**NAME: BLESSING SALIFU ENE**

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Criminal justice system usually involves the state and the society with the offender who committed the crime or who is alleged to have committed the crime and the processes of determine whether the accused committed such crime.

Sentencing is the prescription of punishment by a court to someone convicted of a crime. **The Canadian Sentencing Commission in 1987** defined sentencing as “the judicial determination of legal sanctions to be imposed on a person found guilty of an offence”. In[[1]](#footnote-2) **Ichi v The State** where it was held that sentencing is the judgment formally pronounced by the court or judge upon an accused person after his conviction in a criminal prosecution imposing punishment to be inflicted.

As a presiding judge of the high court, having found Evans guilty of these charges brought against him including kidnapping, armed robbery, defilement, ritual killing, extortion and obtain property by false pretence the guideline to which will guide me in sentencing him justly and fairly has been laid down by the supreme court. The guidelines include:

* Nature of the offence
* Character of the offender
* Position of the offender among his confederates
* The rampancy of the offence
* Statutory Limitation
* Concurrency of the sentence

**The Nature of the Offence.**

According to the Supreme Court, the nature of an offence committed by an accused person of which he has been found guilty of goes a long way in determining the extent of his punishment. In the case of [[2]](#footnote-3)***Adeyeye and others v State*** a case of robbery by violence tried by the [[3]](#footnote-4)**High Court of Western State,** the court imposed the sentence of 18 years of imprisonment on the accused person. On appeal, the western state appeal reduced the sentence to 10 years. The accused person unsatisfied with the decision of the appeal court yet appealed to the Supreme Court, the Supreme Court reinstated the 18years with 3 strokes of cane. The Supreme Court stated that the sentence of the appeal court was too lenient because of the seriousness of the offence. Also in [[4]](#footnote-5)***Adesonya v The Queen*** a case of forgery and the principle was established that only in exceptional cases can a fine be sufficient or appropriate punishment for forgery of the court processes.

**Character of the Offender**

In the principle of the Rule of Evidence, character evidence is inadmissible in law. However when the character of the accused person is in question, the evidence of his character becomes admissible in law. In ***Adeyeye v The State(supra)*** part of the reasons advanced for the restatement of 18years imprisonment was that the accused had been convicted before for an offence. In ***Adeleye v Ajibade***, the appellant bad character was significant in the restoration of an heavier punishment on them. In[[5]](#footnote-6) ***R v The State*** the appellant had been previously convicted for defilement, this led the court to increase his sentence from 18months to 5years imprisonment with hard labor. In [[6]](#footnote-7)***R v Bangaza*** with ha heavy stick the two accused persons committed a deliberate assault on the deceased children on the appellant younger brother. Death resulted and the appellant were charged therefore, convicted and appealed. After the murder in 1950, the appellant ran away to a place in Borno, they surrendered themselves early in 1959. At the time of their offence, the appellant were under 17years old but old enough to be criminally responsible, by the time they were convicted and they were 17 and more. Dismissing the appeal and holding that they were rightly sentenced to death.

**Position of the Offender among his Confradrates**

When the offender plays a minor role in [[7]](#footnote-8)***Enahoro v Queen*** a case of treasonable felony, Enahoro was sentenced to 15years imprisonment by the High Court, the Supreme Court reduced the sentence to 5 years and said the sentence imposed on a lieutenant should never be more than the leader. The leader of a gang should be punished more severely than the lieutenant. This is to affirmed that those who instigate should get higher punishment than those instigated. In that case, the leader **late Awolowo** got 10years sentence.

When the offender plays major rule:

The offender who has played a major rule in the commission of a crime is usually visited with more severe punishment than those inflicted on minor participant. This idea was given in the case of [[8]](#footnote-9)***Queen v Mohammad and others*** while the first appellant who was the leader was given a maximum sentence of 8years imprisonment, the others were given a maximum sentence of 5years imprisonment. In [[9]](#footnote-10)***Ihum and ors v Tiv Native Authority*** where the appellant were involved in a riot in which many animals were maimed and destroyed, they all got sentences totaling 6 years imprisonment, expect the 6th appellant who got 8years imprisonment for being the moving force of the riot.

**Rampancy of the Offence.**

When the offence is rampant, court have always thought that severity of sentence imposed would aid in stamping out the crime. In[[10]](#footnote-11) ***R v Hassan and Owolabi,*** the accused persons was sentenced to 5years by the high court for forgery and another 5years for stealing he appealed and the supreme court expressed its view thus” Fraud on the customs are shockingly prevalent and the forgery of commercial document strikes at the root of all credits, we are not disposed to reduce the sentence by 1day”. In [[11]](#footnote-12)***State v Micheal Ayegbemi,*** it was because of the court view in a decided case that robbery on the roads and water in recent times had being on increase and disturbing that two parties to the robbery was sentenced to 2 years imprisonment. In [[12]](#footnote-13)***Onyilokwu v C.O.P,*** the offender was initially detained of causing harm and later, he unsuccessfully tried to escape and was additionally charged with keeping unlawful custody, although he was discharged and acquitted, the court expressed the view that three years imprisonment earlier imposed on him did not show adequate consideration not only for his 1st offender status, but also for an offence which was most prevalent in the society.

This is one of the most necessary and important consideration, mitigating, factor or aggravating, depending on the offence. Certain offences have been considered as serious in nature for example sexual offences especially when it involves children as victims. In ***State v Adeboye,*** a 3year prison was sentence was imposed on an offender for inserting his finger into the vagina of a little girl aged 9 who was hawking groundnut.

**Statutory Limitation**

Generally, crimes are not statute band but there are some exceptions. This includes:

1. If a girl is defiled under the age of 13 the cases must be brought within 2years.
2. Sexual Offences against idiots must be brought within 3 months.
3. Where is stated by the court of law on the amount of years that should be spent for punishment.

Statute of limitation is a law that prohibits or forbids prosecution of charging someone with a crime that was committed more than specific number of years. The general purpose of the statutes of limitation is to make sure that conviction occurs only upon evidence that has not been deteriorated with time after the period of statute has run, the criminal is eventually free. Where the state itself has been stipulated terms of imprisonment, the court shall not exceed more than the statutory limits. However not all crimes are governed by the statute of limitation. Murder for example, in some state sexual offences, assault , crimes of violence , kidnapping, forgery has no statutory limitation.

In Nigeria, there are two types of statutory limitation. We have the **Statutory Maximum** and also **Magisterial Jurisdiction limitation.** In essence, whenever a statute itself stipulate a time of imprisonment no court should exceed the statutory limits.

**Concurrent and Consecutive Sentence**

There are laws governing concurrent and consecutive sentences. When a person is charged and found guilty of 2 or more offences in Nigeria, the general rule is that when a court finds an accused person guilty of more than 2 or 1 offence the sentence should run concurrently. The Supreme Court held this position saying “whenever the offences have similar nature they should run concurrently”. In ***Nwafor v State*** where the accused person was found guilty of store breaking and the possession of breaking instrument, the Supreme Court held that the offence should run concurrently, because they are offences of the same transaction.

**USING THE ABOVE GUIDELINES THIS WILL BE HOW MY SENTENCING WOULD BE**

In following the above guidelines led down by the Supreme Court, in sentencing Evans, I would use the following:

***Nature of the offence (Evans offences)***

The nature of Evans offence, the law is clear that a person cannot be found guilty of an offence which as at the time begin committed does not constitute a crime in any written law and his punishment clearly stated. But in the case of Evans, the offences which he has committed constitute a crime which is provided for in the criminal code and therefore Evans is found guilty of all the charges against him because the punishment are also clearly stated in a written law.

***Character of the offender (Evans character)***

In law when the character of the accused person is in question, the evidence of his character becomes admissible in law. Evans character is in question here because he is known to be a notorious kidnap, kingpin and also an armed robber who has been involved in series of assault, rape and defilement of young girls and therefore his character will be admissible in this court. Therefore since he has previous conviction, he has lost out in terms of mitigating his sentence. He will serve all his punishment without any form of plea bargaining.

***Position of the offender among his Confradrates (Evans position)***

Evans is the kingpin meaning he is the moving force of his group and the person who plays the major role in the commission of a crime is therefore to have a more severe punishment than any of his other group members.

***Rampancy of the offence.***

Evans will be given a severe punishment because armed robbery, kidnapping, assault, rape, defilement of young girls are prevalent in recent times and this will aid in stamping out the crimes. It will also help in discouraging more people from committing the crime that have been stated above. The gravity of an offence can be likened to the rampancy of an offence. If considered rampant and grievous, the court will most likely impose a heavier punishment in the view to uproot this type of crime in the society.

***Statutory limitation***

The crimes that Evans committed will not be limited by any statute unless in the case of defilement of young girls will be limited If a girl is defiled under the age of 13 the cases must be brought within 2years and also when it is stated by the court of law on the amount of years that should be spent for punishment.

***Concurrent and consecutive sentences***

Since Evans has been found guilty of more than 2 offences his sentence will run concurrently, following the general rule in Nigeria that when a court finds an accused person guilty of more than 2 offences, the sentence should run concurrently. Also the Supreme Court also stated that whenever the offences have similar nature they should run concurrently. Since armed robbery and kidnapping have similar nature the sentence can run concurrently.

In conclusion using the guidelines, the nature of Evans offence was serious as he has committed more than one offence to and was found guilty for all the charges. His character was questionable because he had committed series of other offences too as he was also known as a notorious kidnap, a kingpin and also an armed robber. He also is the leader of his group which will also make him have more severe punishment. Except there is a statute limit, he is found guilty of all the crimes stated to and can be charged for all of them. Also some of his offences were similar so his punishment and sentence will run concurrently.

1. Ichi v the state (1996) 9NWLR pt 470 pg 83-89 [↑](#footnote-ref-2)
2. Adeyeye and others v state (2013) JELR 54980 [↑](#footnote-ref-3)
3. High court of Western State [↑](#footnote-ref-4)
4. Adeleye v Ajibade(2013) 3 NWLR pt 1446 [↑](#footnote-ref-5)
5. R v The State [↑](#footnote-ref-6)
6. R v Bangaza (1960) 5 F.S.C.1.2 [↑](#footnote-ref-7)
7. Enahoro v The Queen (1965) 1 All NLR 125 [↑](#footnote-ref-8)
8. Queen v Mohammad and others [↑](#footnote-ref-9)
9. Ihum and ors v Tiv Native Authority [↑](#footnote-ref-10)
10. R v Hassan and Owolabi(2005) 2 AC 467 [↑](#footnote-ref-11)
11. Sate v Micheal Ayegbemi [↑](#footnote-ref-12)
12. Onyilokwu v C.O.P(1981)2 NCR 49 [↑](#footnote-ref-13)