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## INTRODUCTION

The criminal justice system is a legal entity; the interrelationships of criminal justice elements comprising of the police, courts and the prisons or correctional facilities. The criminal justice system in Nigeria commences with the commission of a crime and continues with subsequent intervention by the law, and enforcement agencies of the system, that has the power to arrest, arraign, try and sentence the offender accordingly.

## WHAT IS SENTENCING

Sentencing is the prescription of punishment by a court to someone convicted of a crime, hence after an accused person or defendant has pleaded guilty or has been found guilty during the trial or prosecution process, the presiding judge or magistrate enters judgment of conviction and thereby sets a date aside for sentencing.

The Canadian sentencing commission in 1987 defined sentencing as the judicial determination of legal sanctions to be imposed on a person found guilty of an offence.

In *Ichi v. state* it was stated that a sentence is the judgment formally pronounced by the court or the judge upon an accused person after his conviction in a criminal prosecution, imposing the punishment to be inflicted.

It is the judgment formally declaring the accused person the legal consequences of the guilt which he has confessed to or has been convicted of.

## GUIDELINES FOR SENTENCING IN NIGERIA

The Supreme Court in *Mohammed v. Olawunmi*, held that once a court of competent jurisdiction makes a finding of guilt in a criminal or quasi criminal matter, conviction has been made regardless of deferment of sentences consequent upon it. The sentence whether of imprisonment or payment of fine flows from the discretion of the judge after the finding of guilt and flows logically from the conviction. However, there are certain guidelines for sentencing in Nigeria.

The Supreme Court laid down six basic principles or guidelines to aid the court in reaching a reasonable, just and fair sentence, as follows;

- The nature of the offence
- Character/nature of the offender
- Position of the offender among his confederates
- The rampancy of the offence
- Statutory limitation
- Concurrency of the sentence

## 1. NATURE OF THE OFFENCE

As a principle of law and practice, the nature of the offence committed by an accused person of whom he has been found guilty goes a long way in dictating or determining the extent of his punishment. 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 its punishment clearly stated. In the case of *Adeyeye v. State*, a case of robbery by violence tried by the high court of western states. The court imposed a sentence of 18years imprisonment on the accused. On appeal, the western states appeal court reduced the sentence to 10years. Unsatisfied, the accused yet appealed to the Supreme Court. The Supreme Court reinstated the 18years with three strokes of Cain. The Supreme Court stated that the sentence of the appeal court was too lenient, because of the seriousness of the offence.

In *Idoye v. The state*, the accused person, drove his car at night without headlamps in a hilltop area in the process, he killed a pedestrian. He was sentenced to five years imprisonment by the high court. In addition to 10years suspension from driving. The Supreme Court reduced the sentence to 2 and half years and 5years disqualification from driving.

## 2. CHARACTER/NATURE OF THE OFFENDER

As a principle of law and as a rule of evidence, character evidence is inadmissible in law, however when the character of the accused is in question, the evidence of character becomes admissible in law. In *Adeyeye v. State*, part of the reasons advanced for the restatement of the 18years sentence was that the accused had been convicted earlier of an offence. It would appear that the court worked on the assumption that anyone with a previous conviction has lost out in terms of mitigating his sentence. In *Adeyeye v. Ajibade*, the appellants' bad character was significant in the restoration of an heavier punishment on them.

## 3. THE POSITION OF THE OFFENDER AMONG HIS CONFEDERATES

### When the offender plays a minor role

In *Enahoro v. Queen*, a case of treasonable felony, Enahoro was sentenced to 15 years imprisonment by the high court. The Supreme Court reduced the sentence to 5 years and said the sentence imposed on the lieutenant should not be more than the leader. The leader of the gang should be punished more severely than the lieutenant. This is to affirm that those who instigate should get a higher punishment than those instigated.

### When the offender plays a major role

The offender who has played a major role in commission of a crime is usually visited with a more severe punishment than those inflicted on minor participants. This was given clear judicial

recognition in the case of *Queen v. Muhammed and ors*, while the first appellant who was the leader was given a maximum sentence of 8 years of imprisonment, the other parties were given a maximum sentence of 5 years imprisonment. In the case of *State v. Kereku*, although the appellant was found not to be the leader, the court was however of the view that she played a leading part in the incident and must take that into consideration.

#### 4. THE RAMPANCY OF THE OFFENCE

Where an offence is rampant or prevalent, courts have always thought that severity of punishment imposed will aid in scrapping out the crime. In *R v. Hassan and owolabi*, the accused person was sentenced to 5 years by the high court for forgery and another 5 years for stealing. He appealed and the Supreme Court expressed its view thus "fraud on the customs are shockingly prevalent and forgery of the commercial documents strikes at the root of all credits, we are not disposed to reduce the sentence by one day". So also in *State v. Michael Ayegbeni*, it was also because the courts view in a decided case that robbery on roads and water in recent times are on the increase and highly disturbing, that the two parties to the robbery were sentenced to 20years imprisonment.

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. Certain offences have been considered as serious in nature e.g sexual offences; especially when it involves children as victims. In *State v. Adegboye*, a 3year prison sentence was imposed on an offender for inserting his finger into the vagina of a little girl aged 9 who was hawking groundnut. Also in *Iko v. State* a taxi driver was sentenced to 5years imprisonment with hard labor for raping a passenger so violently.

#### 5. STATUTORY LIMITATIONS

A statute of limitation is a law that prohibits prosecutors from charging someone with a crime that was committed more than a specified number of years ago. The general purpose of a statute of limitation is to make sure that conviction only occurs upon evidence that has not deteriorated with time. After the period of the statute has run, the criminal is essentially free. There are two types of statutory limitations in Nigeria

1. Statutory maximum
2. Magisterial jurisdiction limitation

In essence, whenever a statute itself stipulates a term of imprisonment no court should exceed its limit. In *Queen v Eyo and ors*, a case of unlawful assembly. The high court sentenced them to 5 years imprisonment on appeal to the Supreme Court; the Supreme Court reduced it to 3 years because that was the maximum sentence stipulated by law.

## 6. CONCURRENT AND CONSECUTIVE SENTENCES

There are laws governing concurrent and consecutive sentences. When a person is charged and found guilty of more than two offences in Nigeria, the general rule is that whenever a court finds an accused person guilty of more than one offence, the sentences should run concurrently. The Supreme Court held this position by saying where the offences are of a similar nature they should run concurrently. In *Nwafo v. The state*, the accused person was found guilty of stock breaking and possession of breaking equipment in the same transaction. The Supreme Court held that the sentences be held concurrently since they happened in the same transaction.

### CONCLUSION

Following the above guidelines laid down by the supreme court, the nature of the offences committed by Evans are grievous ones and are all contained in the criminal code and as such are criminal offences with punishments stipulated by law. Although evidence of character is inadmissible in law, however when the character of the accused is in question, the evidence of his character becomes admissible in law. In this case, Evans is known to be a notorious kidnap kingpin alongside series of other criminal offences. Hence his bad character will aggravate his punishment. Also, as clearly stated, Evans is a notorious **kingpin**, hence playing the role of a leader in his illegal operations, so he should be given a maximum sentence unlike his accomplice. The offences which Evans have been convicted of are all prevalent and are on the increase in recent times. We hear countless cases of kidnapping, ritual killers, high way robbers, rapists and peverts and as a result, Evans' sentence shall be severe. From all indications and investigations on this case, none of the offences are statute barred as they are all recurrent crimes with recent evidence of occurrence. As the presiding judge of this case, my position is to try Evans' case concurrently, since most of it is so similar; rape and defilement, robbery, obtaining property by false pretense, extortion and ritual killing.