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Assignment: Sentencing

As Evans has been already found guilty of the crime, so therefore the next step is provide sentencing procedures to convict Evans. For this, therefore weneed guidelines to sentencing.

Criminal justice system in Nigeria commences with the commission and continues with subsequent interventions by the law enforcement agencies and the system has the power to arrest, arraign, try, sentence and punish the offender accordingly. In a criminal trial, conviction and sentence comes at the end of the entire proceeding or process.

The term sentence in law refers to punishment that was actually ordered or could be ordered by a trial court in a criminal procedure. The sentence can generally involve a decree of imprisonment, a fine, and/or punishments against a defendant convicted of a crime.

When a defendant is sentenced, they are issued a formal judgment that details the punishment. Sentencing is only completed by a judge once a person is convicted of a crime. If successful, a judge can lower or alter a convict's sentence.

A sentence is also defined as the definite order pronounced by a court of competent jurisdiction at the end of a criminal trial after the finding of guilt against the accused person. Section 248 of the Criminal Procedure Act, that if the court finds the accused person guilty the court shall pass sentence on the accused person.

Sentencing means prescription of punishment by a court to someone convicted of a crime. The difference between punishment and sentence is that punishment is the act or process of punishing, imposing and/or applying a sanction while sentence is (obsolete) one's opinion; manner of thinking.

After an accused person has pleaded guilty or been found guilty during the trial the presiding judge or magistrate then renders judgement for conviction and set the date aside for conviction.

The purpose of sentencing is to contribute along with the crime prevention initiatives the respect of the law and the maintenance of just, peaceful and 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.

Therefore, the supreme court has laid principles or guidelines to aid courts in reaching reasonable, fair and just sentences.

1. **The nature of the offence**:

This goes a long way of determining or dictating the extent of his or her punishment. The law makes it 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 clearly stated.

In the case of Adeye and others v. The State, a case of robbery by violence tried by the high court of the western state. The court imposed the sentence of 18 years of imprisonment on the accused person. On appeal, the western state appeal court reduced the sentence to 10 years, the accused still unsatisfied appealed to the supreme court which reinstated the original sentence of 18 years given to the accused. The supreme court stated the sentence of the appeal court was too lenient because of the seriousness of the case.

1. **Character or nature of the offender:**

Character evidence or evidence of character is inadmissible in law. However, when the character of the accused person is in question, the nature of his character, becomes admissible in law. In the case of Adeleye and Ajibade, the appellants bad character was significant in the restoration of a 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 his sentence forb18 months to 5 years imprisonment with hard labour.

1. **The position of the offender among his confederates:**
2. **When the offender plays a minor role:**

The offender who plays a minor role must never get a bigger sentence that one playing a minor role. In the case of Enahoro v. The Queen, a case of treason felony. The plaintiff was sentenced to 15 years imprisonment by the high court. The supreme court reduced the sentence to 5 years and said the sentence imposed on a lieutenant should never be more than the leader.

ii) **When playing a major role:**

The offender who has played a major role in commission of the crime is usually giving a more severe punishment than those inflicted on a minor participant.

The above idea was given judicial recognition in Queen v. Mohammed and others: The first appellant who was the leader was giving a maximum of 8 years imprisonment, the other parties was giving a maximum sentence of 5 years.

1. **Rampancy of the offence:**

Where an offence is rampant or prevalent courts have always thought that severity of sentences imposed would aid in stamping out the crime.

Rampancy of the offence is one of the most necessary consideration as it can be a litigating factor or aggravating one depending on the offence. Certain offences are considered as serious in nature example sexual offences especially if it involves children as victims. In State v. Adegboye, a 3 years prison sentence was imposed on the offender for inserting his finger into a 9 year old girl who was hawking groundnut.

1. **Statutory limitation:**

There are two types of statutory limitations in Nigeria

* 1. Statutory maximum
  2. Magisterial jurisdiction limitation

In essence, where a statute itself stipulates a term of imprisonment no court should exceed its limits. 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, the supreme court reduced the sentence to 3 years because that was the maximum sentence stipulated by law.

1. **Concurrent and consecutive sentences:**

When a person is charged and found guilty of more than 2 offences in Nigeria, the sentences should run concurrently. The supreme court held this position by saying “ wherever the offences are similar or of similar nature or disposition, they should run concurrently”.

In Nwankwo v. The State, the accused person was found guilty and sentenced for store breaking and possession of breaking instruments. The supreme court held that the sentence should run concurrently.

In Evans situation, the nature of the offence as listed are all serious offences which will cause the accused to a long prison sentence. The character or nature of the offender, seeing as the accused has already been termed a “notorious kidnap kingpin and armed robber” it does not say much good about his character unlike a first time offender who has no reputation in committing crime. It should also be noted that the accused has played a major role in the multiple crimes that took place. Crimes such as rape, armed robbery, defilement of young girls and all the other crimes mentioned are very rampant which will is also noted and contribute to a longer term of imprisonment in his case.