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COLLEGE OF LAW

COURSE CODE LPI 204

200 LEVEL

1. State clearly the procedure from arraignment to imposition of sentence in criminal trial in high court. Comment on the remedy available to the accused after the imposition of the sentence.

**THE PROCEDURE OF ARRAIGNMENT OF SENTENCE IN CRIMINAL TRIAL IN THE HIGH COURT**

 In General. An arraignment must be conducted in open court and must consist of:

a) ensuring that the defendant has a copy of the indictment or information;

(b) reading the indictment or information to the defendant or stating to the defendant the substance of the charge; and then

(c) asking the defendant to plead to the indictment or information.

The arraignment is the first time the defendant appears in court.At the arraignment, the judge tells the defendant:

• What the charges are,
• What his or her constitutional rights are, and
• That if he or she does not have enough money to hire a lawyer, the court will appoint a lawyer free of charge.

The defendant may then respond to the charges by entering a plea. Common pleas include guilty, not guilty, or no contest (also known as “nolo contendere”).

• **Not Guilty** means the defendant says he or she did not commit the crime. Sometimes, defendants enter a plea of not guilty as a strategic decision during plea bargaining or because they want to go to trial and force the prosecution to prove its case beyond a reasonable doubt.
• **Guilty** means the defendant admits he or she committed the crime. The judge finds the defendant guilty and enters a conviction in the court record.
• **No Contest**means the defendant does not contest (disagree with) the charge. This plea has the same effect as a guilty plea, except the conviction generally cannot be used against the defendant in a civil lawsuit.

If the defendant is in custody at the time of arraignment, after the defendant enters a plea (responds to the charges), the judge will:

• Release the defendant on his or her “own recognizance” (which means the defendant promises to return to court on a specified date), OR
• Set bail and send the defendant back to the jail until the bail is posted, OR
• Refuse to set bail and send the defendant back to jail.

**IMPOSITION OF SENTENCE IN CRIMINAL TRIAL IN THE HIGH COURT**

The criminal justice system in Nigeria starts to run with the commission of a crime and continues with subsequent interventions by agencies of the system with the arrest, arraignment, trial, sentencing and punishment of the offender. A criminal trial involves two processes both of which are important to the society and the offender. Firstly, there is the process of determining whether the defendant/accused did the act or made the omission alleged against him; if he did, then the second leg is that of sentencing him for his wrongdoing. In some legislation, the words sentence and judgments are used as if they were synonymous.

 The justification is that imposing the penalty will reduce the future incidence of such offences by preventing the offender from re-offending or correcting the offender so that the criminal motivation or inclination is removed or by discouraging or educating other potential offenders. These are known as reductive justification. As such, the key purpose of sentencing includes:

1. Punishment
2. Deterrence (general and specific)
3. Rehabilitation
4. Denunciation and
5. Protection of the community.

These purposes overlap and none can be considered in isolation from the others when determining what an appropriate sentence is in a particular case. They are guide posts to the appropriate sentence but sometimes they point in different directions. Sentencing guidelines are designed to indicate to judges the expected sanction for particular types of offences. They are intended to limit the sentencing discretion of judges and to reduce disparity among sentences given for similar offences. Although statutes provide a variety of sentencing options for particular crimes, guidelines attempt to direct the Judge to more specific actions that could be taken.

1. Comment on the various methods by which civil proceedings may be Commerce’s in the high court

 Civil proceedings are commenced by way of originating processes issued and served by the courts. There are various types of originating process. These include writs of summons, originating summonses, originating motions and petitions. In Nigeria, actions in which the facts are disputed must be commenced by writ of summons. The Lagos State High Court (Civil Procedure) Rules 2019 provides for a system under which originating process must be accompanied by a statement of the claim, a list of witnesses, list of documents to be relied on and the sworn statements of the witnesses. In Lagos, the writ of summons is to be served within six months from the date of issuance. A writ may be renewed for a further three months no more than twice, as no writ can be valid for more than 12 months from the date of issuance. A number of other state jurisdictions have now adopted this procedure, which was first introduced in Lagos State.

 Courts (especially those in highly commercial cities such as Lagos and Abuja) do experience capacity issues, which substantially affects their ability to attend to cases in a timely manner. However, some jurisdictions have invested heavily in various alternative dispute resolution mechanisms, to relieve the courts of their congested caseload. In Lagos State, the ‘multi-door courthouse’ was created to encourage out-of-court settlement. The Court of Appeal Mediation Centre has also been launched, to create a two-path justice system in the Court of Appeal - litigation and mediation. Courts are constantly enjoined to refer parties to the multi-door courthouse to have disputes resolved out of court and expeditiously. Various courts have also reviewed their procedural rules and practice procedures for the purpose of encouraging resolution of disputes through other alternative dispute resolution mechanisms. For instance, the High Court of Lagos State (Civil Procedure) Rules 2019 makes it mandatory for parties to have taken steps to have their disputes resolved amicably prior to taking out a writ of summons and evidence of such steps must be included in the originating processes; otherwise, the action shall be dismissed as being null. Furthermore, the High Court of Lagos State (Civil Procedure) Rules 2019 introduced the Backlog Elimination Programme to give special attention to matters that have been lingering in courts for five years and above. The Court of Appeal Mediation Rules 2018 also provides that all appeals will be screened by the court to determine their suitability for mediation, and resolved at the centre if found appropriate.