NAME: OMUKORO TAMARAEBI ANGEL

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ASSIGNMENT TITLE: SENTENCING

**QUESTION**

Evans, a notorious kidnap kingpin and an 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 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 A SENTENCE?***

A sentence can be defined as the definite position or order pronounced by a court of competent jurisdiction at the end of a criminal trial after finding an accused person guilty f the crime which he or she was accused of committing. ***section 248 of the criminal procedure act*** provides that if the court finds the accused person guilty, the court shall pass sentence on the accused person or make an order to reserve judgement and adjourn the case to some other date.

 For the purpose of punishments, offences are classified into 3 and they are:

1. Felony
2. Misdemeanor and
3. Simple offences

These offences have been classified by ***section 3 of the criminal code*** and it provides that:

A felony is an offense which is declared by the law to be so and has punishment, without proof of previous conviction, ranging from three years to the death penalty.

Misdemeanor offences are those that have been described by the law to be a misdemeanor and are punishable by imprisonment ranging from less than 3 years to more than 6 months.

Simple offences are those other than felony and misdemeanor. They are often punished with an imprisonment of less than 6 months.

 The supreme court of Nigeria laid down six basic principles or guidelines to aid courts in reaching reasonable just and fair sentences and they are:

1. Nature of the offense
2. Character/nature of the offender
3. The position of the offender among his confederates
4. The rampancy of the offense
5. Statutory limitation
6. Concurrency of the sentence

**Nature of the offense**

The crimes committed by Evans are felonies all of grievant nature. Armed robbery alone is punishable by death in Nigeria by virtue of the provisions of **sections 401 and 402 of the criminal code act** which state that

 “401

 *Any person who steals anything, and, at or immediately before or immediately after the time of stealing it threatens to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is said to be guilty or robbery.*

 *402*

1. *Any person who commits the offence of robbery shall upon conviction be sentenced to imprisonment for not less than 21 years.*
2. *If*

*(i)any offender mentioned in subsection (1) of this section is armed with any firearms or any offensive weapon or any obnoxious or chemical materials or is in company with any person so armed; or*

*(ii)at or immediately before or immediately after the time of robbery, the said offender wounds any person, the offender shall upon conviction be sentenced to death.”*

**Character or nature of the offender**

In a situation such as this where the accused happens to be an habitual offender who has committed more than one crime and has a history of participating in criminal acts, the court would be sterner in sentencing as the courts works on the assumption that anyone with a previous conviction has lost out in terms of mitigating his sentence.

**Position of the offender among his confederates**

In this case, the defendant happens to play a major role in the crimes committed and the position of the law in situations such as this is that the offender who played a major role in the commission of the crimes is usually visited with a more severe punishment than that given to the minor participants and this was stated in the case of **Queen V Mohammed and others**.

**Rampancy of the offense**

Crimes such as rape, kidnapping and armed robbery are so common in the Nigerian society today and efforts are being made every day to reduce or totally curb these crimes and the court acts on the principle of severity of punishment in cases where the offence is rampant as they believe that severity of punishment impsed will aid in eradicating such crimes.

**Statutory limitation**

Normally in criminal cases, there is no statute of limitation especially in crimes of violence, kidnapping, armed robbery, arson, human trafficking, etc.. Therefore, regardless of the time a person committed crimes of this nature, such a person would face the wrath of the law if caught.

**Concurrency of the sentence**

The general rule is that whenever an accused person is guilty of more than one offence, the sentences may run concurrently. The supreme court held this position by saying whenever the offences are similar or of similar nature or disposition, the sentence should run concurrently.

***SENTENCE***

 In accordance with the principles laid down by the supreme court and also in line with the law as the presiding judge, the accused is to be given the maximum death penalty as the crimes committed are not only felonies but of highly grievant nature and the accused happens to be an habitual offender. With the commonness of the crimes in the society, such a penalty would serve as a message to potential offenders to deter them from committing crime.