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**Basic Guidelines laid down by the Supreme Court to aid the court in reaching a reasonable, just and fair sentence:**

**1. Nature of the offence**

As a principle of law and practice, the nature of the offence committed by the accused person(the defendant) of which he has been found guilty of goes a long way in dictating or determining the extent of his punishment. By virtue of **section 36(8) CFRN** the law is clear that a person cannot be found guilty of an offence which as at the time being committed does not constitute a crime in any written law and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed. In **Adesanya v The Queen** , a case of forgery and the principle was established that only in exceptional cases can a fine be sufficient or appropriate punishment for forgery of court processes. The seriousness of the offence, it’s nature, the gravity makes forgery of court processes grievous. In the aforementioned case, the accused person haven committed the offence of forgery was sentenced to pay fine. On appeal, at the instance of the accused person, the court held that payment of fine was too small a punishment for the grievous offence of forgery hence imprisonment. In cases of manslaughter, that is unintended homicide either by provocation murder or automobile homicide. In the case of automobile homicide, there is a tendency of the court to impose slight penalties/punishments as opposed to provocation murder. In **Idoye v The State** , the accused person drove his car at night without headlights in a hill top area in the process he killed a pedestrian. He was sentenced to 5 years imprisonment by the high court in addition to 10 years suspension from driving. The Supreme Court reduced the sentence to 2 1/2 years imprisonment and 5 years disqualification from driving. In contrast, in provocation manslaughter, there is a tendency to impose an average time of 10 years. In **Adekanmi v The State** , the accused person killed his wife in a sudden overflow of emotions when she told him that their children belong to her lover and that he is impotent. The Supreme Court upheld his defense of provocation and imposed the time of 15 years imprisonment. Provocation is a statutory recognized defence of criminal offence which serves as a mitigating factor and reduces cases of murder to manslaughter. The maximum sentence for manslaughter is life imprisonment, however, the judges judges employ their discretion in determining the extent of sentence to the accused convicted.

In Evans case the crimes which he is being charged for are categorized under felony crimes and the punishments for these type of crimes are stated by the law.

**2. Character and nature or record of the offender**

As a principle of law and as a rule of evidence, character evidence or evidence of character is inadmissible 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** part of the reasons advanced for the reinstatement of the earlier penalty of 18 years was that the accused person had been convicted earlier for an offence. It would appear that the court worked on the assumption that anyone with a previous conviction has lost out in terms of mitigating his sentence. In **Adeleye v Ajibade** the appellants bad character was significant in the restoration of a heavier punishment on them . In **R v State**, the fact that the appellant had been previously convicted for defilement led to the court’s increase in sentence from 18 months to 5 years imprisonment with hard labour.

Evans a notorious kidnap kingpin has been involved in series of crimes in this case the nature/evidence of his character becomes admissible in law.

**3. Position of the offender amongst the confederates**

i) when the offender plays a minor role

In the case of **Enahoro v The Queen**, the case of treasonable felony. Enahoro was sentenced to 15years imprisonment by the night court. The Supreme Court reduced the sentence to 5years and said “ a sentence imposed on a lieutenant should not be more than the leader. The leader of the gang should be punished more severely than the lieutenant. This is to affirm that those who instigate should get a higher punishment than those instigated”. In that case, the late Awolowo, the leader got 10 years sentence so the lieutenant should not get a sentence higher than 10 years. The leader is usually the epicenter of the activity, the moving force and the progenitor of the crime.

ii) playing a major role

The offender who has played a major role in the commission of a crime is usually visited with a more severe punishment than those inflicted on minor participants. The above idea was given judicial recognition. In **The Queen v Mohammed and others**, while the first appellant who was the leader was given a maximum sentence of 8 years imprisonment, the other party was given a maximum sentence of 5 years imprisonment. Also in **State v Kerenku**, although the appellant was not found to be the leader, the court however was of the view that she played a leading part in the incident and must take that into consideration. Also in **Ihun & another v Tiv native authority**, the appellants were all involved in a riot in which many animals were mammed and destroyed. They all got sentencing totaling 6years imprisonment except the 6th appellant who got 8 years imprisonment for being the moving force of the riot.

According to the charges laid against the Evans, the accused in the given case, he played a major role as he is considered the kingpin there his sentence would be higher than others involved.

**4. Rampancy of the offence**

Where an offence is rampant or prevalent, courts have always thought that the severity of sentences imposed would aid in stamping out the crime. In **R v Hassan & Owolabi**, the accused person was sentenced to 5 years by the high court for forgery and another 5 years for stealing. He appealed and the Supreme Court expressed the view thus, “fraud on the customs are shockingly prevalent and forgery of commercial documents strikes at the root of all credit , we are not disposed to reduce the sentence by one day”. In **Onyilokwu v C.O.P**, the offender was initially detained for causing harm and later, he unsuccessfully tried to escape and was additionally charged with escaping from lawful custody. Although he was later discharged and acquitted the court expressed the view that 3 years imprisonment earlier imposed on him did not show adequate consideration not only for his first offender status but also for an offence which was not prevalent in that community.

Rampancy of the offence is one of the most necessary consideration as it can be a mitigating factor or an aggravating one depending on the offence. Certain offence have been considered serious in nature, for example; sexual offences especially when it involves children as victims. In **State v Adegboye**, a 3 years prison sentence was imposed on an offender for inserting his finger into the vagina of a little girl, aged 9, who was hawking groundnut. Also in **Iko v The State**, a taxi driver was sentenced to 5 years imprisonment with hard labour for raping a passenger so violently. Robbery with violence is also considered serious in nature. In **Oladi v The State** , during a robbery, D, the leader ordered one of his followers to shoot a victim. He complied but the gun did not go off. He was sentenced to 5 years with hard labour. The court said inter Alia that the society demands that such a man should be kept out of circulation . Also in **R v Okeke**, thus , that the gravity of an offence can be likely to the nature of the offence. If considered rampant and grievous the court would most likely impose a heavier punishment in the view to stamp out this type of crime in the society.

The accused in the instant case is charged with offences which are considered rampant in the eyes of the court and this being said attracts a severe punishment.

**5. Statutory limitation**

Statute of limitation is a law that forbids the prosecution from charging someone with crime that was committed more than a specified number of years ago. The general purpose of statutory limitation is to make sure conviction occur only upon evidence that has not deteriorated with time. After the period of the statute has run, the criminal is essentially free. Also where the statute itself has stipulated terms of imprisonment the court shall not exceed its statutory limit. However not all crimes are governed by statutory limitations. Murder, in some states sexual offences with minors, crimes of violence, kidnapping, arson, forgery have no statutory limitation.

In Nigeria there are two types of statutory limitations; statutory maximum and magisterial jurisdiction limitation. In essence, whenever a statute itself has stipulated time of imprisonment, no court should exceed the statutory limit. In **Queen v Ego & others**, in the case of unlawful assembly, the high court sentenced them to 5 years imprisonment. On appeal to the Supreme Court, it decreased the imprisonment to 3 years because that was the maximum sentence stipulated by law. Also in **Mordi v C.O.P**, the magistrate court sentenced the accused person to 2 years imprisonment, the High court later increased it to 10 years. On appeal, the Supreme Court reinstated the earlier imposition of 2years because that was the limitation of the magistrate court.

**6. Concurrent and consecutive sentences**

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 the sentence should run concurrently. The Supreme Court held this position by saying “whenever the sentences are similar or has similar disposition they should run concurrently”. In **Nwanfo v State**, here the accused person was found guilty and sentenced for store breaking and possession of breaking instruments of the same transaction. The Supreme Court held that the sentence should run concurrently because they emanate from the same transaction.

In the given case, the accused is being charged with more than one offence therefore the sentencing would run concurrently.