Name: Olawole Boluwatife Olasubomi

Matriculation Number: 17/law01/221

Course Title: Criminology

**Introduction**

Sentencing can be defined as a definite preorder pronounced by a court of competent jurisdiction at the end of a criminal trial after the finding of guilt against the accused person. The purpose of sentencing is to contribute along with the crime prevention initiatives, the respect of law and maintenance of a just, peaceful and safe society by imposing just sanctions.

**Rules and Principles of Sentencing**

The Supreme Court has 6 basic rules or guidelines that aid the court in reaching a reasonable or just sentencing:

1. The nature of the offence
2. The character/nature of the offender
3. The position of the offender amongst his confederate
4. The rampancy of the offence
5. Statutory limitation
6. Concurrency of the sentence
7. Nature of the offence: the law goes makes it clear that a person cannot be found guilty of an offence which at the time of its commission does not constitute an offence in any written law and its punishment clearly stated. The nature of the offence also goes a long way in determining the extent of punishment to be given to the offender.

In the case of ***Adesanya v Queen***[[1]](#footnote-2), which was a case of forgery, it was established that only in exceptional cases can a fine be sufficient or appropriate punishment for forgery of court processes.

In the cases of automobile homicide, there is a tendency of the court to impose slight penalties or punishments as opposed to provocation murder.

In the case of ***Mohammed v C.O.P[[2]](#footnote-3)***, the accused person who had never driven in his life jumped into a car and killed some pedestrians. He was sentenced to three years imprisonment and ten years disqualification from driving. On appeal, the Supreme Court reduced the sentence to eighteen months imprisonment and five years disqualification from driving.

In contrast, provocation manslaughter tends to attract a higher penalty which is usually an average term of ten years imprisonment.

In the case of ***Chukwu Obaji v State***[[3]](#footnote-4), a case of provocation manslaughter, the sentence of fifteen years imprisonment was imposed.

These prove that the nature of a particular offence is considered before the court imposes a sentence.

1. Character of the offender: character evidence is inadmissible in law however, when the character of the accused is in question, the evidence of his character becomes admissible.

In the case of ***R v Bangaza***[[4]](#footnote-5), two appellants committed murder; they were charged, convicted and appealed. After the murder in 1950, the appellants ran away however, nine years later, they surrendered themselves and were tried. At the time when they were convicted, they were seventeen years of age and more but old enough to be criminally responsible. The Supreme Court dismissed the appeal and held that they were rightly sentenced to death**. Adedamola C.J.N** held that assuming the appellants were had not run away but had been brought to trial immediately, **section 368(3) of the Criminal Procedure Act** would have applied, thus their appeal was dismissed.

1. The position of the offender amongst his confederate: the position of the offender amongst his confederates is significant in determining the sentence to be imposed on the accused.

Usually, when an individual plays a minor role in the commission of an offence, there is a tendency to give slighter punishments.

In the case of ***Enahoro v Queen***[[5]](#footnote-6)Enahoro was sentenced to fifteen years imprisonment by the High Court. On appeal, the Supreme Court reduced the sentence to five years on the ground that a sentence imposed on a lieutenant should never be more than the leader. In this case, the leader got ten years sentence and so the lieutenant should not get a higher sentence.

On the other hand, when an offender is found to have played a major role in the commission of an offence, the court is usually compelled to impose a higher sentence.

In the case of ***Ihum & anor v Tiv native authority***, the appellants were all involved in a riot in which many animals were maimed and destroyed, they all got sentences totaling six years imprisonment except the sixth appellant who got eight years imprisonment for being the moving force of the riot.

1. Rampancy of the offence: when an offence is rampant in a particular area, the court tends to impose higher punishments to put an end to the reoccurrence of that particular crime.

In the case of ***Onyilokwu v C.O.P***[[6]](#footnote-7), the offender was initially detained for causing harm and he later unsuccessfully tried to escape. He was charged with escaping lawful custody but he was discharged and acquitted. The court was of the opinion that three years imprisonment did not show adequate consideration for the fact that not only was he a first time offender, but also the fact that the offence was not rampant in that community.

1. Statutory limitation: this entails that a prosecutor cannot bring action against a person after a stipulated period of time. This is however not common in criminal law but there are exceptions for instance, in cases of treason and treasonable felony.

This also entails the stipulated time of the imprisonment that the court can impose on a person. In Nigeria, there are two types of statutory limitations recognized: statutory maximum and magisterial jurisdiction limitation. In essence, a particular law stipulates a maximum number of years as punishment for a particular offence and the court must not exceed those years in imposing sentences.

In the case of ***Queen v Eyo***[[7]](#footnote-8), a case of unlawful assembly, the High Court imposed a sentence of five years imprisonment. On appeal, the Supreme Court reduced it to three years imprisonment because that was the maximum sentence stipulated by law.

 A magistrate court also has limits to the extent of punishment that it can impose on an offender. For instance, a magistrate court cannot impose more than five years imprisonment. In the case of ***Aremu v IGP***[[8]](#footnote-9), the Magistrate Court sentenced the accused to two years imprisonment, the state appealed to the Supreme Court and the court held that it could not impose more than the punishment imposed by the Magistrate Court.

1. Concurrent or consecutive sentences: when a person is charged and found guilty of more than two offences in Nigeria, the general rule is that the sentences should run concurrently.

In ***Nwafor v State***, the accused was found guilty for store breaking, and possession of breaking implements in the same transaction. The Supreme Court held that the sentence should run concurrently because they are offences that emanate from the same transaction.

When the defender has been convicted of committing multiple crimes, he will receive multiple sentences. In other words, the court must decide whether the sentences should run consecutively or concurrently.

The opposite of a concurrent sentence is a consecutive sentence. As the name implies, a consecutive sentence requires a defendant to serve two or more sentences back to back. A concurrent sentence will be more favourable for a defendant who has been convicted of multiple crimes, because the total length of the sentence will be shorter than it would be if the sentences run consecutively.

**Application of the Rules to the Scenario**

As a judge of the High Court presiding over Evans’ case, I will take into consideration the six guidelines stipulated by the Supreme Court in determining the sentencing of an individual. I will consider the nature of the offences which are kidnapping, armed robbery, rape, defilement, ritual killing, extortion and obtaining property by false pretence and the Evans’ character will be considered. If he is a habitual offender, the court will not be compelled to give him a slight punishment. Evans was not said to have been arrested with his confederate and so there will be no need to consider his position amongst his confederate. The rampancy of the offences in that community will be taken into consideration and if there are any statutory limitations as to the duration for a person to be charged to court for any offence and the maximum punishment stated by law for any of the offences it will likewise be considered. Since he was found guilty of more than one offence, the general rule of concurrent and consecutive sentencing that says when a person is found guilty of more than one offence, the sentences should run concurrently will be considered.

**Conclusion**

These guidelines laid down by the Supreme Court to help judges to reach just sentences are usually applied according to the discretion of the court all with aim of ensuring peace, denouncing unlawful conducts by the court, to deter offenders and other persons from committing crimes, to separate offenders from the society, the rehabilitate offenders and to promote sense of responsibility in offenders.

1. [1964] 1ALL NLR 38 [↑](#footnote-ref-2)
2. [↑](#footnote-ref-3)
3. [1965] N.M.L.R. 417 [↑](#footnote-ref-4)
4. [1960] 5 F.S.C [↑](#footnote-ref-5)
5. [1965] 1 ALL NLR 125 [↑](#footnote-ref-6)
6. [1981] 2 NCR 49 [↑](#footnote-ref-7)
7. [1962] LCN/0288(SC) [↑](#footnote-ref-8)
8. [1965] LCN/0480(SC) [↑](#footnote-ref-9)