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

A [criminal trial](https://en.wikipedia.org/wiki/Criminal_trial) is designed to resolve accusations brought (usually by a [government](https://en.wikipedia.org/wiki/Government)) against a person accused of a [crime](https://en.wikipedia.org/wiki/Crime). In [common law](https://en.wikipedia.org/wiki/Common_law) systems, most criminal [defendants](https://en.wikipedia.org/wiki/Defendant) are entitled to a trial held before a jury. Because the state is attempting to use its power to deprive the accused of life, liberty, or property, the [rights of the accused](https://en.wikipedia.org/wiki/Rights_of_the_accused) afforded to criminal defendants are typically broad. The rules of [criminal procedure](https://en.wikipedia.org/wiki/Criminal_procedure) provide rules for criminal trials.

## Arraignment

An arraignment is a court proceeding at which a criminal defendant is formally advised of the charges against him and is asked to enter a plea to the charges. In many states, the court may also decide at arraignment whether the defendant will be released pending trial. Some states require arraignments in all felony and misdemeanour cases – any case in which the defendant faces possible incarceration, whether in jail or prison. Some states require arraignments only in felony cases.

**Advising the defendant of his constitutional rights**

In some states, courts are required to advise defendants of certain constitutional rights at arraignment, such as the right to a trial, the right to counsel and the right against self-incrimination. In some state courts, defendants are advised of their rights as a group before appearing in front of the judge.

**Advising the defendant of the charges against him**

At the arraignment, the court must inform the defendant of the charges against him. In some states, the judge must read the criminal complaint, indictment, information or other charging documents to the defendant unless the defendant waives the reading. The defendant also is entitled to receive a copy of the charging document.

**Entering a Plea**

Once the court has advised the defendant of the charges against him, the judge will ask how he pleads to those charges. The defendant can plead not guilty, guilty or no contest.

* **Not guilty.** Defence attorneys usually recommend that criminal defendants plead not guilty at arraignment, and defendants often do plead not guilty. This requires the prosecutor to gather the evidence against the defendant and gives the defence an opportunity to review the evidence, investigate the case, and determine whether the evidence proves that the defendant committed the crime. A not guilty plea means simply that the defendant is going to make the state prove the case against him.
* **Guilty.** If a defendant pleads guilty to a very minor crime at arraignment, such as [disorderly conduct](https://www.criminaldefenselawyer.com/crime-penalties/federal/disorderly-conduct.htm), the judge may sentence the defendant at arraignment. The prosecutor and the defence attorney may negotiate the guilty plea and agree on a sentence during the arraignment. If the case is more serious, the judge probably will set a sentencing hearing and request a pre-sentence report.
* **No contest ("nolo contendere").** If a defendant pleads no contest, he acknowledges that the prosecutor has enough evidence to prove he committed a crime but does not admit guilt – in other words, that he did it. When a defendant enters this plea at arraignment, the court proceeds in the same way it would proceed if the defendant pleaded guilty.

## Trial

Opening Statements – The defendant has the right to a trial in which either a jury or the judge determines guilt. When the court is ready for the trial to begin, each side can make an opening statement. In a criminal case, the prosecuting attorney speaks first.

To begin, the prosecuting attorney gives an overview of the facts that will be presented. The defence attorney may present the same type of opening comment or may save the opening statement until later in the trial when that side of the case begins. Either attorney may decide not to give an opening statement.

Witnesses – The prosecuting attorney begins the case by calling witnesses and asking them questions. This is direct examination. Witnesses in all trials take an oath or an affirmation that what they say in court is true. All trial evidence, including testimony and physical evidence, such as documents, weapons, or articles of clothing, must be acceptable as defined by the Arizona Rules of Evidence before it can be admitted into evidence and shown to the jury. The judge decides what evidence and testimony are admissible under the rules.

In a criminal trial, the prosecuting attorney presents evidence and witness testimony to try to prove beyond a reasonable doubt that the defendant committed the crime. The defendant’s attorney may present evidence and witnesses to show that the defendant did not commit the crime or to create a reasonable doubt as to the defendant’s guilt. The defendant is considered innocent of the crime charged until proven guilty.

When the prosecution has finished questioning a witness, the defence is allowed to cross-examine the witness on any relevant matter. After cross-examination, the attorney who first called the witness may ask the witness more questions to clarify something touched on in the cross-examination. This redirects examination. The judge may allow an opportunity for the opposing attorney to re-cross examine. When the prosecution has called all the witnesses for its side of the case and presented all of its evidence, it rests its case. At this point, the defendant’s attorney may ask for a judgment of acquittal. This means that the attorney is asking the court to decide the case in the defendant’s favour because the prosecuting attorney did not present enough evidence to prove the case against the defendant. If the judge agrees that there is not enough evidence to rule against the defendant, the judge rules in favour of the defendant, and the case ends.

If a judgment of acquittal is not requested or if the request is denied, the defence may present evidence for its side of the case. The defence attorney often waits until this point in the trial to make an opening statement. The defence may choose not to present evidence, as it is not required to do so. The defendant in a criminal case is not required to prove innocence. The burden is on the prosecution to prove the defendant’s guilt beyond a reasonable doubt.

If the defence does present a case and call witnesses, the same rules and procedures that governed presentation of evidence by the prosecution now apply to evidence presented by the defence including the opportunity for the prosecutor to cross-examine defence witnesses.

At the end of the defendant’s case, the prosecutor may present additional information to respond to evidence offered by the defence. Following this, the defence is given another opportunity to present more evidence on the defendant’s behalf.

Closing Arguments – After the prosecution and the defence have presented all of their evidence, each side may make closing arguments. Closing arguments—similar to opening statements—provide an opportunity for the attorneys to address the judge or the jury a final time. The prosecutor speaks first, usually summarizing the evidence that has been presented and highlighting items most beneficial to the prosecution. The defendant’s attorney speaks next. The defence attorney usually summarizes the strongest points of the defendant’s case and points out flaws in the prosecutor’s case. The prosecutor then has one last opportunity to speak.

## Sentencing

During the sentencing phase of a criminal case, the court determines the appropriate punishment for the convicted defendant. In determining a suitable sentence, the court will consider a number of factors, including the nature and severity of the crime, the defendant's criminal history, the defendant's personal circumstances and the degree of remorse felt by the defendant.

**REMEDIES AVAILABLE TO THE ACCUSED AFTER IMPOSITION OF SENTENCE**

An individual convicted of a crime may ask that his or her case be reviewed by a higher court. If that court finds an error in the case or the sentence imposed, the court may reverse the conviction or find that the case should be re-tried.

The ground for this appeal is limited to:

1. A violation of the constitution or an error in interpretation or application of the constitution.
2. Contradictions with Supreme Court precedent.
3. Contradictions with High Court precedent when no Supreme Court precedent exist.

The Supreme Court is the court of last resort to reverse the lower court decision of the following ground

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1. There is a serious error in the interpretation of the law.
2. The degree of the sentence is extremely unjust.
3. There is a grave fact-finding error.
4. The sentence punishment has been abolished.

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

Civil proceedings are commenced by way of originating processes issued and served by the courts. There are various types of the originating process. These include writs of summons, originating. The Writ of Summons (WOS) is one of the two modes used in commencing a civil action against a person. It is a formal document addressed to the defendant requiring him to appear before the court if he/she wishes to defend himself against the plaintiff's claim. g summonses, originating motions and petitions. In Nigeria, actions in which the facts are disputed must be commenced by writ of summons.

A writ is usually accompanied by an Endorsement of the Claim or a Statement of Claim so that the defendant is made aware of the claim against him/her. These include, but are not limited to:

* Contract actions, eg, claim for damages resulting from a breach of contractual terms and obligations, etc;
* Tort actions, eg, claim for damages in respect of property damage resulting from road accidents and negligence, Claim for damages resulting from fraud and defamation, etc;
* Personal Injury actions, eg, claim for damages in respect of personal injury and/or death resulting from the road and industrial accidents or negligence, etc;
* Intellectual property actions, eg, claim for damages resulting from the infringement of copyright, trademark or patent, etc; and
* Admiralty and Shipping actions.

An action is commenced by way of an Originating Summons where:

* It is required by statute; or
* The dispute is concerned with matters of law in respect of which there is unlikely to be any substantial dispute of facts.

Compared to a Writ of Summons, the Originating Summons is a simpler and swifter procedure for the resolution of disputes as it is determined generally on affidavits filed and does not involve pleadings or many interlocutory proceedings. However, many of the requirements concerning issuance, duration, renewal and service with regard to a writ may apply, with the necessary modifications, to an Originating Summons. An Originating Summons may be in [Forms 4 or 5](https://www.supremecourt.gov.sg/docs/default-source/default-document-library/civil-proceedings/form-4-and-5-roc.pdf) of the Rules of Court, depending on which is appropriate.