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NLS Assignment

Question 1: State clearly the procedure from arraignment to imposition of sentence in a criminal trial in the High Court. Comment on the remedies available to the accused after the imposition of the sentence.

A trial on indictment or information in a High Court is really an elaboration or an amplification of a summary trial at the magistrate court. In its pure essence, it is not much different from a summary trial, except for the elaboration of certain procedures. The procedure includes

1.Indictment:An indictment is an accusation of crime brought against an accused for trial in a High court. An indictment, is a criminal charge brought against a person by the Attorney-General or any othe subordinate legal officers on behalf of the state or country and which is for trial in the High Court. This is the first step of the procedure taken to charge for a criminal offence in the High Court.

2.Proofs or evidence: The proofs of evidence or evidence in proof means the names, addresses and written statements of the witnesses, that the prosecution wishes to call on a list of witnesses and a list of exhibits, if any, that the prosecution wishes to put in evidence at the trial. Photocopies of the list of witnesses, the written statements they made to the police and list of exhibits, if any are usually attached to the information filed by the state. The real essence of attaching these proofs of evidence is to put the accused on notice.

3. Arraignment and plea: Arraignment is the calling of an accused person formally before the court by name at the beginning of a criminal proceeding, to read to him the indictments brought against him and to ask him whether he pleads guilty or not guilty. In other words, arraignment means, the registrar or other officer of court calling the accused name while the accused is standing in the dock and reading over and explaining the charge or information to the accused in a satisfactory way and asking the accused to make his plea.

4. Plea of guilty: Where an accused person pleads guilty, the counsel for the prosecution will give the court a summary of the evidence together with the details of the accused persons background, that is character and criminal record , if any. After this the counsel of the defence usually makes his alloctus or plea in mitigation of sntence and the court passes its sentence

5. Plea of not guilty: Where an accused person pleads not guilty the trial proceeds.

6. Prosecution: the counsel for the prosecution always opens a criminal proceeding by calling the evidence for the prosecution. He calls his his witnesses and examines each in chief, and tenders any exhibit the may have. The witnesses are in turn cross-examined by the defence counsel and re-examined by the prosecuting counsel as may be necessary and the case for the prosecution closes. The burden of proof on the prosecution in a criminal mater and it is beyond reasonable doubt.

7. submission of “No case to answer: At the close of for the prosecution, the defence counsel may submit that the prosecution has not produced sufficient evidence or made out a *prima facie* case against the accused personand consequently, the accused person as no case to answer to and therefore the case should not proceed further. The defence counsel makes the submission by addressing the court. The prosecution counsel usually relies, the the judge makes ruing on this submission.

8. Defence; after the close of the case for the prosecution and the failure of a no case submission, if such submission was made, the case for the defence then opens. The accused and his witnesses, if any, are, one after the other, led in evidence in chief by the counsl for the defence and are cross-examined by the prosecuting counsel and re-examined by the counsel anothe witness can be called if any

9.closing address: after the close of the case for the defense, the counsel for both sides then makes closing speeches by addressing the court from their filed written addresses. The prosecution counsel is always the first to address the court. He sums up or reviews the case for both sides

10. judgement

11. discharge

12. Finding guilt of sentence

Question 1b Comment on the remedies available to the accused after the imposition of the sentence. After the accused has gone through trial and is finally is sentenced there are remedies in which the the sentenced defendants may be able to take advantage of. Sentencing may range may be in form of a fine to be paid, imprisonment, comunity service,caning, deportation or even as much as a death sentence.

these are the procedures that are carried out in a criminal trial on an accused person. However, there are also remedies to either partially or totally alleviate such imposed sentences. An accused has the option to appeal to remedy his conviction. Here, an accused person would seek redress a higher court to review the decision of the lower court over his case to find out whether on the proper consideration of the facts placed before it and the applicable that the court arrived at a valid decision. Such appeal is a rehearing and not a retrial as being stated in the case of Oredoyin v Arowolo (1989) NWLR (pt.114)172.This remedy is backed up constitutionally by virtue of sections 272 & 241 of the CFRN. To this effect, the High court of state has appellate jurisdiction on criminal matters and that such appeal will lie as of right to the Court of Appeal on any final criminal decision of the Federal High Court or State High Court at the first instance or where a death sentence has been imposed respectively. While the option of appeal is at the disposal of the accused, the accused should also simultaneously file a notice of appeal signed either by him or his counsel at the registry of the court that gave the judgement; and if refused, he may file

it at the registry of the court being appealed to. By virtue of section 69 of the Magistrate Court Laws, a criminal appeal should be filled within thirty (30) days after the delivery of the judgement of the Magistrate court. However, with respect to the Court of Appeal, a criminal appeal shall be filled within ninety (90) days after the delivery of the judgement by the High Court or Federal High Court as embedded in section 24 of the Court ofAppeal Act. Further appeal to the Supreme Court shall be within thirty (30) days after the delivery of judgement

of the Court of Appeal.

In conclusion, when an accused person decides to taken advantage of appealing his conviction to a higher court and the appeal is being heard in his favour then his conviction and sentencing by the lower court is set aside. therefore, the accused is being discharged and cleared of all criminal liabilities. An may be granted pardon by the President also the Governor and this here is constitutionally backed up by section 175(1) of the CFRN which states that the President may grant to any person convicted of any offence created by an Act of the National Assembly a pardon either free or subject to lawful conditions.

Question 2: Comment on the various methods by which a civil proceeding may be commenced in the high court.

An action may be commenced in a High Court by acounsel filing one or a combination of the following papers or originating process in court.

1. Writ of summons, or originating summons, together with a statement of claim;nor
2. Ex parte motion, with or without a writ of summonsand statement of, claim which may be filed later;
3. Petition, as may be necessary such a, in a matrimonial proceeding for divorce and so forth

A writ of summons when filed is sealed or stamped with the courts name on it for service by a bailiff on the defendant to give him of the notice of the claim, made against him and requiring him to acknowledge service and defend it, if he does not admit the claim. A statement of claim may be filed along the writ, or later on within 4 days of the service of the writ on the defendant. In Lagos state, the writ of summons or originating process shall be accompanied by the statement of claim, lis of witnesses, copies of every document to be relied on that trial, written address in support of the action, and so forth, otherwise, it will not be accepted for filing at the registry.

A writ or other originating process usually contains the following indorse =ment or information:t

1. Names of the parties to the suit
2. The name of the plaintiff or claimant and his address;
3. Name of the defendant and his address; and
4. Name of the plaintiff’s solicitor and his business address for service of court process.
5. An indorsement of the claim against the defendant. A writ is usually 12 months. In Lagos it is 6 months, within which time it has to be served, although its life may be renewed before it expires, to enable it to be served.