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COURSE : NIGERIAN LEGAL SYSTEM

QUESTION;

1. a) State clearly the procedure from arraignment to imposition of sentence in a criminal trial in High court b) Comment on the remedy available to the accused after the imposition of sentence.
2. Comment on the various methods by which civil proceedings may be commenced in the High court.

Answers

The Stages of Criminal Procedures at a High Court are as follows

* What is an indictment or information
* Proofs of Evidence
* Arraignment and Plea
* Plea of guilty
* Plea of not guilty
* Prosecution
* Submission of “ No case to answer"
* Defense
* Closing Address
* Judgement
* Discharge
* Finding of guilt and sentence

**An indictment or information:** This is an accusation of crime brought against an accused for trial in a High Court.

**Proofs of evidence:** The proofs of evidence or evidence in proof means the names, addresses and written statements of the witness, that the prosecution wishes to call and the list of exhibits, if any, that the prosecution wishes to call and the list of exhibits, if any that the prosecution wishes to put in evidence at the trail.

**Arraignment and Plea:** Arraignment is calling of an accused person formally before the court by name at the beginning of a criminal proceedings, to read to him the indictment or information brought against him and to ask him whether he pleads guilty or not. An accused person may plead the following;

1. *Autrefois acquit*
2. *Autrefois convict*
3. He may stand mute
4. Plea of guilty to a lesser offence
5. He may plead guilty to the offence charged
6. He may plead not guilty

**Plea of guilty:** Where an accused person pleaded guilty, the counsel for the prosecution will give the court a summary of the evidence together with details of the accused person's background.

**Plea not guilty:** Where an accused person pleads not guilty the trail then proceeds.

**Prosecution:** The counsel for the prosecution always opens a criminal proceeding by calling evidence for the prosecution. He calls witnesses and examines each in chief, and tendered and exhibit they may have.

**Submission of “No case Answer":** At the close of the case for the prosecution, the defense counsel may submit that the prosecution has not produced sufficient evidence or made out a *Prima facie* case against the accused and consequently, the accused has no case to answer and therefore the case should not proceed further.

**Defense:** After the close of the case for the prosecution and the failure of a no case submission, it such submission, if such submission was made, the case for the defense then opens. The accused and his witnesses, if any, are one after the other led in evidence- in chief by the counsel for the defense.

**Closing Address:** The counsel from both sides then make closing speeches by addressing the court from their field written addresses. The prosecution counsel is always the first to address the court.

**Judgement:** The Judge fixes the Judgment for a date that it is not a summary trail, and the court rises in adjournment to enable it deliberate, consider or evaluate the totality of evidence in the case.

**Discharge:** Where an accused person has not been found guilty, on merit, the Judge will dismiss the information or charges and accordingly discharge and acquit the accused person as provided under the law.

**Sentencing:** Where a person has not been found guilty a court usually make one or more of the following orders:

1. Dismissal Order
2. Order of discharge
3. Order of acquittal
4. Order of compensation

Where an accused is found guilty, the court may make one or more orders:

1. Imprisonment, usually with hard labor
2. Fine
3. Death sentences
4. Caning
5. Deportation
6. Binding over order
7. Order for detention during the pleasures of the President
8. Order for disposal of property
9. Order for cost
10. Award of damages
11. Probation in order

B) 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

2. **Modes of commencing Civil action in High Court:**

* Writ of summons; A writ of summons is a formal document issued by court stating concisely the nature of the claim of a plaintiff against a defendant, the relief or remedy claimed and commanding the defendant to “cause an appearance to be entered", for him in an action at the suit of the plaintiff within a specific period of time, usually eight days, after the service of the writ on him, with a warning that, in default of his causing an appearance to be entered as commanded the plaintiff may proceed their and judgement may be given in defendant's absence. All civil actions commenced by writ of summons shall be accompanied by;

1. Statement of claim
2. List of witnesses to be called at the trail
3. Written statement on oath of witnesses
4. Copies of every document to be relied upon at every trail

**Order 5 rule 2 (a-e) High Court of Lagos Civil Procedure Rules (2019)**

* Originating Summons; it is a summons that initiates proceedings. However, a summons in a pending matter does not initiate proceedings but it is used for making interlocutory applications in a pending cause of matter. In the case is **SSS V Agbakoba (1999) 3 NWLR (Pt. 595)425;** it was held that originating summons is used where it is sought to correct errors in a judgement. Where proceeding are commenced by originating summons, pleadings are not used, that is, no statement of claims or defenses are filed. In Lagos, an originating summons shall be accompanied by;

1. An affidavit setting out the facts relied upon
2. All the exhibits to be relied upon
3. A written address in support of the application.

**Petitions:** A petition is a written application in the nature of pleading setting out a part’s case in detail and made in open court. It is however, only used where a statute or rules of court prescribe it as such a process. Most times petitions are used for marriage proceedings, winding up of companies and election cases. Petitions are filed in the same manner as writ of summons.

**Originating Motions:**  This is the last of the originating processes. Unlike a petition, this may be used where a statute has not provided for it. Originating application is used when facts are not in dispute and it is used when the action relates to the interpretation of a document.