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**Procedure from arraignment to imposition of sentence in a criminal trial in the High Court**

An arraignment is usually the first part of the criminal procedure that occurs in a courtroom before a judge or magistrate. The purpose of an arraignment is to provide the accused with a reading of the crime with which he or she has been charged. An accused person may plea as follows;

1. Autrefois acquit: this means a plea that has been tried for the same offence before and has been acquitted. This plea is an application of the rule against jeopardy, which states that a person cannot be tried twice for the same offence. It is a fundamental right under the fair hearing provisions of the Nigerian Constitution, **Section 36.**
2. Autrefois convict: this means a plea that has been tried and convicted for the same offence on a previous occasion. He cannot be tried again. This is also an application of the rule against double jeopardy.
3. He may stand mute: when an accused stands mute, that is, without saying anything, a plea of not guilty is usually entered for the accused. This is so because the law provides that where an accused stands mute, a plea of not guilty has to be mandatorily recorded for him by the court.
4. Plea of guilty to a lesser offence: However, while intending to plead “not guilty” to the offence charged, an accused person may plead guilty to a lesser offence which is not on the information. Where this plea is accepted by the prosecution, the court may pass its sentence accordingly. Here the prosecution usually drops the instant charge. Thus, there is room for plea bargain.
5. He may plead guilty to the offence charged: When an accused person pleads guilty, the counsel for the prosecution will give the court a summary of the evidence together with detail of the accused person’s background, that is, character and his criminal record, if any. After this the counsel for the defence usually makes his plea in mitigation of sentence and the court then passes its sentence
6. He may plead not guilty: Where an accused person pleads not guilty, the trial then proceeds.

**Plea Bargaining**

The plea bargain (also plea agreement or plea deal) is any agreement in a [criminal case](https://en.wikipedia.org/wiki/Criminal_case) between the [prosecutor](https://en.wikipedia.org/wiki/Prosecutor) and [defendant](https://en.wikipedia.org/wiki/Defendant) whereby the defendant agrees to [plead](https://en.wikipedia.org/wiki/Plea) guilty or [nolo contendere](https://en.wikipedia.org/wiki/Nolo_contendere%22%20%5Co%20%22Nolo%20contendere) to a particular charge in return for some concession from the prosecutor. This may mean that the defendant will plead guilty to a less serious charge or to one of the several charges, in return for the dismissal of other charges; or it may mean that the defendant will plead guilty to the original criminal charge in return for a more lenient sentence.

In charge bargaining, defendants plead guilty to a less serious crime than the original charge that was filed against them. In count bargaining, they plead guilty to a subset of multiple original charges. In sentence bargaining, they plead guilty agreeing in advance what sentence will be given; however, this sentence can still be denied by the judge. In [fact bargaining](https://en.wikipedia.org/wiki/Fact_bargaining), defendants plead guilty but the prosecutor agrees to stipulate (i.e., to affirm or concede) certain facts that will affect how the defendant is punished under the [sentencing guidelines](https://en.wikipedia.org/wiki/Sentencing_guidelines).

**Mentally Ill Persons**

The insanity defence, also known as the mental disorder defence, is an affirmative [defence](https://en.wikipedia.org/wiki/Defense_%28legal%29) by [excuse](https://en.wikipedia.org/wiki/Excuse) in a [criminal case](https://en.wikipedia.org/wiki/Criminal_case), arguing that the defendant is not responsible for his or her actions due to an episodic or persistent [psychiatric disease](https://en.wikipedia.org/wiki/Mental_illness) at the time of the criminal act. This is contrasted with an excuse of [provocation](https://en.wikipedia.org/wiki/Provocation_%28legal%29), in which the defendant is responsible, but the responsibility is lessened due to a temporary mental state.  It is also contrasted with a finding that a defendant cannot stand trial in a criminal case because a mental disease prevents them from effectively assisting counsel, from a [civil](https://en.wikipedia.org/wiki/Civil_case) finding in [trusts](https://en.wikipedia.org/wiki/Trust_law) and [estates](https://en.wikipedia.org/wiki/Estate_%28law%29) where a will is nullified because it was made when a mental disorder prevented a [testator](https://en.wikipedia.org/wiki/Testator) from recognizing the natural objects of their bounty, and from involuntary [civil commitment](https://en.wikipedia.org/wiki/Civil_commitment) to a mental institution, when anyone is found to be [gravely disabled](https://en.wikipedia.org/wiki/Gravely_disabled) or to be a danger to themselves or to others.

The defence is based on evaluations by [forensic mental health professionals](https://en.wikipedia.org/wiki/Forensic_psychology) with the appropriate test according to the jurisdiction. Their testimony guides the jury, but they are not allowed to testify to the accuser’s criminal responsibility, as this is a matter for the jury to decide. Similarly, mental health practitioners are restrained from making a judgment on the issue of whether the defendant is or is not insane or what is known as the "ultimate issue".

**Prosecution**

The counsel for the prosecution always opens a criminal proceeding by calling evidence for the prosecution. He calls his witnesses and examines each in chief, and tenders any exhibit they may have. The witnesses are in turn cross-examined by the defence counsel and re-examined by the prosecuting counsel as may be necessary and the case for the prosecution closes. The burden of proof on the prosecution in criminal proceedings is proof beyond reasonable doubt. Where the burden of proof is not discharged, the charge or information is usually dismissed and the accused is legally entitled to be set free and is accordingly usually discharged and acquitted. This burden of proof which rests on the prosecution to prove the guilt of the accused beyond reasonable doubt is never lowered or watered down. This is for, for it is better for a guilty person to go scot-free and escape justice, than for an innocent person to be unjustly punished, due to a lowered standard or proof.

**Submission of ‘No Case to Answer’**

No case for the defendant to answer (sometimes shortened to no case to answer) is a term in British criminal law, whereby a defendant seeks acquittal without having to present a defence. The motion is also occasionally, although rarely, used in civil cases where it is alleged that the pleaded case and/or evidence do not meet the minimum threshold to establish liability.

At the close of the prosecution's case during a criminal trial, the defendant may submit to the judge or magistrate that there is no case for the defendant to answer (similar to a motion for a [directed verdict](https://en.wikipedia.org/wiki/Directed_verdict) in a United States court). If the judge agrees, then the matter is dismissed and the defendant is [acquitted](https://en.wikipedia.org/wiki/Acquittal) without having to present any evidence in their defence. If the judge does not accept the submission, the case continues and the defence must present their case.

Because a judge's refusal to uphold such a submission may potentially bias a jury's decision, a submission of no case to answer is usually heard in the absence of the jury.

**Defence**

After the close of the case for the prosecution and the failure of a no case submission, if such submission was made, the case for the defence then opens. The accused and his witnesses if any are called one after the other, led in evidence-in-chief by the counsel for the defence and are cross-examined by the prosecuting counsel and re-examined by the counsel for the defence as may be necessary. Each witness undergoes the whole process, before another witness is called. It is never mixed up. This is always the procedure. Unless there may be a reason to call a witness out of turn due to unavailability or mental illness and so forth.

**Closing Addresses**

A closing argument, summation, or summing up is the concluding statement of each party's [counsel](https://en.wikipedia.org/wiki/Counsel) reiterating the important [arguments](https://en.wikipedia.org/wiki/Logical_argument) for the trier, often the jury, in a [court case](https://en.wikipedia.org/wiki/Court_case). A closing argument occurs after the presentation of [evidence](https://en.wikipedia.org/wiki/Evidence_%28law%29). A closing argument may not contain any new information and may only use [evidence](https://en.wikipedia.org/wiki/Evidence_%28law%29) introduced at trial. It is not customary to raise [objections](https://en.wikipedia.org/wiki/Objection_%28law%29) during closing arguments, except for egregious behaviour. However, such objections, when made, can prove critical later in order to preserve appellate issues.

In a [criminal law](https://en.wikipedia.org/wiki/Criminal_law) case, the [prosecution](https://en.wikipedia.org/wiki/Prosecution) will restate all the evidence which helps prove each [element](https://en.wiktionary.org/wiki/element) of the offence.  One of the most important restrictions on prosecutors, however, is against shifting the [burden of proof](https://en.wikipedia.org/wiki/Legal_burden_of_proof), or implying that the defence must put on evidence or somehow prove the innocence of the defendant.

In some cases, a judge's presentation of the [jury instruction](https://en.wikipedia.org/wiki/Jury_instruction) is also known as summing up. In this case, the judge is merely articulating the law and questions of fact upon which the jury is asked to [deliberate](https://en.wikipedia.org/wiki/Deliberate).

The purposes and techniques of closing argument are taught in courses on [Trial Advocacy](https://en.wikipedia.org/wiki/Trial_Advocacy). The closing is often planned early in the trial planning process. The attorneys will integrate the closing with the overall case strategy through either a theme or theory or, with more advanced strategies, a [line of effort](https://en.wikipedia.org/wiki/Litigation_strategy#Lines_of_effort). The prosecution should also state the main points and be sure to give their side of the argument and to be emotional.

**Judgement**

 Judgement is a decision of a [court](https://en.wikipedia.org/wiki/Court) regarding the rights and liabilities of parties in a legal action or proceeding. Judgments also generally provide the court's explanation of why it has chosen to make a particular [court order](https://en.wikipedia.org/wiki/Court_order).

The phrase "reasons for judgment" is often used interchangeably with "judgment," although the former refers to the court's justification of its judgment while the latter refers to the final [court order](https://en.wikipedia.org/wiki/Court_order) regarding the rights and liabilities of the parties. As the main legal systems of the world recognize either a common law, statutory, or constitutional duty to provide reasons for a judgment, drawing a distinction between "judgment" and "reasons for judgment" may be unnecessary in most circumstances.

Decisions of a [quasi-judicial body](https://en.wikipedia.org/wiki/Quasi-judicial_body) and administrative bodies may be colloquially referred to as "judgments." However, these decisions can be distinguished from judgments as the legal definition of judgment contemplates decisions made by [judges](https://en.wikipedia.org/wiki/Judge) in a [court](https://en.wikipedia.org/wiki/Court) of law. Therefore, even if a quasi-judicial or administrative body considers questions of law, its decisions might not be referred to as judgments.

**Discharge**

A discharge is a type of [sentence](https://en.wikipedia.org/wiki/Sentence_%28law%29) imposed by a [court](https://en.wikipedia.org/wiki/Court) whereby no punishment is imposed.

An absolute discharge is an unconditional discharge whereby the court finds that a crime has technically been committed but that any punishment of the defendant would be inappropriate and the case is closed. In some jurisdictions, an absolute discharge means there is no conviction on the defendant's record, despite the plea of the defendant.

A conditional discharge is an order made by a criminal court whereby an offender will not be sentenced for an offence unless a further offence is committed within a stated period. Once the stated period has elapsed and no further offence is committed then the conviction may be removed from the defendant's record.

**Sentence**

The term sentence in [law](https://en.wikipedia.org/wiki/Law) refers to [punishment](https://en.wikipedia.org/wiki/Punishment) that was actually ordered or could be ordered by a [trial court](https://en.wikipedia.org/wiki/Trial_court) in a [criminal procedure](https://en.wikipedia.org/wiki/Criminal_procedure). A sentence forms the final explicit act of a [judge](https://en.wikipedia.org/wiki/Judge)-ruled process as well as the symbolic principal act connected to their function. The sentence can generally involve a decree of [imprisonment](https://en.wikipedia.org/wiki/Imprisonment), a [fine](https://en.wikipedia.org/wiki/Fine_%28penalty%29), and/or punishments against a [defendant](https://en.wikipedia.org/wiki/Defendant) [convicted](https://en.wikipedia.org/wiki/Conviction_%28law%29) of a [crime](https://en.wikipedia.org/wiki/Crime). Those imprisoned for multiple crimes usually serve a concurrent sentence in which the period of imprisonment equals the length of the longest sentence where the sentences are all served together at the same time, while others serve a consecutive sentence in which the period of imprisonment equals the sum of all the sentences served sequentially, or one after the next. Additional sentences include intermediate, which allows an inmate to be free for about 8 hours a day for work purposes determinate, which is fixed on a number of days, months, or years; and indeterminate or bifurcated, which mandates the minimum period be served in an institutional setting such as a [prison](https://en.wikipedia.org/wiki/Prison) followed by street time period of [parole](https://en.wikipedia.org/wiki/Parole), [supervised release](https://en.wikipedia.org/wiki/United_States_federal_probation_and_supervised_release) or [probation](https://en.wikipedia.org/wiki/Probation) until the total sentence is completed.

If a sentence is reduced to a less harsh punishment, then the sentence is said to have been mitigated or commuted. Rarely depending on circumstances, [murder](https://en.wikipedia.org/wiki/Murder) charges are mitigated and reduced to [manslaughter](https://en.wikipedia.org/wiki/Manslaughter) charges. However, in certain legal systems, a defendant may be punished beyond the terms of the sentence [social stigma](https://en.wikipedia.org/wiki/Social_stigma), loss of governmental benefits, or collectively, the [collateral consequences of criminal charges](https://en.wikipedia.org/wiki/Collateral_consequences_of_criminal_charges).

**Mitigating Factors in Sentencing**

In [criminal law](https://en.wikipedia.org/wiki/Criminal_law), a mitigating factor, also known as extenuating circumstances is any information or [evidence](https://en.wikipedia.org/wiki/Evidence_%28law%29) presented to the court regarding the defendant or the circumstances of the crime that might result in reduced charges or a lesser sentence. Unlike a [legal defence](https://en.wikipedia.org/wiki/Defense_%28legal%29), it cannot lead to the acquittal of the defendant. The opposite of a mitigating factor is an [aggravating factor](https://en.wikipedia.org/wiki/Aggravation_%28law%29). What can be considered a mitigating factor is determined by statue. Thus, what can be considered a mitigating factor varies widely by jurisdiction. Some examples of commonly accepted factors include:

* The defendant’s age
* The defendant’s mental capacity
* The crime was an accident
* [Self defence](https://www.legalmatch.com/law-library/article/what-is-self-defense.html)
* [Provocation](https://www.legalmatch.com/law-library/article/Provocation-Defense.html) or "heat of passion"
* The defendant repented from his actions

**Various methods by which civil proceedings may be commenced in the High Court**

Commencement of a civil action is the process taken to institute an action before a competent court to determine the issues between parties.

Essentially, there are 4 modes of commencing a civil action in court in Nigeria namely;

* By Writ of Summons,
* By Originating Summons,
* By Originating Motion and
* By Petition.

Each of these modes is dependent on the specific nature of cases.

**Factors to be considered before commencing a civil suit**

Before civil actions can be filed in Court, there are factors to be considered by the litigant (person filing the action). Some of these factors can be summarized as follows:

* **Cause of Action:**these are the series of events or events that gave rise to a civil action. It forms the basis upon which a person is entitled to obtain a remedy against another in Court. The cause of action is founded in the relief or claim sought by the litigant.
* **Jurisdiction:** this factor is important to decide the court to commence the civil action. The law is clear on the importance of jurisdiction. Where a matter is filed in a wrong jurisdiction, it is liable to be struck out for want of jurisdiction.

Jurisdiction has to do with the subject matter in dispute, the location where the cause of action arose, the court the matter is brought before, the competence of the court to decide on the matter and the composition of the judges sitting in that matter.

The Lawyer usually advises the client on the right court for the subject matter in dispute to be brought.

* **Limitation of Action:** this is another important factor to be considered before commencing an action in court. There is a limitation period set for almost all actions that can be filed in court. This is to prevent any individual from sleeping on their right and to promptly exercise their legal right when a wrong is done.

For example, where the subject matter of a suit is a contract, the limitation period is six (6) years; action for recovery of land is 12 years etc. Thus, it is important for the plaintiff counsel to consider whether the cause of action is out of time before venturing into the expense of issuing a process in court.

* **Alternative Dispute Resolution (ADR):** It is a duty of the counsel to ensure that all alternative dispute resolution methods have been explored before proceeding to file an action in court on behalf of a client.

This, in fact, is an ethical requirement on all counsel as officers in the administration of justice to first of all advise their clients on alternative dispute resolution, before proceeding with litigation. The alternative dispute resolution methods include arbitration, negotiation, conciliation and mediation. The purpose of these ADR mechanisms is to consider if disputes can be settled amicably between parties without resorting to the litigation

* **Rules of the Court:**every court in the legal system has rules that bind the Court, Litigants and Legal Practitioners. It is imperative that the provisions of the Rules are followed strictly when someone is proceeding to file an action in court.

The Lawyer has the duty to look upon the rules of that particular court, the Magistrate, High Court, National Industrial Court or Federal High Court etc to determine the rules guiding commencement of suits in the court.

In conclusion, some legislation/rules require the compliance of certain conditions for initiating a civil action in court. For instance, the High Court of Lagos State (Civil Procedure) Rules 2019 and provide that for any person to institute an action in Lagos, such person must have complied with the Pre-Action Protocol steps stipulated in the Pre-Action protocol Directives

In order to successfully initiate a civil action in court, the lawyer and the litigants must ensure that these factors that may be determined and considered by the court are strictly adhered to in order to undertake smooth and successful litigation.

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