

JEI WEEK 2023
**"2 YEARS ON-A REVIEW OF THE CRIMINAL PROCEDURE
RULES"**

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A GENERAL OVERVIEW OF THE CRIMINAL PROCEDURE RULES



THE CPR-THE FIRST OF ITS KIND IN THE TCI

- THE CRIMINAL PROCEDURE RULES CAME INTO EFFECT BY A GAZETTE AND PUBLISHED ON AUGUST 1ST 2021.

AN OVERVIEW

- IN SEPTEMBER 2021, JUDICIAL OFFICERS, COURT STAFF, PUBLIC AND PRIVATE BAR, POLICE AND OTHER RELEVANT STAKEHOLDERS OF THE CRIMINAL JUSTICE RECEIVED TRAINING IN CPR.
- TEETHING PAINS BUT GENERAL COMPLIANCE

HOW IS THE CPR WORKING?

- THERE IS GENERAL ADHERENCE TO THE RULES
- THERE ARE SOME STRAIGHT FORWARD RULES THAT WERE ALREADY BEING PRACTICE, WHICH CAUSED LITTLE TO NO CONCERN.
- THERE ARE ALSO RULES THAT HAVE NOT BEEN UTILIZED, FOR EXAMPLE RULE 20(HOWEVER IT HAS NOT CAUSE ANY CONCERNS)

HOW IS THE CPR WORKING?

- HOWEVER THERE ARE RULES THAT HAVE CAUSED SOME DEBATE AS TO INTERPRETATION: LETS EXAMINE PART IV
- BAIL
- RULE 13-PERSONS REMANDED IN CUSTODY
- *13(2) SPEAKS TO A "BAIL REVIEW" BEING CARRIED OUT PRIOR TO THE EXPIRATION OF THE 6 MONTHS FOR SUMMARY MATTERS AND 9 MONTHS FOR INDICTABLE MATTERS.*
- *THIS "BAIL REVIEW" HAS BEEN INTERRUPTED AS "BAIL APPLICATION"*
- *RULE 13 IS NOT TO BE USED AS A BACKDOOR FOR A BAIL APPLICATION.*

HOW IS THE CPR WORKING

- RULE 34- REVIEW OF BAIL CONDITIONS OF PERSONS REMANDED IN CUSTODY
- THERE HAVE BEEN INSTANCES WHERE THE DEFENCE HAS BEEN USING THIS RULE TO GROUND FRESH APPLICATIONS FOR BAIL. ESSENTIALLY THE RULE IS MEANT TO REVIEW THOSE WHO HAVE BEEN GRANTED BAIL ON CONDITIONS THT THEY COULD NOT MEET.

CONSIDERATIONS FOR REVIEW

- ALL APPLICATIONS FOR BAIL, WITH EXCEPTION OF RULE 31(9) IN THE INTEREST OF JUSTICE A COURT ORDERS OTHERWISE, DEFENDANTS MUST FOLLOW THE PROCEDURE SET OUT IN RULE 31. MOST IMPORTANTLY IN WRITING, CONTAINING THE RELEVANT INFORMATION (RULE 31(2))
- "*BAIL REVIEW*" UNDER RULE 13(2) CAN BE AMENDED TO "*REMAND REVIEW*". THE HEARING WHICH HAVE BEEN TAKING PLACE UNDER 13(2) IS TO CONSIDER WHETHER CONTINUED REMAND IS JUSTIFIED SINCE THE SPEEDY TRIAL DEADLINE OF 9 MONTHS IS NOT MET.

PROCEEDINGS IN THE CRIMINAL COURT

PART V

- RULE 36-IT DOES NOT APPEAR THAT ORIENTATION FOR THE DEFENDANT IS BEING CONDUCTED. HOWEVER VWSU OF THE ODPP, WITH A STANDING APPROVAL FROM THE HON. CHIEF JUSTICE, BRINGS VICTIMS/WITNESSES ESPECIALLY VULNERABLE VICTIMS OR WITNESSES TO COURT FOR SOME FAMILIARIZATION TOUR OF THE COURT AND ITS PRECINCTS BEFORE TRIAL.
- RULE 37-CREATES A REQUIREMENT FOR PROSECUTION TO SERVE INITIAL DETAILS OF THE PROSECUTORS CASE ON THE DEFENCE, LATEST BY THE FIRST HEARING IN THE MAGISTRATE COURT. THIS IS NOT BEING FULLY COMPLIED WITH.

PART V

- RULE 41 (4) (B) WHAT ARE THE SANCTIONS ENVISAGE IN THIS RULE
- RULE 49 (3)- GIVES THE MAGISTRATE THE POWER TO COMMIT A DEFENDANT CHARGED WITH AN INDICTABLE OFFENCE TO AN EARLY GUILTY PLEA HEARING INSTEAD OF SUFFICIENCY. THIS IS BEING UNDER UTILIZED. HOWEVER GIVEN THE PROVISIONS IN THE MAGISTRATE COURT ORDINANCE WHICH SPEAKS TO COMMITTAL ARE SO CLEAR AND MANDATORY THAT THERE IS A CONCERN THIS RULE MAY BE IN CONFLICT WITH THE RELEVANT ORDINANCE.

DISCLOSURE BY PROSECUTION AND DEFENCE

- RULES 79 AND 80
- BOTH THE PROSECUTION AND THE DEFENCE HAVE OBLIGATIONS UNDER THE RULES IN REGARDS TO DISCLOSURE THAT MUST BE MORE STRICTLY ADHERED TO, IF THE TRUE SPIRIT OF THE CPR IS TO BE REALIZED, AND THAT IS TO ENSURE THAT CRIMINAL CASES ARE DEALT WITH JUSTLY.

- THANK YOU.