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INTRODUCTION

The Nigerian criminal justice system provides a sentencing/punishment initiative as an attempt to ensure lawful conduct in the society, deter individuals from committing offences, separate and rehabilitate offenders in a society. For the better living and good governance of individuals in the society. Sentences, punishments and fine imposition is meted at the discretion of the court (judge).

There are principles put in place by the Supreme court to guide other courts in imposing just and fair sentences, these principles will be discussed subsequently in the progression of this work. Before going any further, it is important to know what sentencing is, its importance/ purpose and a recommendation and conclusion all in relation to the scenario in the question.

WHAT IS SENTENCING?

The term “sentencing” has been defined severally by various authors, scholars and institutions universally thus;

***The Canadian Sentencing Commission 1987***, defined sentencing thus;

*“… the judicial determination of legal sanctions to be imposed on the person(s) found guilty of an offence…”*

Also, in the case of ***ICHI v. State (1996)***, sentence was defined by the court as;

*“… sentence is the judgement formally pronounced by the court or judge upon an accused person after his conviction …”*

As a result of research and personal opinion, sentencing can be defined as legal sanctions imposed, on a person found guilty of an offence (acts or omissions), by the relevant authority (the judge).

GUIDELINES TO SENTENCING

The rules applicable in this scenario are the principles laid down by the Supreme Court in the case of ***Alhaji Sulaiman Mohammed & Anor v. Lasisi Sanusi Olawunmi & ors*** as aforementioned in the introduction above. Before a court can impose a sentence, the following guidelines must be considered;

i. Nature of the offence.

ii. Character of the offender.

iii. Position of the offender among his confederates.

iv. Rampancy of the offence

v. Statutory limitation.

vi. Concurrency of the sentence.

The above guidelines shall be discussed and applied to the scenario in the question, in the order with which they were itemized (i.e. Seriatim) NOTE: The relation of the principles to the Evans case falls under each explanation ALL WRITTEN IN ITALICS.

NATURE OF THE OFFENCE(S)

Here, the magnitude of the crime committed by an offender (severe or mild) is considered in meting out sentences. In the same vein it should be noted that, a person cannot be punished for an offence which at the time committed did not constitute a crime in any written law or statute and its punishment not clearly stated.

In the case of ***Adesanya v. Queen 1964***, this was a case of forgery of court processes, the court of first instance sentenced the accused to pay a fine, there was a further appeal, the court held that payment of fine was too small a penalty for the nature of the offence, hence he was given a jail sentence. While in the case of ***Idoye v. State***, a case of automobile accident which led to the death of a pedestrian. The High Court sentenced him to five (5) years imprisonment and ten (10) years suspension from driving, on appeal the Supreme Court reduced the sentence to two and a half (21/2) years imprisonment and five (5) years suspension from driving. This is similar to the case of ***Mohammed v. Commissioner of Police***

*It can be deduced from the above that in any situation where it is clear to a reasonable man and the law that an offence is grievous, heavy penalties will follow and where an offence is mild or simple as the case maybe the court will impose light penalties at its discretion. The offences committed by Evans (both Past and Present) are of great magnitude and they all constitute crimes as at the time committed and as such heavy penalties can and will be imposed on Evans.*

CHARACTER/NATURE OF THE OFFENDER

This is based on preponderance of evidence of the relevant bodies as stipulated by law, when the character of a person is being questioned this evidence becomes admissible. When an individual has been previously convicted, sentences imposed on him would be great. As seen in the case of ***Adeleye v. Ajibade***; The appellants bad character was trite in the courts restoration of a heavier punishment for their offence

Issues where the court imposed aggravated sentences as a result of previous conviction can be seen in the cases of ***Adeyeye v. State*** and ***R V. State***, this is because the court believes that such a two-time offender did not learn from his previous sin and punishment and as such a greater penalty is needed.

*From the nature of the crimes committed by Evans i.e. assault, kidnap, rape, defilement, extortion, killing and so forth we can see that he is a man of bad repute and character, he also is not a first time offender and as such has lost out on any mitigating factor which would have emanated from evidence of good character.*

POSITION OF THE OFFENDER

This principle is broken down to two other forms namely;

i. When the offender plays a minor role: In such an instance, the court gives lesser punishment to a person/persons who play minor roles in the commission of crimes because it is believed that this offender may have been induced or compelled in some sort of way.

In the case of ***Enahoro v. Queen***, a case of treasonable felony, the Supreme Court on appeal reduced Enahoro’s sentence from fifteen (15) years to five (5) years stating that a lieutenant should never be punished more than his superior because the superior is seen as the driving force and instigator of the crime and as such Awolowo, the leader was given ten (10) years imprisonment

ii. When the offender plays a major role: when this happens the court believes that the leader or any person who plays an active role in the commission of the crime should be severely dealt with, the purpose of this is because he/she instigated or led the commission of the crime. In the case of ***Queen v. Mohammed & Ors***, the first appellant, who was the leader, was given eight (8) years imprisonment, the others were given a maximum of five (5) years imprisonment.

Similarly, in the case of ***Hume & Ors v. TIV Native Authority***; where the appellants where all involved in a riot, where many animals where maimed and destroyed, the leader got an eight (8) year sentence while the rest got six (6) years imprisonment for taking part in the riot.

*From the facts given in the question it can be deduced that Evans is either the instigator or plays a major role in the offences charged against him. Since he is he leader, (assuming he had followers) he would be faced with greater penalty or a sentence of higher magnitude to serve as a deterrence to him and others.*

RAMPANCY OF THE OFFENCE

Prevalent crimes attract severe punishments as there are serious efforts being made to curb its commission, crime prevalence varies from location to location.

In ***R v. Hassan & Owolabi***; Here the accused was sentenced to five (5) years imprisonment for Forgery and stealing each by the High Court, on appeal the Supreme Court stated that as a result of the prevalent nature of the offence of Fraud on the customs, there was no disposition to reduce the sentence by even one day. Similarly, in the case of ***State v. Michael Ayegbemi***, the court here noted that highway robbery and stealing was rampant and as such both parties to the offence where sentenced to 20 years’ imprisonment.

*Almost all the crimes committed by Evans are rampant in Nigeria and all of them are grevious in nature, this also closes any window which was available for mitigation of his sentences. Heavy sentences are viewed by the court as measures placed to stamp out rampant crimes in Nigeria*

STATUTORY LIMITATION

Statutory limitation simply implies that there is a set time by law for parties involved have to bring legal action from the date of the alleged offence, whether civil or criminal. The main purpose of this statute is to ensure that convictions occur only upon evidence which has not deteriorated with the passage of time. There are two forms of statute of limitation namely;

Statutory maximum; meaning that a court cannot impose a greater penalty or sentence than what the law has stipulated and jurisdiction limitation

In ***Aremu v. Inspector General of Police***, the magistrate court sentenced the accused to two (2) years imprisonment, on appeal, the Supreme Court, stated that they could not impose a greater sentence than what the magistrate court had imposed

It should be noted that not all crimes and offences are governed or affected by the statute of limitation, some of which includes; Murder (in some states), Sexual offences (rape, defilement etc.), Arson, Forgery and the likes of it cannot be limited by statute.

*The crimes committed by Evans (Kidnapping, assault, rape, defilement, unlawful crossing of border by malicious means, obtaining property by false pretense, armed robbery, ritual killing and extortion) are in no way statute barred either by time lapse, evidence or by nature of the offence and as such at any point in time legal action could have been brought against him for the administration of criminal justice.*

CONCURRENCY OF SENTENCES

It is important to know that sentences can either run

i. Concurrently: this is when a person convicted of more than one offence is sentenced and serves them at the same time i.e. all at once. The general rule is that where an accused person has been charged with multiple offences the sentence shall run concurrently

ii. Consecutively: consecutive sentences run one after the other (consecutively), this appears to be a stricter form of sentencing.

In the case of ***Nwafor v. State***; the accused person was found guilty for Store Breaking and destroying equipment in the same transaction, the Supreme Court held that the sentences shall run concurrently since they are in the same transaction.

*Based on the above and the facts of the case, we can say that the crimes committed are in the same transaction and as such they should run concurrently.*

CONCLUSION/RECCOMMENDATION

Summarily, the Supreme Court gave six (6) guidelines to aid the administering of sentences for a proper criminal justice system, making sure there is an avenue with which one can have his sentences mitigated or aggravated.

This being said, Evans is supposed to be treated with heavy sentences (all things being equal in relation to the guidelines set by the Supreme Court) and these sentences are to run concurrently (with regards to the general rule)