**NAME: Adigwe Princewill .N.**

**Matric No: 18/law01/015**

**NLS Assignment …LPI 204**

Arraignment procedures…..

Arraignment is the 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 guilty

An accused person may plead as follows:

1. Autrefois acquit: a plea that has been tried for the same offence before and has been acquitted , this plea is an application of the rule of jeopardy which means a person cannot be tried twice .
2. Autrefois convict : a plea that has been tried and convicted for the same offence on a previous occasion
3. He may stand mute : Where an accused stands mute , that i9s without saying anything . a plea of not guilty is usually entered for the accused
4. Plea of Guilty to a lesser offence : However , while intending to plead ‘not guilty’ to the offence charged , an accused person may plead guilty to a lesser offence which is not on the information , where this plea is aacept6ed by the prosecution , the court may pass its sentence accordingly…
5. He may plead guilty ‘to the offence charged b’
6. He may plead not guilty.

Prosecution: the counsel for prosecution always opens a criminal proceeding by calling evidence for the prosecution . He calls his witness and examines each in chief, and tenders any exhibit they may have, the witnesses are in turn cross examined by the defence counsel and re- examined by the prosecuting counsel as may be necessary and the case for the prosecution closed.

Submission of no-case answer: At the close of the prosecution , the defence 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 , the defence makes a submission by addressing the court . ; the prosecuting counsel usually replies .the judge then makes a ruling on this submission

Defence : After the close of the case for the prosecution and the failure of a no case sub mission , if such submission was made , the case for the defence then opens ‘’ the accused and his witnesses , if any are , one after the other , led in evidence in chief by the counsel for the defence and are cross examined by the prosecution counsel and r- examined by the counsel for the defence as may be necessary , after the witness for the defence have testified is the case for the defence is then closed .

**Closing Addresses**

After the close of the case for the defence , the counsel for both sides then make closing speeches by addressing the court from their filed written addresses . The prosecution counsel is always first to address the court . He sums up or reviews the case on both sides , Next the defence counsel addresse the court , in his address he points out the weakness of the prosecution , if the case for the prosecution is pack of lies and mere fabrication , imaginative , malicious and frivolous and an abuse of court process he calls it so.

Judgement

After the closing addresses by the counsel for both sides , the judge fixes the judgement for a date provided that it is not a summary trial , and the court rises in adjournment to enable it deliberate and consider a totality of evidence .

In the judgement the judge sums up , weighs or reviews the evidence for both sides , he states his reasons for believing and accepting the case of either side an also gives his reason for disbelieving and rejecting the other side .

SENTENCE

When an accused is found guilty , before passing sentence an allocutus , plea for mercy or leniency is usually made by the counsel for the defence . After the allocutus ,the judge passes sentence on the accused .

Types of sentence courts may impose when an accused has been found guilty of a crime

1. Imprisonment , usually with hard labour
2. Fine , in lieu of, that is , instead of imprisonment or both fine and jail.
3. Death sentence
4. Caning
5. Deportation;

Other orders a court may make include :

1. Binding over [ and suspended sentence and community service in western countries
2. Order for detention during the pleasure of the president or governor as the case may be
3. Order for disposal of property
4. Order for costs;
5. Award of damages ; and
6. Probation order

REMEDIES AVAILABLE AFTER THE IMPOSITION OF SENTENCING

Post-Conviction remedies are a specific and complicated legal proceeding that challenges the legality of some aspects of the criminal trial or sentencing.

A criminal defendant has limited opportunities to challenge a conviction or sentence:

Direct criminal appeal,

Sentence modification

Clemency

Pardon

Post-Conviction relief proceedings

DIRECT CRIMINAL APPEAL

Direct criminal appeals are not like trial proceedings, they are completely different, even though they arise out of the same conviction .At the appeal stage, the goal is to convince the appellate court that an error at the trial court made the conviction or sentence unfair or contrary to law, warranting a different outcome.

SENTENCE MODIFICATION

Sentence modification is a separate and quite different process from a criminal appeal. Although both may feel like the same, the court involved, the available grounds that can affect a criminal sentence, and the procedures involved are quite different. While criminal appeals must be filed by strict deadlines, a sentence modification petition can be filed any time while an offender is serving a sentence.

CLEMENCY

Clemency, or the commutation of a sentence, is a form of relief that may reduce or alter a sentence but does not affect the conviction.

PARDON

A pardon is a type of post conviction relief that the President or Governor can give an individual serving time in prison, or facing other criminal consequences, that essentially forgives the remainder of the sentence.

OTHER REMEDIES INCLUDE

REMISSION : Complete or partial cancellation of the penalty, whilst still being considered guilty of said crime (i.e., reduced penalty). Also known as remand, the proceedings by which a case is sent back to a lower court from which it was appealed, with instructions as to what further proceedings should be had.

RESPITE: The delay of an ordered sentence, or the act of temporarily imposing a lesser sentence upon the convicted, whilst further investigation, action, or appeals can be conducted.

EXPUNGEMENT: The process by which the record of a criminal conviction is destroyed or sealed from the official repository, thus removing any traces of guilt or conviction.

**Commencement of proceedings …**

1. Writ of summons
2. Originating summons
3. Originating notice of summons. D. Petition

A . writ of summons

A writ of summons usually called ‘’a writ’’ is a command to the defendant to enter an appearance in an action brought by the plaintiff . It contains the name of the High court , the jurisdictional division and the names of the parties to the case . It command the defendant to enter an appearance personally or by a solicitor and states that in the case of default of appearance the plaintiff may proceed with the action and judgment may be given in the defendants absence…

B. Originating summons

An originating summons is a summons other than a summons in a pending cause or matter . It is a summons [ a writ of summons ] which originates an action . It is expressly provided in the high court rules that any person who claims to be interested under a deed , will or other written instrument may apply by originating summons for the determination of any questions of construction arising under the instrument and for a declaration of the rights of the person interested..

C .Originating notice of motion

An originating notice of motion is a notice of motion by which an action commences . In general , where leave to apply for an order of mandamus , prohibition or certiorari has been granted , the application must be made by notice of motion..

D. Petition

An action may be commenced by petition . For example divorce proceedings are commenced by petition..

3.