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**QUESTION: EVANS, A NOTORIOUS KIDNAP KINGPIN AND ARMED ROBBER, WHO HAS ALSO BEEN INVOLVED IN SERIES OF ASSAULT, RAPE AND DEFILEMENT OF YOUNG GIRLS HAS FINALLY BEEN APPREHENDED BY THE POLICE. HE WAS ARRESTED AT THE SEME BORDER, DRESSED LIKE A WOMAN AND ATTEMPTING TO CROSS THE BORDER TO BENIN REPUBLIC. INVESTIGATION INTO HIS ACTIVITIES WAS CONCLUDED BY THE POLICE AND HE WAS BROUGHT TO THE HIGH COURT WHERE YOU ARE THE PRESIDING JUDGE. AFTER A LONG TRIAL, YOU HAVE FOUND EVANS GUILTY OF ALL THE CHARGES BROUGHT AGAINST HIM INCLUDING KIDNAPPING, ARMED ROBBERY, RAPE, DEFILEMENT, RITUAL KILLING EXTORTION AND OBTAINING PROPERTY BY FALSE PRETENCE. HAVING FOUND HIM GUILTY OF THESE CHARGES, YOUR NEXT ASSIGNMENT IS TO SENTENCE HIM ACCORDINGLY. WHAT ARE THE THINGS THAT WILL GUIDE YOU IN SENTENCING EVANS HAVING REGARD TO THE GUIDELINES LAID DOWN BY THE SUPREME COURT.**

## What is sentencing?

It is a definitive order pronounced by a court of contempt jurisdiction at the end of a criminal trial after the finding of guilt.

The Canadian Sentencing Commission in 1987 defined sentencing as “the judicial determination of legal sanctions to be imposed on the person found guilty of the offense.”

In the case of *Ichi v. State 1996* it was held that a sentence is the judgement formally pronounced by the court or judge upon an accused person after his conviction in a criminal prosecution imposing the punishment to be inflicted.

## Importance of Sentencing

1. To separate offenders from society where necessary
2. To denounce unlawful conduct
3. To assist in rehabilitation of offenders
4. To deter the offender and other person from committing offences
5. To promote the sense of responsibility with offenders
6. To acknowledge the harm that was done
7. Serves as a form of retribution

Sentencing generally aims at the protection of the society through prevention of crime or reform of the offender which may be achieved by means of deterrence, elimination or reformation/rehabilitation of the offender. The Justification is that imposing the penalty will reduce the future incident of such offenses 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

The rationales behind the application of the procedural steps prescribed in the guidelines are of immense assistance to judges to operate as parameters or templates that should be taken into consideration during sentencing proceedings. They substantially replicate the considerations prescribed in ACJA for sentencing in respect of the underlisted:

- a) Corruption and related offences
- b) Offences against person
- c) Homicide related offences
- d) Offences against public order
- e) Offences against morality
- f) Offences against the state.

In order to further explain sentencing I need to address the sentencing guidelines. Sentencing guidelines are generally non-binding guidelines that inform sentencing. Generally, the sentencing guideline serve as a guide to judges in sentencing accused persons or defendants who have been found guilty. This would ensure that judges do not articulate ridiculous sentences that would make mockery of Justice and the Criminal Justice System. Therefore, sentencing set a unified standard for sentencing in all criminal cases in superior courts

Listed below are the guidelines that have been set by The Supreme Court have in regard to sentencing:

1. Nature of the offense
2. Character or the nature of the offender
3. Position of the offender among his confederate
4. The rampancy of the offense
5. Statutory limitation
6. Concurrency of the offense

1. NATURE OF THE OFFENSE

As a principle of Law and practice the nature of the offence committed by an accused person (defendant) of which he has been found guilty goes a long way in determining the extent of his punishment. The Law is clear that a person cannot be found guilty of an offense which as at the time being committed does not constitute a crime in any written law and its punishment clearly stated. See the case of ***Adeyeye & others v State***

2. CHARACTER OR THE NATURE OF THE OFFENDER

As a principle of Law and a rule of evidence (or vice versa) character evidence or evidence of character is inadmissible in Law. However, when the character of the accused person is in question the natural evidence of his character becomes admissible. See the case of ***R v. Bangazo***

3. POSTION OF THE OFFENDER AMONG HIS CONFEDERATE

The offender who has played a major role in commission of a crime is usually visited with more severe punishment than those inflicted on minor participants. The above idea was given judicial recognition in the case of ***Queen v. Muhammed & others***. Where the Leader was given 8 years of imprisonment, the other parties were given a maximum sentence of 5 years imprisonment.

4. THE RAMPANCY OF THE OFFENSE

Where an offense is rampant or prevalent, courts have always thought that severity of punishment imposed will aid in stamping out the crime. See the case of ***R v. Hassan & Owolabi***.

## 5. STATUTORY LIMITATION

The criminal statute of limitation is a law that which forbids prosecutors charging someone with a crime that was committed more than a specified number of years ago. The general purpose of statutory limitation is to make sure convictions occur only upon evidence that has not deteriorated with time. There are two types of statutory limitation

- a. Statutory Maximum
- b. Magisterial jurisdiction Limitation

In essence, whenever a statute itself stipulates a term of imprisonment no court should exceed its limit.

In ***Queen v. Eyo and others*** a case of unlawful assembly the high court sentenced them to 5 years imprisonment on appeal the Supreme Court reduced the sentence to 3 years because it was what was stipulated by law (maximum sentence). Also in ***Mordi v. C.O.P*** the magistrate sentenced the accused to 2 years then on appeal the high court increased it to 10 years. On appeal the Supreme Court reinstated the decision of the magistrate court.

## 6. CONCURRENT AND CONSECUTIVE SENTENCES

There are laws governing concurrent and consecutive sentences. When a person is charged and found guilty of more than 2 offenses in Nigeria. The general rule is that whenever a court finds an accused person guilty of more than one offense, the sentence should run concurrently. The Supreme Court held this position by saying “wherever the offenses are similar or of similar nature/disposition, they should run concurrently. See the case of ***Nwankwo v. The State***

### Application

The nature of crimes committed by Mr. Evans which he has been found guilty of are severe crimes of which quite a number are capital offences

Murder SS. 316 & 319 of the Criminal Code - death

Rape SS. 357 & 358 of the Criminal Code - life imprisonment

Armed Robbery SS. 402 of the Criminal Code – death

Kidnapping SS. 364 of the Criminal Code - 10-20 years imprisonment

Defilement SS. 218 of the criminal code – 14 years imprisonment

Extortion and obtaining property by false pretense SS. 418 – 426 – imprisonment

The character of the individual in question has been branded ‘Notorious’, Mr. Evans also happens to be a ‘Kingpin’ which means his punishment will have more severity and a lot of the crimes he committed are rampant crimes in the society which will furthermore increase the severity of his punishment. He won’t be able to serve them concurrently because as stated the punishments for some of the crimes committed is death.