MATRIC NO: 18/LAW01/013

COURSE CODE: LPI 204

COURSE: NIGERIAN LEGAL SYSTEM II

**1.** Procedures from arrangements to imposition of sentence in a criminal trial in the high court includes:

1. There shall be a Case Management Hearing immediately after arraignment where all the following preliminary issues shall be dealt with:

1. objections on ground of jurisdiction;
2. admissibility of evidence including statements of the defendant(s)
3. relevant number of witnesses to be called by the parties;
4. the  non  contentious  evidence  to  be  agreed  and  admitted  -  ‘evidence agreed’;
5. time estimate and schedule of witnesses for the trial; and
6. Any other questions of law relating to the case.
7. No application including matters of jurisdiction which should have been raised at the Arraignment and Case Management Hearing shall be entertained during the substantive hearing of the trial but may be raised at the final address stage.
8. Where a defendant appears in court:
	1. unless the court directs otherwise, irrespective of any issues, including but not limited to jurisdiction, bail or plea bargain, the defendant shall be called upon to enter the dock and the charges read and explained in the language he understands to the satisfaction of the court and enter a plea;
	2. the court shall not entertain or hear any observation, comment or application from a defendant or his legal representative unless or until after he has entered a plea to the charge or charges before the court;
	3. where a defendant is present in court and refuses to enter the dock to take a plea, a not guilty plea shall be entered for him;
	4. where the court entertains any objections, ruling shall be reserved till final

Judgement;

1. The court shall issue a trial notice for an Arraignment and Case Management Hearing to the parties no later than Ten (10) working days from the date of the case being assigned to the court.
2. The court shall consider all issues raised at the Arraignment and Case Management Hearing and resolve matters raised in the interests of justice within Five (5) working days of the Arraignment and Case Management Hearing.
3. A trial shall be concluded within a reasonable time and completed no later than 180 days from the date of commencement.
4. The presiding Judge that conducts a Case Management Hearing shall endorse the agreed evidence and the court shall serve copies on the prosecution and defence.
5. At the end of every Case Management Hearing, the court shall make such orders and/or give such directions on issues in paragraph 1 of this Order or as it deems necessary to give effect to the Overriding Objective of the Act
6. Where a trial is commenced:
	1. by a charge, the trial shall commence within Thirty (30) days of preferring a charge or the return of the case management forms,
	2. By First Information Reports, the trial shall commence thirty (30) days after the charge has been preferred.
7. Documents or ‘evidence agreed’ by consent of both prosecution and defence at the Arraignment and Case Management Hearing or at any subsequent Case Management Hearing shall form part of the proceedings and record of the court without recourse to further conditions of admissibility at trial.

**2.** Various methods by which civil proceedings may be commenced in the high court are:

 **Trials**

1. The court shall schedule the time and date of the hearings on such days and times with the aim of concluding the trial within 180 days after the arraignment.
2. The hearing of cases shall be on a day-to-day basis as far as the schedule of the court may permit.
3. The court and parties shall prevent unnecessary delays as far as practicable and accordingly, not more than five adjournments may be allowed from arraignment to final judgment.
4. Where a counsel who was present in court and agreed on the next adjournment date fails to attend the hearing without good reason or sufficient notice, costs may be awarded against him.
5. Where the defendant is in custody, the court registrar responsible shall liaise with the detaining authority to produce the defendant in court at every hearing that his attendance is required.
6. Counsel that has conduct of a case shall ensure that they are present in court and ready to proceed with their case or trial at all times. Where this is impracticable by reason of ill health or any other unavoidable reason, counsel shall:

	1. immediately notify the court before the hearing of the case, of their circumstances of unavailability or absence, and/or
	2. Ensure that another counsel of requisite professional experience and knowledge of the issues before the court as is required to diligently prosecute or defend the case, is present in court and ready to proceed with the case or trial in his absence.
7. Where a counsel puts himself forward as holding the brief of another counsel, he shall be deemed to be seized of the facts of the case and ready to proceed with the court business of the day.
8. Where a counsel holding brief for another counsel is unable to proceed with the business of the day, due to his unpreparedness, costs may be awarded against him personally.
9. The defence and prosecution witnesses may at trial, without giving oral evidence, adopt their written statements and be cross examined on it in the following conditions:

	1. The written statements have been agreed at the case management hearing, and
	2. Where any other additional oral evidence would be a repetition of the written statement and add nothing new of evidential value.

 **REMEDIES AFTER TRIAL**

The rights of the accused after trial are many and varied. Criminal defendants who are convicted at trial must go through the process of sentencing, but they have the right to argue for a certain sentence. They then have the right to appeal the guilty verdict and the sentence. Should all available appeals fail, they have the right to attack the conviction again through a civil proceeding against the prison warden called a writ of *habeas corpus.* Finally, defendants have the right to ask the state's governor or the president of the United States (depending on whether the conviction was in federal or state court) for clemency. The sources of these rights can be found in federal and state constitutions and statutes.

**Prison**
By and large, prisoners are entitled to only a "minimal civilized measure of shelter." Prisoners have a modicum of rights, but most of them may be curtailed in the interests of security. Established rights of prisoners include: the right to sufficient nourishment; the right to be free from arbitrary punishment on the basis of beliefs, religion, or racial and ethnic origin; the right to be free from constant physical restraint; the right to access to the courts and to legal materials; the right to a minimal amount of exercise; the right to adequate medical care; the right to essential personal hygiene; and the right to adequate heat, cooling, ventilation, and light. Other rights, such as the right to see visitors, the right to send and receive mail, the right to free speech, the right to practice religion, the right to privacy, and the right to personal property all may be infringed upon to the point necessary to preserve safety and security within the prison.

**Sentencing**
Conduct at trial can affect a defendant's sentence. For example, under the Federal Sentencing Guidelines, a defendant may receive an increased penalty (usually a longer prison term) if the defendant "wilfully impeded or obstructed, or attempted to impede or obstruct the administration of justice during the investigation or prosecution." In other words, if, in the estimation of the judge, the defendant "testify [ide] untruthfully" at trial, the defendant may receive a harsher-than-normal sentence.
The sentencing phase follows a criminal conviction. Between the day of conviction and the day of sentencing, the court has the option of jailing the defendant or releasing the defendant into the community until the sentencing date. If the court decides to release the defendant, the defendant may be required to post a security bond with the court to ensure his or her return to court for sentencing.
Convicted criminal defendants have the right to present a case for themselves at the sentencing phase. In most states, if the conviction was a violation or petty misdemeanour and the defendant is not being sentenced to jail or prison, the court conducts no hearing and simply imposes a sentence on the defendant immediately after the verdict is reached. In any case, the judge gives the defendant an opportunity to make a statement in his or she defends before the judge hands down the sentence.
In most states, the court holds a sentencing hearing for felony convictions and convictions that can lead to incarceration. This hearing is usually held several days or weeks after delivery of the verdict and can consist of oral testimony, cross-examination of witnesses, evidence, and arguments to the sentencing authority (either the judge or the jury). Sentencing options for judges include fines, imprisonment, and restitution to victims, probation, and a variety of lesser penalties.
Probation is a status of conditional liberty.

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