EJEMEKA OBISINACHI MIRACLE

18/LAW01/086

PROCEEDURES FROM ARRAIGNMENT

The main two procedures for arraignment in a criminal trial is either by a direct criminal complaint via first information report(FIR) in a police or by a formal charge preferred by the prosecution either by the police or the Attorney Gen. After, the complaint or charge as the case may be arraignment follows as the case may be which has to be by arrest that in most cases has to be accompanied by warrant of arrest. As soon as the accused is arrested and his charges are read by the court to him and he has to plead guilty or not. The accused could plead;

**AUTREFOIS ACQUIT**; this plea states that the accused has been tried for the same offence before and has been acquitted, this sets out to protect the accused from double jeopardy.

**AUTREFOIS CONVICT**; this plea means that he has been tried and convicted for the same crime on on a previous occasion, this is also applicable for a rule against double jeopardy.

**HE MAY STAND MUTE**; whenever an accused stands mute a plea of not guilty is usually entered for the accused.

**PLEAD OF GULTY TO A LESSER OFFENCE;**

While intending to plead not guilty an accused can plead guilty for a lesser offence which is not in the information where this plea is accepted by the prosecution the court will pass its sentence accordingly.

**HE MAY PLEAD GUILTY TO THE OFFENCE;**

Where the appeal pleads guilty, the counsel for the prosecution will the give the court a summary of the evidence together with details of the accused person background, that is character and his criminal record, if any. After this the counsel for the defense usually makes his allocutus or plea in mitigation of sentence and the court then passes its sentence.

**HE MAY PLEAD NOT GUILTY;**

Where the accused does not plead guilty, the trial then proceed. If he pleaded not guilty the onus is in the prosecution to prove his case but if he pleads guilty the court enters summary-trial. in some capital offences like murder summary-trial is excluded. Full trial is very necessary just because the ingredients of the offences like Actus rea and mens rea have to be concurrently established and the gravity of the punishment has to be considered.

In the procession of the trial the accused can plead guilty to a lesser offense in other for greater offence to be dismissed, where the accused does not plead guilty to a lesser offence the trial proceeds and the accused cannot be convicted for such lesser offence

Where the accused is unable to plea due to mental disorder like insanity, he would be tested by medical personals if truly the accused is mentally ill he will be acquitted on the grounds of insanity as seen in the case of R v. NAGHTEN. The accused is sane until the contrary is proven, the motion of insanity is often raised by the defense council after which a prove is required, non the less the court can also raise a motion of insanity is some instance.

**PROSECUTION**

The counsel for the prosecution always opens a criminal proceeding by calling evidence for the prosecution, he calls his witness and examines each in chief, and tender any exercise they may have, the witness is in turn cross-examined by the defense counsel and re-examined by the prosecution counsel as may be necessary and the case for prosecution closes.

**DEFENCE**

After the close of the prosecution and a no case submission is made the case for the defense then opens, the accused and his witness if any are one after the other led in evidence in chief by the counsel of the defense and are cross examined by the prosecuting party, and re -examined by the counsel of the defense as may be necessary.

**CLOSING ADDERESS**

After the case for the defense has been closed, the counsel for both sides then make closing speeches by addressing the court the prosecuting counsel is always the first to address the court he sums up or reviews the case on both sides. He points out the strength on the prosecution and identifies the weakness on the defense if any and urged the court to convict the accused guilty as charged, the case of the prosecution must succeed on its own, meaning that the prosecution must prove his case beyond reasonable doubt without depending on the weakness of the defense counsel. The defense council is also gives a closing speech. The idea of the closing speech is that the defense has the right to round off the address.

**JUDGEMENT**

After the court has been addressed by both counsels the judge fixes the judgement for a date provided that it is not a summary trial, and the court rises in adjournment to enable it deliberate, consider, or evaluate the totality of evidence in the case. On the adjourned date the court resumes sitting, the case is called and the judge begins to deliver his judgement on the case, however, where a trial is by summary procedure the judge may deliver judgement there and then, or he may retire to his chamber to consider judgement and resume sitting to deliver it on that same day, as the case may be. This may be done according to the law.

**DISCHARGE**

When an accused has not been found guilty, on merit, the judge will dismiss the information or charges and accordingly discharge and acquit the accused person as provided under the criminal procedure law. On the other hand, if the prosecution failed on a technicality, then the court will usually discharge the accused, but not acquit him. Where an accused has not been proven guilty the court will do one of the following.

1, Dismissal order, dismissing the information or charge (s)

2, order of discharge of the accused on the charge(s)

3, order of acquittal; and

4, order of compensation, as the case may be false.

**SENTENCE**

When an accused is found guilty, before passing sentence an allocutus, plea for mercy, or leniency is usually made by the counsel for defense. After the allocutus, the judge passes sentence on the accused. There are various types of sentence in which the court may impose on a convicted person some of which are;

1, imprisonment, usually with hard labor

2, fine in lieu of, that is, instead of imprisonment of both fine and jail.

3, death sentence, etc.

Once, the judgement is read to the accused, and a copy of it may be obtained by him for appeal. He is given 90 days to file notice of Appeal otherwise judgement Will be executed against him.

1a

The only remedy available to the accused after the imposition of the sentence is His Right of Appeal if he is disatisfied with the judgement

2

Various method by which civil Proceedings can be commenced in High Court. Either by

Originating Process

Writ of summon

Originating motion

Petition.

**ORIGINATING PROCESS;**

Originating process ia a term for various documents by means of which a civil action may be commenced, such as a default summons, statement of claim, cross-claim and summons. An originating process must be served to the defendant personally (except in cross-claims against active parties).

**WRIT OF SUMMONS**

The Writ of Summons 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.

**ORIGINATING MOTION.**

A type of document that starts a civil proceeding. This is often required when:

* there is no defendant
* you are making an application to the court under a particular Act, or
* the *Supreme Court (General Civil Procedure) Rules 2015* or the *Supreme Court (Miscellaneous Civil Proceedings) Rules 2018* tell you to use an originating motion. See also writ.

PETITION;

A petition is a legal document formally requesting a court order. Petitions, along with complaints, are considered pleadings at the onset of a lawsuit.

REFERENCES

Nigeria legal system, obilade, 2011.

[www.investopia.com](http://www.investopia.com)