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Course: Nigerian Legal System

Level: 200

1a) The procedure from arraignment to the imposition of sentence in a criminal trial in the High Court are as follows:

- I. Plea of guilty
- II. Plea if not guilty
- III. Fear of prosecution
- IV. Submission of no case to answer
- V. Defence
- VI. Closing address
- Vii. Judgement
- Viii. Discharge
- Ix. Finding of guilt
- X. Imposition of sentence

1b) The remedies available to the accused after the imposition of a sentence are:

- I. Public outcry:

The public or society can protest against the imprisonment of a person if they feel that the judgement given by the court was biased.

- II. Pressure

- III. Lobby:

Lobby means an organised group of people who work together to influence government decisions that relate to a particular issue. This group of people may stand up to fight for an offender of the law.

- IV. International appeal:

International bodies like that United Nations or African Union may forward an appeal that the offender of the law should be pardon.

V. The President or Governor may grant pardon:

The President or governor has the power to exercise prerogative of mercy and can order the release of a criminal.

2.) The various methods by which civil proceedings may be commenced in the High Court are as follows:

I. The pre-court stage and consultation of a lawyer:

A party who is aggrieved and wishes to seek relief in a high court consults a lawyer for legal advice. The lawyer takes down the facts of his case and then files an action.

II. Form and commencement of action:

An action may commence in a High Court by a council filing the following papers.

- a) Writ of summons together with a statement of claim or;
- b) Exparte motion with or without a writ of summons and a statement of claim which may be filed later.

III. Appearance:

A defendant may acknowledge the service of a writ and then instructs his council to file a memorandum of appearance and then show up to settle the case. If the defendant fails to appear within the limited time, the plaintiff may by a notion obtain interlocutory judgement against the defendant due to the fact that the defendant fails to defend the action.

Iv. Stay of proceedings:

After a law suit is filed, weather the defendant has entered appearance or not, the following procedures will be strictly adhered to. A court may order a suspension of proceedings in an action temporarily

- a) Until something requisite is done.
- b) Until a party has complied with an order.
- c) Where the claim does not disclose a reasonable course of action.
- d) Where the defendant does not have a good defence, etc.

V. Discontinuance:

A plaintiff has the right to discontinue an action by filing a notice of discontinuance in court stating that he does not wish to proceed further with the case with or without stating reasons. Also, a defendant may withdraw his defence at anytime. He may decide to discontinue a counter claim and will be ordered to pay

the cost of the plaintiff.

Vi. Settlement:

Parties may decide to settle the dispute with or without valuable consideration and withdraw the action without filing terms of settlement. Thereafter, the court will strike out the action and the terms of the settlement will be pronounced as consent judgement.

Vii. Summary judgement:

Summary judgement is a procedure available for promptly obtaining judgement without going to trial. It is available where

- a) there is default of appearance.
- b) failure to find a defence.
- c) where the defendant has no defence
- d) there is lack of diligent prosecution
- e) when there is no dispute as to material facts

It must be supported with an affidavit stating the facts on which summary judgement is claimed together with any exhibit.

Viii. Pleadings:

A pleading is a comprehensive statement of a party's claim. A pleading must not state or set out law, but may raise an issue of law without reaching conclusions of law. Where pleadings in a statement of claim are disputed by defendant, he must take note to deny the allegations in his statement of defence. The objective of pleading includes:

- a) to state the claims of the parties.
- b) to terminate irrelevant issues.
- c) to avoid a party springing a surprise during the trial by raising an issue he did not plead.
- d) to give notice of a party's claim to his opponent and time for a considered reply.
- e) to ascertain the issues in dispute.

Now every sentence must include the following:

- a) statement in a summary form without omitting important facts.
- b) facts ie. every and all material facts that the party is relying on to establish his case

The pleadings filed in court and exchanged between a plaintiff and a defendant are:

- a) statement of claim by a plaintiff
- b) statement of defence by a defendant
- c) reply

Ix. Pre-trial conferences and scheduling:

Within 14 days after close of pleadings, the plaintiff shall apply for a pre-trial conference. The judge shall issue to the parties and their solicitors a pre-trial conference notice. If the claimant does not make the application for pre-trial, the defendant may apply for an order to dismiss the action or may apply for the issuance of a pre-trial conference.

Scheduling and planning:

During the pre-trial conference, the judge shall prepare a schedule for .. joining other parties, amending pleading, filing motions, and further pre-trial conferences. Under planning and scheduling, there shall be an agenda, time table, report, sanctions for a party or a legal practitioner and also there shall be a management system.

X. Discovery and inspection

Xi. Issues, inquiries, account and references to referees

Xii. Special case:

Every special case shall be in paragraphs, numbered consecutively and shall state facts and documents as may be necessary in order to enable the court to decide questions that will be asked. The judge and the parties may refer to all the contents of such documents and the judge may draw from the facts and documents, any inference either of fact or law. Every special case agreed to shall be signed by the parties or by their legal practitioners and shall be filed by the claimant

Xiii. Proceeding and trial:

On the day fixed for trial, the parties and their witnesses come to court with the documents or any other material that is to be used as exhibit. When a witness refuses to appear in court, a subpoena is issued on him to attend the court session. Witnesses who ignore the subpoena may be punished by a fine or imprisonment. When a case is called, and neither of the parties appear, then the case may be struck out.

Xiv. Closing address:

Each party is expected to file a written address to the court.

Contents of a written address

A written address will be printed on a white A4 paper and set out in paragraphs numbered serially and shall contain the claim on which the address is based; a brief statement of the facts with reference to the evidence, the issues arising from the evidence and a statement of argument on each issue, and with authorities referred to together with a full citation

Xv. Judgement:

On the judgement day, the judge gives verdict stating the fact and legal issues in the case, explain the standard of proof and states the basis of the judgement and enters judgement in favour of the appropriate party.

Xvi. Enforcement of judgement:

After the judgement has been entered in favour of a party, the judgement, declaration of rights, order of reinstatement, order of forfeiture, award of damages, offer of apology.

Judgement for payment of money may be enforced by

- a) writ of fieri facias
- b) a charging order
- c) a writ of sequestration
- d) attachment of earnings
- e) a writ of possession
- f) a vesting order
- g) a judgement for delivery