NAME: NNEJI EZINNE

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**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 pretence. Having found him guilty of these charges, your next assignment is to sentence him according. What are the things that will guide you in sentencing Evans having regard to the guidelines laid down by the Supreme Court?

INTRODUCTION

Criminal Justice System in Nigeria commences with the commission and investigation of a crime and continues with the subsequent intervention by law enforcement agencies of the system that has the power to arrest arraign, try, sentence and the punish the offender.

In all criminal trials, two processes both of which are important to the offender and the society are involved.

Firstly, where the accused pleads guilty of such crime alleged against him or the accused has been found guilty of such crime which is thereby known as reaching a conviction. Secondly, is where the accused is sentenced for his wrongdoing. This is known as Sentencing.

In order to accomplish fairness in all ramifications in reaching a reasonable and just sentence, the Supreme Court has set out six(6) guidelines to assist the judge sanctioning defendant for particular types of offences.

This work is going to define the concept of sentencing and analyze the six guideline laid out by the Supreme Court of Nigeria in relation to the accused, Mr Evans in the above scenario.

DEFINITION OF SENTENCING

Sentencing means the prescription of punishment by the court to someone convicted of a crime after an accused person or defendant has been found guilty during the prosecution trial.

In the case of ***Ichi v State*** **(1996) NWLR 9 PT 470**, it was held that a sentence is a judgment formally pronounced by the court or a judge upon an accused person after his conviction in a criminal proceeding. In other words, it is a judgment formally declaring to the accused person the legal consequences of the guilt which he has confessed or which he has been convicted of.

A sentence of the court can be defined as a definite disposition order issued by the court or a competent tribunal against a person standing trial at the conclusion of a criminal trial. **Section 248 of the Criminal Procedure Act** provide that if the court finds the accused person guilty, the court shall pass sentence on the accused person or make another judge to preside on it and adjourn the case for another date.

Sentencing generally aims at the protection of the society through prevention of crime or reform of the offender which may be achieved by deterrence, elimination or reformation/rehabilitation of the offender. However, these purposes are not sufficient guide posts to help in pointing out the appropriate sentences.

Sentencing guidelines are designed to indicate to judges the expected sanction for particular types of offences. They are intended to limit the sentencing discretion power of judges as well as reduce disparity among sentences given for similar offences.

The Supreme Court in accomplishing fairness by reaching a reasonable and just sentence of an accused person has set out six basic guidelines. They are:

1) Nature of the offence

2) Characters or Record of the offender

3) The position of the offender amongst his confederates

4) The rampancy of the offence

5) Statutory limitation

6) Concurrency of the sentence

1) Nature of the offence

In the present scenario, the nature of the offences that Mr Evans has been convicted and found guilty of which include kidnapping, armed robbery, rape, defilement, ritual killing, extortion and obtaining property by false pretence are serious in nature which goes a long way in dictating the severe nature of his punishment.

In the case of ***Adeleye v The State***, a case of robbery by violence, the Supreme Court reinstated the 18 years, and in addition 3 strokes of cane; a sentence previously given by the High Court. The Supreme Court held that the Sentence given by the Appeal Court was too lenient because of the seriousness of the offence.

Also in ***Adesanya v The Queen***, a case of forgery. The accused was sentenced to pay fine. On appeal at the instance of the accused person, the court held that the payment of fine was too small a punishment for the grievous offence of forgery, hence imprisonment.

2) Characters or Record of the offender

In relation to the character or record of Mr Evans, he is known to be a notorious kidnap kingpin and an armed robber, who has also been involved in series of assault, rape and defilement of young girls. Such character and record in question becomes admissible in law aiding his conviction.

In ***Adeleye v Ajibabe***, the appellant’s bad character was significant in the restoration of a heavier punishment. Also, In ***R v State***, the fact that the appellant had been previously convicted of defilement. This led the court to increase his sentence from 18 months to 5 years with hard labour.

3) The position of the offender amongst his confederates

In relation to Evans position among his confederates, there has been no evidence given from the scenario that Mr Evans has been found to play a leading role in the commission of the crimes he has been convicted of. However, his involvement in the crime has been attested to and therefore he shall be sentenced accordingly.

When the offender plays the minor role, the court shall reduce the sentence of the offender. In the case of ***Enahoro v The 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 affirming that those who instigate should get a higher punishment than those instigated.

In ***Queen v Mohammed and ors***, where the first appellant who was the leader, was given a maximum sentence of 8 years of imprisonment, the other appellants were given a maximum sentence of 5 years imprisonment.

4) The rampancy of the offence

The offences Mr. Evans has been convicted of are considered serious in nature as well as shockingly rampant. Some of the offences committed by Evans deemed to be prevalent are kidnapping and armed robbery.

In the case of ***State v Michael Ayegbeni***, it was because of the court’s view in ***State v anors,*** that robbery on the roads and water in recent times had been an increase and disturbing that the two parties were sentenced to 20 years imprisonment.

Mr Evans also committed a variety of offences deemed to serious in nature. They are assault, rape and defilement of young girls and armed robbery.

In ***State v Adegboye***, a 3 years prison sentence was imposed on the 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 5 years imprisonment with hard labour for raping a passenger so violently.

In ***Olanipekin v The State***, a case of violent robbery. The accused was sentenced to 5 years imprisonment with hard labour.

Thus, the gravity of an offence can be likened to the rampancy of the offence. If considered rampant and grievous, the court would most likely impose a heavier punishment in the view to stamp out these types of crimes in the society.

5) Statutory limitation

There are two types of statutory limitations in Nigeria. They are:

* Statutory maximum: the maximum sentence a judge may impose solely on the basis of the evidence brought before the court to convict the accused or facts admitted by the accused.
* Jurisdiction Limitation: these are limitations placed on the jurisdiction of courts to adjudicate a matter.

As regards the statutory maximum, Evans will be sentenced based on the statutory maximum provided by the offence - creating legislation which is the Criminal Code and Economic and Financial Crimes Commission Act with specification of a range in each instance of a minimum term and maximum term of imprisonment and punishment.

In other words, the judge shall give Evans his sentence within the range of the minimum and maximum term of imprisonment or punishment stated by the law. In ***Queen v Eyo and anors***, a case of unlawful assembly, the High Court sentenced them to 5 years imprisonment. On appeal to the Supreme Court, it was reduced to 3 years because that was the maximum sentence stipulated by law.

In relation to the Jurisdiction of the court, Mr Evans has been brought before the High Court which has jurisdiction to entertain criminal proceedings involving penalty, forfeiture, punishment or other liability in respect of any offence committed by any person by **Section 251 of the Constitution of the Federal Republic of Nigeria**.

6)Concurrency of the sentence

The general rule is that where a court finds an accused guilty of multiple crimes, the sentences shall run concurrently.

A concurrent sentence is a term of imprisonment equal to the length of the longest sentence. Therefore, if a defendant has been sentenced to five years in prison for burglary, and also ten years in prison for aggravated assault, his total concurrent sentence would equal ten years in prison.

The Supreme Court held this position in ***Nwafor v State***, where the accused person was found guilty for store breaking. The Supreme Court held that the offence should run concurrently because they are offences emanating from a similar transaction.

A judge may impose a concurrent sentence where he feels that the defendant deserves some leniency and where there is a plea bargain. It is the Judge that therefore has the ultimate power to decide if the defendant should serve his sentences concurrently or consecutively.

In relation to Mr Evans, the offence of extortion and obtaining property by false pretence may attract concurrent sentences since they are offences emanating from a similar transaction and he has been charged with other multiple offences. However, the concurrency of his sentence is subject to the discretion of the judge.

CONCLUSION

As the presiding judge of the High Court, Mr Evans will be liable to receive a harsh sentence with regard to the guidelines provided by the Supreme Court of Nigeria.