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**Assignment**

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?

**INTRODUCTION**

Sentencing can be defined as the prescription of the punishment by the court to someone convicted of crime, hence after an accused has been found guilty or pleaded guilty during trial or prosecution process. It is also the punishment given to a person convicted of a crime. A sentence is ordered by the judge, based on the judge's decision within the possible punishments set by state law (or federal law in convictions for a federal crime). A sentence of the court can be defined as a definite disposition order issued by a court or other competent tribunal against a person standing trial at the conclusion of a criminal trial. This is subsequent to the finding of guilt against him and must be an order which is definite in its nature, type and quantum.

The Nigerian Criminal Code and the Penal Code as well as other offence-creating statutes specify the quantum of sentences, while the sentences themselves find their legitimacy in the criminal Procedure legislations applicable at the states and federal levels.

Sentencing generally aims at the protection of the society through prevention of crime or reform of the offender which may be achieved by the means of deterrence, elimination or reformation/rehabilitation of the offender. The justification is that imposing the penalty will reduce the future incidence of such offences by preventing the offender from re-offending or correcting the offender so that the criminal motivation or inclination is removed or discouraged. As such, the key purpose of sentencing includes punishment, deterrence (general and specific), rehabilitation, denunciation and protection of the community.

The Supreme Court has laid down 6 basic principles that we are to use as an aid in reaching a just sentence. With these principles, I will be able to reach a just sentence for the accused that has been found guilty of his offence. The principles include the following:

1. **NATURE OF THE OFFENCE:**

As a principle of law, the nature of offence of which the accused has been found guilty of, goes a long way in determining what sort of punishment should be awarded to him. The law is also clear that when a person commits a crime which by virtue of laws and statues is not a crime at the time committed, such a person cannot be found guilty. In the case of **ADEYEYE AND ORS VS. STATE**, a case of robbery with violence tried by the High court of the Western State. A sentence of 18 years was imposed on the accused persons. On appeal, the sentence was reduced to 10 years. Unsatisfied with the appeal court’s decision, appealed to the Supreme Court. The Supreme Court reinstated the aforementioned sentence of 18 years with 3 strokes of cane stating that the Appeal Court was too lenient in their judgment due to the seriousness of the case. By virtue of **SECTION 402(1) OF THE CRIMINAL CODE,** the law has made us understand the seriousness of the case of robbery.

Also the case of rape by **SECTION 358 OF THE CRIMINAL CODE,** which classifies rape as a felony which is liable to imprisonment for life has attached a huge seriousness to this offence. Based on the facts above, the accused’s crimes are all of very grievous natures and by law are to be taken and dealt with seriously.

1. **CHARACTER AND NATURE OF THE OFFENDER:**

By law principles and evidence laws, character evidence is inadmissible in law. However, when the character of the offender is in question, just like the facts aforementioned, it becomes an exception and is therefore admissible. In **ADEYEYE VS THE STATE supra,** part of the reasons of the Supreme Court’s reinstatement of the 18 year punishment was that the accused had earlier been convicted of an offence. It would seem that the court works on an assumption that anyone with previous conviction has lost in terms of mitigation of any further sentence. Also, in **ADELEYE VS AJABADE**, the appellant’s bad character was significant in the returning of a heavier punishment on them. The case of **R VS STATE,** where the appellant had been previously convicted or defilement led the court to increase the sentence of 18 months to 5 years imprisonment with hard labor.

The principle of character of the offender will apply to the facts at hand due to the fact that the accused is a notorious kingpin kidnapper. This is to ensure that the judgment emitted on him sends a warning to his fellow operatives who are either working for him or are doing the same job as Evans.

1. **POSITION OF THE OFFENDER AMONG HIS CONFEDERATES:**

A confederate according to the Cambridge Advance Learner’s Dictionary, is someone you work together with in a secret (sometimes illegal) activity. This principle has two basic guidelines under it which includes;

1. **Playing a minor role:**

In the case of **ENAHORO VS THE QUEEN,** this principle was explained where the court held that the leader is the center of the activity, the moving force and projector of the crime therefore, the confederates are not supposed to get a punishment higher than that of the leader. This is to affirm that the instigator should get a higher punishment than those instigated.

1. **Playing a major role:**

The offender who plays a major role in a crime is inflicted with a harder or more severe punishment than the minor participants. This idea was dully recognized in the case **QUEEN VS MOHAMMED & OTHRS**. The leader was given a sentence of 8 years imprisonment while the other appellant was given a 5 year imprisonment sentence.

However in **STATE VS KEREKU**, even though the appellant was found not to be the leader, she was however given a higher sentence than the others because she played the leading part. Also this principle was applied in the case of **IHON AND ANOTHER VS TIV NATIVE AUTHORITY**, where they were given a sentence of 6 years except the 6th appellant who got an 8 year sentence as he was the leader.

1. **RAMAPANCY OF THE OFFENCE**

The court has always been of the opinion that when an offence is rampant, severity of punishment will act as a deterrence and warning to other offenders and will aid in eradicating such crime. In **STATE VS AYEGBEMI MICHEAL**, the courts view in **STATE VS ANOTHER** about the frequent robbery on roads and other reachable transportation sources which had been on the increase and disturbing led to the imposition of a 20 year imprisonment on the accused persons. Also in the case of **IKO VS THE STATE** where the accused, a taxi driver violently raped his passenger. Due to the rampancy and seriousness of such case, the court sentenced him to 5 years imprisonment with hard labor.

Rampancy of an offence stands as a mitigating factor or an aggravating one and so is a very necessary consideration in court. Thus rampancy of an offence can be likened to the gravity of the offence. If a case is considered grievous and rampant then the court is likely to impose a heavier punishment to help stamp out such vices from the society. The offences aforementioned in our facts are all considered grievous and rampant therefore this principle will stand as one of the mitigating factors.

1. **STATUTORY LIMITATION**

A statue of limitation of law is a law which forbids a prosecutor from charging someone for a crime that was committed more than a specified number of years ago. The general purpose of this law is to make sure convictions occur only upon evidence that has not detoriated with time. After the period of the statue has gone, the criminal is essentially free. Where the state itself has stipulated time of imprisonment, the court shall not exceed the statutory limits.

However not all crimes are governed by the statute of limitation like murder, sexual offence with minors, crimes of violence, kidnapping, forgery, assault have **no** statutory limitation. Statutory limitation in Nigeria is of two types;

1. **Statutory Maximum:** This is where a statue has stipulated an imprisonment term which no court can exceed. In **QUEEN VS EYO & OTHERS,** a case of unlawful assembly was sentenced to 5 years imprisonment by the High court but was reduced by the Supreme Court to 3 years on appeal because it was the maximum sentence stipulated by law.
2. **Magisterial Jurisdiction Limitation**: This is the limitation set upon the Magistrate court by virtue of the jurisdiction set by law. In **AREMU VS IGP,** the Magistrate courtsentenced the accused person to 2 years imprisonment. Dissatisfied the state appealed to the Supreme Court who stated that it could not impose a term more than the Magistrate court had with held. In **MORDI VS COP,** the Magistrate court sentenced the accused with 2 years imprisonment .On appeal the High court increased it to 10 years. The Supreme Court reinstated the earlier 2 years punishment on the ground that it was the limitation of the Magistrate court.
3. **CONCURRENCY OF THE OFFENCE**

When a person is charged and found guilty of more than one offence the general rule is that the sentence should run concurrently. In **NWANIFOR VS THE STATE**, the accused was found guilty and sentenced for store breaking. The Supreme Court held that the sentences should run concurrently because they emanated from the same transactions.

**CONCLUSION**

By the principles given to lower courts by the Supreme Court, the facts at hand will need to be examined by these principles. The principle of Rampancy, Nature of the offence and Nature of the offender will all need to apply to the case at hand in order to determine the sentence to be given. The offences committed are very rampant and grievous in nature. Also the accuser’s character is one of which if let on the loose could influence lots of citizens and cause chaos in the society. Therefore the maximum sentence of life imprisonment would be likened to be efficient in this case as most of his offences emanate from the same transactions as upheld in the case of **NWANIFOR VS THE STATE** under the principle of Concurrency which is part of the principles stated by the Supreme Court.