Once plea is taken, the defendant has submitted to the court's jurisdiction and the objection is no longer available.
13. Wrong franking authority	IPO franks at magistrate court (charge). Presiding magistrate franks at magistrate court (FIR). Chief law officer/law officer franks at High Court. The right authority matters for the marks.
14. Ex-improviso rule — wrong party or wrong timing	Ex-improviso is brought by the PROSECUTION ONLY, AFTER the defence closes its case. It is not a defence tool. It cannot be brought while the defence case is still open.
15. Information requires additional documents	When instituting an action by information at the High Court, you must include: list of witnesses, witness statements on oath, list of exhibits, copy of the charge, bail particulars, confessional statement, and previous trial record. Missing any of these is a drafting error.
16. Law officer always has right of reply in final address	Where the prosecutor is a LAW OFFICER, they ALWAYS have the right of reply in final address — regardless of how the defendant conducted his defence. This is not affected by whether the defendant called witnesses or not.
17. Private person arrest — must go to police station immediately	A private person who arrests without warrant MUST immediately take the suspect to the nearest police station or police officer. Failure to do so is false imprisonment — a civil wrong.
18. Illegal search — evidence still admissible	Exhibits obtained during an illegal search are still admissible if relevant. The ground for admissibility is RELEVANCY, not the legality of the search. Many candidates assume illegal search = excluded evidence.
19. Identification parade numbers	One suspect to be identified: EIGHT persons paraded total (including suspect). Two or more suspects: AT LEAST TWELVE persons paraded total. Getting the numbers wrong is a factual error the examiner marks.
20. Joint filing of leave and notice of appeal prohibited	Leave to appeal and Notice of Appeal must be filed as SEPARATE documents. Joint filing is prohibited — Dokpesi v FRN. Candidates combine them to save time in the exam and lose those marks.

KEY NUMBERS AT A GLANCE

Every Specific Figure in This Guide

These are the numbers that distinguish a prepared candidate from one who knows the law in general but drops marks on specifics. Examiners test these deliberately.

Figure	What It Governs	Context
48 hours	Suspect must appear in response to summons within 48 hours	Summons rules — all jurisdictions
14 days	Kano/Abuja: failure to acknowledge summons = 14 days imprisonment (Lagos: discretionary)	Acknowledgement of summons
8 persons	Identification parade — one suspect to be identified: 8 persons paraded including suspect	Identification parade
12 persons	Identification parade — two or more suspects: at least 12 persons paraded	Identification parade
7–13 years	Age range of a 'child' for Juvenile Court purposes	Juvenile Court
14–17 years	Age range of a 'young person' for Juvenile Court purposes	Juvenile Court
3 years	Post-call experience required for Judge Advocate in Court Martial	Court Martial composition
7 members	General Court Martial must be constituted by at least 7 members to pronounce death penalty	Court Martial
2 members	Special Court Martial minimum members	Court Martial
40 days	Time to appeal from Court Martial to Court of Appeal (with leave)	Court Martial appeals — s.184 Armed Forces Act
10 days	Time to appeal death penalty from Court Martial (as of right)	Court Martial appeals
3 months	Defendant in Juvenile Court — court may detain at Governor's pleasure pending visitation of God	Juvenile Court
6 months	Offence of sedition: limitation period for criminal action	Limitation of actions
2 months	Defilement of a child or imbecile: limitation period	Limitation of actions
2 years	Treason: limitation period for criminal action	Limitation of actions
7 years	Customs offences: limitation period	Limitation of actions

12 calendar months	Misjoinder of offences exception: 3 offences within 12 months may appear on one charge sheet	Rules of drafting charges
90 days	Judgment must be delivered within 90 days after final address	Judgment
15 days	Time to appeal against sentence of caning	Appeals — caning
30 days	Appeal from Magistrate Court to High Court (final decision — imprisonment)	Appeals
30 days	Respondent's brief of argument must be filed within 30 days of receiving appellant's brief	Brief of argument
45 days	Appellant's brief of argument must be filed within 45 days	Brief of argument
14 days	Reply brief filed within 14 days of receiving respondent's brief	Brief of argument
60 days	Registrar must transmit record of proceedings to Court of Appeal within 60 days	Transmission of records
30 days	Appellant's counsel may transmit record if registrar fails — within 30 days	Transmission of records
15 days	Respondent compiles additional records within 15 days if needed	Transmission of records
21 days	Defendant files final address within 21 days after close of trial	Final address
21 days	Prosecution reply to final address: within 21 days	Final address
7 days	Defendant's reply on point of law in final address: within 7 days	Final address
90 days	Interlocutory appeal from High Court to Court of Appeal: 90 days	Appeals — interlocutory
90 days	Final appeal from High Court to Court of Appeal: 90 days	Appeals — final
30 days	Appeal from Court of Appeal to Supreme Court: 30 days	Appeals — Supreme Court
15 days	Where leave to appeal is refused by High Court — apply to Court of Appeal within 15 days	Extension for leave
45 years	Male convict above 45 years is exempt from caning	Sentencing — caning
30 days	Abuja — failing to give evidence on oath or affirmation: 30 days imprisonment	Sentencing — oath default
7 days	Kano — failing to give evidence on oath: 7 days imprisonment	Sentencing — oath default

8 days	Lagos — failing to give evidence on oath: 8 days imprisonment	Sentencing — oath default
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A Final Word

Criminal Litigation rewards procedural precision above everything else.

The examiner will almost always give you a scenario. Your first move is always the same: identify the nature of the offence, identify the stage, identify the location. Answer those three before writing anything else. Every rule you cite, every document you draft, every party label you use depends on getting those three right.

The three things that separate strong Criminal Litigation candidates from the rest:

- They use the right label at the right stage — suspect at pre-trial, accused/defendant at trial, convict after conviction. They never use 'accused' when the person is still at the police station.
- They know where the jurisdictions diverge — Lagos, Kano, and Abuja are not the same. Summons timing, charge types, bail conditions, search warrant issuers, and probate timeframes all differ. They never apply Lagos rules to a Kano scenario.
- They draft from memory — the court headings, the charge body, the motion on notice, the affidavit, and the final address structure. The examiner rewards structure. A technically correct answer in the wrong format will lose marks.

Use this guide as your final pass. Target the chapter on each topic you are least confident on and drill the specific jurisdiction-dependent rules. Criminal Litigation is winnable — it rewards the candidate who is methodical, not the one who knows the most.