Name: Kenneth-Sobijoh Yinla

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ASSIGNMENT

1. State clearly the procedure from arraignment to imposition of sentence in a criminal trial in High court. 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

1a. The procedure from arraignment to imposition of sentence in a criminal trial in high court is as follows:

* **INDICTMENT AND INFORMATION**: An indictment or information is an accusation of a crime brought against an accused for trial in a high court. An indictment or information, is a criminal charge brought against a person by the attorney general or any of his subordinate legal officers on behalf off the state or country and which is for trial at the high court. Examples of an information is **state v Bad man**, **FRN v Bad Man, NDLEA v Bad Man.**
* **PROOFS OF EVIDENCE:** The proofs of evidence or evidence in proof means the names, addresses and written statements of the witnesses, that the prosecution wishes to call and the list of exhibits, If any, that the prosecution wishes to put evidence at the trial. Photocopies of the list of the witnesses, the written statements they made to the police and the list of exhibits, if any, are usually attached to the information filed by the state. The real essence of attaching these proofs of evidence is the put the accused on notice as to the nature of the case against him, to enable him take steps to prepare and state his defence. This is fundamental right under the fair hearing provisions of the Nigerian constitution.
* **ARRAIGNMENT AND PLEA:** Arraignment is the calling of an accused person formally before the court by the name at the beginning of the criminal proceedings, to read to him the indictment or information brought against him and to ask him whether he pleads guilty or not guilty. In other words, arraignment means, the registrar or the other officer of ourt calling the accused by name while the accused is standing in the dock and reading over and explaining the charge or information to the accused in a satisfactory way and asking the accused to make his plea thereto instantly. This called the arraignment of a person before the court.
* **PLEA OF GUILTY**: When an accused person pleads guilty, the counsel for the prosecution will give the court a summary of the evidence together with details of the accused persons background, that is, character and his criminal record, if any. After this the counsel for the defence usually makes all his allocutus or plea in mitigation of sentence and the court then passes its sentence
* **PLEA OF NOT GUILTY**: When an accused person pleads not guilty, the trial goes on and proceeds.
* **PROSECUTION**: The counsel for the prosecution always opens criminal proceedings by calling evidence for the prosecution. He calls his witnesses 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 persecution closes.
* **SUBMISSION OF “NO CASE TO ANSWER’’**: At the close of the case for the prosecution, the defence counsel may submit that the prosecution has not produced sufficient evidence or mad 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 counsel makes the 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 failure of a no case submission, 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 cross-examined by the prosecuting counsel and re-examined by the counsel for the for the defence as maybe necessary.
* **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 the first to address the court. He sums up or reviews the case on both sides.
* **JUDGEMENT**: After the closing addresses by counsel for both sides, the judge fixes the judgement for a date provided that it is not a summary trial, and the court arises in adjournments to enable it deliberate, consider or evaluate the totality of evidence in the case.
* **DISCHARGE**: When an accused person has not been guilty, on merit, the judge will dismiss the information or charges and accordingly discharge and acquit the accused person as provided under the procedure law. On the other hand if the prosecution failed on a technicality, then the court will usually discharge the accused, but not acquit him.
* **SENTENCE**: Where 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.

1b Remedy available to the accused after imposition of sentence are;

a) Correcting Clear Errors; within 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other error.

b) Reducing a sentence for substantial assistance;

-Upon the government’s motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person.

- Evaluating subsa8ntial assistance. In evaluating whether the defendant has provided substantial assistance, the court may consider the defendants presentence assistance

- Below Statutory Minimum. When acting under Rule 35(b), the court may reduce the sentence to a level below the minimum sentence established by statute.

2. Methods by which civil proceedings may be commenced in the High court;

WRIT OF SUMMON; 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 judicial division and the names of the parties to the case. It commands the defendant to enter an appearance personally or a solicitor and states may give that in case of default of default appearance the plaintiff may proceed with the action and judgement in the defendants absence.

ORIGINATING SUMMONS; an originating summon is summon other than a summons in a pending cause or matter. It is a summon which originates in 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 instruments may apply by originating summons for the determination of any question of construction arising under the instrument.

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

PETITION; An action may be commenced by petition. For example divorce and electoral proceedings are commenced by petition.