Amusan Abdus-Salam Akoyejo

17/law01/058

Criminology (LPI 304)

**Answers**

From the question above, the next action to take is sentence Evans accordingly. I will also be expected to lay down the things that will guide me in sentencing having regards to the guidelines laid down by the supreme court.

To start with, I will define sentencing. Sentencing is the prescription of punishment by a court to someone convicted of a crime which usually comes at the end of the entire proceeding or process. Usually, after the defendant has pleaded guilty or has been found guilty during a trial the judge or magistrate usually set aside a date for sentencing.

 Sentencing has been defined by **itchi v state** as the judgment formally pronounced by the court or a judge upon an appeal after his conviction for a criminal prosecution.

 A sentence is a defined as a definite order pronounced by a court of competent jurisdiction at the end of a criminal trial after the finding of guilt.

I will therefore sentence him using the guidelines laid down by the supreme court in order to ensure reasonable, just and fair judgment. The guidelines include:

1. Nature of the offence.
2. Characters to the nature of the offender
3. The position of the offender among his confederate
4. The rampancy of the offence
5. Statutory limitation
6. Concurrency of the offence

**Nature of the offence**

The way and manner the offence has been committed will dictate or determine the the extent of his punishment. Also, one cannot be punished for an act which was not an offence at the time of commission. Due to the nature of the offence in some cases due to the nature of the offence the court may give a higher punishment or in other cases, reduce the level of the offence. An example of a situation where the court increased the level of punishment of the offence was in the case of **Adeye and others v the state**, at the court of first instance the accused charged with robbery by violence was sentenced with 18 years’ imprisonment. On appeal, the western state appeal court reduced the sentence to 10 years. The accused further took it to the supreme court and the supreme court re-instated the 18 years’ imprisonment with an additional 3 strokes of cane. This was due to the degree of the offence that was committed. A case where the sentence was reduced due to the nature of the offence was in the case of  **Mohammad v C.O.**P. In this case, the accused person had killed some pedestrian through driving and was therefore sentenced to 3 years imprisonment an 10 years disqualification from driving. The Supreme Court however reduced the sentence to 18 months imprisonment and 5 years disqualification from driving. This was due to the fact that with the nature of the offence committed, the sentence needed to be lower. In relation to the offence that was committed by Evans the offence committed was grievous most especially for the fact that he committed more than one offence assault, rape , defilement, kidnapping, armed robbery, ritual killing, extortion and obtaining property by false pretence. Therefore, with this amount of offence committed and the nature of the offence committed, it can only be deduced by a reasonable man that Evans will have a degree of higher punishment which deserves to be punished severely.

**Character/Nature of the offender**

The character of the offender is usually inadmissible in law but in some instances, it plays a role in determining the sentencing of the accused when the character of the offender comes into question. In some instances, the sentencing of the accused is usually reduced or mitigated when it can be deduced that the offender is a first time offender or is an individual that is susceptible of not committing the same offences. However, where it is discovered that such individual is susceptible to commit the crime again or where the offender has committed a crime before the sentencing may not be reduced or mitigated. In the case of **Adeyeye V the state**, on of the reasons why the 18 years was reinstated was because the accused had previously committed a crime before the present one was committed. Furthermore, in **R V** **State**, the accused had committed defilement before therefore the court increased the sentence from 18 months to 5 years’ imprisonment with hard labour. In relation to the crimes committed by Evans, one can deduce that his crimes cannot be mitigated by any means due to the fact that he has committed not just one offence but several other offences and the offence cannot therefore be mitigated

**The rampancy of the offence**

In trying to mitigate offences in the society, the court will look at the rampancy of the offence in the society. If the offence is less rampant in the society, the court may try to mitigate the sentencing of the individual who committed such offence. However, if the offence is very rampant in the society, the court will definitely impose the maximum sentencing upon the individual that committed such offence in order to aid the stamping out of the crime from the society. For example, where an individual commits commits an offence such as prank calling which is a form of assault, the court may try to mitigate the sentencing for such kind of offence. However, where the individual is found guilty for an offence such as armed robbery, the court will allow the full course of the law take effect to the maximum capacity. Therefore, the rampancy of the offence is an important guideline that the court puts to consideration when sentencing a person. thus, the court cannot fail to put rampancy of the offence into consideration when determining the sentencing of the offender. In the case of **Onyilokwu V C.O.P**, the offender was charged for causing harm and he later tried to escape and was charged fro escaping. He was charged with escaping from lawful custody as well. Subsequently, he was discharged and acquitted. The court however expressed that the 3 years earlier imposed on the offender did not put into consideration that the offender was a first time offender. Subsequently, in the case of **R V Hassan**, the accused was charged for 5 for stealing and 5 years for forgery. .When the case was brought on appeal, it was held that the sentence could not be mitigated due to the rampancy of the offence. All the offences that were committed by Evans are very rampant in the society and therefore, Evans needs to be punished severely for the offence that he committed without any chance of mitigating it

**Concurrency of the offence**

If the offence is similar in nature, then the court may allow the sentencing to run together(concurrently). However, if it is different in nature, then the sentencing will occur one after the other(consecutively). Therefore, offences which are different cannot run consecutively, rather, it will run concurrently. In Evan’s case, the offence of rape and defilement will run concurrently but the rest of the offences will run consecutively.

**Statutory limitation**

This limitation forbids prosecutor from charging an offender for an offence which was committed for a specified number of years ago. This is due to the fact that one cannot be prosecuted for an offence after the specified time for the prosecution of the offence is over. The reason why this is so is that the evidence may have deteriorated over time. If the criminal time has run out, the offender of an offence is free to leave his normal life again. This statute of limitation applies to all crimes however. Instances of offences that are not governed by statutory limitation includes; forgery, kidnapping, assault.

Statutory limitation are of 2 types:

1. Statutory maximum
2. Magisterial jurisdiction limitation

When a statute has stipulated a time of limitation, no court can exceed the statutory limit. In the case of **Aremu V IGP**, the magistrate sentenced the offender to 2 years’ imprisonment. Subsequently, on appeal at the supreme court, the court held that the sentence was above the statutory maximum. Also, in the case of **Queen V Eyo & ORS**, the high court sentenced them to 5 years’ imprisonment and on appeal to the supreme court it was reduced to 3 years’ because it had passed the statutory maximum. In relation to the case of Evans, the offences committed must not be above the statutory maximum accordance with the law and sentencing must be made before the offences deteriorate over time.

**Position of the offender among his confederate**

Usually, the position of the offender among his confederate is will usually determined the position that the offender usually play in the crime commission. where the offender plays a minor role in the commission of the offence, the sentence is usually reduced. However, where the offender plays a major role, the sentence is usually increased. A situation where the offender played a minor role and therefore, the sentencing was mitigated was in the case of **Enahoro V the Queen**. In this case, Enahoro was sentenced to 15 years’ imprisonment by the high court and on appeal to the supreme court, it was held that the sentence had to be mitigated to 5 years’ because “a sentence on a lieutenant should not be more than that of a leader. In the case of **Queen V Muhammad and ORS**, the leader of the crime committed was given a maximum of 8 years’ while the others where given a maximum sentence of 5 years’. In relation to case of Evans, he played a major role in the crimes. He was even described as a kidnapping kingpin showing that he is the mastermind at what he does. He therefore deserves a harsher punishment than all of them.

In conclusion, for the court to administer justice in the court of law, these procedures have to be followed in sentencing an individual. Evans was a notorious kingpin and therefore deserves to have the full course of law shown on him without mercy. His offences cannot be mitigated in any way because his action.