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Definition of Sentencing.

Sentencing is defined as prescription of a punishment by a court to someone convicted of a crime. According to **Ichi v State**[[1]](#footnote-1), sentencing is the formally pronounced by the court or judge against an accused person after his conviction in a criminal prosecution imposing the punishment to be inflicted. A defendant has to have pleaded guilty or found guilty during trial or prosecution process. The sentence, whether imprisonment or payment of fine emanates from the discretion of the judge after finding the accused guilty. In Nigeria, those who have been previously sentenced in a criminal case usually attracts harsher sentence or punishment unlike first time offenders.

The Supreme Court has set out **six (6) basic guidelines** to aid courts in reaching a reasonable, just and fair sentence, they are:

1. The nature of the offence.

The nature of the offence the accused committed goes a long way in determining the extent of his punishment. A person cannot be found guilty for an offence which at the time the offence was committed did not constitute an offence in written law. In the case of **Adeyeye and others v. State**, a case of robbery by violence, the court imposed the sentence of 18 years imprisonment on the accused person. On appeal, the court reduces it to 10 years imprisonment. Unsatisfied with the decision, he appealed to the Supreme Court and the Supreme Court reinstated the 18 years earlier imposed on the accused adding 3 strokes of cane stating that the appeal court was too lenient due to the seriousness of the case. In **Idoye v. State**, the accused person drove his car at night without headlamps on a hilltop area and he killed a pedestrian. He was sentenced to 5 years imprisonment by the high court and was suspended from driving for 10 years. On appeal, he was sentenced to 30 months imprisonment and was suspended from driving for 5 years. In **Adesanya v Queen,** a case of forgery, the accused was sentenced to pay a fine and on appeal, it was said that payment of fine was such a small punishment for such a grievous offence.

In provocation manslaughter, there is a tendency to impose an average of 10 years since it was dine in the heat of passion. In the case of **Adamu Kumo v State**,[[2]](#footnote-2) the wife angered her husband by calling him a pagan, the court held it as sufficient enough to constitute sufficient provocation and the offence was reduced from culpable homicide punishable with death to culpable homicide not punishable with death Also in **Ejelofu Edache v Queen[[3]](#footnote-3)**, the deceased who had deserted her matrimonial home later referred to her husband as a “slave”. The court held that it was sufficient provocation according to **section 222 of the Penal Code.**

1. The character/ nature of the offender.

The character of the person also helps in sentencing i.e. previous offenders wouldn’t be treated with leniency as their past offences would have affected the way they will be sentenced for the new offence committed. In **Adeyeye v State (Supra)** part of the reason for the restatement of the 18 years was because he was a previous offender and the view of the court is that a previous offender does not have the right to litigate sentencing. In **R v. State**, the accused was previously convicted for defilement and this led the court to increase the sentence from 18 months to 5 years imprisonment with hard Labour.

1. The position of the offender among his confederate.
2. Where the offender plays a minor role: In cases where the offender is not the “leader’ of whatever offence has been committed, he would not be given equal punishment with the leader, and it would be lesser than that of the leader. In **Enahoro v Queen[[4]](#footnote-4),** a case of treasonable felony, Enahoro was sentenced to 15 years imprisonment by the high court but the Supreme Court reduced it to 5 years since he was not the leader, the progenitor of the crime hence the leader was sentenced to 10 years.
3. Where the offender plays a major role: The offender is said to have played a major role in an offence where he is the leader, the brain of the plan, he is usually given severe punishment which would be greater than that imposed on a minor. In **State v Kerenku**, although the appellant was not the leader, the court was of the view that he played the leading role and was given more years than other accused persons. In **Queen v Mohammed & Ors**, while the first appellant was sentenced to 8 years, others were sentenced to 5 years imprisonment.
4. The rampancy of the offence.

When an offence is rampant, the court thinks of giving more punishment to such offences in order to aid the stamping out of the crime. When more punishment is given to people it tends to deter people from committing the crime. In **R v Hassan & Owolabi**,[[5]](#footnote-5) the accused person was sentenced to 5 years imprisonment for stealing and another 5 years for forgery. They appealed and the sentence was not reduced because the crimes committed were widespread and that was a means of curtailing such crimes. Also in **Iko v State,[[6]](#footnote-6)** a taxi driver was sentenced to 5 years with hard Labour for violently raping a passenger. In **State v Adegboye[[7]](#footnote-7)**, a 3 year prison sentence was imposed on the accused for imposing his finger into the vagina of a girl who was hawking groundnut.

The gravity of the offence can also be likened to the rampancy of the offence. If considered rampant and grievous, the court would most likely impose a heavier punishment in the view to stand out in this type of crime in the society.

1. Statutory limitation.

Offences committed should be an offence at the time of commission i.e. should be in a written law so that appropriate punishment can be meted out. Statute of limitation is a law that forbids that an accused is charged by a prosecutor with more years than the specified years of imprisonment. Conviction should occur only upon prove of evidence that the person is guilty. In the case of **Queen v Eyo & Ors[[8]](#footnote-8)**, a case of unlawful assembly where the high court sentenced them to 5 years imprisonment, they went on appeal to the Supreme Court and the apex court reduced the punishment to 3 years as this is the term stipulated by law. And also in magistrarial jurisdiction limitation cases like that of **Aremu v IGP[[9]](#footnote-9)**, the magistrate court sentenced the accused person to 2 years imprisonment. Dissatisfied, the state appealed and the Supreme Court stated that it cannot impose punishment more than what the magistrate court has imposed.

1. Concurrency of the sentence.

There are laws governing concurrent and consecutive sentence when a person is charged and found guilty for more than two offences. The general rule in Nigeria is that when a court finds an accused guilty of more than one offence, the sentence should run concurrently. In **Nwaifo v State**, the accused person was found guilty of an offence and sentenced for store breaking and possession of breaking implements in the same transaction, such sentence should run concurrently as they emanate from the same transaction.

CONCLUSION

Due to the nature of law, a criminal is tried and judged by an impartial judge. All the points listed above are basic guidelines that must be considered before judgment is given (the nature of the offence, the nature or character of the offender, the position of the offender among his confederates, the rampancy of the offence, statutory limitation, and concurrency of the sentence). In accordance to the case scenario, the high court judge would be enabled to sentence Evans accordingly. Evans was convicted for several offences should be sentenced accordingly taking the points above into consideration so as to create a free and fair justice system and to protect lives and property of people in the country.

1. (1996) NWLR pt. 470 [↑](#footnote-ref-1)
2. (1967) ALL NLR [↑](#footnote-ref-2)
3. (1962) 1 ALL NLR 22 [↑](#footnote-ref-3)
4. (1965) 1 ALL NLR 125 [↑](#footnote-ref-4)
5. (1971) [↑](#footnote-ref-5)
6. (2001) 14 NWLR pt. 732 p. 221 [↑](#footnote-ref-6)
7. (1971)ALL NLR 404. [↑](#footnote-ref-7)
8. (1988) 39 [↑](#footnote-ref-8)
9. (1965) [↑](#footnote-ref-9)