NAME: DIFFA GABRIELLA .O.

MATRIC NO: 18/LAW01/070

COURSE: NIGERIAN LEGAL SYSTEM

LEVEL: 200

Department: LAW

QUESTION: **State clearly the procedure from arraignment to imposition of sentence in a criminal trial in the High Court. Comment on the remedy available to the accused after the imposition of sentence.**

**Stages of a Criminal Case**

Criminal prosecution develops in a series of stages, beginning with an arrest and ending at a point before, during or after trial. The majority of criminal cases terminate when a criminal defendant accepts a plea bargain offered by the prosecution. In a plea bargain, the defendant chooses to plead guilty before trial to the charged offenses, or to lesser charges in exchange for a more lenient sentence or the dismissal of related charges.

**Arrest**

Criminal prosecution typically begins with an arrest by a police officer. A police officer may arrest a person if;

1. the officer observes the person committing a crime;

(2) The officer has probable cause to believe that a crime has been committed by that person; or (3) the officer makes the arrest under the authority of a valid arrest warrant. After the arrest, the police book the suspect. When the police complete the booking process, they place the suspect in custody. If the suspect committed a minor offense, the policy may issue a citation to the suspect with instructions to appear in court at a later date.

**Bail**

If a suspect in police custody is granted bail, the suspect may pay the bail amount in exchange for a release. Release on bail is contingent on the suspect's promise to appear at all scheduled court proceedings. Bail may be granted to a suspect immediately after booking or at a later bail review hearing. Alternatively, a suspect may be released on his "own recognizance." A suspect released on his own recognizance need not post bail, but must promise in writing to appear at all scheduled court appearances. Own recognizance release is granted after the court considers the seriousness of the offense, and the suspect's criminal record, threat to the community and ties to family by and employment.

**Arraignment**

The suspect makes his first court appearance at the arraignment. During arraignment, the judge reads the charges filed against the defendant in the complaint and the defendant chooses to plead "guilty," "not guilty" or "no contest" to those charges. The judge will also review the defendant's bail and set dates for future proceedings.

**Preliminary Hearing or Grand Jury Proceedings**

The government generally brings criminal charges in one of two ways: by a "bill of information" secured by a preliminary hearing or by grand jury indictment. In the federal system, cases must be brought by indictment. States, however, are free to use either process. Both preliminary hearings and grand juries are used to establish the existence of probable cause. If there is no finding of probable cause, a defendant will not be forced to stand trial.

A preliminary hearing, or preliminary examination, is an adversarial proceeding in which counsel questions witnesses and both parties makes arguments. The judge then makes the ultimate finding of probable cause. The grand jury, on the other hand, hears only from the prosecutor. The grand jury may call their own witnesses and request that further investigations be performed. The grand jury then decides whether sufficient evidence has been presented to indict the defendant.

**Pre-Trial Motions**

Pre-trial motions are brought by both the prosecution and the defense in order to resolve final issues and establish what evidence and testimony will be admissible at trial.

**Trial**

At trial, the judge or the jury will either find the defendant guilty or not guilty. The prosecution bears the burden of proof in a criminal trial. Thus, the prosecutor must prove beyond a reasonable doubt that the defendant committed the crimes charged. The defendant has a constitutional right to a jury trial in most criminal matters. A jury or judge makes the final determination of guilt or innocence after listening to opening and closing statements, examination and cross-examination of witnesses and jury instructions. If the jury fails to reach a unanimous verdict, the judge may declare a mistrial, and the case will either be dismissed or a new jury will be chosen. If a judge or jury finds the defendant guilty, the court will sentence the defendant criminal trial, the prosecuting attorney presents evidence and witness testimony to try to prove beyond a reasonable doubt that the defendant committed the crime. The defendant’s attorney may present evidence and witnesses to show that the defendant did not commit the crime or to create a reasonable doubt as to the defendant’s guilt. The defendant is considered innocent of the crime charged until proven guilty.  
When the prosecution has finished questioning a witness, the defense is allowed to cross-examine the witness on any relevant matter. After cross-examination, the attorney who first called the witness may ask the witness more questions to clarify something touched on in the cross-examination. This is redirect examination. The judge may allow an opportunity for the opposing attorney to re-cross examine.  
When the prosecution has called all the witnesses for its side of the case and presented all of its evidence, it rests its case.  
At this point, the defendant’s attorney may ask for a judgment of acquittal. This means that the attorney is asking the court to decide the case in the defendant’s favor because the prosecuting attorney did not present enough evidence to prove the case against the defendant. If the judge agrees that there is not enough evidence to rule against the defendant, the judge rules in favor of the defendant, and the case ends.

**Sentencing**

During the sentencing phase of a criminal case, the court determines the appropriate punishment for the convicted defendant. In determining a suitable sentence, the court will consider a number of factors, including the nature and severity of the crime, the defendant's criminal history, the defendant's personal circumstances and the degree of remorse felt by the defendant.

**Appeal**

An individual convicted of a crime may ask that his or her case be reviewed by a higher court. If that court finds an error in the case or the sentence imposed, the court may reverse the conviction or find that the case should be re-tried or he/she has the right to bring an attorney for his defense.

**2. Comment on the various methods by which civil proceedings may be commenced in the High Court**

There are two modes of commencing a civil action:

* By Writ of Summons
* By [Originating Summons.](https://www.supremecourt.gov.sg/rules/court-processes/civil-proceedings/commencement-of-an-action/modes-of-commencing-an-action#2)

**Writ of Summons (**[**Order 6 of the Rules of Court**](https://sso.agc.gov.sg/SL/322-R5#PO6-)**)**

**A writ is “an order issued by a legal authority with administrative or judicial powers, typically a court.”** The Writ of Summons (WOS) is one of the two modes used in commencing a civil action against a person. It is a formal document addressed to the defendant requiring him to appear before the court if he/she wishes to defend himself against the plaintiff's claim. A writ is usually accompanied by an Endorsement of the Claim or a Statement of Claim so that the defendant is made aware of the claim against him/her.

Writ of summons can also be defined as a type of writ and is issued to begin civil proceedings. The writ is issued by the plaintiff, or the party suing, to the defendant(s). It requires the defendant(s) to enter an appearance in court if the defendant wishes to defend the claim. If the defendant does not enter an appearance in Court or file a defense in time as set out in the writ, judgment in default may be entered against the defendant. **A writ contains; (i).The name of the plaintiff or claimant and his address (ii) Name of defendant and his address. (iii). Name of the plaintiffs solicitor and business address for service of court processes**.

**ii. ORIGINATING SUMMONS**

Originating Summons (OS) is one of the two modes in commencing a civil action.  An action is commenced by an Originating summon when (1) it is required by a statute or (2) a dispute, which is concerned with matters of law, is unlikely to be any substantial dispute of fact.  An Originating Summons may be in ***Inter partes* or *Ex-parte*** of the Rules of Court.

**iii. PETITION:** This may be necessary in matrimonial proceedings for divorce or winding up a company for is inability to pay its debts in a Federal High Court and so forth.

**REFERENCE**1. [www.supremecourt.gov.ng](http://www.supremecourt.gov.ng)

2. [www.elitigation.sg](http://www.elitigation.sg)

3. [www.nigeria-law.org](http://www.nigeria-law.org)

4. [www.academia.edu](http://www.academia.edu)

5. [www.lawpavilion.com](http://www.lawpavilion.com)

6. [www.en.wikipedia.org](http://www.en.wikipedia.org)