An Assessment of Administration of Criminal Justice Process in the Magistrate Court

By:
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1.0 Introduction

In Nigeria the magistrate court handle most of criminal offences particularly the non capital offences, Magistrate Courts as held in the case of *Nuruku v. Police* (1955) 15 W.A.C.A 23. Osasona describes Magistrate Court as the most important courts in terms of criminal justice administration because more than 90% of criminal cases commence in the court and 80% or more of those cases terminate at Magistrate Court level.

This paper presents the process of administration of criminal Justice in the Magistrate Courts. It examines the process of administering criminal justice in the Magistrate Court and its challenges. The criminal justice process involves several stages which include arraignment, trial and discharge where no case submission is upheld. However, where no case submission is rejected, it goes to defense, address, conviction and sentencing if the defendant is found guilty. Where he is not found guilty, the defendant is discharged and acquitted.

The paper examines the various processes by considering it in stages. The stages is broadly categorised into three; Pre–Trial Stage, Trial Stage and Post-Trial Stage.

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2.0 Stages of Trial in the Magistrate Court

For the purpose of this paper, stages in criminal justice administration are considered from three perspectives. The Pre Trial Stage, Trial Stage, Post Trial Stage.

2.1 Pre Trial Stage

The Pre Trial Stage is a stage where the court set the necessary tool for proper hearing of a matter, at this stage adequate foundation is being laid for effective trial of a matter. The pre-trial procedure being adopted in the Magistrate Court as well as the associated challenges inhibiting speedy trial in the criminal justice administration is discussed as follows:

i. Arraignment through First Information Report (F.I.R)

The first process after arrest is charging defendant formally before a Magistrate Court. The time within which a person arrested is charged and presented to the Court varies despite the fact that there is constitutional provision that any arrested person shall be taken to court within a reasonable time.[1] The Law is against the action of some law enforcement agencies like police officers who are in the habit of keeping defendants in their custody beyond prescribed time. The position of the law is that, defendants are to be arraigned before the Court within reasonable time. The interpretation given to reasonable time depends on whether there exists a court of competent jurisdiction within a radius of forty kilometres. In such circumstance, reasonable time is one day[2] while in any other situation; it is a period of two days.[3]This involves filing a charging document known as Information.[4] During arraignment, the accused is docked and charges are read to him to the satisfaction of the Court[5] as illustrated in the case of *Kajubo v. State*.[6] What constitutes an arraignment was explained by Agbaje,J.S.C in the case of *Dawodu v*

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1 Section 35(4) CFRN, 1999; see Section 42(3) KSACJL.
2 Section 35 (5)(a) CFRN,1999.
3 Section35(5) (b)CFRN
4 Section 143(b) Criminal Procedure Code Cap "C42" 2004,
5 Section 187(1) CPC
6 (1988) 1 NWLR Pt.73 at 72.

State[7] as follows: 'An arraignment consists of charging the accused, reading and explaining the charge to him to the satisfaction of the Court, followed by taking his plea.' He stated further that the most essential aspect of arraignment is compliance with constitutional provision which requires that every person who is charged with a criminal offence shall be informed promptly in the language he understands in details of the nature of the offence.[8]

Moreso, in the case of *Kajubo v. State*,[9] the effect of failure of court to comply with a mandatory statutory requirement was explained as follows:

> *A strict compliance with an obligatory statutory requirement relating to the procedure in a criminal trial is a pre-requisite of a valid trial, and where a trial judge proceeded to try the accused without strictly fulfilling with the provisions of sections of Criminal Procedure code and Constitution, the trial would be declared a nullity by an appeal court.*

Failure to comply with the provisions will render the action null and void and all other matters that follow thereafter amount to an exercise in futility and are of no significance as stated by Uwais[10] in the case of *Yahaya v. The State*.[11] Consequently, it is the practice of the Court to first inquire from the accused person whether he understands the language of the Court. Where he does not, the Court will provide an interpreter[12], free of charge. The interpreter must be knowledgeable enough in the language understood by the accused in order to interpret the charge to him. The accused person shall be placed before the court unfettered; that is, without restraint. The Charge or Information shall be read over and explained to the accused person to the satisfaction of the Court. The Court must be

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7 (2000)15 N.W.L.R. 467 at p.480; (2000) 12 S.C (Pt 1)1,(P.20, paras. A-C)
8 Section 36(6) (a) CFRN 1999.
9 (1988) NWLR (Pt.73)721
10 Hon. Justice Uwais Former Chief Justice of Nigeria.
11 (2002) 3 NWLR (Pt.754) 289 at P.303
12 *Gwonto v. Zaria Native Authority* (1964) NNLR 61

satisfied that the accused person understands the Charge. Thereafter, the accused person shall be called upon to plead instantly to the charge read to him.[13]

The Charge must be read directly to the defendant against whom the particular Charge was preferred. No person other than the defendant can plead to the Charge. In other words, the plea must be personal as illustrated in *R. v. Pepple.*[14]Therefore, several accused persons cannot enter a plea through one of them. Where several accused persons are jointly charged, each accused person must plead for himself personally as illustrated in the case of *Adamu v. the State.*[15] During the arraignment, the Judge will list all the charges filed against the defendant, who will then be asked whether he is guilty or not, and whether he has any defence to make.[16] The plea made by a defendant shall be recorded in as nearly as possible in the words used by him.[17] Failure of the Trial Court to record the plea made by an accused person will render his subsequent trial a nullity[18] as held in ***Auwalu Abdullahi v. Federal Republic of Nigeria***[19]**and** *Adamu Dauda v. Federal Republic of Nigeria*[20] where it was held that, the Court of Appeal erred in law when it held that the Court properly assumed jurisdiction to try and convict the appellant when there was no proper arraignment of the appellant which occasioned miscarriage of justice on the appellants.

A person entering arraignment can and should be represented by a Legal Practitioner.[21] At this stage, it is required that a defendant must be brought to court unfettered without handcuff or chain except with the order of the Court and for the protection of the

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13 Okoronkwo I, 'ARRAIGNMENT UNDER NIGERIAN LAW' http://www.thelawyerschronicle.com /arraignment-under-nigerian-law/ accessed on 17 May 2018.

14 (1949) 12 W.A.C.A 441

15 (1986) 3 N.W.L.R. (Pt. 32) 865

16 Section 161(1) C.P C.

17 Section 161(2) CPC also Section 277(3) Kwara State Administration of Criminal Justice Law, 2018

18 Okoronkwo I, 'ARRAIGNMENT UNDER NIGERIAN LAW'

19 (1985) 2 NWLR PT 6 at 137

20 (CA/J/69C/2012)[2014] NGCA 5 (23 May 2014)

21 Section 226 CPC, Section 36(6) C CFRN, 1999

defendant.[22] It is expected that the Police must have concluded investigation. The Police must ensure that all witnesses are available.[23]

The Police sometimes charge and arraign suspects before a wrong court or for wrong allegation. The practice is that, such court can only take cognisance of the offence [24]and continue to adjourn the case until when the defendant will be taken to the appropriate court after the release of legal advice from the Ministry of Justice. The release of legal advice has always been a great challenge in some State Criminal Justice Administration. The reason for this perhaps is due to the fact that there is no time frame within which legal advice should be released.

First Information Report (FIR) is used where the officer considers that the prosecution of the alleged offence will serve the public interest. The officer shall reduce the complaint into the prescribed form called First Information Report and the officer shall take the alleged suspect with the First Information Report before a Magistrate within which jurisdiction the Police station is situated.[25]Also, where the defendant appears or is brought before the court, the particulars of the offence of which he is accused shall be read to him and he shall be asked if he has any cause to show why he should not be tried by the Magistrate.[26]Firstly, if he admits commission of the offence, his admission shall be recorded as nearly as possible in the words used by him and he shall be convicted summarily without even drafting a formal charge.[27]

A defendant can also be arraigned in a court upon a charge sheet. A charge sheet is a document before a court which informs the Court of the allegation against the defendant

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22 Section 161 C.P.C

23 Brad Bailey Law, 'The Stages of a Typical Criminal Case' 2017 <https://www.bradbaileylaw.com /legal blog/ 2017/ March/the-stages-of-a-typical-criminal-case/> accessed on 16 May 2018.

24 Section 143 CPC

25 Part 13, Section 112(6) f of the Administration of Criminal Justice Act, 2015.http://metropole.ng/justicemedia/administration-of-criminal-justice-act-2/accessed on 10 April 2018 and Section 119 KSACJL,2018

26 Section 112(7) ACJA and Sec.119(7)KSACJL

27 Section.157(1) CPC, Section .112(8).

and contains the charge against the defendant [28] as illustrated in *Edun v. Inspector-General of Police*.[29] Where there are many defendant, the charges may be read over and explained once (block reading) to all the defendant but they must plead individually to the charges. The Charge must mention each of the defendants as the joint participant in the crime charged. A defendant must also plead separately to each individual offence as contained in a Charge Sheet. However, failure of a defendant to plead separately to the several counts contained in a Charge Sheet will not render his trial null and void except such a failure is actually occasioned by a miscarriage of justice as held in the case of *Ayinde v. State*.[30]

First Information Report[31] is a more detailed description of the act that formed the basis of the particulars of offence violated. The short and detailed statements of the offence are known respectively as the count and particulars of the offence. Each set of count and particulars constitute the complete information for the offence in the charging document. There could be several sets of such information. The information comes with summons from the Court, stating the date for the case and the suspect to be presented in court. The First Information Report is the common paper in which the prosecutors file matters to court particularly in the Magistrate Court.

In *Tobby v. State*, [32] Ogwuegbu is of the view that a trial court must comply with the following essential requirements:

(a) The defendant must be placed before the court unfettered unless the court shall see cause otherwise to order;

(b) The charge or information must be read over and explained to the defendant to the satisfaction of the court by the registrar or other officer of the court;

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28 Section 397(1) KSACJL
29 (1966) 1 All NLR 17 at 19
30 (1980), 2 N.C.R.242
31 Section 120 CPC
32 (2001) 4 S.C. (PART II) 160

(c) It must be read and explained to him in the language he understands; and

(d) The defendant must be called upon to plead thereto unless there exist any valid reason to do otherwise such as objection to want of service where the accused is entitled by law to service of a copy of the information and the court is satisfied that he has in fact not been duly served therewith.

These requirements of the law are mandatory and must therefore be strictly complied with in all criminal trials. As they have been specifically provided to guarantee the fair trial of a defendant and to safeguard his interest at such a trial, failure to satisfy any of them will render the whole trial defective and null and void.[33]

ii. Arraignment through Direct Criminal Complaint

There are situations where the defendants are not brought to court by F.I.R. This does not mean an offence has not been committed. Such defendant may be brought to the Magistrate Court by way of direct criminal complaint. This process gives right to private individual to institute criminal proceedings against a person alleged to have committed an offence by laying a complaint before a court.[34] *Complaint* means the *allegation* that any named person has committed an offence made before a Magistrate for the purpose of moving him to issue process *under*going criminal trial.[35] By virtue of the CPC,[36] complaint of offences such as adultery and related offences itemised in sections 387,388 and 389[37] of the Penal Code shall only be made by the husband, father, or guardian of the woman or girl involved. It implies a *complaint* to the court whether or not on oath that an offence has been committed by any person whose presence the Magistrate has power to

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33 *Kajubo v.The State* (1988) 1 NWLR (Pt. 73) 721, *Ere Kanuzev.The State* (1993) 5 NWLR (Pt. 294) 385, *Effiom v.The State* (1995) 1 NWLR (Pt. 373) 507, *Ewe v.The State* (1992) 6 NWLR (Pt. 246) 147, *Okoro v.The State* (1998) 14 NWLR (Pt. 584) 181 and *Ogunye&Ors. v. The State*; (1999) 4 S.C. 30; (1999) 5 NWLR. (Pt. 604) 548

34 Section 96 of Kwara State Administration of Criminal Justice Law 2018and Section 143(e) of CPC

35 Section 146 CPC.

36 Section 142(1) CPC

37 Sections 387, 388 and 389 of the Penal Code Cap 89

compel.[38] A person may make a complaint against many persons alleged to have committed or to be committing an offence.[39] A complaint may be made in person by the complainant himself or by a 'legal practitioner representing him or by any person authorised to write on that behalf.[40]

iii. Special Prosecutors

Apart from the first two procedures of bringing defendant before the court, there is another procedure called special prosecution. This is a procedure where special classified set of people can bring the defendants to court. Where there is law creating such classification, the statute creating a particular offence may specify the person or class of persons who may institute proceedings in respect of the same offence. For instance, the Customs and Excise Management Act[41] provides that only the Attorney General of the Federation can prosecute offences under the Act after the board must have sanctioned same. Factories Act,[42] also vests power of prosecution in respect of factory offences on the Inspector of Factories.[43]

iv. Application for Bail

Application for bail is another process recognised in administration of criminal justice. It is a process whereby a defendant applies for temporary relief or liberty pending final determination of his/her guilt or innocence. This is normally applied for immediately after the plea and before trial. Application for bail is either done for orally or in writing. In Magistrate Court bail application is made orally and may be granted or refused by the Magistrate. Where the offence or offences are bailable, the Magistrate very often grants

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38 Onibokun A, 'Introduction to Nigerian Legal System (2) - Criminal Proceedings' legalnaijablawg <http://www.legalnaija.com/2013/09/introduction-to-nigerian-legal-system2.html> accessed on 13 April, 2018.

39 Section 96 KSACJL

40 Section 97(3) KSACJL

41 Section 176(2) of the Customs and Excise Management Act (CEMA), Cap C.45 LFN, 2004

42 Section 66 of the Factories Act

43 Onibokun A, 'Introduction to Nigerian Legal System (2) - Criminal Proceedings'

bail even where there is objection by the prosecution. However, the Magistrate attaches conditions like sureties of a specified status or certain amount of money or both.

Bail is a constitutional right of a defendant in a criminal charge. It is a concession given to a defendant that allows or permits such a defendant to be released temporarily from prison custody while standing trial and being allowed to come from home to attend court at every adjourn date.[44] Garner[45] defines bail as a security such as cash or bond; especially security required by a court for the release of a prisoner who must appear in court at a further trial. Bail is also a right that the Court may give to a suspect. It is based on the principle that the defendant is presumed innocent until proven guilty. In most criminal cases where defendant has been detained in custody prior to the first court appearance, during arraignment the prosecutor, in addition to considering the charges to be presented to court, is required to consider if there is need to continue to remand that person in custody, and if the court is inclined to grant bail to the suspect. It can only be granted with some underlining conditions that the suspect will always make himself available at every adjourned date, when the Court is convinced that the suspect will not tamper with Police investigation.[46] The primary object of it in any event is to ensure that the defendant will attend court to stand his trial. In *Mohammed Abacha v. The State*,[47] the Supreme Court defined bail as the means to set at liberty a person arrested or imprisoned on security being taken for his appearance on a day and place certain. It is an assurance or undertaking given by an authorised person that a defendant would appear in court on a particular day and at a given time in response to a request that he should be present to respond to criminal allegations leveled against him.[48]Again, in the case of *Caleb Ojo v. Federal Republic of Nigeria*,[49] bail was defined as the freeing or setting at liberty

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44 Section 35(4) CFRN, 1999.

45 Garner B. A., Black's Law Dictionary' (8th edn Thomson West, USA, 1990), 150

46 Section 35 CFRN, 1999.

47 (2002) 5 NWLR (PT 761) 187

48 Abdussalam A, et.al, 'Understanding the Concept of Bail in Nigeria' <http://abdusalaamabbasandco.com/blog-details.php?title=UNDERSTANDING-THE-CONCEPT-OF-BAIL-IN-NIGERIA> accessed on 13 April 2018.

49 (2008) 11 NWLR (Pt.1099)

someone arrested or imprisoned, upon others becoming sureties by cognisance for his appearance at a day and place certainly assigned.Bail is held to be a contract whereby a person is delivered to a third person called surety on the understanding that the surety would ensure that the person is produced[50] whenever his presence is needed.[51]The concept of bail was examined by the Court of Appeal in *Nwude v.Federal Government of Nigeria*[52] when it held that 'the whole concept of bail generally is about surety or sureties taken by a person duly authorised for the appearance of an accused person at a certain day and place to answer charges levelled against him and be justified by law.'[53]

There are two types of bail. Firstly, police or administrative bail which implies bail granted to a defendant by the Police.[54]Secondly, Court bail can be granted in two circumstances, that is, bail pending trial of the accused person, or bail pending the appeal of the accused.[55] Bail pending trial is when the case against the accused person is still on-going but the accused person is allowed to leave detention until the end of the trial. This is founded on the principle of presumption of innocence.

On the other hand, bail pending appeal is where the person has been found guilty and he/she intends to appeal the conviction. This type of bail is generally more difficult to obtain because the presumption of innocence does not exist here again. The person has been found guilty. Bail pending appeal is granted in exceptional circumstances to prevent a convict from serving a jail term that is likely to be set aside as espoused in *Fawehinmi v.The State*.[56]

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50 *ENEBELIE v. CHIEF OF NAVAL STAFF* (2000) NWLR PT. 671, 119 at 121.

51 Osipitan T, 'Nigeria: Challenges of Defence Counsel in Corruption Prosecution,' 4

52 (2004) 41 WRN 124 at 145

53 ibid

54 Legal guide,' '3 Things Every Nigerian Should know about Bail' <https://lawpadi.com/3-things-every-nigerian-should-know-about-bail>/ accessed on 18 June 2018.

55 Adedeji L., 'Bail Pending Appeal in Nigeria' The Lawyers Chronicle, <http://www.thelawyerschronicle.com/bail-pending-appeal>/ accessed on 27 November 2016.

56 (1990) 1 NWLR (PT 127) 486.

Bail is usually granted at the discretion of the Magistrate but such discretion needs to be exercised judicially and judiciously. It is observed that some Magistrates impose conditions that are onerous. The impositions of such conditions are deprecated by Aboki[57] as follows:

> *It is improper to impose unnecessary and unfulfillable conditions of bail outside the provisions of the law on an accused person to the point of almost rendering the bail nugatory. Bail requests should not be refused indirectly in case of bailable offences or where bail is automatic in case of simple offences or offences punishable with less than three years imprisonment by imposing conditions such as letters of recommendation from sureties' place of work or tax certificate, three months' pay slips from sureties' place of work. Grants or original certificates of grants or original certificates of occupancy by sureties in Court and other harsh requirements.*

Ngige,[58] while lamenting on the abuse of power of the Magistrate stated that:

> *It is no longer news that Magistrates have become willing tools in the Hands of state Governors and some security agencies to persecute political opponents of the ruling party. Every day we read reports of Magistrates remanding to custody political opponents of the ruling party arraigned in their courts. They do not care whether the offences to which defendant are charged are bailable.*

The factors[59] or criteria to be taken into consideration in granting bail pending trial[60] are listed in the case of *Adams v. Attorney-General of the Federation.*[61] These conditions are:

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57 Abdu Aboki 'The monetisation of Bail in Nigeria,' The Nation Newspaper (Nigeria 1st Oct 2013) <https://education.issuu.com/thenation/docs/oct_1__2013/32> accessed on 10 October 2021.

58 Ngige, E, 'Due process and the Nigerian Judiciary: Where did we go wrong?' *Civil litigation Journal* of 2008 – 2010, 78 or A paper presented at the section on Legal practice forum (Civil Litigation Committee) of NBA annual Bar Conference held in Lagos from August 17-21..

59 (2001) 8 NWLR (PT 715) 270 at 291 paragraph F- H".

60 Osipitan, T, 'Nigeria: Challenges of Defence Counsel in Corruption Prosecution,' 3

61 (2006) 44 WRN 46 at 73-74

The evidence available against the accused, availability of the accused to stand trial; the nature and gravity of the offence; the likelihood of the accused committing another offence while on bail; the likelihood of the accused interfering with the course of justice; the criminal antecedents of the accused person; the likelihood of further charge being brought against the accused; the probability of guilt; detention for the protection of the accused; and the necessity to procure medical or social report pending final disposal of the case. These factors may not be relevant in all cases and they are not exhaustive.[62]

v. Adjournment

Adjournment implies the bringing to a halt, the sitting of a court on a particular proceeding to a later day. Adjournment may be due to several reasons. It may be from the Court itself or any of the personnel of the Court. It may also be initiated by either of the parties. Granting adjournment is at the discretion of the judicial officer (Magistrate). Some legal practitioners are in the habit of seeking unmerited adjournments from courts, and this usually happens where the counsel is either not prepared to go on with the case or has not been properly settled financially by his clients.[63]Although, it is a principle of law that adjournments are not granted as a matter of right,[64] the courts very often fail to oblige lawyers when they apply for adjournment of cases sometimes for very flimsy reasons.[65] In the case of *Okon Akpan v. The State*, [66]Olatawura JSC condemned courts for the over

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62 *Bamaiyi v. State*(*2001*) *16* WRN 1; (*2001*) 4 SCNJ 103; (*2001*) 8 NWLR (Pt. 715) 270,

63 Ogunode S.A, 'Criminal Justice System in Nigeria: for the Rich or the Poor' Humanities and Social Sciences Review, Adekunle Ajasin University, Nigeria (2015) 32 <http://www.universitypublications.net/hssr/0401/pdf/DE4C318.pdf > accessed on 25 February, 2018; see Ojukwu, E, *Legal Practitioner's Charges in Nigeria: Law and Practice (*Aba: Helen-Roberts: 1997) 35.

64 This is entirely within the discretion of the Court, and in exercising its power to grant or refuse application For adjournment, it must be done judicially judiciously after considering all the circumstances of the case; see *Echaka Cattle Ranch Ltd v. Nigerian Agricultural and Cooperative Bank Ltd,*(1993) 8 NWLR (pt 310) 233.

65 See the observations of Olatawura JSC in *Okon Akpan v. The State* (1991) 3 NWLR (Part 182) 646, 661 on the overindulgence of the trial judge in granting the State Counsel several adjournments in the case.

66 (1991) 3 NWLR (Part 182) 646, 661

indulgence of State Counsel Prosecutor of incessant adjournments. He further advised the Magistrate Court not to grant, as a matter of cause, unnecessary adjournments.[67]

According to Ojukwu,[68] unnecessary adjournments result in stockpiling of cases in the Magistrate Courts.Olufemi and Imosemi[69] are of the opinion that lack of prompt and efficient running of justice delivery machinery in the Nigerian courts system is often due to frivolous, pointless and frequent postponements and/or adjournments. Oputa, J.S.C. while castigating unnecessary adjournment has this to say:

> *The prolonged delays and adjournments in regular courts, resulting in heavy backlogs of unheard and part heard cases have intensified the need and concern for the expeditious, and with minimal delay and cost resolution of cases and disputes. Thus, the need for speedy trials has arisen to be an issue of high priority, the only caveat being that justice rushed may lead to outright injustice.*[70]

Adjournment which are designed to delay or defeat justice should be refused.[71]Per Ngwuta JSC says when an application for adjournment is unnecessary or not reasonable, the court may deny same and proceed with the case.[72]Per Olatawura JSC warned that no encouragement should be given to counsel who are not ready to prosecute their cases.[73] In *Donatus Ndu v State,*[74] the appellant was tried and convicted for murder. After the prosecution's case was closed, the defence counsel sought for adjournment several times through a period of fifteen months. When eventually the last defence was called, defence

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67 (1991) 3 NWLR (Part 182) 646, 661

68 Ojukwu E, *Legal Practitioner's Charges in Nigeria: Law and Practice* 35

69 Olufemi O, &ImosemiA, 'Alternative Dispute Resolution and the Criminal Judicial System: A possible Synergy as Salve to Court Congestion in the Nigerian Legal System'(2013) Vol. 1, No. 10, Arabian Journal of Business and Management Review (Nigerian Chapter), Babcock University, Ilishan, Ogun State, Nigeria.

70 Oputa C.A, 'The Philosophy of Justice with emphasis on Arbitration'. (1999) Vol: 3, No.1 Nigerian Law and Practice Journal, 80.

71 *Gerawa Oil Mills LTD v Babura* (2018) LPELR -44720 CA

72 *MFA and Anor. v Inougha* (2014) LPELR-22010 (SC) ; *ACB LTD v Joseph Agbunyim* (1960) 5 SC 19.

73 *Okon Udoh Akpan v The State* (1991) 5 SCNJ 1 at 13.

74 (1990) 12 SCNJ 50 at 60

counsel was called upon to address the court he refused but ask for adjournment. The court refuse to adjourn but order that the case be stood down for one hour for address, when the court resume sitting, defence counsel repeated the application for adjournment which was again refused. Counsel for prosecution then addresses the court and judgment was reserved. Appellant was convicted. The Court of Appeal confirmed the judgment of the trial court; the conviction was further affirmed by the Supreme Court while dismissing the appeal.

In order to reduce the problem of adjournment to the barest minimum, KSACJL fine tunes the time, number and days of adjournment. It says: "where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than seven adjournments from arraignment to final judgement, provided that the interval between each adjournment shall not exceed fourteen working days."[75]Where it is impracticable to conclude a criminal proceedings after the parties have exhausted their seven adjournments each, the interval between one adjournment and another shall not exceed 7 days inclusive of weekend.[76]

2.2 Substantive or Trial Stage

After the pre-trial stage, the second stage is the trial stage. The trial stage encompasses some steps which are discussed in this segment. The fundamental question is what trial is.Trial is defined as a judicial examination and determination of issues between the parties in accordance with the law of the land, or of a cause, either civil or criminal of the issues between the parties, whether of law or fact, before a court that has proper jurisdiction.[77]

How to conduct trial has been provided for in Kwara State Administration of Criminal Justice Law to the effect that, upon arraignment, the trial of the defendant shall proceed

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75 Section 397(3) KSACJL
76 Section 397(4) KSACJL
77 *Black Law Dictionary* (5th Edition),1348,

from day-to-day until the conclusion of the trial.[78]Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than 7 adjournments from arraignment to final judgment, provided that the interval between each adjournment shall not exceed 14 working days.[79] Where it is impracticable to conclude a criminal proceedings after the parties have exhausted their seven adjournments each, the interval between one adjournment and another shall not exceed 7 days inclusive of weekend.[80]

Prosecution Stage

Criminal *prosecution* develops in a series of stages, beginning with an arrest and ending at a point before, during or after trial.[81] Prosecution stage is the first stage in trial particularly in criminal matters. It is the stage where the prosecution must prove the commission of an offence upon which the defendant is brought to court[82]

Where the prosecution fails to prove the commission of the offence or he has not done his job to convince the Court that it is the defendant who committed the offence, the defendant may be discharged and acquitted.[83]See the case of *Alhaji G. Salimonu& Anor v. The State,*[84]particularly, the dictum of Fatayi William[85]where he observes that the burden of proof under the law in a criminal case rests squarely upon the prosecution. It is the duty of the prosecution to prove the case against each accused beyond all reasonable doubt. In other words, one cannot find either of the defendant guilty unless is satisfied by the evidence. To be satisfied, after considering the evidence, one must be sure that the prosecution has established the guilt of the accused beyond all reasonable doubts.

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78 Section 397(2) KSACJL

79 ibid. Section 397(3)

80 ibid. Section 397(4)

81 Justistia 'Criminal law stages of a criminal case', <https://www.justia.com/criminal/docs/stages-of-a-criminal-case.html> *accessed on 13 April 2018.*

82 Section 306 (1)KSACJL

83 *Chief of Air Staff v. Iyen* (2005) 6 NWLR (Pt. 922)496 at 542.

84 (1972) 2 SC 14

85 Per Fatayi-Williams J.S.C, (P.13, Paras.A-D)

The burden on the prosecution is only discharged when the essential ingredients of an offence charged have been established and the defendant is unable to bring himself within the defences or exceptions allowed under the law generally or the statute creating the offence. In order to prove the commission of the act, the prosecution must identify all the elements of the crime and ensure that these elements are proved to the satisfaction of the Court.[86] This position was followed in the case of *Okoro v. State*[87]. Where the evidence on failed to meet this essential requirement, the prosecution has not discharge its constitutional burden.[88]

To discharge this onerous burden of proof, the prosecutor must have the necessary expertise. In this regard, Adaku[89] submitted that where necessary expertise and experience are lacking, conviction of defendant will be very difficult if not impossible. The prosecution is expected to call credible witnesses to testify in court. Although, he is not expected to call a specific number of witnesses or all available witnesses, he must call sufficient witnesses to support his case.[90]

The prosecution should call his witnesses and lead them in evidence. This is referred to as examination-in-chief. When the prosecution is done with such witnesses, then, the defendant or his counsel can cross-examine those witnesses for the purpose of discrediting the evidence or testimonies of those witnesses and to show the Court that they are not witnesses of truth.[91]Consequence of failure of the prosecution to prove essential ingredients of an offence was emphasised thus:

> *It is well settled that in addition to failure to prove essential ingredients of the offence, the case of the prosecution may fail and the accused will not be*

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86 *Oteki v. A-G. Bendels State* (1986) 2 NWLR (Pt.24) 648.

87 (1988) NWLR (Pt.94).

88 *Are v. Adisa* (1967) NMLR 304.

89 Adaku Onyenucheya 'Public prosecutors decry inefficient criminal justice system' Guardian Newspaper (Nigerian 20 December 2016) <https://guardian.ng/features/law/public-prosecutors-decry-inefficient-criminal-justice-system/> accessed on 13 April 2018.

90 *Kamoru Adio v. the State* (1966) W.N.L.R. 4 at 6

91 *Okoro v. State* (supra) also Section 306(2)KSACJL

mandatory to defend himself if the evidence is so obviously unreliable having been destroyed by cross-examination of the witnesses that no reasonable tribunal will convict on that evidence.[92]

After cross examination, the prosecution may re-examine the witness. This depends on whether or not there are ambiguities that arouse from cross examination. The second and subsequent witnesses of prosecution take the same process. After the last witness, the prosecution closes his case.

Presentation of Case for Defence

There are three options available for an accuse person at the close of case for prosecutions. The defendant may make a no case submission, rest his case on that of the prosecution or open his defence by calling evidence.[93]

No Case Submission

The defendant may decide to make a no case submission[94], contending that the materials made available by the prosecution presents 'no case' requiring him to make any defence.[95]No case for the accused persons to answer (sometimes shortened to "no case to answer") is a term in the criminal justice administration, whereby a defendant seeks acquittal without having to present a defence based on the prosecution's evidence as held in *Ozaki v. State*[96] and *Ajisogunv. The State*.[97] It was the position of the Court that a reasonable doubt in the mind of the Judge entitles defendant to *an acquittal.* Therefore, the burden of proof lies with the prosecution. The burden of proof in criminal trials is *beyond reasonable doubt.*[98] During a criminal trial in Nigeria, there is a fundamental

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92 *Daboh v. State* (1977) 5 SC. 197

93 *Okoro v State*(2012) JELR 34796 (SC)

94 Section 302-302 ACJA.

95 Wahab Shittu, "No Case Submission and the Duty of Court";*Punch* Newspaper (Nigeria August 13th 2012) <http://www. punchng.com/feature/the-law-you/no-cases ubmission- and-the-duty-of-court/;> accessed on 14 September 2012.

96 (1990) LPELR – 2888 (SC), (1990) 1 NWLR

97 (1998) 13 NWLR Pt 581.

98 Section 139(1) Evidence Act.

principle that everyone is innocent until proven guilty,[99] thus, it becomes the duty of the prosecution to rebut this presumption by adducing sufficient evidence to persuade the Court of the defendant's guilt by proving that the accused is guilty beyond reasonable doubt.[100] As such, if there is any possibility of innocence which still exists when the case is over, the Court must acquit and find the accused not guilty.[101] The Court of Appeal similarly in *Suberu v. State*[102]per Peter-Odili, J.C.A. held that: 'It is true as posited by appellant's counsel that if there is no sufficient evidence linking the accused with the statutory elements and ingredients of the offence with which he is charged, a court of trial must, as a matter of law, discharge him.'

If the Judge does not accept the submission, the case continues and the defence must present his case. Therefore, because the defence really loses nothing by filing a no case submission application, it is a very common defence tactic used in criminal proceedings in the Magistrate Court.[103]This process is recognised in the Administration of Criminal Justice Law (ACJL) where it provides that notwithstanding the provision the Court may after hearing the evidence for the prosecution, if it considers that the evidence against the defendant is not sufficient to justify proceeding further with the trial, record a finding of not guilty in respect of the accused without calling upon him to enter his defence. Hence, such accused shall be discharged.[104]

In the case of *EFCC v. Rickey Tarfa*,[105] the defence counsel made a no-case submission in bribery charge slammed on his client by the EFCC. He said they had reviewed the

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99 Section 36(5)CFRN, 1999.

100 Adebayo K, 'Revisiting the No Case Submission in *The FGN v. Bankole & Nafada Case*' <http://saharareporters.com/article/revisiting-no-case- submission-fgn-v bankole-nafada-case;> accessed on 14 September 2012.

101 Coutts J.A, 'Submission of No Case to Answer in Magistrates' Courts' (1962) Vol 26, Issue 4, The Journal of Criminal Law 19, 230 <http://journals.sagepub.com/doi/abs/10.1177/002201836202600413? journalCode=clja> accessed on 23 April 2018.

102 (2010) 1 NWLR (Pt. 1176) 494 at 511.

103 Lawpadi 'What is a no case submission?'<https://lawpadi.com/no-case-submission/ accessed on 23 April, 2018.

104 Section 191(3) CPC

105 FHC/L/CS/714/2015

prosecution's case and concluded that the defendant had no case to answer. At the resumed hearing of the case,[106] Justice Akintoye, while ruling on the application, said the prosecution had established the essential elements of the offences which the defendant was charged with. He further said that "what is expected of this court at this stage of no case submission is to look at the evidence adduced so far and determine whether a prima facie case has been disclosed against the defendant. At this stage also, the prosecution is not required to have established its case beyond reasonable doubt against the defendant as the guilt of the defendant is not in issue now".[107]

When a no case submission is made, it is the duty of the Court to call on the prosecutor to reply. The purpose of the prosecutor's reply[108] is to convince the Court that the prosecution has proved his case beyond reasonable doubt. The Magistrate rules on the submission of the two parties. In considering a no case submission, the Court should be guided by the principle in *R v.Ekanem*[109] where it was held that the court should confine itself to the submission alone and not go outside it, so as not to fetter its discretion. In *Odofin Bello v. State*,[110] the Supreme Court admonished that to avoid fettering his discretion, the trial Judge should refrain from writing a lengthy ruling so that it does not veer off with discussing facts in his ruling as to do will amount to denial of a fair trial. Such ruling should be brief and direct to the issue. The ruling is either that the no case submission is sustained and the defendant is discharged or the no case submission is over ruled and the defendant is call upon to open his case. Where the second position is upheld, that is, where no case submission is over ruled, the Court moves to another stage which is called framing of charge.

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106 Justice Adedayo Akintoye of an Igbosere High Court in Lagos

107 NAN, 'Court dismisses Rickey Tarfa's no-case submission, N520m damages' *Vanguard* Newspaper (Nigeria February 9, 2018). <https://www.vanguardngr.com/2018/02/court-dismisses-rickey-tarfas-no-case-submission-n520m-damages/>accessed 26 February, 2018.

108 Sec. 308 (1) KSACJL

109 13 W.A.C.A. 108.

110 (1967)NLR, 1

Resting of Case Submission

When a defendant rests his case on that of the prosecution, it implies that the defendant does not wish to place any facts before the court other than those which the prosecution has presented in evidence. It also signifies that the accused is satisfied with the evidence given and does not wish to explain any fact or rebut any allegations made against him. This is guaranteed in the constitution as the defendant have right to remain silent.[111] This of course does not prevent the accused (or his counsel) from making legal submissions on the evidence before the court. He could for instance, say that even if all the evidence were believed, it would not support the charge before the court, or he could submit that the evidence was so conflicting or has been so discredited that it is not credit worthy.[112]It is always a gamble to rest the defence on the case of the prosecution. As illustrated in the case of *N. M. ALI & ANOR v. THE STATE*[113] where after the close of the prosecution's case, the counsel to the appellants announced that the appellants would not call any evidence but would rest their case on the evidence of the prosecution.

This is where the defendant decides not to call any witness to testify for him in trial.[114] Though, it will be a reckless move where the prosecution has made out a prima facie case.[115]

Framing Charge

This is another important process at the trial stage. It is a process whereby a Magistrate draft a charge indicating the offence committed after he is satisfied that the defendant has a prima facie case to answer. The charge spells out the offence and its ingredients.

A charge is a statement of offence or offences with which an accused is confronted with the criminal complaint brought against him.[116]The word charge as used in the Act, means

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111 Section 36 (11) 1999 Constitution . FRN.
112 *N. M. ALI and ANOR v. THE STATE* (SC 203/1986) [1988] 30
113 ibid
114 *Suleiman Abubakar v the State*(2019)LCN/12913(CA)
115 *Babalola v State* (1970) All N.L.R 46

statement of offence or statement of offences with which a defendant is charged in a trial whether by way of summary trial or trial by way of information before a court.[117]The purpose of framing a charge is to give intimation to the defendant of clear, unambiguous and precise notice of the nature of accusation that the defendant is called upon to meet in the course of a trial.[118]

A charge is made up of the following as its content Heading: Reference number, Parties, preamble; counts (charges); and date and signature of the drafting authority.[119]In the Magistrates Courts, the prosecutor is the Commissioner of Police (C.O.P.) who represents the State. A charge is preferred in the Magistrates Courts in Northern States including Kwara State.[120] The Magistrate drafts the charges after taking evidence from the prosecution.[121] The charge sheets used for trials at Magistrates Courts in Northern States is as contained in the Code.[122]

The Magistrate introduces himself before he states the actual offence (count) with which the accused person is charged. Thereafter, he states a directive as to which court shall try the alleged offender.[123] If at any stage before the Judgment, it appears to the Magistrate that the case is one which ought to be tried by the High Court, he shall *frame* the *charges* and commit the offender to the High Court for trial.[124] The procedure that the Magistrate

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116 Doherty O, *Criminal Procedure in Nigeria Law and Practice* (Blackstone Press Limited Aldine place, London 1990).53. also Section 160 CPC

117 Section 494 (1) ACJA and KSACJL

118 OBA A.A, 'Framing of Charges by Magistrates In Northern States of Nigeria: An Obsolete Procedure?' (APRIL-DECEMBER 1997), Vol. 39, No. 2/4 Journal of the Indian Law Institute 290 accessed on 20 April 2018

119 OBA A.A, 'Neither Fish Nor Fowl': Area Courts in the Ilorin Emirate in Northern Nigeria'(2009) Journal of Legal Pluralism, 2008, 292

120 ibid. 58.

121 Section 200 CPC; see *Harunami v. Borno Native Authority* (1967) NNLR 19

122 Appendix B to the CPC

123 Yolan L, 'The Prosecutor's Handbook'(2014) 30 Lawdocs.pro, Charges (1) – Week 6 – Criminal Litigation' <http://lawdocs.pro/2017/09/27/charges-1/>Accessed on 20 April 2018.

124 Egbetola A.O, 'Criminal Litigation: Instituting Criminal Proceedings and Drafting of Charges' Group 4- LegalHub<*group4hub.blogspot.com/2017/01/criminal-litigation-instituting.html*> *accessed on 20 April 2018*

drafts charges after listening to the prosecution witness was challenged in the case of *Ibeziakor v. COP*[125] on the ground that it was unconstitutional because it amounted to presuming the defendant guilty, but the Court held that, it was not unconstitutional. What the Court did was a determination of whether there was a prima facie case against the defendant to warrant trying him and not the determination of his guilt or innocence.[126]Also in *Harunami v.Borno Native Authority,*[127]the Court held that it was mandatory for the Magistrate to listen to prosecution witness and then cross-examination (if any), before framing any charge.

Defence

This is another process where the defendant is called upon to open his case particularly when the prosecution has made a prima facie case.[128] In other words, the Court gives the defendant an opportunity to state his own side of the case by calling credible witnesses, including himself. During this process, defendant has three options, firstly, he may make a statement without being sworn on oath and will not be liable to cross examination. Secondly, he may give evidence in the witness box, after being sworn and will be liable to cross examination. Thirdly, he may call any witness or adduce any other evidence in his defence.[129]

In opening his defence, he leads his witness in evidence which is called Examination-in-Chief. After examination-in-chief. his witness is cross-examined by the prosecutor, after cross examination, he may re-examine his witness where ambiguity arises during cross examination. The same process applies to all his witnesses, the defendant closes his case and the Court adjourns for addresses.

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125 (1963) 1 All NLR @ 63

126 Egbetola A.O, 'Criminal Litigation: Instituting Criminal Proceedings and Drafting of Charges'

127 (1963) All NLR @ 22-23

128 *Okoro v State* (supra)

129 Section 363 (1) a &b KSACJL also *Adio v State.* [1986] 3 NWLR (Pt 31) at 714

It is important however to examine the concept of defence according to the American Bar Association Criminal Justice Standards. Counsel for the defendant is an essential component of the administration of criminal justice. A court properly constituted to hear a criminal case must be viewed as a tripartite entity, consisting of the Judge, counsel for the prosecution and counsel for the defendant. The basic duty of defence counsel to the administration of justice and as an officer of the Court is to serve as the defendant's counsel and advocate with courage and devotion to render effective and quality representation.[130]

The defendant is entitled in particular to criminal prosecution in lawful manner in compliance with the enabling law.[131] He is free to assert all legal means and manners of defence, to choose a defence counsel, to file appeals and other remedial measures, to propose evidence, within the frame of asserting the right to defence.[132] The Criminal Procedure Code and the Act grant the defendant a number of rights.[133] The wide recognition of these rights is exemplified by the United Nation's Havana Declaration, a set of principles relating to the role of lawyers.[134] The first of these principles which UN asserts should be 'respected and taken into account by Governments within the framework of their national legislation and practice'[135] states that "[a]all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings".[136]This is an unambiguous acknowledgement of the significance of legal assistance to the fairness of

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130 Shipman, M. 'How can a lawyer represent a person accused of a terrible crime?' Wayne County Prosecutor's Office, Richmond, Indiana<http://www.waynecountyprosecutor.org/2013/09/how-can-a-lawyer-represent-a-person-accused-of-a-terrible-crime/> Accessed on 28 April 2018.

131 1999 Constitution of Nigeria, Administration of Criminal Justice Act,2015, Kwara State Administration of Criminal Justice Law,2018, Criminal Procedure Code and Penal Code 1960

132 ibid.

133 Supreme Public Prosecutor's office Czech Republic, 'Rights and Position of the Accused' <http://www.nsz.cz/index.php/en/ the-accused/rights-and-position-of-the-accused> Accessed on 27 April 2018.

134 Office of the High Commissioner for Human Rights (1990) 'Basic principles on the role of lawyers' – Adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba.

135 ibid., Preamble

136 ibid.

criminal proceedings – and continues to feature prominently on the UN's agenda in 2012.[137] This principle is replicated in International, European, English and Welsh Domestic Law. The Rome Statute of the International Criminal Court states that someone accused of a criminal offence has the right to conduct the defence in person or through legal assistance of the defendant choice.[138] The European Convention on Human Rights and Fundamental Freedoms guarantees the right of the defendant to 'defend himself in person or through legal assistance of his own choosing.[139] European Court of Human Rights jurisprudence expands on this. The case of *Salduz v. Turkey*[140] emphasised that although, not absolute, the right of everyone charged with a criminal offence to be effectively defended by a lawyer..., is one of the fundamental features of fair trial. Salduz's case also established that the right to a defence lawyer arises at the investigative stage of criminal proceedings. Subject to 'compelling reasons,' the Court asserted that the Police must provide 'access to a lawyer... from the first interrogation of a suspect by the Police'[141] thus laying down an utterly essential protection for those arrested and detained.[142]

The options open to the defendant at the stage of defence are two. Firstly, the accused person can rest his case on that of the prosecution. Secondly, the accused may also decide to enter his defence and call witnesses.[143]

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137 In April 2012, the UN's 'Expert Group on Strengthening Access to Legal Aid in Criminal Justice Systems' produced a set of draft principles underlining the importance of legal representation throughout the criminal justice process <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/V11/878/15/PDF/V1187815.pdf?OpenElement>. accessed 7 june 2020.

138 UN General Assembly, 'Rome Statute of the International Criminal Court' (last amended January 2002), 17 July 1998, A/CONF. 183/9: <http://www.unhcr.org/refworld/docid/3ae6b3a84.html> accessed 25 May 2011

139 Article 6(3)(c) The European Convention on Human Rights and Fundamental Freedoms

140 (2008) ECHR 1542 at para. [51]

141 ibid., at para. [55]

142 *Smith T,* 'In Defence of the Defence: Why Counsel for the Accused Deserve More Academic Attention' Bristol Law Society <http://www.bristollawsociety.com/in-defence-of-the-defence-why-counsel- for-the-accused-deserve-more-academic-attention/> Accessed on 27 April, 2018.

143 Section 309 (1)KSACJL

Address

This is the time for the parties to present closing addresses where they will appeal to the sensibilities of the Judge to consider and reconsider their respective case.[144]This entails the summary of what transpired in *Court* in the *case.*[145] It includes how witnesses are examined, cross-examined and re-examined; and the authorities cited including the prayers.[146]It is generally accepted that the hearing of addresses from Counsels before delivery of judgment is an important exercise in judicial proceedings in Nigeria courts.[147] After the defendant had concluded his defence he or his counsel may deliver a closing address which is a succinct summary of facts and arguments and urge court to hold in its favour. Next the prosecution shall address. The defence may only reply on point of law. The entire proceedings may be declared a nullity, if a counsel is denied the right to address the court at the close of evidence. I*n the case of Donatus Ndu v. State,*[148]*the Supreme Court relied on case* of *Obodo v. Olomu and Anor*[149]where Belgore, J.S.C. stated that the procedure whereby the parties to a case at the conclusion of evidence are to address the Court on the evidence before the Court, enumerating the issues canvassed and adverting to the law governing the issues has taken such a root in our superior Courts that denial of it cannot be regarded as mere procedural irregularity. Just as a party is not compellable to give evidence to prove his case, so is a party not compellable to address the Court where he has the right to do so. But when the right exists, a party must not be denied that right and denial of the right may render the proceeding a nullity if miscarriage of justice is occasioned.

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144 Adavize 'How A Typical Nigerian Court Operates' *Lawyard* (2016)<http://www.lawyard.ng/how-a-typical-nigerian-court-operates>/ Accessed on 19 May 2018.

145 Section 309 (2)KSACJL

146 Attah P, 'Prosecution Final Written Address' Truelancer,<https://www.truelancer.com/portfolio/prosecution-final-written-address-10125> Accessed on 20th may 2018.

147 *Donatus Ndu v. State* (1990) NWLR (Pt.164) 550. 2, (1990) 11-12 S.C 122

148 (1990) NWLR (Pt.164) 550. 2, (1990) 11-12 S.C 122

149 (1987) 3 NWLR (Part 59)111

In the same case, Obaseki, J.S.C. (pages 123 - 124) observed that hearing of addresses by every Court established by the Constitution of the Federal Republic of Nigeria is recognised by the Constitution. It is to be given before judgment is delivered. Its beneficial effect and impact on the mind of the Judge is enormous. The value is immense and its assistance to the Judge in arriving at a just and proper decision, though dependent on the quality of address, cannot be denied. The absence of an address can tilt the balance of the learned Judge's judgment just as much as the delivery of an address after conclusion of evidence can. It is not for this Court to speculate on what the effect of plaintiff's counsel's address would have been on the learned trial Judge's judgment as the Court of Appeal has done. Until the learned trial Judge's mind is exposed to an address, no one can say what effect it will have on his mind.[150]

The address may be oral or written. A written address must be adopted before the open court.[151] It is important to note that a *written address* that is not adopted in open *court* is irrelevant as held in *Gabriel Iwuocha & Anor v. Nigeria Postal Services.*[152]In *Gwary v. Adole*,[153] the Supreme Court explained the situation further that an adoption of a written address saved time when addresses are made public.[154] The Court further held that a written address that was not adopted was as bad as a written address that was not ordered.[155]It was held that failure to adopt written address is as an infraction of the appellant's right of fair hearing especially when the appellant had no notice of the proceedings in which the written address was adopted. It is also important to note that a party can foreclose his right to address. Thus, in the case of *Peter Neple and Co & Plateau State Government v. Sea Petroleum and Gas Company Limited.*[156] Filing of final

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150 *ibid,*

151 Sunmola Olowookere, 'Ilemobade:Counsel adopt final addresses' (The Hope Newspapers) (Nigerian 10 Dec,2015) <http://thehopenewspapers.com/2015/12/ilemobade-counsel-adopt-final-addresses/> Accessed on 20< May 2018.

152 (2016) LPELR – 40245 CA.

153 (2003) 3 NWLR (PT 808) 516

154 *Obodo v. Olomu* (1981) NWLR (PT 59) 111 and Oguji& Ors v. Unuagwu (2012) LPELR – CA CA/OW/95/2009

155 *Maidabo v State* (2016) LPELR-40245(CA)

156 FCT/HC/CV/2781/2012

written address was foreclosed by the order of the Court. The Plaintiffs adopted their final written address and the case was then adjourned for judgment because of defendant right of final address.

There are however occasions when addresses from counsel are a matter of formality. They may not diminish or add to the strength or weakness in a party's case. The facts and the law applicable in such cases speak loudly for themselves to require address. It was in this light that Court, Per Oputa, J.S.C., in *Niger Construction Limited v. Okugbeni*[157] observes that addresses are designed to assist the Court. When, as in this case, the facts are straightforward and in the main not in dispute, the trial Judge would be free to dispense with final addresses. Cases are normally not decided on addresses but on credible evidence. No amount of brilliance in a final speech can make up for the lack of evidence to prove and establish or else disprove and demolish points in issue.

Judgement

Either party [illegible] evidence that sounds more convincing most possibly get a favourab[illegible]ctice for parties to appear in Court on a date fixed for the [illegible]e judgment is not ready. This could also result in a [illegible]

Judi[illegible]ntes are expected to perform their duties without fear or favo[illegible]. This is quite pervasive and some courageous Judges and Magistrates have had cause to warn litigants in open court to desist from coming to their residences to discuss matters pending in their courts.[160] This is common at the lower

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157 (1987)4 NWLR (Pt.67) 787 at page 792

158 Ogunode S.A, 'Criminal Justice System in Nigeria: for the Rich or the Poor' 33

159 As stipulated in the oath of office for judicial officers, contained in the 7th Schedule to the 1999 Constitution.

160 Aguda T.A, 'The Challenge for Nigerian Law and the Nigerian Lawyer in the Twenty-First Century,' Nigerian National Merit Award Winner's Lecture delivered on Wednesday, September 14, 1988, 20; see also Aguda, T. A. *The Crisis of Justice,* Eresu Hills, 1986, 14-15 where concrete examples of over-delayed decided cases are given. 29 Even though there is provision for him to sue to recover his bills

courts where the perception is unfortunately gaining grounds that unless a litigant sees a Magistrate, he cannot have judgment in his favour.The practice has become so common that at the conclusion of any case in Nigeria, litigants usually endeavour to attain the above objective. The story is usually told of a particular case where the two disputing parties in the case coincidentally met themselves at the residence of the presiding Judge.[161]The resultant embarrassment not only to the parties but also the judicial officer can better be imagined.[162]

When judgment is delivered by the Magistrate, such judgement is expected to be confined to issues raised by the parties. A Magistrate is not expected to go out of issues raised by the parties. If he does so, such judgement may be upturned on appeal. Thus, in *Commissioner for Works, Benue State & Anor v. DEVCON Development Consultants Ltd &Anor,*[163]it was considered whether a judgement must be confined to the issues raised by the parties. It was held that it is an elementary and fundamental principle for the determination of disputes between parties that the judgment must be confined to the issues raised by the parties. It was further held that it is not competent for the Judge to *suo motu* make a case for either or both of the parties and then proceed to give judgment on the case so formulated contrary to the case of the parties before him.

Every good and sound judgment must contain certain components. These components have been articulated by Katsina-Alu, J.S.C. in the case of *Ogolo & Ors v. Ogolo & Ors*[164] as follows:

> *It is no longer in doubt that writing a judgment is an art and as such each judge is entitled to and free to follow his own style in attaining the end result. Nonetheless, there are certain essential mechanisms which a good judgment must incorporate.*

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and charges from clients. see Ojukwu E, .*Legal Practitioner's Charges in Nigeria: Law and Practice,* Aba, Helen-Roberts, 1997, 35.

161 ibid.

162 Ogunode S.A, 'Criminal Justice System in Nigeria: for the Rich or the Poor' 34.

163 (1988) NWLR (Pt.83) 407

164 (2006) 5 NWLR (Pt.972) 173 (2006) p. 40, paras G-F.

These are, inter alia set out thus; the nature of the action before the court; the issues in dispute; a review of the case for the parties; a consideration of the relevant law raised and applicable to the case; specific findings of the fact, and conclusions; The reasons for arriving at the judgement must also be stated.

There should be no fixed or right form of embarking on the process of achieving the end result stated above. What is, however most essential is that, the Judge should show a clear understanding of the facts and issues raised in the case, the law applicable; and from all these, he should be able to arrive at a conclusion deciding all the issues in controversy in the case before him.[165]

Discharged and Acquittal

A discharge means that the prosecution does not think there is going to be enough evidence to make a trial worthwhile, or during a trial, the Judge thinks the prosecution case is too flimsy and therefore orders the person to be discharged from any proceedings.[166]An acquittal means that the defendant has been tried and found not guilty. Discharge and Acquittal is a proper Court Order upon a finding of innocence as held in *George v. Federal Republic of Nigeria.*[167]In a criminal trial, upon the conclusion of the cases of both sides of the prosecution and the defendant[168] or upon the abrupt end of the case be it for lack of diligent prosecution or the Attorney General's decision to discontinue prosecution,[169] the Trial Court is entitled to either convict, discharge and acquit or simply discharge.

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[165] *Onuoha v. The State* (1988) 2 S.C (Pt.II) 115; (1988) 3 NWLR 9 (Pt.83) 460; *Igwe v. Alvan Ikoku College of Education, Owerri* (1994) 8 NWLR (Pt.363) 459 at 480-481; *Adeyemo v. Arokopo* (1988) 2 NWLR (Pt. 79) 703; *Imogiemhe v. Alokwe* (1995) 7 NWLR (Pt. 409)581 at 593; and *Akinfolarin v. Ademola* (1994) 3 NWLR (Pt.335)659

[166] Mcginty J, 'What is the difference between discharge and acquittal?' 'Talent L.M.S,<https://www.quora.com/ What- is-the-difference-between-discharge-and-acquittal> Accessed on 14 Feb. 2020.

[167] (2014) 1 CLRN 1

[168] Based on the new nomenclature given to accused in the Administration of Criminal Justice Act of 2015 as well as Administration of Criminal [illegible] of different states.

[169] Sections 174 (1) (c) and 211 (1) (c) [illegible]

- **A Discharge**

It is defined as the release of a prisoner from confinement.[170] In the same vein, it is used to describe a prisoner or defendant who is discharged from arrest or imprisonment when he is set at liberty'.[171] In *Chief of Air Staff v. Iyen,*[172] the Supreme Court, per Tobi, JSC, defined the word discharge to mean, to cancel the original provisional force of a court order by releasing someone of a charge or to free the person from confinement. He further said that an order of discharge is an order releasing an accused or defendant from prison custody. It, in essence, restores defendant's hitherto restricted freedom of movement and personal liberty.[173] In the same case, Musdapher, J.S.C. rightly observes thus: 'In my view, this is not a situation when a verdict of acquittal may be entered when the trial is declared a nullity. In the instant case, the lower court had adjudged that the GCM had no jurisdiction to try the respondent, there was accordingly no trial and as such, there could not be a verdict of discharge and acquittal but a discharge.'[174]

In much clearer terms, Edozie, J.S.C. adds his own view by saying: 'I take the view that having regard to the irregularities associated with the purported trial of the respondent as highlighted above particularly the want of jurisdiction on the part of the Court that purportedly tried him, an order of 'discharge' would have been appropriate.'[175] Other circumstances upon which order of discharge may be made are two. Firstly, an order of discharge will be ordered upon a successful case of **"No-Case"** submission.[176] **Secondly,** upon the Attorney-General's intervention through the issuance of *nolle-prosequi*[177] the

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170 *Black's Law Dictionary*, 8th Edition at 495

171 *Jowitt's Dictionary of English Law*, 2nd Edition, Volume 1 at 620.

172 (2005) 6 NWLR (Pt. 922) 496 .

173 See also sections 35 and 41 of the 1999 Constitution of the Federal Republic of Nigeria

174 Chief of Air Staff v. Iyen (2005) 6 NWLR (Pt. 922)542.

175 Okudo v. State (2011) 3 NWLR (Pt. 1234) 209 at 237

176 ***Ugwu v. The State*** (2013) 4 NWLR (Pt.1343) 172

177 Sections 174 (1) (c) and 211 (1) (c) CFRN, 1999.

proper order open to the Court is an order of discharge.[178]

- **An Acquittal**

An acquittal is the legal certification usually by a jury verdict, that a defendant is not guilty of the charged offence.[179] It is *deliverance and setting free from the suspicion or guilt of an offence.*[180] In ***Chief of Air Staff v. Iyen,*** Tobi, J.S.C. defined it as setting free or deliverance from the charge of an offence by verdict of a court.[181] Therefore, an acquittal goes to the innocence of a defendant as a conviction goes to the guilt of a defendant. An order acquitting a dèfendant of some or all charges is an order saying that the defendant is innocent of the charges levelled against him.[182] An order of acquittal made by a competent court is a bar to a subsequent trial on the charges the defendant has been so acquitted.[183] **The Constitution** provides that: *'No person who shows that he has been tried by a court of competent jurisdiction or tribunal for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior court.'*[184]

Relying on this provision, the Supreme Court per Tobi JSC in ***Chief of Air Staff v. Iyen*** held that position. *In view of the decision of discharge and acquittal by the Court of Appeal, the respondents can avail himself of Section 36 (9) of the Constitution and the common law plea of autrefois acquit.* [185]The foundation of an acquittal order is that there

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[178] Adeyemi S.O, 'Discharged & Acquitted'/ 'Acquitted & Discharged' , The Proper Court Order Upon A Finding of Innocence: A Consideration of George v. Federal Republic of Nigeria' (2014) 1 CLRN 1' (2015) 2 https://baralpha.wordpress.com/2015/11/18/discharged-acquitted-acquitted-discharged-the-proper-court-order-upon-a-finding-of-innocence-a-consideration-of-george-v-federal-republic-of-nigeri/Accessed on 14th feb.2020.

[179] Mersky R.M, *The Law Lexicon* ***Black's Law Dictionary (2006)***8th Edition available at https://scholars.law.unlv.edu/facpub/413/accessed on accessed on 8th September, 2017.

[180] Jowitt E, and Walsh, C., *Jowitt's Dictionary of English Law* (2nd edt) (Volume 2) (1977) Sweet & Maxwell, 37.available athttps://www.biblio.com/9780421230903accessed on 8th September, 2017.

[181] ***Chief of Air Staff v. Iyen*** (2005) 66 NWLR (Pt. 922) 540

[182] Adeyemi S.O, 'Discharged & Acquitted'/ 'Acquitted & Discharged' , The Proper Court Order Upon A Finding of Innocence: A Consideration of George v. Federal Republic of Nigeria'2

[183] **Section 36 (9) CFRN,1999.**

[184] ***Chief of Air Staff v. Iyen*** (2005) 66 NWLR (Pt. 922) 543

[185] ***Chief ofAir Staff v. Iyen*** (2005) 66 NWLR (Pt. 922) 496 at 556 also *Nwali v. State* (1956) E.R.N.L.R 1.

has been a valid trial in which the defendant was found innocent.The Court per Tobi J.S.C. in distinguishing the two orders of discharge and acquittal said on page 543 that:

> *In criminal proceedings, a defendant who is discharged can be made to face a criminal trial at the whims and discretion of the prosecution. In other words, he does not breathe the freedom of air forever or for all times. The prosecution has the power and the discretion to return him to the dock the second time. The position is however different, if a defendant is discharged and acquitted. Such a person cannot be made to face a criminal trial on the same offence or offences. He adequately meet such a charge with plea of autre fois acquit.*[186]

Tabai[187] *held in IGP v.Marke*[188] *that:*

> *It is my respectful view therefore that if this court sustains the no case submission and substitutes therewith, a ruling discharging the appellant, he can no longer be tried de novo by Ogunmekan J or any other Judge of the High Court of Lagos State. A plea of autre fois acquit would then be effectively raised to stop the trial de novo.*[189]

It is found apposite at this juncture to state that a discharge order is not necessarily followed by an acquittal but an order of acquittal must be followed by a discharge order.[190]Adeyemi explains the proper order to make upon the finding of the innocence of a defendant as between 'discharge and acquitted' and 'acquitted and discharged.' [191]This thus means that the proper order upon the finding of innocence is 'acquitted and discharged.[192]

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186 ibid.

187 Tabai J.S.C.

188 (1956) NRNLR 97.

189 Tabai J.S.C. at 672.

190 Adeyemi S.O., 'Discharged & Acquitted'/ 'Acquitted & Discharged' , The Proper Court Order Upon A Finding of Innocence: A Consideration of George v. Federal Republic of Nigeria' 3

191 Adeyemi S.O, 'Discharged & Acquitted'/ 'Acquitted & Discharged' , The Proper Court Order Upon A Finding of Innocence: A Consideration of George v. Federal Republic of Nigeria' 3

192 ***Emeka Nwana v. Federal Capital Development Authority*** **and 5 Ors**(2004) 13 NWLR (Pt. 889) 128 at 140-141

Conviction

At the conclusion of any judgment in criminal trial, a pronouncement of an acquittal or a conviction must follow. Conviction thus: implies the act or process of judicially finding, someone guilty of a crime.[193] The Court of Appeal defines it as the judicial determination of a case. It is a judgment which involves two matters, a finding of guilt or the acceptance of a plea of guilty followed by the sentence.[194]

The prosecution may wish to call evidence of previous conviction before the convict is sentenced. Under such situation, it is required that a certificate of conviction containing the substance of the conviction be produced before the court. The Court of Appeal held in line with the provision of the evidence act[195] that where it is necessary to prove a conviction for a criminal offence, the same may be proved by production of a certificate of conviction.[196]

Plea of Allocutus

It is worthy of note that criminal justice administration process would be incomplete without discussing plea of Allocutus. However, it is imperative to note that this process is normally applied in capital offences and as such, Magistrate Court which the present paper centers on lacks jurisdiction to try capital offences. In many states, Judges must also hear statements from the victims of crime before sentencing. This is what is called an allocutus, it is commonly evident in criminal trials and it comes immediately after the court has reached its verdict, usually, a guilty verdict and before sentencing.[197] These victim impact statements can have a significant influence on the final sentence.[198]

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193 Blacks law Dictionary 8th Edition

194 *AGBI v. OGBEH* (2003) 15 N. W.L.R. (Pt. 844) 493 at 532,

195 Section 225(1) Evidence Act 2011.

196 *AKANNI V. OLANIYAN* (2006) 8 N.W.L.R (Pt. 983) 531 at 550

197 CLASFON, 'Allocutus in heaven' *Learned Tongue an annual magazine of Christian Law Students Fellowship of Nigeria (CLASFON), University of Ilorin Chapter.28*<https://lordcharles01.wordpress.com/tag/allocutus/> Accessed on 27th May, 2018.

198 Montaldo C, 'The 10 Stages of a Criminal Case' ThoughtCo, 2018 <https://www.thoughtco.com/the-stages-of-a-criminal-case-970833> Accessed on 16 May 2018.

It is during this time they plead the 'plea of allocators'.[199] It is a formal statement made to the Court by the defendant who has been found guilty prior to being sentenced. It is part of the criminal procedure in some jurisdictions using common law. When a prisoner is convicted on a trial for treason or felony, the Court is bound to demand of him what he has to say as to why the Court should not proceed to judgment against him; this demand is called the *'allocutus,'* or 'allocution,' and it is placed on record.[200]Allocutors is explained in the case of *Sahabi Umaru Tsalibawa v. Hajiya Habiba*[201]while considering the role of the Judges held that in the process of making the findings, adequate consideration must be given to the defence. The Judge then considers the state of law and if the findings of facts made in law prove all the elements of the offence beyond reasonable doubt, the Judge then gives his verdict of guilty of the offence charged. He proceeds to consider and pronounce sentence after giving the convicted prisoner an opportunity to make his Allocutors as provided for in the Code.[202] Thus, an Allocutors is simply the opportunity given to the defendant to state the reasons why the full punishment as prescribed by law should not be meted on him for the crime he has committed. Allocutors is an answer to questions such as why his sentence should be mitigated? Why should he be shown mercy? [203]

Sentencing

At the conclusion of a criminal trial, if the suspect plead guilty or is found guilty by a Jury, he will be sentenced for the crime.[204]During the sentencing phase of a criminal case, the Court determines the appropriate punishment for the convicted defendant. In determining a suitable sentence, the Court will consider a number of factors, including the

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199 ibid.

200 *The Law Dictionary,* What is ALLOCUTUS? **Featuring *Black's** Law Dictionary, Free Online Legal **Dictionary** 2nd<Ed.https://thelawdictionary.org/allocutus/>Accessed on 20 May 2018.

201 (1991) 2 NWLR (Pt. 174) 461.

202 Section 197 (1) CPC

203 CLASFON

204 HG.org, 'Pleading Not Guilty Even When Guilty' *Legal Resources* <https://www.hg.org/legal-articles/pleading-not-guilty-even-when-guilty-40222> accessed on 18 October 2018.

nature and severity of the crime, the defendant's criminal history, the defendant's personal circumstances and the degree of remorse felt by the defendant.[205]

Sentencing itself is a special act which requires proper assessment and passionate consideration. Magistrates sometimes operate as if it were a mechanical process of merely giving fixed tariffs.[206] The result is that very often, sentences are passed which do not have cognate relationship with the circumstances of a defendant, nor do they have any rational or consistent basis. This problem was recognised early enough by Justice Atanda Fatayi-Williams, when he stated that there are many instances of irrational sentences passed by various courts in Nigeria. In fact, one of the main defects of Nigeria criminal law today is the incoherent, irrational and incredibly intricate variety of sentences legally.[207] Such irrational sentences often have far-reaching social and psychological consequences on the lives of convicts. Some are sentenced for very long terms of imprisonment when they ought not to have been so sentenced, and they ultimately turn out to become hardened criminals, while others face extreme social problems of re-adjustment and resettlement upon the conclusion of their prison terms.[208]At the end of a criminal litigation in court, it is the responsibility of the presiding officers to pronounce the guilt or otherwise of the suspect in the case. In situations where guilt of the suspect had been pronounced, then the judicial officer has a legal responsibility to interpret the law by imposing the applicable punishment of such crime as provided in the regulating codes by way of sentence on the defendant. It is through such punishments that the society's abhorrence of the conduct in question is usually expressed. Adeyemi views a sentence of the Court as a definite disposition order issued by a court or other competent tribunal against a person standing trial, at the conclusion of a criminal trial, subsequent to

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205 ibid.

206 Okonkwo C. O, *Criminal Law in Nigeria,* 2nd ed., (London: Sweet & Maxwell)39

207 Okonkwo C.O, 39 also Okogbule N.S, "Towards a Rational Theory of Criminal Punishment in Nigeria," (1993) 2 Journal of Jurisprudence and Contemporary Issues, 68..

208 Okonkwo 39.

the finding of guilt against him and must be an order which is definite in its nature, type and quantum.[209]

In the case of *Okpo v. State,*[210] Udo Udoma explained how a sentence of death is to be pronounced as follows:

> *It is plain that once a person has been found guilty of having committed the offence of murder, it is mandatory that he be sentenced to death. No other form of punishment can be inflicted. I think the best form of representing the sentence pronounced is to record it in the proceedings so as to show that the appropriate sentence prescribed by law has in fact been passed or pronounced.*

2.3 Post-Trial Stage

Appeal

An appeal gives the defendant the right to ask a higher court to review what occurred and correct any errors by the lower trial court.[211] The need for a proficient and operative administration of justice has made the creation of hierarchy of courts and provision for appeal from one court to the other within the hierarchy not only necessary but also pragmatic.[212] It serves as an avenue for correction of error and elimination of mistakes as far as possible with the possibility that a decision by an inferior court may be dissected on appeal by a higher court, at the instance of an aggrieved party. Appeal is by itself a precaution against injustice by acting as a curb against unreliability or arbitrariness as stated by Irikefe[213] in *Rabiu v. State.*[214] Accordingly, Oputa in *Oredoyin v.Arowolo,*[215] described an appeal as an invitation to a higher court to find out whether on proper

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209 Adeyemi A.A, 'Administration of Justice in Nigeria: Sentencing', in Yemi Osinbajo and Awa Kalu (Eds.) *Law Development and Administration in Nigeria,* (Lagos: F MoJ, 1990) 109.

210 (1972) 2 S.C. 24.

211 Sperling S, 'What are the Stages of a Criminal Case?' https://www.steinsperling.com/about-us/resource- center/what are the stages of a criminal case>Accessed on 1st May 2018.

212 Aaron-Andrew P.B, 'Hierarchy And Heterogeneity: How To Read a Statute in A Lower Court' (2012) *Cornell Law Review* (Vol. 97:433) 435.

213 Irikefe J.S.C, (as he then was)

214 (1980) 8-11 S.C.130 at 175 –176.

215 (1989)4 NWLR (pt.114)172 at211. See also Iweka v. S.C.O.A. (2000)3 S.C. 21 at 31.

consideration of the facts placed before it, and the applicable law, the lower court arrived at a correct decision. Appeals from Magistrate move to the High Courts, any aggrieved person may, subject to the conditions prescribed by the rules of court, appeal to the High Court from a decision, judgment or order of a Magistrate Court.[216]

It is worthy of note that Appeals are of two types. The first one is Appeal as of Right while the second is Appeal with Leave. Appeal as of Right occurs in a situation where aggrieved party makes his appeal within the stipulated time which appeal is allowed by the law depending on the circumstance of the case. While Appeal with leave is an Appeal coming after the expiration of the stipulated time, thus requires the leave/ permission of the Court to make the appeal valid.

3.0 Conclusion

This paper assesses criminal justice administration process in the Magistrate Court. It begins by broadly grouping trial into three stages, which are the Pre-Trial Stage, the Trial Stage and the Post-Trial Stage. Discussion commenced from the first stage which is Pre-trial stage by examining how a suspect is arraigned at the Magistrate Court and how plea is taken. It considers bail and adjournment. The second stage is the substantive stage and considers presentation of case by the prosecution via Examination-in-chief, cross examination, re-examination and framing of charges as well as application of no case submission and resting of case submission, defence, address and judgement. Most importantly, the Post trial stage (as the third stage) centres only on appeal.

From all these, it is evident that the processes are regulated by laws but most of the laws are not adequately complied with. Again, the paper has shown that there are inadequacies in most of these laws. Particularly, there is no provision for sanction in the event of lack of compliance with the required process.

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216 Section 59 of the Magistrate Court Law of Lagos State Cap.M1, Laws of Lagos State 2003 (hereafter referred to as the Magistrate Court Law).

It has been observed that the Police sometimes charge defendant to court without completion of investigation. Also, it has been observed that necessary precautions are not taken to ensure that defendants are charged correctly under the relevant law. The Police sometimes charge and arraign suspects before a wrong court or for wrong allegation. The practice is that, such court can only take cognisance of the offence [217]and continue to adjourn the case until when the defendant will be taken to the appropriate court after the release of legal advice from the Ministry of Justice. The release of legal advice has always been a great challenge in some State Criminal Justice Administration.

It is observed that some Magistrates impose conditions that are onerous. To fulfil such conditions, they usually keep the defendant perpetually in prison custody, thereby, congesting the already congested prison.

Unnecessary adjournment is seriously militating against speedy trial in the Magistrate Court.

It is however observed that most of the prosecutors (i.e. the Police) lack necessary expertise and experience. Most of the prosecutors are bare police who lack necessary tools or basic legal training. Their failures to prosecute efficiently have hindered smooth dispensation of justice. No wonder why Arthur-Worrey was skeptical about the performance of the prosecutor.He identifies the problems of criminal justice in Nigeria on prosecution as: 'The working tools for the prosecutors, the efficiency of the court system, the unpredictability of the process of prosecution, the court process, the defence process, the grant of bail and adjournment and the delay. All these issues hinder the prosecution process.'[218]

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[217] Section 143 CPC

[218] Arthur-Worrey Fola 'Effective Prosecution and Defence: Ethics and Essentials for Success,' Thisday Newspaper (Nigeria 26 Dec 2016) available at https://issuu.com/thisdaylive/docs/161220233505-6017865921924e5b92ec006b6d4cd65f/30 accessed on 10 October 2021

It is common practice for parties to appear in Court on a date fixed for the judgment only to be informed that the judgment is not ready. This results in judgments being delayed sometimes much longer than the constitutionally stipulated period.[219]There is a Constitutional provision to the effect that every court shall deliver its decision in writing not later than 90 days after conclusion of evidence and final address.[220]The study found that the provision is not strictly complied with and to ensure efficient criminal justice trial, judicial officers must try to comply with every provision of laws so as to enhance speedy trial. This excuse of judgment not being ready is sometimes repeated for several months thus making it difficult for the Magistrate to even remember the exact demeanor of parties involved in the case at the time of writing the judgment. This could also result in a miscarriage of justice.[221]

Desperate litigants either go through Court Clerks or Registrars or sometimes directly trace the residences of Magistrates to present gifts in expectation of favourable judgments. It should be noted however that in Kwara State the Administration of Criminal Justice Law 2018 attempts to fill the gaps but time will tell whether the gaps are properly filled.

Finally, it is the finding of this study that some key players in the administration of criminal justice take advantage of the inadequacies to frustrate the smooth running of the administration of criminal justice. There is slow pace of justice delivery in the criminal justice administration process of the Magistrate Court.

4.0 Recommendations

- The laws regulating the processes of criminal justice should be adequately complied with.

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219 The constitutional stipulation in s.294 (1) of the Constitution is often ignored in this process. The provision is to the effect that every court established under the Constitution shall deliver its judgment in writing not later than three months after the conclusion of evidence and final address.

220 Section 294 of CFRN, 1999.

221 Ogunode S.A, 'Criminal Justice System in Nigeria: for the Rich or the Poor' 33

- There should be provision for sanction in the event of lack of compliance with the required process.
- Police should have advance their investigation before charging defendant to court.
- Necessary precautions should be taken to ensure that defendants are charged correctly under the relevant law'
- The Police should desist from charging and arraigning suspects before a wrong court or for wrong allegation.
- Magistrates should endeavour to ensure judgments are ready on a date fixed for the judgment.
- The release of legal advice from the Ministry of Justice should be prompt as provided by the law.
- Magistrates should desist from imposition of onerous conditions to prevent keeping the defendant perpetually in prison custody, thereby, congesting the already congested prison.
- Unnecessary adjournment should be avoided to enhance speedy trial in the Magistrate Court.
- To desist from the use of the prosecutors (i.e. the Police) that lack necessary expertise and experience. Most of the prosecutors are bare police who lack necessary tools or basic legal training and comply with the provision of the ACJA that provides for the use of State Counsel in the Magistrate Court.
- Magistrates should desist from taking gifts in expectation of favourable judgment from litigants.
- All the key players in the administration of criminal justice should desist from taking advantage of the inadequacies to frustrate the smooth running of the administration of criminal justice.

جامعة الحكمة، إلورن، نيجيريا

AL-HIKMAH UNIVERSITY

LAW JOURNAL



Vol. 5 No 2, 2024