

**GEORGIA STATE UNIVERSITY COLLEGE OF LAW
FINAL EXAMINATION**

**INTERNATIONAL CRIMINAL LAW
SUMMER SEMESTER 2003 - PROFESSOR ELLEN S. PODGOR**

1. This examination is a take-home examination. It is an open book examination and you may use any written or web materials you would like in answering the questions. Although you are permitted to use materials outside of those used for this course, research beyond the course is not expected. **During this examination time, you may not discuss these examination questions with anyone, including students in the class and individuals outside the class.** There are **four (4) pages** to this examination, including this page. Please make certain that you have all of the pages. This examination has three (3) questions. If for any reason you are missing a part of the exam, you can access a copy via the Lexis course website.
2. Your examination answers may not exceed a **total of fourteen (14) pages double-spaced**, using **one inch margins** on all sides (including top and bottom), using Times New Roman or a comparable typeset and **point size of either 11 or 12**. Do not, however, feel compelled to write 14 pages. It is your decision as to the amount of this fourteen page limit that you use on each of the three questions, as long as the total number of pages does not exceed 14 pages. I will stop reading after fourteen (14) pages. A recommended space allocation is noted for each question. Please number the pages of your answer. Citation format unimportant in completing this examination. If you use a case in the casebook or supplement, it is not necessary to provide the full name or citation of the case. Thus, saying *Nippon* would be sufficient if referring to the case on page 93 of the textbook.
3. Please make certain that your anonymous number (Exam Number) appears on every page of your answer. Please do not identify yourself on this examination, other than by using your anonymous number (Exam Number). Failure to follow this instruction may result in a loss of points to you on the examination.
4. Your answer to this examination must be returned to either Tricia Rackliffe or Brian Miller at the Registrar's Office on the 3rd floor, **no later than Wednesday, July 16 at 5:00 P.M.** Failure to turn in the paper timely can result in a loss of points on your grade.
5. I will not answer questions during this examination period. If your answer is contingent upon information not provided in the exam question, explain what that information is and how it would affect your answer. If an emergency should arise, and you are unable to complete your exam in a timely manner, contact Associate Dean Kaminshine.

IN TAKING THIS EXAMINATION, YOU ARE REQUIRED TO COMPLY WITH THE

SCHOOL OF LAW RULES AND PROCEDURES FOR FINAL EXAMINATIONS

QUESTION ONE

Approximately Twenty-Five (25%) of Total Grade
Recommended Space Allocation: Three (3) Pages

The government maintains that the cases of *In re Territo and Ex Parte Quirin* support their position in having a status called "enemy combatants"? Do you agree or disagree with this position. Explain your answer in detail.

In answering this question, please note that your political position is of no relevance to the grade. The grader is looking for your analysis of these cases, irrespective of the position that you take.

QUESTION TWO -

Approximately Twenty (20%) of Total Grade
Recommended Space Allocation: Two (2) Pages

The judges in *Regina v. Bow Street Metropolitan Stipendiary Magistrate and Others, Ex Parte Pinoche Ugarte (No. 3)* (text p. 290) issued seven separate opinions. Which of the several decisions is most persuasive? Explain your answer in detail.

In answering this question, please note that your political position is of no relevance to the grade. The grader is looking for your analysis of these opinions, irrespective of the position that you take.

QUESTION THREE -

Approximately Fifty-Five (55%) of Total Grade
Recommended Space Allocation: Total of Nine (9) Pages

After a trial by jury in a federal district court, Abraham Poodell was convicted of the following crimes: Count I - Conspiracy to Violate the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1, 78dd-2) (18 U.S.C. § 371); Count II - Knowing and Intentional Possession With Intent to Distribute Marijuana (21 U.S.C. § 841(a)(1)).

The following was presented during either pre-trial motions or the trial:

Abraham Poodell is a citizen of Country A. He is presently employed as the Minister of Foreign Relations in Country A. On November 20, 2002 Abraham Poodell was approached by his cousin Tamar Poodell, a United States citizen, to assist her in securing a contract with Country A and a United States corporation, called Bone, Inc., a company that makes dog biscuits. Bone, Inc. is listed on the New York stock exchange. Tamar Poodell offered Abraham Podell one thousand (\$1,000) dollars as a gift if Bone, Inc. were given the contract to sell dog biscuits to the government of Country A, for their police dogs and drug dogs who work at Country A's airports. Abraham Poodell accepted this gift and secured the contract for Bone, Inc.

The police in Country A become aware of the gift that Tamar Poodell gave to Abraham Poodell for securing the contract with Bone, Inc. and arrested Abraham Poodell for the crime of "accepting a bribe." Abraham Poodell was tried and found guilty of this crime in Country A and received a fine of one hundred (\$100.00) dollars. The judge issuing this sentence stated that he was giving only a low fine because the parties (Abraham and Tamar Poodell) were related.

As a hobby in country A, Abraham Poodell cultivates marijuana for medical use. This is considered legal in country A. Abraham anxious to assist those suffering from diseases in the United States that might benefit from this marijuana, asks Tamar Poodell if she would like to take some of this drug back to the United States. The United States FBI wiretaps this conversation between Tamar and Abraham Poodell. If the recording of this conversation had occurred in the United States, the evidence would be suppressed as the recording was made illegally.

Before Tamar Poodell can answer Abraham Poodell to say that she does not wish to transport marijuana for Abraham Poodell to the United States, individuals working for a United States law enforcement agency enter the room and kidnap Abraham Poodell and bring him back to the United States to stand trial for the crimes of Count I - Conspiracy to Violate the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1. 78dd-2) (18 U.S.C. § 371); Count II - Knowing and Intentional Possession With Intent to Distribute Marijuana (21 U.S.C. § 841(a)(1)).

The United States and Country A have an extradition treaty, but there is nothing in the treaty that forbids securing individuals via kidnapping.

Abraham Poodell argues on appeal the following issues: (1) that he was deprived of rights under the United States Constitution; (2) that the district court did not have proper jurisdiction; (3) that the charges against him should have been

dismissed; (4) that his kidnapping, and subsequent trial on these charges, was improper; (5) that the district court violated the doctrine of dual criminality and speciality in trying him in the United States.

Write an appellate court opinion that discusses each of these five arguments made by Abraham Poodell in his appeal. (It is only necessary to discuss issues covered in this course, and it is not necessary to discuss criminal procedure issues that go beyond what was covered in this class.) **Make certain that your opinion explains in detail the rationale for your ruling as to each issue. Assume that defendant Abraham Poodell made all necessary motions to properly preserve issues presented for appeal. If you prefer to accomplish the above through concurring or dissenting opinions, you are welcome to do so. It is not necessary, however, to have other than a majority opinion as long as the majority opinion includes a detailed and full discussion of all issues presented in this case.**

Note -- Assume that all parties in this question are human beings.
(If your answer is contingent upon information not provided, explain what that information is and how it would affect your answer.)