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CRIMINOLOGY ASSIGNMENT

Generally, in all criminal trial where a conviction is secured, the next logical step would be sentencing. Sentencing is a very broad field accommodating different approaches and ideas. it is an exercise of discretionary power that is little guided in a country such as Nigeria. The criminal justice system in Nigeria starts to run with the commission of a crime and continues with subsequent interventions by agencies of the system with the arrest, arraignment, trial, sentencing and punishment of the offender. A criminal trial involves two processes both of which are important to the society and the offender. Firstly, there is the process of determining whether the defendant/accused did the act or made the omission alleged against him; if he did, then the second leg is that of sentencing him for his wrongdoing. In some legislation, the words sentence and judgments are used as if they were synonymous.

A criminal trial usually involves the state and the society with the offender who committed the crime, or who is alleged to have committed the crime. In criminal trial sentence come at the of the whole process. What then is sentencing? A sentence of the court can be defined as a definite disposition order issued by a court or other competent tribunal against a person standing trial at the conclusion of a criminal trial. It is also the prescription of punishment by the court. This is subsequent to the finding of guilt against him and must be an order which is definite in its nature, type and quantum. The Nigerian Criminal Code and the Penal Code as well as other offence-creating statutes specify the quantum of sentences, while the sentences themselves find their legitimacy in the criminal Procedure legislations applicable at the states and federal levels.

***The Canadian Sentencing Commission in 1987*** defined sentencing as “The judicial determination of legal sanctions to impose on the person found guilty of an offence”.

Another definition of sentencing can be found in the case of ***Ichi v State (1996) 9 NWLR Pg 470*** where it was held that a sentence is the judgement formally pronounced by the court or judge upon an accused person after his conviction in criminal prosecution . Also section 248 of the Criminal Procedure Act provides that if the court finds the accused person guilty. The court shall pass sentence on the accused person or make an order to reserve judgement and adjourn the case to some further date.

The Supreme Court case of ***Mohammed v Olawumi*** it was held that “ Once a court of competent jurisdiction makes a finding of guilt in a criminal case or quasi – criminal matter, a conviction , a conviction has been made regard less of deferment or sentences consequent upon it. The sentence whether imprisonment or payment of fine emanates from the discretion of the judge after finding of guilt and closed logically from the conviction.

In Nigeria those who have been previously convicted in criminal cases usually attract harsher sentences or punishment unlike first time offenders . Sentencing generally aims at the protection of the society through prevention of crime or reform of the offender which may be achieved by the means of deterrence, elimination or reformation/rehabilitation of the offender. The justification is that imposing the penalty will reduce the future incidence of such offences by preventing the offender from re-offending or correcting the offender so that the criminal motivation or inclination is removed or by discouraging or educating other potential offenders.

The next question to ask is, how does the court arrive at a reasonable sentence for an accused convicted? The Supreme Court has laid out 6 basic guidelines to aid the court in reaching a reasonable just and fair sentence. Also this laid out guidelines given by the supreme court is what will guide in regards to the sentencing of Evans on all the charges brought against him which he is guilty of. The guidelines are as follows

* The nature of the offence
* Character / nature of the offender
* Position of the offenders among his confederates
* The rampancy of the offence
* Statutory limitation
* Concurrency of sentence

***THE NATURE OF THE OFFENCE***

In law the nature of the offence committed by an accused person of which he has been found guilty of goes a long way in determining the extent of his punishment. The law is clear that a person cannot be found guilty of an offence which at the time being committed does not constitute a crime in any written law and its punishment not clearly stated.

In Adeye / ors v State a case of robbery was tried by the high court of the western state, the court imposed a sentence of 18yrs imprisonment on the accused. On appeal the western state appeal court reduced the sentence to 10yrs. the accused person being unsatisfied appealed to the Supreme Court. The Supreme Court reinstated the 18yrs with 3strokes of cane saying that the sentence of the appeal court was too lenient because of the seriousness of the crime.

Also in the case of Adesanya v The queen a case of forgery , the principle was established that only in exceptional cases can a fine be sufficient punishment for forgery . In this case the accused person having committed the offence was asked to pay a fine on appeal the court held that payment of fine was too small because of the seriousness of offence , hence imprisonment.

However in a case of manslaughter that is unintended homicide either by provocation murder or automobile homicide there is a tendency that the court will impose light punishment in automobile homicide as opposed to Provocation murder. This could be seen in cases like Idoye v the state and also Adekanmi v the state . The difference between automobile homicide and manslaughter provocation is traced to class differentiation in that most automobile cases are more likely to occur among members of upper/ middle class while those of manslaughter provocation are likely to be of lower class. Provocation is a statutory recognized criminal defence which serves as a mitigating factor and it reduces cases of murder to manslaughter. The maximum sentence for manslaughter is life imprisonment however, judges employ their discretion in determining the extent of sentence to the accused convicted.

In relation with Evans case the law will not be lenient in given its punishment due to the nature and seriousness of the crime which he was found guilty of. Crimes which he committed are felonies as prescribed by the law and will attract a more serious punishment.

***CHARACTER/NATURE OF THE OFFENDER***

As a principle of law and as a rule of evidence, evidence of character is seen admissible in law. However when the character of the accused person is in question the evidence of his character become admissible evidence in law.

In the case of ***Adeyeye v The state*** , in that case part of the reasons advanced for the reinstatement of the 18yrs sentence is that the accused person had been convicted earlier of a previous offence. It would appear that the court worried on the assumption that anyone with a previous conviction has cast out his chances of mitigating his sentences.

In ***Adeloye v Ajibode***, the appellant bad character was significant in the restoration of an heavier punishment on them.

Also in the case of ***R v state*** the fact that the appellant had been previously convicted for defilement this led the court to increase the sentence from 18months to 5yrs imprisonment with hard labour.

In relation to Evans case , his history of criminal activities has cast out his chances of the court mitigating his sentence.

***THE POSITION OF THE OFFENDER AMONG ITS CONFEDRATES***

\*The offender playing a minor role

***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

In relation to evans case he was the kingpin of the crimes he committed and this will attract a more sentence than his followers or gang members

***RAMPANCY OF THE OFFENCE***

This 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 appealed 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.

As seen in the scenario given evans committed some crimes which are rampant in the society crimes like kidnapping, armed robbery are rampant in the society. So in accordance with the law a more severe punishment will be given to help and stamping out the crime from the society in other to prevent future crimes.

***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

Misdemeanor- 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 case of 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 to two years and the high court 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 occur 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 o f 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, his sentencing will be run concurrently because he is guilty of more than one offence.

In conclusion sentencing guidelines are designed to indicate to judges the expected sanction for particular types of offences. They are intended to limit the sentencing discretion of judges and to reduce disparity among sentences given for similar offences. Although statutes provide a variety of sentencing options for particular crimes, guidelines attempt to direct the Judge to more specific actions that could be taken. As a presiding judge on Evans case I will have to work in close line with the sentencing guidelines given by the supreme court in other to reach a fair and just judgement.