

NAME : SHAIBU SUKURAT OLAMIDE

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LECTURER: BAR. FABAMISE

MR FISAYO BANKOLE

MISS VERA

The term 'sentence' or 'Judgment' may denote the action of a court of criminal jurisdiction formally declaring an accused the legal consequences of guilt to which he has confessed or of which he has been convicted. It is regarded as the judgment that a Court finally pronounces after finding the defendant guilty or the punishment imposed on a criminal wrongdoer. Whereas, sentencing is a post-conviction process of ascertaining and imposing penalties on offenders it is the final stage of the trial process when the Court has found the defendant guilty or the defendant has pleaded guilty, the judge then decides on a sentence appropriate for the offence established, thus the sentence is at the post-conviction stage when the defendant is brought before the Court for the imposition of a penalty. The criminal justice process is an embodiment of diverse institutions, from those charged with the duty of detection and investigation of crime and apprehension, prosecution and adjudication ending with the conviction of offenders in accordance with the due process, regulations and the law.

Sentencing generally aims at the protection of the society through prevention of crime or reform of the offender which may be achieved by the means of deterrence, elimination or reformation/rehabilitation of the offender. The justification is that imposing the penalty will reduce the future incidence of such offences by preventing the offender from re-offending or correcting the offender so that the criminal motivation or inclination is removed or by discouraging or educating other potential offenders. These are known as reductive justification.

Sentencing guidelines are designed to indicate to judges the expected sanction for

particular types of offences. They are intended to limit the sentencing discretion of judges and to reduce disparity among sentences given for similar offences. Although statutes provide a variety of sentencing options for particular crimes, guidelines attempt to direct the Judge to more specific actions that could be taken.

For Evans a notorious kidnap kingpin and armed robber, who has also been involved in series of assault, rape and defilement of young girls that has finally been apprehended by the police there are guidelines laid down by the supreme court to aid the court in reaching a reasonable just and fair sentence. Those guidelines are as follows;

1. The nature of the offence
2. Character/nature of the offender
3. The position of the offender among his confederate.
4. The rampancy of the offence
5. Statutory limitation
6. Concurrency of the sentence.

1. The nature of the offence

As a principle of law and practice, the nature of the offence committed by an accused person of which he has been found guilty of aids in dictating the extent of which his punishment will be given. The law is clear that a person cannot be found guilty of an offence which as at the time being committed does not constitute a crime in any written law and his punishment clearly stated. In the case of *Adeye and others v. the state*. A robbery case that was tried in the High court of the western state and the court imposed a sentence of 18 years imprisonment on the accused. On appeal it was reduced to 10 years but the accused still unsatisfied appealed to the Supreme Court. The Supreme Court reinstated the earlier 18 years sentence with three strokes of cane stating that the judgment of the Appeal court was too lenient for such a serious offence.

In cases of manslaughter either by provocation murder or automobile accidents there is a tendency of the court to impose slight penalty for automobile accidents as opposed to provocation murder. In *Idoye v. State*, the accused drove his car at night without headlamp and in the process he ended up killing a person and he was sentenced to 5 years imprisonment by the high court in addition to 10 years disqualification from driving. The Supreme Court reduced the sentence to two and a half years in prison and 5 years disqualification from driving.

Provocation is a statutory recognized defense which serves as a mitigating factor and induces cases of murder to manslaughter. The maximum sentence for manslaughter is life imprisonment. In *Chukwu Obaji v. The State*, a sentence of 15 years was imposed for provocation. The disparity between auto crash cases and manslaughter cases can be traced to class differentiation. Auto crash cases are more likely to occur among the members of upper and middle class while those in manslaughter provocation are likely to be people of lower class.

## 2. Character/nature of the offender

When the character of an accused person is in question, the evidence of his character becomes admissible in the law. In the case of *Adeleye v. Bade*, the appellant's bad character was significant in the restoration of a heavier punishment on them. Also, in *Adeyeye v. State*, part of the reasons advanced for the restatement of 18 years was that the accused person been convicted earlier of an offence. It would appear earlier that the court worked on the assumption that anyone with a previous conviction has lost out in terms of litigating a sentence.

In *R v. State*, the fact that the appellant had been previously convicted for defilement. This led the court to increase the sentence from 18 months to 5 years imprisonment with hard labor.

## 3. The position of the offender among his confederate

### When an offender plays a major role

An offender who has played a major role in commission of a crime is usually given more punishment than a minor participant. As seen in the case of *Queen v. Mohammad and others*. While the first appellant who was the leader was given a sentence of 8 years the subordinate was given 5 years imprisonment.

In *State v. Kerenku*, although the appellant was found not to be the leader, the court was however over the view that she played a living part in the incident and must take that into consideration.

### When an offender plays a minor role

The case of *Enahoro v. The queen*, was a treasonable felony. Enahoro was sentenced to 15 years imprisonment by the High court but it was reduced to 5 years by the Supreme Court. The Supreme Court said the sentence imposed on the lieutenant should never be more than the leader. The leader of the gang should be punished more severely than the lieutenant. This is to say that those who instigate the crime should get more

punishment than others.

#### 4. The rampancy of the offence

Rampancy of the offence is one of the most necessary considerations as it can be a mitigating factor or an aggravating one depending on the offence. Where an offence is rampant, the court always thought the severity of sentence imposed will aid in stopping the crime. In *State v. Adegboye* a three years in prison sentence was imposed on an offender for inserting his finger into the vagina of a little girl. Also in *Iko v. State*, a taxi driver was sentenced to 5 years imprisonment with hard labour for raping a passenger violently.

Robbery in violence is also considered serious in nature. In *Olanipekun v. The state*, during a robbery the leader ordered one of his followers to shoot a victim he complied but the gun did not go up. They sentenced him to 5 years inter alia that such a man should be kept out of circulation from time to time.

Also in the case of *R v. Okeke*, the rampancy of an offence can also be likened. If considered rampant and gravious. The court will most likely impose a heavier punishment in the view to stand out of those types of crime in the society.

#### 5. Statutory limitation

A statutory limitation is a law which forbids prosecution from charging someone for a crime after a certain period of time . There are two types of statutory limitation in Nigeria .

- Statutory maximum
- Magisterial jurisdiction limitation

In the case of *Queen v. Eyo and others*, a case of unlawful assembly the high court sentenced them to 5 years imprisonment. On appeal the Supreme Court decreased the sentence to 3 years because that was the stipulated sentence. Also, in the case of *Morpi v COP*, the magistrate court sentenced the accused person to 2 years and the high court later increased it to 10 years . On appeal the Supreme Court reinstated the earlier imposition of 2 years because that was the limitation.

#### 6. Concurrency of the sentence

These are laws governing concurrent and consecutive sentences. When a person is

charged and found guilty of 2 offences in Nigeria, the general rule is that whenever a court finds an accused person guilty of more than one offence, the sentence should be run concurrently. In the case of *Nwafor v. State*, the accused person was found guilty and sentenced for store breaking and possession of breaking instrument. In the same situation, the supreme court held that the sentence should run concurrently because they are offences from the same time.