NAME: AJAH MARGARET UGOCHUKWU

MATRIC NUMBER: 18/LAW01/022

ASSIGNMENT TITLE: CIVIL AND CRIMINAL PROCEEDINGS

COURSE TITLE: NIGERIAL LEGAL SYSTEM II

COURSE CODE: LPI 204

**1. I)**

**Arraignment**

The suspect makes his first court appearance at the arraignment. During arraignment, the judge reads the charges filed against the defendant in the complaint and the defendant chooses to plead "guilty," "not guilty" or "no contest" to those charges. The judge will also review the defendant's bail and set dates for future proceedings.

**Preliminary Hearing or Grand Jury Proceedings**

The government generally brings criminal charges in one of two ways: by a "bill of information" secured by a preliminary hearing or by grand jury indictment. In the federal system, cases must be brought by indictment. States, however, are free to use either process. Both preliminary hearings and grand juries are used to establish the existence of probable cause. If there is no finding of probable cause, a defendant will not be forced to stand trial.

A preliminary hearing, or preliminary examination, is an adversarial proceeding in which counsel questions witnesses and both parties makes arguments. The judge then makes the ultimate finding of probable cause. The grand jury, on the other hand, hears only from the prosecutor. The grand jury may call their own witnesses and request that further investigations be performed. The grand jury then decides whether sufficient evidence has been presented to indict the defendant.

**Pre-Trial Motions**

Pre-trial motions are brought by both the prosecution and the defense in order to resolve final issues and establish what evidence and testimony will be admissible at trial.

**Trial**

At trial, the judge or the jury will either find the defendant guilty or not guilty. The prosecution bears the burden of proof in a criminal trial. Thus, the prosecutor must prove beyond a reasonable doubt that the defendant committed the crimes charged. The defendant has a constitutional right to a jury trial in most criminal matters. A jury or judge makes the final determination of guilt or innocence after listening to opening and closing statements, examination and cross-examination of witnesses and jury instructions. If the jury fails to reach a unanimous verdict, the judge may declare a mistrial, and the case will either be dismissed or a new jury will be chosen. If a judge or jury finds the defendant guilty, the court will sentence the defendant.

**Sentencing**

During the sentencing phase of a criminal case, the court determines the appropriate punishment for the convicted defendant. In determining a suitable sentence, the court will consider a number of factors, including the nature and severity of the crime, the defendant's criminal history, the defendant's personal circumstances and the degree of remorse felt by the defendant.

ii) The only remedy available to an accused after being sentenced is Appeal. The accused can appeal to a higher court i.e Court of appeal because it has jurisdiction of receiving appeals from courts lower than it e.g. High court. Under [section 29A(2)](https://sso.agc.gov.sg/Act/SCJA1969#pr29A-) of the Supreme Court of Judicature Act, the Court of Appeal is empowered to hear appeals against any decision made by the High Court in the exercise of its original criminal jurisdiction. There is no appeal to the Court of Appeal from decisions made by the High Court in its appellate or revisionary jurisdiction. In other words, there is no appeal from the order made by the High Court in a Magistrate’s Appeal or Criminal Revision.

The provisions relating to the filing of a criminal appeal to the court of appeal are set out in section 374 to 378 of the Criminal Procedure Code.

The party who wishes to appeal must file with the Registrar of the Supreme Court a Notice of Appeal within 14 days after the date of the High Court’s decision ([section 377(2)](https://sso.agc.gov.sg/) of the Criminal Procedure Code). As soon as possible after that is done, the Registrar will serve on the appellant or his counsel a notice that the record of proceedings of the hearing in the High Court is available. The appellant must then file his Petition of Appeal with the Registrar within 14 days after service of that notice (section 378 (1)) of the Criminal Procedure Code).

Upon the filing of the Petition of Appeal by the Appellant, the appeal will be fixed for hearing and the following documents must be filed by parties to the appeal before the hearing:

* Skeletal Arguments
* Bundle of Authorities

Under section 374(4) of the Criminal Procedure Code, an accused who is convicted by the High Court may appeal against his conviction, the sentence imposed on him or an order of the trial court. If, however, he pleaded guilty in the High Court, he may only appeal against the extent or legality of his sentence (section 375 of the Criminal Procedure Code).

The Public Prosecutor may appeal against the acquittal of an accused or the sentence imposed or any other order of the High Court (section373 (3)) of the Criminal Procedure Code).

Criminal Appeals are held in open court and may be attended by members of the public.

The decision of the Court of Appeal in a Criminal Appeal is final, and there is no further recourse for the appellant in a court of law. He may, however, file a Petition for Clemency to the President.

2. According to order 1 of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules, civil proceedings may be begun or commenced by the following methods which are writ, originating summons, civil proceedings originating motion or petition, or any other method required by other rules of court governing any special subject matter.

I) **writ**: A writ is a legal document written by a judge or other body with administrative or judicial jurisdiction, such as a court. The writ orders the person or entity to whom it is addressed to perform or cease performing a specified action. They are often issued after a judgment has been made and give the people involved in the suit the ability to carry out the judgment, such as a writ of execution.

Warrants and subpoenas are common types of writs. A warrant is a writ issued by a judge or magistrate that allows a sheriff, constable, or police officer to search a person or property commonly known as a search warrant. Other warrants include an arrest warrant for an individual or individuals and an execution warrant allowing the execution of an individual who has been sentenced to death in a trial court.

A subpoena is a writ that compels a witness to testify or compels an individual or organization to produce evidence. Certain writs have been eliminated because the relief that used to be available only through a writ is now accessible through a lawsuit or a motion in a civil action.

II) **Originating summons**: A Writ of Summons is a formal document addressed to the defendant requiring him to enter an appearance if he wishes to dispute the plaintiff’s claim. Civil actions involving substantial disputes of fact are commenced by way of a writ. These include, but are not limited to:

* Contract actions, e.g., claim for damages resulting from breach of contractual terms and obligations, etc;
* Tort actions, e.g., claim for damages in respect of property damage resulting from road accidents and negligence, Claim for damages resulting from fraud and defamation, etc;
* Personal Injury actions, e.g., claim for damages in respect of personal injury and / or death resulting from road and industrial accidents or negligence, etc;
* Intellectual property actions, e.g., claim for damages resulting from the infringement of copyright, trademark or patent, etc; and
* Admiralty and Shipping actions.

III) **Civil proceedings originating motions**:

A type of document that starts a civil proceeding. This is often required when:

* there is no defendant
* you are making an application to the court under a particular Act, or
* The Supreme Court (General Civil Procedure) Rules 2015 or the Supreme Court(Miscellaneous Civil Proceedings) Rules 2018 tell you to use an originating motion. See also writ.