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**Assignment**

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

The following stages or procedures adhered in a criminal trial in the High Court in Nigeria include:

The first which is Indictment or information which is accusation of a crime brought against an accused for trial in a High Court brought by the Attorney- General or any of his subordinate legal officers on behalf of the state or country.

The next stage is Proof of Evidence: but I will be listing from the next stage which is arraignment to the final stage sentence.

1. **Arraignment and plea**: This is the calling of the accused person formally before the high court by his name while the accused is standing and reading out his charges then asks the accused to make his plea instantly. They are types of plea. The accused can plead guilty or not guilty.
2. **Plea of Guilty**: When the accused pleads guilty, the counsel of the prosecution will give the court the summary of the evidence with details of the accused including his background. When it is done, the defence now makes his plea in mitigation of sentence then the court passes its sentence.
3. **Plea of Not Guilty**: If the person pleads not guilty, the trial proceeds. There is ***plea bargaining*** where the defence pleads guilty for a lesser crime in exchange for dismissal of serious criminal charges against him and quick disposal of criminal proceedings. The idea of plea bargain started in the western countries especially in America. It is also used in the Nigerian legal system as it is engraved in the provision of the criminal procedural laws. It could be seen in some number of cases especially in criminal charges brought by the EFCC. In this plea bargaining, the accused person who does want to plead guilty to a serious offence pleads guilty to a lesser offence which is not stated in the information. This in turn leads to the dismissal of the serious criminal charges and the proceedings is put to an early end.

However, there are some criminal cases which involves ***mentally ill person*** as the accused. Some accused persons who are mentally ill may not be able to make plea to a criminal charge which is referred to as “unfitness plead”. Such persons are referred to psychiatric examination and treatment especially in cases which involves murder. The psychiatric hospital will take care of the accused at the orders of the governor or president until he is fit to be released. In most cases, the defence counsel put up defence of insanity knowing well the court will declare the accused not guilty on the grounds of insanity. This could be seen in the case of *R v M’Naghten.* It is a general rule of law that every accused person is presumed to be sane until proven otherwise

**Prosecution**: This stage opens the criminal proceedings by calling out the evidence for prosecution. The prosecutor calls his witnesses to examine them then they are cross examined by the defense counsel. The prosecuting counsel re-examines as necessary then the case for the prosecuting closes. Remember, Nigerian judicial system operates an adversary system where the burden of proof beyond reasonable doubts shifts from the prosecutor to the defendant to make his defense. If the burden of proof is not discharged, the charges are dismissed and the accused is legally entitled to be set free.

1. **Submission of** “No case to answer”: At the close of the prosecution, the defence counsel may submit that the prosecution has not produced enough evidence or made a prima facie case against the accuses therefore the accused has no case to answer and the case should not proceed further. This submission is made by addressing the court and the prosecuting counsel usually replies. The judge makes a ruling on the submission. If the judge accepts the submission, he rules a verdict of not guilty and the criminal proceeding will come to an end but if he rejects the submission, the proceeding continues.
2. **Defence:** The case of the defence counsel opens when the case of the prosecuting counsel closes and there is no case of submission. The defence counsel brings his evidence. He brings his witnesses examined by him first then cross-examined by the prosecuting counsel and re-examined by the defence counsel. After the witnesses have testified and brought any exhibit they may have, the case for the defence closes.
3. **Closing Address:** The counsels for both sides make their closing speeches by addressing the court from their field of written addresses with the prosecuting counsel being first to address the court. He reviews the case of both sides stating his strength and his opposing counsel’s weakness urging the court to convict the accused. The general rule of closing addresses is that the accused is entitled to the last word.
4. **Judgment:** After the closing addresses by both counsels, the judge fixes the judgment date provided it was not a summary trial and the court rises in adjournment to enable it consider, review and evaluate the totality of evidence in the case. The course resumes sitting on the adjourned date and the judge gives his judgment, reasons for his judgments. At the end, he may find the accused guilty or not guilty.
5. **Discharge:** The accused person is set free where he has not been found guilty and all charges against him will be dismissed. There are orders given by the court when the accused is not found guilty.
6. **Sentence:** When an accused is found guilty, sentence is passed. Before the sentence is passed, a plea for mercy is usually made by the counsel for the defence. The judge passes his sentence on the accused. There are types of sentences imposed by the judge on the accused.

However, there are types of sentences the court imposes on the accused and convicted person which can be found in the Criminal Procedural Acts which is as follows:

1. Imprisonment which is usually with hard labour. It is a punishment for criminal offences which consists of the offender in prison.
2. Fine in lieu of that is fine instead of imprisonment or both fine and jail. It is a sum of money which the court orders an offender to pay to the government treasury as a penalty for the commission of an offence
3. Death sentence. It it is a judgment of court which stipulates that an offender should suffer death for the offence committed. It could be death by hanging or others. It should be noted that a pregnant woman and a minor cannot be sentenced to death.
4. Caning. This may be imposed under the criminal procedural law.
5. Deportation. This means expulsion from the country that means he will be declared as not a citizen of the country.

Others orders a court can impose are;

1. Binding over orders (and suspended sentence and community service in western countries)
2. Orders for detention during the pleasure of the President or Governor as the case may be
3. Order of disposal of property
4. Order of costs
5. Award of damages and
6. Probation order

**Remedies available to the accused after imposition of sentence:** it should be noted that law cannot be used as an instrument of injustice hence the judge exercises his judicial discretion to ensure a wrong should not be without a remedy. The remedy available to the accused after imposition of sentence is right to appeal. If the convicted or accused person is not satisfied with the judgment or the sentence given to me, he can appeal to a higher court to review the judgment given or the sentence given. Another remedy is available is reduction of sentence. If a new government comes into place, the accused can be granted freedom or reduction of years he is sentenced to if he found to be of good behaviour.

1. **Comment on the various methods by which civil proceedings may be commenced in the High Court.**

*By virtue of the High Court of the FCT, Abuja (Civil Procedure) Rules Order 1 section 1*, civil proceedings may be begun by writ, originating summons, civil proceedings originating motion or petitions or any other method required by other rules of court governing any special subject matter as provided in these Rules.

*Section 2(1) of Order 1* lists four circumstances where writs are used to commence the civil proceeding among which is where the claim is made by the plaintiff for any relief or remedy for any civil wrong.

*Section 2(2) of Order* 1 lists two circumstances proceedings may be begun by originating summons among which is where there is unlikely to be any substantial dispute of facts.

*Section 2(3) of Order 1* states that proceeding may be begun by originating motions or petition where by these Rules or under any written law the proceedings in question are required or authorized to be so begun but not otherwise.