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**Course Title: Nigerian Legal System**

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**Question: 1. State clearly the procedure from arraignment to imposition of sentence in a criminal trial I. The high court. Comment any remedy available to the accused after the imposition of sentencing.**

**2. Comment on the various methods by which civil proceedings may be commenced in the high court.**

**ANSWERS**

A criminal trial in the high court is an elaboration or an amplification of a summary trial at the magistrate court. The procedure from arraignment to imposition of sentence in a criminal trial in the high court includes:

**1. Arraignment:** it 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 indictment brought against him for him to plead either guilty or not guilty. This is done mainly by the registrar.

**2. Plea of guilty:** where an accused pleads guilty, the counsel for the prosecution will give the court a summary of evidence also with the details of the accused person’s background that is; the character and criminal record if any.

**3. Plea of not guilty:** where the accused pleads not guilty, the trial then proceeds.

**4. Prosecution:** the counsel for the prosecution always opens a criminal proceedings by calling evidence for the prosecution. He calls his witnesses who tenders their exhibits and are each examined. They are also cross-examined by the defense counsel and re-examined by the prosecuting counsel. The burden of proof is to be proven beyond reasonable doubt. Where the burden of proof is not discharged, the charge is usually dismissed and the accused is acquitted. For it is better to a guilty person to go scot-free than for an innocent person to be unjustly punished due to a lowered standard of proof. According to ***Chukwunweike Idigbe JSC in Ukorah V State:*** ***the Romans had a maxim that it is better for ten guilty persons to go unpunished than for one innocent person to suffer.***

**5. Submission of `no case to answer’:** the defense counsel makes the submission by addressing the court that the prosecution has not produced sufficient evidence or made out a primal favor against the accused. Therefore the accused has no answer and the case should not proceed further. The judge them makes a ruling in the submission by either accepting the submission and making a ruling that the accused has no case to answer. This is a verdict of not guilty and the court may discharge and acquit the accused on merit or discharge but not acquit the accused, or the judge may reject the no case submission. The trial then proceeds and the accused has to state his case by giving evidence in his defense. Where the accused refuses to give evidence and still stands by his no case submission, the court would often usually convict the accuse.

**6. Defence:** after the close of the case for prosecution and the failure of no case submission if any, the case for defence begins. The accused and his witness are led in evidence -in chief by the counsel of the defence and are cross examined by the prosecuting counsel and re-examined by the counsel of defence if necessary. Each witness goes through this process before another set of witness is called. It is never mixes up. After exhibits of the witness have been tendere, the defence closes.

**7. Closing Address:** the counsels addresses the court by making closing speeches from their files written addresses. The prosecution counsel is always the first. He reviews the case on both sides. Followed by the defence counsel.

**8. Judgement:** here, the judge fixes a date for when the judgement would be delivered since it is not a summary trial. On the adjourned date the court resumes sitting and the judge delivers judgement on the case.

**9. Discharge:** where an accused person has not been found guilty on merit, he is discharged and acquitted. If the prosecution failed in technicalities, the court would discharge the accused but not acquit him.

**10. Sentence:** where an accused is found guilty, the judge passed a sentence on the accused.

**Remedies available to the accused after the imposition of sentence**

**1. Pardon:** pardon can be granted to an accused after the imposition of a sentence. After it is granted, such person may either be free or subject to lawful conditions. A pardon is an act of grace proceeding from the power entrusted with the execution of laws which exempts an individual on whom it is bestowed, from punishment which the law inflicts for a crime he has committed. It is also known as executive clemency. It is relieved on some or all of the legal consequences resulting from a criminal conviction.

2. **Expungement:** according to Black Law’s dictionary “it is the process by which record of criminal conviction is destroyed or sealed from the state or federal repository”. When a person’s record is expunged such event is treated as if it never occurred.

**3. Parole**: it is a conditional release of prisoners before they complete their sentence. All fixed term sentences of imprisonments of above 18 months are subject to release on parole after a third of the period of sentence have been served.

***QUESTION 2***

***The various methods by which civil proceedings are commenced in the high court are as follows:***

**1.Pre-court Stage and Consultation of Lawyer:** a party who has been wronged or is aggrieved and wishes to seek relief in a high court usually consults a lawyer for legal advise, who takes down the facts of his case and instructions.

2. **Form and commencement of action::** An action may be commenced in High Court by a counsel filing one or combination of the originating processes and n court.

**3. Appearance:** after the defendant acknowledges the service of a writ, he then meets his counsel to file a memorandum of appearance then he shows up to defend it.

**4. Stay proceedings:** the court suspends proceedings.

**5. Discontinuance:** a plaintiff may decide to file a notice of discontinuance that he no longer wants to proceed further with the case.

**6. Pleadings:** they are written statement of a party’s claim or case.

**7. Trial:** on a fixed date, the parties assemble in court to examine evidence in other to decide guilt in the case

**8. Judgement:** the judge sums up, considers and evaluates the evidence given and gives judgement on the same day.

**9. Enforcement of judgement:** the judgement is delivered in Favour of a party and should be satisfied within the time limited by law.

**REFERENCE**

**Ese Malemi *Nigerian Legal System 4th edition***

**Law.cornell..edu**

**district.ecourts.gov.in**