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 MATRIC NO: 18/LAW01/041

 1a.) Criminal law is a classification of law which describes offences punishable according to the laws of the state as well as prescribed punishments for such acts. It involves a private individual and the government. **Section 272(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) confers criminal jurisdiction on the State High Courts. While Section 251(1) of the same constitution confers criminal jurisdiction on the Federal High Courts.**

**DEFINITION OF ARRAIGNMENT**

 An arraignment is a court proceeding at which a criminal defendant is formally advised of the charges against him and is asked to enter a plea to the charges. In many cases, the court may also decide at arraignment whether the defendant will be released on bail pending trial. **The Supreme Court, per Tabai JSC said: "The arraignment and taking the plea of an accused person is the very commencement of a criminal trial.** In other words, arraignment means the registrar of other officer of court calling the accused by name while he is standing in the dock and reading over and explaining the charge or information to the accused in a satisfactory way. The accused is then asked to make his plea instantly.

**PLEA**

 An accused may plead one of the following:

* **Autrefois acquit** which is an application of the rule against double jeopardy which states that a person cannot be tried twice for the same offence. He pleads this if he has been tried and acquitted previously.
* **Autrefois convict** which means that he has been tried and convicted for the same offence previously.
* **Mute** which occurs when he does not say anything. This plea is taken to mean not guilty as directed by the law.
* **Plea of Guilty to a lesser offence** where an accused may plead not guilty to the current offence but guilty to another offence outside the information. This is where plea bargaining comes in. If the prosecution accepts, he is sentenced according to the offence pleaded guilty for.
* **Guilty after which the counsel for the prosecution then gives the court a summary of the evidence together with details of the accused person’s background (character and criminal record) if any. After this, the counsel for defence makes his allocutus (plea in mitigation of sentence) and the court passes its sentence.**
* **Not guilty** after which the trial proceeds.

**N.B: Generally, an accused is presumed sane until proven otherwise through medical evidence and relevant witnesses. In a case where the accused may be too mentally ill or unstable to plead, he is either acquitted on grounds of insanity after thorough medical examination as directed by the court or he is committed to a psychiatric hospital for necessary care until he is mentally fit to be released. The leading case of this situation is R v M’Naghten (1843)10 C&F 200.**

 **TRIAL**

* The counsel for prosecution opens criminal proceedings by calling evidence for the prosecution. He calls his witnesses, examines them and tenders any exhibit they have before the court. The witnesses are then cross-examined by the defence counsel and re-examined by the prosecuting counsel if need be 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 is dismissed and the accused, set free.
* At the close of the case for the prosecution, the defence counsel may submit the lack of sufficient evidence provided by the prosecution and consequently, the accused has no case to answer. The judge may accept the submission and discharge and acquit the accused on merit, or discharge but not acquit. If he does not accept, the trial continues.
* The case for the defence then opens and the accused and his witnesses are cross examined by the prosecuting counsel and re-examined by the defence counsel. Each witness undergoes the whole process before another witness can be called save special circumstances. After the witnesses for the defence have tendered any exhibit they may have, the case for the defence closes.
* Both the prosecuting counsel and defence counsel then make their closing speeches, the former being the first speaker, each urging the court to convict the accused or discharge and acquit the accused respectively. They give their reasons for their requests.
* Thereafter, the judge fixes the judgement for a specific date if it is not a summary trial. However, if it is the latter, the judgement is given at once. The judge sums up, weighs or reviews the evidence of both sides after the cort resumes.

**DISCHARGE**

Where an accused person has not been found guilty on merit, the judge dismisses the charges and discharges and acquits him as provided under **Section 301 of the Criminal Procedure Act.** However, if the prosecution failed on technicality, the court will discharge but not acquit the accused. Where a person has been found not guilty a court may make a; Dismissal Order, Order of Discharge, Order of acquittal and Order of Compensation.

**SENTENCE**

Where an accused is found guilty, an allocutus is usually made by the counsel for the defence after which the sentence is then passed. A sentence may take the form of; Imprisonment with hard labour, Fine, Death sentence, Caning or Deportation.

1b.) However, after sentence, there are some **remedies** which have been put in place by law available to the guilty party. Some of these remedies are;

* **Appeal**

An accused person has the right to appeal against a judgement made by the High Courts according to **Section 36(1)-(11) of the 1999 Constitution of the Federal Republic of Nigeria.**

* **Pardon**

**By virtue of Section 212(1) and 175(1) and (2) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)**, the Governor of a state and the President of the country respectively, legally have the prerogative of mercy i.e power of pardon on criminals. This power was exercised by former President Goodluck Jonathan during his tenure in 2013.

2.) **METHODS BY WHICH CIVIL PROCEEDINGS MAY BE COMMENCED IN COURT**

* **Writ of Summons**: This can be found in **Order 3 of the High Court of Lagos (Civil Procedure) Rules.** The Writ of Summons (WOS) is one of the modes used in commencing a civil action against a person. It is a formal document addressed to the defendant requiring him to appear before the court if he/she wishes to defend himself against the plaintiff's claim. It is sealed or stamped with the court’s name on it for service by a bailiff on the defendant. A writ is required to be served personally to the defendant. A writ is usually accompanied by an Endorsement of the Claim or a Statement of Claim so that the defendant is made aware of the claim against him/her. Generally, it has a lifespan of 12 months (6 months in Lagos) but can be renewed before the lifespan is over.
* **Originating summons**: **This can be found in Order 3 Rule 8(1) of the HCLCPR 2004**. Originating Summons (OS) is one of the modes in commencing a civil action. An action is commenced by an OS when it is required by a statute or a dispute, which is concerned with matters of law, is unlikely to be any substantial dispute of fact. An Originating Summons may be in *Inter partes* or *Ex-parte* of the Rules of Court.

OS is heard based on affidavits filed in support. OS cases are heard by registrars or judges in chambers or in open Court. A judicial decision is made by hearing the lawyers and assessing the affidavits filed either in support of or in opposition to the OS. Witnesses may be called to give testimony and pre-trial conferences may or may not be conducted.

An application can be made to convert an OS into a Writ at any stage of proceedings. Alternatively, the Registrar or Judge can decide to convert an Originating Summon into a Writ without any application from the parties. Once the decision to convert has been made, the steps relating to a Writ applies. The Registry will assign a new Suit Number to the proceedings and a pre-trial conference will be called for the service of the Statement of Claim.

* **Originating Motion**: This is used only when provided for by a statute or a rule of court.

Examples of actions to be commenced by this way are;
a. Application for habeas corpus,
b. Order for mandamus,
c. Prohibition or certiorari,
d. Application for judicial review
e. Action for the enforcement of fundamental rights under the Fundamental Rights Enforcement Procedure rules 2009
Where a statute provides that action be commenced by application but does not specifically provide the procedure, originating motion should be used.
* **Petition:** A petition is a written application in the nature of a pleading setting out a party’s case in detail and made in open court.

It is, however, only used where a statute or Rules of court prescribe it as such a process – **Order 1 Rule 2(3) UCPR.** **Section 54(1) of Matrimonial Causes Act, 1970**provides that proceedings for dissolution of marriage are commenced by petition. **The Electoral Act** also states that petitions are the only modes of procedure in election litigations. An election petition has been said to be similar to pleadings in civil matter as it is in that the practitioner sets out all the material facts he relies on for his petition – **Egolum v. Obasanjo (1999) 5 SCNJ 92 at 125*.*** A petition as the Uniform Procedure Rules provides, shall include a concise statement of the nature of the claim made or the relief or remedy required in the proceedings begun thereby and at the end thereof a statement of the names of the persons, if any, required to be served therewith or, if no person is required to be served a statement to that effect - **Order 7 Rule 2(1) UCPR.** It shall be endorsed with the names and addresses of the petitioner and his Legal Practitioner, or where the petitioner brings a petition in person and corresponding to those made in the case of a writ, with the endorsements of the name and addresses of the plaintiff and his Legal Practitioner – **Order 7 R. 2(3) UCPR.**