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## CRIMINOLOGY ASSIGNMENT

LPI 304

Question; Evans, a notorious kidnap kingpin and armed robber, who has also been involved in series of assault, rape and defilement of young girls has finally been apprehended by the police. He was arrested at the Seme Border, dressed like a woman and attempting to cross the border to Benin Republic. Investigation into his activities was concluded by the police and he was brought to the High Court where you are the Presiding Judge. After a long trial, you have found Evans guilty of all the charges brought against him including kidnapping, armed robbery, rape, defilement, ritual killing extortion and obtaining property by false pretense. Having found him guilty of these charges, your next assignment is to sentence him accordingly. What are the things that will guide you in sentencing Evans having regard to the guidelines laid down by the Supreme Court?

ANSWER;

This writer will now proceed to examine the elements which will be taken into cognizance in order to provide a guideline to be followed in the sentencing of the accused person by the name of Mr. Evans.

This writer will now proceed to provide an explanation of the concept of sentencing.

According, to the **Cambridge Dictionary** “Sentencing is to decide and say officially what a punishment will be”.

According, to the **Oxford Dictionary** “Sentencing is the punishment decided for an offender”.

In the case of *Ichi v. State*, it was said that “A sentence is the judgement formally pronounced by the court or judge upon an accused person after his conviction in criminal prosecution imposing the punishment to be inflicted”.

In 1987 the **Canadian Sentencing Commission** defined sentencing as “the judicial determination of legal sanctions to be imposed on the persons found guilty of an offence”.

In my own understanding, sentencing can simply be defined as the process by which a court of competent jurisdiction prescribes the punishment which is to be ascribed on an accused person after they have been convicted of an offence. Sentencing can be seen as the prescription of a punishment.

So, sentencing is a very important element to court proceedings and by its offenders which are found guilty are punished for their offences. The fundamental purpose of sentencing in court proceedings is to contribute to the crime prevention initiatives which have been provided.

The supreme court has laid down six guidelines which would assist the courts in reaching a reasonable, just and fair sentence and they are as follows;

1. Nature of the offence.
2. Character to the nature of the offender.
3. Position of the offender among all his confederates.
4. Rampancy of the offence.
5. Statutory limitation.
6. Concurrency of the offence.

These guidelines are the guidelines that will be followed in ascertaining a punishment for Evans. This writer will now proceed to expound on the guidelines;

1. **Nature of the offence**; Here, an inquiry will be made into the nature of the offence that has been committed, and as a principle of the law the nature of an offence will go a long way in dictating the punishment which will be ascribed for an offence. For instance, if the offence is a very serious(grievous) offence the courts would impose a stricter and more serious punishment but if it is an offence which is not very grievous for example loitering the courts would be lenient in sentencing. In the case of *Adeyeye and Others v. State*, here since the offence which was armed robbery with violence was a grievous one the former sentence of 18 months was re-imposed with the addition of 3 strokes of the cane, similarly in the case of *Adekanmi v. The State*, which was a case of provocation murder here the supreme court imposed the punishment of 15 years imprisonment due to the seriousness of the offence. But, in cases where the offence committed is not very serious in nature a more lenient punishment will be provided for instance in cases of automobile homicide where the courts are more lenient in their punishment and this can be seen in the case of *Idoye v. State*, where the court reduced the sentence from ten to five years imprisonment, and reduced the sentence of disqualification from driving from five years to two and a half years

disqualification. As it can be seen from the aforementioned case laws provided the nature of an offence goes a long way in determining the punishment provided. **Application to the scenario:** In the scenario provided in the question, it can be seen that the offences that Evans had committed were offences of a very serious and grievous nature, some of them are rape, defilement, kidnapping etc. so in sentencing the punishment that would be imposed on Evans will be very serious and not a lenient punishment due to the fact that the offences he committed were very serious in nature.

2. **Character to the nature of the offender;** An inquiry will be made into the character of the offender, but as a principle of evidence and a rule of law character is inadmissible evidence but when the character of the individual is brought into question or is a matter of interest in the case then the character of the offender becomes admissible evidence. So in this instance when the character of the individual is in question, then an inquiry will be made into the character of an individual, if the individual is known as an individual who is notoriously known for having a bad character the punishment that will be imposed on him will be very heavy and stricter than that of an individual that would be regarded as a first time offender that does not have the mind of a hardened criminal. As seen in the case of *Adeyeye and Others v. State*, one of the reasons for the re-imposition of the earlier punishment was because the accused was convicted of an earlier offence, and as is seen in the law, punishment will be strict on an individual who was previously convicted of an offence, and punishment would be more lenient on a first time offender. A case where a strict punishment was placed on an offender because of his bad character was the case of *Adeleye v. Ajibade*.

**Application to the scenario:** In the scenario provided, Evans already had a prominent reputation as a notorious kidnap kingpin and an armed robber, he was also involved in rape, defilement, ritual killing and much more, if in the court his character became of question a strict punishment would be imposed on him because his reputation is a bad reputation and he has been engaged in many forms of abominable activities. So, because the individual Evans is already known for his notoriety the punishment imposed on him would be very harsh and strict not lenient.

3. **Position of the offender among all his confederates;** The position of the offender among all his accomplices will be looked at, and it will be looked at from two angles;
  - a) When the offender plays a principal/leading role; In the case where an offender plays a major leading role in the commission of an offence,

that offender will have a more serious punishment than the other parties to the offence who did not play a leading role in the commission of an offence, this also is seen to support the saying that those who instigate should get a higher punishment than the individuals who have been instigated. In the case of *Enahoro v. The Queen*, the supreme court reduced the sentence of 15 years from the high court to just 5 years and said their reason was because the sentence imposed on a lieutenant should never be more than a leader.

- b) Where the offender plays a minor role; In such an instance the offender which played a minor role in the commission of an offence should be given a more lenient punishment, than individuals who played a major role in the commission of an offence. As in the case of *Ihom and Anor v. TIV Native Authority*, where the individuals who played a minor role in the offence got sentencing totaling 6 years, while the offender who played a major role got 8 years imprisonment. So, where an offender plays a major role in the commission of an offence, he would get a heavier punishment than an individual who played a minor role in the commission of an offence.

**Application to the scenario;** In the provided scenario, Evans can already be seen as a major leading force in the offences which he has been convicted of. So, the punishment that would be imposed on Evans would be a strict and heavy one attributed to the fact that he plays a leading role.

4. **Rampancy of the offence;** If the offence that has been committed is an offence that is reoccurring and common in the society then the courts would impose a strict punishment in order to serve as deterrent on other members of the society in order to prevent the commission of the same offence in society, and this will reduce the commission of such an offence in society. This can also be seen as a factor that could be mitigating or aggravating nature.

So, where an offender commits an offence that is very reoccurring and prevalent in society then the courts would impose a strict punishment on an offender, whereas in an instance where an offender commits an offence that is not common or prevalent in society a less strict punishment would be imposed. For example, in the case of *R v. Hassan and Owolabi*, where the accused committed the offence of forgery and also the offence of stealing which were both rampant offences so the court refused their appeals because the offences were rampant, another case where a strict punishment was imposed because the offence

committed was rampant is the case of *Iko v. The State*. Where the offence committed is not a very rampant offence then the courts will take a more lenient view in imposing a punishment as seen in the case of *Onyilokwu v. C.O.P.*

**Application to the scenario;** Evans committed grievous crimes which are very rampant in society, and some of them were rape, armed robbery, defilement etc. So, due to this fact the punishment that will be imposed on Evans will be a very heavy one.

5. **Statutory limitation;** This is a law that states that a legal action must be brought before a particular period of time, after that period of time has passed legal action cannot arise again. It could also be seen as a law which prohibits prosecutors from charging an individual with a criminal offence that was committed more than a specified number of years ago. The justification of this is to make sure that any conviction made is only upon evidence that has not deteriorated with time. So, in essence for some offences when the statute of limitation has passed legal action cannot arise in relation to that offence. Although, it is of essence to note that not all offences are covered by statutes of limitation for example rape, kidnapping, forgery and arson.

Here in Nigeria there are two types of statutory limitation and they are;

- a) Statutory maximum: Here, where a statute in itself states the amount of time that an imprisonment for a crime should be no court should impose a sentence above it, in the case of *Queen v. Eyo and Others*, the High court sentenced them to 5 years imprisonment which was reduced 3 years after an appeal to the supreme court, and their reason was that the 5 years imposed was more than the statutory maximum.
- b) Magisterial jurisdiction limitation: This can be seen in the case of *Areemu v. IGP*, here the magistrate court had sentenced the accused to 2 years imprisonment, on appeal to the Supreme court by the state dissatisfied with the verdict, the supreme court said that it could not impose punishment that is more than that which the Magistrate court had imposed, the reason being that no Magistrate court could impose more than the maximum punishment of 5 years.

**Application to the scenario;** In the provided scenario, in order to assist in the provision of an adequate sentence on Evans, it would be looked upon at whether any of the offences committed by Evans have any statutory limitation.

6. **Concurrency of sentencing;** The general rule is that whenever the court has found an accused person guilty of more than one offence the sentences should

run concurrently, also the supreme court held this decision by saying “*Whenever the offences are of similar nature or of similar disposition they should run concurrently*”. So, when the offences have a similar nature or are of a similar disposition they should run concurrently, for example in the instance where an individual is charged with 10 years for armed robbery and 3 years for breaking in, since these are offences that have a similar disposition the court may let the accused person serve the punishment for 10 years concurrently, this can also be seen in the case of *Nwankwo v. The State*. This, is the opposite of consecutive sentences, in consecutive sentencing the accused is made to serve the punishments separately, so in the scenario this writer gave if the accused is to be consecutively sentenced, after the accused has finished serving the sentence of 10 years the accused would then proceed to serve the sentence of 3 years.

This writer is of the view that in sentencing the punishment which would be applied on Evans would not be lenient at all and the courts would not take a lenient view in the sentencing of Evans.

In conclusion, in the sentencing of Evans by following, the guidelines which have been provided and laid down to aid in sentencing by the supreme court, the sentence which would be imposed on Evans will be a very harsh and severe one because he was found to be an individual of a bad character, the offences which he had committed in society were rampant and common in society and the imposition of harsh punishment would serve as a deterrent to this, his punishment would also be very severe because it can be seen that he was the leading factor for the commission of these offences, the nature of the offences he committed were also very grievous and the courts impose a harsh punishment where the offence that has been committed is very grievous, also since the offences he has committed can be seen to not have any statutory limitation on them the punishment that would be ascribed on him would be very harsh, finally in addition to the previous reasons on why the punishment of Evans would be severe his punishment should run consecutively and not concurrently and the reason for this being that when the punishment runs consecutively this would assist in keeping a man as bad as Evans away from the society.