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**SENTENCING**

This can be defined as punishment that was ordered or could be ordered by a trial court in a criminal procedure. A sentence can either be concurrent or consecutive in nature.

The case of **ICHI V. STATE** defines sentencing as a judgment formally pronounced by the court or judge upon appeal after its conviction in a criminal prosecution imposing the punishment to be inflicted.

In the case of Evans who was found guilty of all the charges brought against him which includes kidnapping, armed robbery, rape, defilement, ritual killing extortion and obtaining property by false pretense.

It is important to note that in a criminal trial, convictions and sentencing comes at the end of the entire proceeding.

**THE SIX BASIC PRINCIPLES TO AID COURTS IN REACHING A REASONABLE, JUST AND FAIR SENTENCE**

**The following ways will guide us in sentencing Evans:**

**THE NATURE OF THE OFFENCE**

This is very important and must be considered in determining whether a judgment would be in the interest of justice. As a principle of law and practice the nature of an offence committed by an accused person goes a long way in determining the extent of his punishment.

It is important to note that a person cannot be found guilty of an offence which as at the time being committed does not constitute a crime in any written law and its punishment clearly stated.

* **ADESANYA V. THE QUEEN**

This is a case of forgery and the principle was established that only in an exceptional case can a fine be sufficient or appropriate punishment for forgery of court processes. The accused person was sentenced to pay fine on appeal at the instance of the accused person the court held that payment of fine was too small a punishment for the grievous of forgery hence, imprisonment.

* **IDOYE V. THE STATE**

The accused person drove his car at night without headlamps in a hilltop area in the process he killed a pedestrian and was sentenced to 5years imprisonment from the high court in addition with 10years disqualification from driving.

**NOTE:** Provocation is a statutory recognized defense which serves as a mitigating factor and reduces cases of murder to manslaughter.

**MY APPLICATION**

As a judge in this case. Evans was seen to be guilty of robbery, rape, defilement, ritual killing, extortion and obtaining property by false pretense. I will look at whether at the time the offence was committed it constituted a crime under any written law and also the punishment of the offence is clearly stated.

**CHARACTER AND NATURE OF THE OFFENDER**

As a principle of law and a rule of evidence (character evidence) is inadmissible in law. When the character of the accused person is in question the evidence of his character becomes admissible in law.

* **R V. 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.

* **ADELEYE AND AJIBADE**

The appellant’s bad character was significant to the restoration of achiever punishment on them.

**MY APPLICATION**

As a judge in this case I will look at the character of the accused which is Evans and see if his character is one that is admissible in law.

**THE POSITION OF THE OFFENDER AMONG HIS CONFEDERATES**

The offender who has played a major role in the commission of a crime is usually visited with more severe punishment than those inflicted on the minor.

* **ENAHORO V. THE QUEEN**

In a case of treasonable felony Enahoro was sentenced to 15years imprisonment and the supreme court reduced it to 10 years saying

‘A sentence imposed on a lieutenant should never be more than the leader. The leader of the gang should be punished more severely than the lieutenant.’ This shows that those who instigate the plan should get a higher punishment than those instigated.

In this case, the late Obafemi Awolowo was the leader and got a sentence of 10 years imprisonment so the lieutenants should not get a sentence higher than 10years.

* **STATE V. KEREKU**

Although the appellant was found not to be the leader. The court was however of the view that she played a leading part in the incident and must take that into consideration.

**MY APPLICATION**

As a judge in the case of Evans, I will look at whether Evans laid a minor or major role in the offence before judging the case. If he played a major role the punishment will be higher than those that played a minor role.

**RAMPANCY OF THE OFFENCE**

When the offence is rampant or provident courts have always thought that severity of sentences imposed will aid in stamping out the crime. It is seen as one of the most necessary consideration as it can be a mitigating factor or an aggravating one. The court in a case of a rampant offence will give heavy punishment so that it will be a lesson to the public. Example: kidnapping

* **STATE V. ADEGBOYE**

A 3years imprisonment sentence was imposed on the offender for inserting his finger in the vagina of a 9year old girl who was hawking groundnut.

* **OLANIPEKUN V. THE STATE**

During a robbery D the leader ordered one of his followers to shoot a victim, he complied but the gun did not go off. He was sentenced to 5years imprisonment with hard labor. The court said inter alia

‘The society demands that such a man should be kept out of circulation’

**MY APPLICATION**

As a judge in the case of Evans I will look at whether the offence is one that is rampant. If it is then a heavy punishment will be given to Evans for it to be a lesson to the public and also there will be severity of the punishment in order to aid the stamping out of the crime.

**STATUTORY LIMITATIONS**

A statute of limitation is a law that prohibits prosecutors from charging someone for a crime that has been committed more than a specified number of years ago. The general purpose of statute limitation is to make sure convictions occur only upon evidence that have not defoliated with time. All crimes are governed by statute of limitation.

In Nigeria there are two types’ statutes of limitation.

* Statutory maximum
* Magisterial jurisdiction limitation

When a statue stipulates time of imprisonment no court should exceed the statutory limit.

* **MODI V. C.O.D**

The magistrate court sentenced the accused to 2years imprisonment and the high court later increased it to 10years. On appeal, the Supreme Court reinstated the earlier imposition of 2years because that was the limitation of the magistrate court.

* **QUEEN V. EYO AND ORS**

A case of unlawful assembly. The high court sentenced them too 5years imprisonment. On appeal, to the Supreme Court, it was reduced to 3years because that was the maximum sentence stipulation

**MY APPLICATION**

As a judge in the case of Evans I will check if there is any statutory limitation to the sentence I want to declare on the accused.

**CONCURRENT AND CONSECUTIVE SENTENCE**

**CONCURRENT SENTENCE**: sentences served at the same time with the longest period controlling.

**CONSECUTIVE SENTENCE**: sentences that run after the other.

There are laws governing concurrent and consecutive sentencing when a person is charged and found guilty of more than two offences in Nigeria, the general rule is that whenever a court finds an accused person guilty of more than one offence the sentences should run concurrently.

* **NWAFOR V. THE STATE**

The accused person was found guilty and sentenced for store breaking and the possession of breaking implements, the Supreme Court held that they should be prosecuted concurrently because they emanate from the same transaction.

**MY APPLICATION**

As a judge I will look at Evans case to determine whether to apply a concurrent or consecutive sentence. If Evans is guilty of more than one offence then he would be sentenced concurrently.

**CONCLUSION**

For a judge to determine how to sentence an accused in a case he is to follow the guidelines given by the supreme court of Nigeria which includes: the nature of the offence, nature of the offender, the position of the offender among its confederates, rampancy of the offence, statutory limitations and consecutive and concurrent sentence.