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**17/LAW01/225**

**CRIMINOLOGY**

**LPI 304**

**ASSIGNMENT:**

**EVANS, a notorious kidnap kingpin and armed robber has also been involved in a series of assults, rape and defilement of young girls has finally been apprehended by the police. He was arrested at the seme boarder, dressed like a woman and attempting to cross the boarder to Benin Republic. Investigation into his activities was concluded by the police and he was brought the high court where you are the presiding judge. After a long trial, you have found him 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**

First off, **WHAT IS SENTENCING?**

 sentencing means the prescription of the punishment by the court to an individual who has been convicted of a crime, after pleading or proven guilty, the court then enters judgement or conviction and sets a date for sentencing.

 Also in ***ICHI V STATE*** a sentence is the judgement formally pronounced by the judge or court upon an accused person, after his conviction in a criminal prosecution imposing the punishment.

**The purposes of sentencing includes:**

1. denouncing of unlawful conducts
2. To deter offenders and other persons from committing offences
3. Separating offenders from the society
4. Rehabilitation of offenders
5. To promote a sense of responsibility and acknowledgment of harm done

**THE ARE 6 GUIDELINES TO SENTENCING ACCORDING TO THE SUPREME COURT OF NIGERIA**

They include:

1. Nature of the offence
2. Nature of character of the offender
3. Position of the offe9
4. Rampancy of the offence
5. Statutory limitations
6. Concurrency of the offence

 Before a proper analysis of how to go about the Sentencing of Evans, a notorious kingpin, the guidelines to sentencing are the steps that are used to determine a Reasonable punishment or prescription that the court is going to place on the convict

1. **NATURE OF THE OFFENCE:**

 The nature of offence committed by an accused person when found guilty, goes as long way in dictating and determining the extent of his punishment

 In***ADEYE & ORE V STATE*,** where the convicted, was guilty of a case of robbery, the western state high court, sentenced him to 18 years imprisonment. on appeal to the western state appeal court, 8 years was removed from his sentence and it was made 10 year imprisonment. The it was appealed to the supreme court which increased it back to 18 years, with 3 strokes of cane because in the ***ratio decidendi*** , it was stated that the appeal court was too lenient due to the seriousness of the offence.

 Also ***ADESANYA V THE QUEEN*** where the nature of the offence was used to determine the punishment to be given because the accused was to pay fine and when appealed to the court the court held that fine was too small hence imprisonment, due to the principle that the nature of the offence determines the exceptional cases that fine can be sufficient or appropriate for forgery or course processes

 Also when talking about murder and manslaughter, the nature of the offence determines if it is normal manslaughter or provocative manslaughter because in Normal manslaughter there is a tendency to give slight penalties

 In ***IDOYE V STATE*** the accused person drove his car at night without a headlamp in the hilltop area the accused person drove his car at night without a headlamp in the hilltop area. In the process, he killed a pedestrian. He was sentenced to 5 years imprisonment by the high court in addition to ten years suspension from driving. The Supreme Court reduce the sentence to two and a half years and 5 years of special from driving

 Meanwhile in provocative manslaughter Daisy tendency to get an average 10 or impose on average time of 10 years

 As seen in ***ADEKANMI V STATE*** were the accused killed his wife because she said his children are not his own and he’s impotent because he cannot do. Supreme Court upheld his defence of provocation and improsed the term of 15 years imprisonment

 In Evans’ case Including kidnapping, armed robbery, rape, refinement and ritual killing and extortion, due to the nature of the crimes being charged for, the extent of which the crimes were taken were too far, which, implies that the nature cannot affect the mitigation of the punishment, but only increase it

**NATURE OF THE OFFENDER**

This is simply stating that a bad character can lead to the increment of punishment.

 Any one that had been previously convicted of an offence has cast out in terms of mitigation of the Sentencing, as seen in ***ADEYEYE V STATE*** where it was said that part of the reason advanced for reinstatement of the 18 years penalty that the accused has been convicted for earlier the courts as earlier that anyone with a previous conviction cast out in terms of mitigation and he sentence.

Also in  ***R V STATE***  the fact that the appellant had been previously convicted for defilement led to the increase the sentence from 18 month to 5 years

But the nature of Evans as an offender, shows that he can not request for any mitigation on any offence due to the amount of offences which he had concurrently committed.

**POSITION OF THE OFFENDER AMONG HIS CONFIDERATORS.**

 The offender Evans, was the notorious kidnap kingpin for which means that unlike the case of ***ENAHORO V THE QUEEN*** , where the convicted felon’s sentence was reduced from 15 years to five year, because he was not the leader, Evans was the leader and so gets the highest sentencing, as seen in cases like

***THE QUEEN V MOHAMMED ,*** where the appellant who was the leader was given a max of 8 years imprisonment and the others a max of 5 year imprisonment

Also, in ***STATE V KARANKU*** , the append was not the leader, but played the leading role which was to be taken into consideration in the determination of her punishment

**RAMPANCY OF THE OFFENCE**

 The states that where an offence is more prevalent, the court increases the severity to aid the reduction of such crime. Like on the case of ***R V HASSAN & OWOLABI*** where the accused person was sentenced to five years for forgery and another 5 years for stealing and when appealled to the Supreme Court, they stated that they will not reduce the sentence by even a day due to the prevalence or fraud and forgery

Also, ***STATE V ANOR*** where robbery on road and water had been increasing and the two parties were sentenced to two years imprisonment.

In Evans case, kidnapping had been very rampant even defilement of young girls and rape too

As seen in cases like  ***STATE V ADEBOYE*** where is convicted criminal was sentenced to 3 years in prison for fingering a nine-year-old hawker

And also ***IKO V STATE*** very a taxi driver was sentenced to 5 years imprisonment with hard labour for rapping a passenger so violently. Robbery with violence is also considered serious in nature.

**STATUTORY LIMITATIONS**

 A Statute of limitations is basically, the law, which forbids the prosecution from charging someone with a crime which was committed more than expected fight number of years ago for example the defilement of a female below the age of 13 Must be tried between two years and the judge cannot exceed maximum sentence for a convicted individual

**There are 3 categories which include**

Felonies- from 3 years and above

Misdemeanour- 6 months to 3 years

Simple offences- 3 months to 6 months

There are two types

Which include: statutory maximum, and magisterial jurisdiction limitation

Cases on statutory Maximum include ***QUEEN V EYO & OTHERS-*** a caseof unlawful assembly where the high court sentence them to 5 years imprisonment on appeal to the Supreme Court which decreases it to 3 years because that was the maximum sentence stipulated by the law

Also, ***MORDI V COP***  the magistrate sentenced the accused tut two years and the high cout increased it to 10 years on Appeal to the supreme court, reinstated the earlier imposition of 2 years because that was the imitation of the Magistrate Court

 The main aim is to make sure conviction occurs only on evidence that has not passed its time.

 Some cases like murder, sexual offences with minors, crimes of violence, arson, forgery, kidnapping have new statutory limitation

So, there is no statutory limitation limiting any crime which Evans had committed.

**CONCURRENT AND CONSENTIVE SENTENCE**

 These are the laws governing such sentences whenever a person is charged and found guilty of more than two offences, General rule is that whenever the court finds the accused guilty of more than one crime, sentencing should be run concurrently.

 The supreme court held position by saying whoever the sentences of similar nature, they should run concurrently.

 In Evans’ case, it should be a concurrently, As In, one by one, like in the known case where the accused was found guilty and sentenced for stores breaking and store breaking implements in the same transaction.