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CRIMINOLOGY ASSIGNMENT  
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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 accordingly. What are the things that will guide you in sentencing Evans having regard to the guidelines laid down by the Supreme Court.

### SENTENCING GUIDELINES LAID DOWN BY THE SUPREME COURT IN NIGERIA.

When an individual is convicted of a crime, certain factors are put into consideration by the presiding judge before the criminal is sentenced. The factors can be MITIGATING or AGGRAVATING factors. The former being conditions that may weigh on the mind of the judge and may push him to metting out a lesser punishment and the latter being conditions that may predispose the judge to giving out a harsher punishment to the offender. The factors may be the nature of the offence, existence or non existence of a previous record of the accused, age of the offender and the prevalence of such offences in the society or community.

### NATURE OF THE OFFENCE

Certain offences are considered serious or grave in nature, some of which are sexual offences (especially those pertaining to young children), robbery, kidnapping, murder... to name of few. As with the case study given, Evans can be said to be guilty of relatively serious offences. Rape, assault, defilement of young girls, kidnapping, armed robbery and murder for ritual purposes. This can be considered an

factor as it can predispose one to dish out a graver punishment. It is also clearly stated in the law that a person can not be found guilty of an act which at the time of commission was not a crime in any written law or legislation with its punishment clearly stated. In the case of *ADESANYA V QUEEN*, it was established that only in exceptional cases can a fine be a sufficient punishment for the crime of forgery.

The severity of the offence and its nature makes forgery a serious offence. In *R. V. OZULOKE*, the Appellant met a little girl aged about eight years who was related to him on a village road. He covered her eyes with his hand and stuffed bread into her mouth to stop her crying out and took her into a bush, laid her on the ground, stood on her and poured acid over her body and cut off her left ear; he forced her eyes open and poured acid into them. He later ran away leaving the little girl unconscious. A twenty-year jail sentence was considered adequately sufficient for such a heinous crime

#### AGE OF THE OFFENDER

Two aspects of the age factor have gained the attention of the Nigerian law and practice. These are youth between 7 to 14 years of age. Generally, a person under 7 years is not criminally responsible for any act or omission allegedly committed and a person under 12 years is not criminally responsible for any act or omission unless it is proved that at the time of doing the act, he has the capacity to know he should not have been doing it. The court held in the case of *STATE V NWABUEZE* that a person under the age of seventeen in Nigeria can not be sentenced to death if found guilty of a capital offence

Furthermore, a young person shall not be imprisoned if he can be suitably dealt with in a less serious way. Age, therefore, is a very serious factor in sentencing and could influence the mind of the sentencing Judge in various ways. In the case of *STATE V OBGHA*, the defendant aged 70 years, was convicted of manslaughter due to provocation; the court greatly considered his age and sentence him to 3 years imprisonment without

hard labour. In the case of *STATE V OLOWOLAIYEMO*, the defendant who was a hunter mistakenly shot and killed his victim who was on top of a palm tree taking him for a monkey. The Court greatly considered his age of about 70 years and poor health and sentenced him to 12 months imprisonment or fine of 200 pounds for the offence of manslaughter.

Therefore, before Evans can be sentenced, his age must be used duely as a guideline. He must not be below the age of seventeen as he would not be able to be sentenced to death because the law provides that a person of that age can not. And his age could also serve as a mitigating factor if he is of older age and poor health

## RAMPANCY OF THE OFFENSE

Where an offence is prevalent or rampant, courts have always thought that the sentencing should be with the aim of stamping out or eradicating the offence. Court usually takes into account the fact that the particular offence is prevalent in the community. While lack of prevalence of offence is a mitigating factor, the prevalence of it aggravates the punishment. Where an offence is prevalent, Courts have always thought that severity of sentences imposed will act as a deterrent and serve as a deterrent to others in order to discourage them from committing that same crime. Rampancy of the offence is one of the most necessary considerations as it can be both a mitigating factor and an aggravating factor depending on the offence and where it was committed. In *STATE V NWOSU*, a husband and wife were sentenced to seven years imprisonments for stealing a seven month old child. Their sentence was this high because that crime was rampant in the area which was Ado Ekiti.

For Evans, the rampancy of his offenses will serve more as an aggravating factor. The offences of assault, rape and defilement of young girls are relatively rampant and high in the Nigerian society, therefore, his sentencing will be high in order to serve as a deterrent to other members of the society. Kidnapping, Robbery, ritual killings and obtaining property under false pretence are also fairly prevalent in our society, that will also be an aggravating factor not a mitigating factor in his case

## PREVIOUS RECORD OF THE OFFENDER

The previous record of the accused is very important. Thus, a hardened criminal who has previously been convicted for the same kind of offence would attract a higher punishment than a mere first offender. The above proposition probably influenced the West African Court of Appeal in the often quoted case of *R V ADEGBESIN*. In this case, the Court reviewed the previous record of the convict who had been involved in various crimes of the same resemblance at different times and had been to jail many times already. His jail term of three years was increased to six years upon appeal.

In Evans case, we are told that he had been involved in a series of crimes before his apprehension by the Nigerian police. Although it is unclear whether he has been convicted for those crimes in the past; they can still serve as an aggravating factor for him. Previous convictions of an offender go a long way in determining the extent of punishment he is to be given by the court

## FIRST OFFENDER

There are judicial authorities tending to suggest that our courts are reluctant in fully punishing offenders who are committing crimes for the first time. The court exercises some leniency when giving out punishment to first offenders as they can still be given a second chance to right their wrongs. This serves as a mitigating factor for the offender as it is likely to make the judge more lenient

when sentencing them. However this does not apply in Evans case because he is not a first offender

In conclusion, before an offender can be sentenced, certain guidelines or rules must be examined first in order to dish out the appropriate and correct punishment. The punishment must be exact and directly proportionate to the crime without exceeding it or being less than it is. These guidelines include the age of the offender, nature of the offence, rampancy of the offense, whether the offender is a first time offender and his previous offences. For the given scenario in Evans case, his sentencing can not be properly given till these guidelines are examined as mitigating or aggravating factors or even both.