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ANSWERS

Evans the notorious kingpin has been found guilty of many crimes including rape, theft, defilement etc. as the judge presiding over the case I am tasked with the duty to sentence him in accordance with the law. Six guidelines are given by the Supreme Court in order to ensure that every person found guilty by the court is given sanctions that are appropriate, fair, and just. These sanctions include:

1. NATURE OF THE CRIME

The nature of the offence committed by a person determines the level of sentencing which should be ascribed to him. The court in giving sanctions to an offender has to consider the nature and magnitude of the crime committed. The law is clear on the fact that a person cannot be sanctioned for a crime, which at the time the crime was committed, was not stated in any written law and its punishment not clearly stated.

In ***Adeyeye v. The state,*** a case of robbery by violence, where the western states high court sentenced the defendant to 18 years imprisonment. The defendant unsatisfied with the judgment appealed to the appeal court of the western states, where the sentence was reduced to 10 years. Still unsatisfied the defendant appealed to the Supreme Court , where his sentence was reversed back to 18 years with the additional sanction of caning on the grounds that ten years was too little for the nature of the crime committed.

 In cases of manslaughter i.e unintentional homicide either by provocation, murder or automobile accident. In cases of automobile accident the court has the tendency to give slight sanctions, in the case of ***Idoye v. the state*** the defendant drove on a hilltop without headlights and in the process killed a pedestrian. He was sentenced to 5 years imprisonment by the High Court and an additional driving ban of 10 years. The Supreme Court reduced the sentence to two and and a half years imprisonment and a 5 year ban from driving. Similarly in ***Mohammed v. C.O.P*** the accused person who had never driven before jumped into a car and killed some pedestrians in the process. He was sentenced to 3 years imprisonment and a 10 year ban from driving. The Supreme Court reduced the sentence to 18 months imprisonment and a 5 year ban from driving.

There is major contrast between manslaughter by automobile accident and manslaughter by provocation. In ***Adekanmi v. The state,*** the defendant pleaded that he had killed his wife out of an overflow of emotions when his wife told him that their children belonged to her lover, and he was impotent. The Supreme Court upheld the defense of provocation and sentenced the defendant to 15 years imprisonment. The court is seen how the different judgments are given, and it is believed to be a thing of class, as people who commit automobile accidents are mostly in the higher class while those in provocation are from the lower class.

1. CHARACTER/ NATURE OF THE OFFENDER :

As a principle of law and a rule of evidence (or vice versa) character evidence or evidence of character is admissible in law. However when the character of the accused person is in question, the nature/ evidence of his character becomes admissible in law. In ***Adeyeye v. The state supra*** one of the reasons for the reinstatement of the original sentence(18 years imprisonment) was because the defendant had been convicted of a crime before, and the court is of the opinion that anyone who has been convicted of a crime before has lost all rights to mitigate his sentence. In ***Adeleye v. Ajibade*** the appellants bad character was significant in their sentencing and the restoration of a heavier punishment. In ***R v. The state*** the fact that the defendant had been convicted for a crime before made his sentence get increased from 18 months imprisonment to 5 years imprisonment with hard labor.

1. POSITION OF THE OFFENDER AMONGST HIS CONFEDERATES:

When the offender plays a minor role

In ***Enahoro v. The Queen,*** a case of treasonable felony, Enahoro was sentenced to 15 years imprisonment by the High Court, the Supreme Court reduced the sentence to 5 years imprisonment, and said that a lieutenant cannot be charged more than the leader. This is basically stating that a participant in a crime should not be punished more than the person who instigates the crime. In that case the late Awolowo who was the leader was sentenced to 10 years therefore the lieutenant should not be sentenced to more than 10 years.

Playing a major role

when an offender plays a major role in the commission of a crime, he is usually given a more severe punishment than those who play a minor role. The above idea was given judicial recognition in the case of ***Queen v . Muhammed***  ***and others*** while the leader was given a maximum sentence of 8 years the other participants who played minor roles were given a maximum of 5 years. In the case of ***The state v. Karenku***  although the appellant was not the leader, the court was of the opinion that she played a leading role in the commission of the crime.

1. RAMPANCY OF THE OFFENCE

Where an offence is rampant or prevalent, courts have always been of the opinion that severity of punishment will aid in stamping out the crime. In ***R v. Hassan and Owolabi***  the accused person was sentenced to 5 years for forgery and another 5 years for stealing by the High Court. He appealed to the Supreme Court and it expressed its view as thus; ***fraud on the customs are shockingly prevalent and forgery of commercial documents strikes at the roots of all credits, we are not disposed to reduce the sentence by one day.***

1. CONCURRENT AND CONSECUTIVE SENTENCING:

There are laws governing concurrent and consecutive sentences when a person is charged and found guilty of more than 2 offences. In Nigeria, the general rule is that when a court finds an accused person guilty of more than one offence, the sentence should run concurrently. The Supreme Court held this position by saying wherever the offences are similar or of similar nature or disposition then they should run concurrently. In ***Nwankwo v. The state*** the defendant was found guilty of breaking into a store and possession of the same transaction. The Supreme court held that the sentences should run concurrently because they were committed in the same place.

1. STATUTORY LIMITATIONS

This are simply laws already put down that allow for sentencing to be limited or regulates i.e already laid down laws that the court cannot exceed in the act of sentencing. In Nigeria there are two types of statutory limitations;

1. Statutory maximum
2. Magisterial jurisdiction limitation

Furthermore whenever a staute itself imposes or spells out a term of imprisonment no court should exceed its limits. In ***Queen v. Eyo amd others*** in a case of unlawful assembly , the high court sentenced the defendant to 5 years imprisonment, he then appealed to the supreme court which reduced the sentence to 3 years because that was sthe accused to 2 years imprisonment, dissatisfied the state appealed to the court of appeal which stated that they cannot give a sentence more than what the magistrate had given.