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Assignment

Evans a notorious kidnap kingpin and armed robber, who has also been involved in series of assault, rape and defilement of young girls has finally been apprehended by the police, He was arrested at the Seme Border, dressed like a woman and attempting to cross the border to Benin concluded by the police and he was brought to the high court where you are the presiding Judge. After a long trial, you have found Evans 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.

Answer

First of all after the fact being confirmed that the offender is being found guilty. The offender would be sentenced according to the several laws governing sentencing practices in Nigeria

 Criminal Justice in Nigeria commences with the commission of a crime and continues with subsequent interventions by the law enforcement agencies and the system has the power to arrest and also try , sentence and punish the offender accordingly .The criminal trial usually involves the whole state and society with the offender who is alleged to have committed the crime.

 In the criminal trial, conviction and sentence come at the end of the entire proceeding / process. Sentencing means the prescription of punishment by a court to someone convicted of a crime. Hence after an accused person has pleaded guilty or has been found guilty during the trial or prosecution, the presiding judge or magistrate then enters judgement for conviction and sets the day aside for sentencing. A sentence is also defined as the definite position/order pronounced by the court of competent jurisdiction at the end of a criminal trial after the finding of guilt of the accused person. Section 248 of the criminal procedure act provides that of the court finds the accused person guilty. The court shall pass sentence on the accused person or make an order to reserve judgement.

The various types of sentences of a particular time observe contained in the criminal code and penal code. The purposes of sentencing, to fundamental the purpose of sentencing is to contribute along with the crime prevention is the respect of the law and the maintenance of just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives.

1. To denounce unlawful conducts
2. To deter the offender and other persons from committing offences
3. To separate offenders from society where necessary
4. To assist in rehabilitating offenders.
5. To promote the sense of responsibility in offenders and acknowledgement of the harm done on the community and victims .

The Supreme court in Mohammed v Olawunmi 1993 1WLR pt 348 Act 401 paragraph A-H held as follows “ Once a court of competent jurisdiction makes a finding of a guilt in a criminal case of quasi- criminal matter, the conviction has been made or regardless of the inferment of sentences consequent upon it. The sentence whether of imprisonment or payment of fine emanates from the discretion of the judge after the finding of guilt and flows logically from the conviction.

 In Nigeria, those who have been previously convicted in criminal cases usually attract partial sentences or punishments unlike first time offenders and vice versa.

 The supreme court has laid down 6 basic principles or guidelines to aid courts in reaching reasonable, just and fair sentences

1. First the nature of the offense
2. Character/nature of the offender
3. The position of the offender among his confederates
4. The rampancy of the offense
5. Statutory limitations
6. Concurrency of the sentence
7. The Nature of the offence : As a principle of law and practice, the nature of the offense committed by an accused person ( the defendant ) of which he has been found guilty, goes a long way in dictating/determining the extent of his punishment.
8. Chracter/nature of the offender : As a principle of law and a rule of evidence or evidence of character or inadmissible law. However, when the character of the accused person is in question the evidence of his character becomes admissible in law
9. Position of the offender among his confederates : When the offender plays a minor role , In Enaoro v The Queen , a care of the treasonable felony Enamornous sentenced to 15 years imprisonment by the high court . The supreme court reduced the sentence to 5 years and said “ the sentence imposed as the lieutenant should never be more than the leader.
10. The Rampancy of an offence: Where an offence is rampant or prevalent, courts have always thought that severity of punishment imposed will aid in stamping out the crime. In R v Hassan & Owolabi. The accused person was sentenced to 5 years by the high court for forgery and another five years for stealing.
11. Statutory Limitations : In Nigeria there are two statutory limitations
12. Statutory maximum
13. Magisterial jurisdiction maximum

In essence whenever a statute itself stipulates a term of imprisonment no court should exceed its limit. In Queen v Eyo and others a case of unlawful assembly the high court sentenced them to 5 years imprisonment on appeal to the supreme court reduced the sentence to 3 years because that was the maximum sentence stipulated by law.

1. Concurrent and consecutive sentences

There are laws governing concurrent and consecutive sentences when a person is charged and found guilty of more tha2 offences in Nigeria. The general rule is that whenever a court finds an accused person guilty of more than one offence the sentences may run concurrently the supreme court held this position by saying wherever the offences are similar or of similar nature/ disposition, they should run concurrently. The supreme court held this position by saying “wherever the offences are similar or of similar nature/disposition, they should run concurrently.

Following these guidelines would help in proceeding with my final decision.