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CRIMINOLOGY

300LEVEL

**WHAT IS SENTENCING**

In a criminal trial, conviction and sentence come at the of the entire procedure/process. Sentencing means the prescription of punishment by law to someone convicted of a crime, hence after the accused has been found guilty during the prosecution process, the presiding judge or magistrate there by enters the date aside for sentencing.

The term sentence in law refers to punishment that was actually ordered or could be ordered by a trial court in a criminal procedure. A sentence forms the final explicit act of a judge-ruled process as well as the symbolic principal act connected to their function.

Canadian sentencing conviction(1987), defined sentencing as the judicial determination of legal sanctions to be imposed on a person found guilty of an offence

There are guidelines laid down by the Supreme Court in sentencing which can be seen below;

1. nature of offence
2. Character/ nature of the offender
3. The position of the offender among his confederates
4. The rampancy of the offence
5. Statutory limitation
6. Concurrency of the sentencing

**NATURE OF THE OFFENCE**

As a principle of law and practice the nature of the offence committed by an accused person(defendant) of which he has been found guilty goes a long way in determining the extent of his punishment.

The offences are taken into consideration When sentencing an offender who has been found guilty. Courts should pass a total sentence which reflects **all** the offending behaviour. The sentence must be just and proportionate and must not exceed the statutory maximum for the conviction offence.

In accordance to the case scenario, Evans also know as **Chukwudumeme Onwuamadike** has been 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. The offences can be seen to be grave offence which he deserves a harsher sentence.

In **Adeyeye and other vs State** a case of robbery by violence which the offender was given 10 years imprisonment on appeal.

**CHARACTER/NATURE OF THE OFFENDER**

Character evidence is admissible in law. However when the character of the accused person is in question, the evidence of his character becomes admissible in law.

In **Adeyeye vs Ajibade** the appellant bad character was significant in the restoration of an heavier punishment on him.

In accordance to the case scenario, Evans the offender has been seen to be of bad character who deserves harsh punishment.

**THE POSITION OF THE OFFENDER AMONG HIS CONFEDERATES**

Not all crime is carried out alone, some crimes requires more than one person to carry it out. His confederates is person he works with, especially in something secret or illegal; an accomplice to the crime committed.

The offender could play a minor role or major to the crime been or about to be committed,

**[A] Playing a minor role:**

This is when a person is accessories after the fact, probably a get away diver for the robbers. According to the law he’s also a criminal but had minor role to the offence. In the case of **Enaro v The queen** a case of treasonable felony, Enaro was sentenced to 5 years imprisonment on reduction by the supreme court. The leader was given 10 years. The leader is always the epicentre of activity, the moving of force and the progenitor**.**

1. **When paying a major role:**

 This is when an offender has more involvement in the crime than the other, such person is seen as the leader. The offender who has played a major role in the commission of a crime is usually given more/ heavier punishment than those affected with minor role. In **Ikon & another v T.I.V native Authority**, were the appellant was involved in a riot in which many animal were destroyed. They all got equal sentencing except the 6th appellant who got 8 years imprisonment for moving force of the riot.

 In accordance to the case scenario, Evans can be seen to be an offender of first degree meaning he played a major role in the all the crimes committed. Evans deserves heavier punishment than his confederate due to the fact that he’s the leader and in charge of all the operation.

**RAMPANCY OF AN OFFENCE**

 When an offence is rampant courts has always taught that severity imposed and stamping out crime. In trying to instigate judgement the court will look at the rampancy of the offence in the society. If the offence is less rampant the punishment given would be less harsh but is the offence is rampant, the punishment given would be sever to servers as a warning to other wanting to commit the same crime.

Therefore the rampancy of an offence is an important guideline a court should put in consideration when sentencing a person. In **State v Ayegbeni Michael** the court stated that the of robbery on the road and water in recent has increased and disturbing and the parties to the offence were sentence to 20 years imprisonment

In accordance to the case scenario, the offences committed by Evans were rampant during that period. People have been reporting cases of kidnapping, robbery and extortion. However the imposition of an heavy punishment an Evans would be appropriate.

**STATUTORY LIMITATION** Statutory limitation st0ipulate that no court should exceed its limits in Queen v Eyo & others a case of unlawful assembly the high court and sentenced to 5 years imprisonment on appeal was reduced to 3 years

**CONCURRENT AND CONSECUTIVE SENTENCES**

When a courts finds an accused guilty of more than two offence, the sentence should run concurrently. In **Nwaifo v State,** the accused person was found guilty of an offence and sentence for store breaking and possession of breaking implements in the same transaction, such sentence should run concurrently as they emanate from the same transaction.

In accordance to the case scenario, Evans committed multiple offence but they should all run concurrently.

## Sentencing Goals

The five goals of sentencing are punishment, deterrence, incapacitation, rehabilitation, and restitution.

Punishment is based on the concept of an eye for an eye where the punishment must be equal or fair to the crime that was committed. Punishment is to return a criminal to what is morally acceptable to society, basically saying the crime committed was wrong and is not morally acceptable. Because the criminal committed a crime, he needs to do the time through retribution (Seiter 2011 p. 28). Although most of society agrees that punishment is a logical result for someone who commits crimes, there are issues with the punishment fitting the crime because of plea bargaining, being judged by past offenses, and even bias based on race (Worrall 2008 p. 39).

1. deterrence,
2. incapacitation,
3. rehabilitation, and
4. restitution.
5. deterrence. It is seen as two fold in that it can help deter persons from committing more crime due to what they just felt (specific deterrence) and to also deter others from committing crime in the first place (general deterrence) because the pain outweighs the pleasure.
6. Incapacitation is to put criminals behind bars in an effort to hold them from possibly committing more havoc in the community. The logic is if a criminal is taken out of society, they cannot commit more crimes within the community.
7. Rehabilitation focuses on returning the criminal back into the community by helping them change into a productive member; and therefore, the logic says they will not commit crime again. I like to think that all people are capable of change. Rehabilitation gives them that option, but many people either choose not to change or are incapable of it.
8. Restitution is the newest goal of sentencing, which takes into account the effect the crime had on the victim. This goal allows for the criminal not only to see the errors of his way, but to right the wrongs he has committed.

CONCLUSION

In accordance to the case scenario, Evans who has been has been found guilty of all the charges brought against him including kidnapping, armed robbery, rape, defilement, ritual killing extortion and obtaining property by false pretence should sentenced accordingly to the guidelines stated above.