Sentencing: Practice and Procedure under the Administration of Criminal Justice Act and Criminal Justice Laws delivered by Hon. Justice Olatunde H. Oshodi

Permit me to stand on the existing protocol and to say good afternoon to your Honours, (as we call them in the jurisdiction I come from), present. By the letter of invitation, the topic selected by the organizers of this Refresher Course for me to handle is on sentencing as provided under the Administration of Criminal Justice Act and Administration of Criminal Justice Laws.

May I at this stage seek your permission that I apply the Administration of Criminal Justice Law of Lagos State, 2015 as the base of this presentation?

The reason should be obvious. Firstly, Lagos State is the first State of the Federation that enacted this Law, which if it must be said revolutionized the administration of criminal justice and secondly, the law is what is applicable in my jurisdiction. Despite this, I will also try to compare 'notes' with the relevant provisions of the Administration of Criminal Justice Act if need be.

What is 'sentence'?

The word "sentence" means a punishment given to a person convicted of a crime. A sentence is ordered by the Judge or Magistrate, based on the verdict of the Judge or Magistrate within the possible punishments set by State Law (or Federal Law in convictions for a Federal crime).

Popularly, "sentence" refers to the jail or prison time ordered after conviction, as in "his sentence was 10 years in prison." Technically, a

sentence includes all fines, community service, restitution or other punishment, or terms of probation.

In an ‘appropriate situation’, and depending on the offence charged, Defendants who are first offenders without a felony record may be entitled to a probation or pre-sentence report by a probation officer based on background information and circumstances of the crime, often resulting in a recommendation as to probation and amount of punishment.

Under some circumstances the Defendant may receive a "suspended sentence," which means the punishment is not imposed if the Defendant does not get into other trouble for the period he/she would have spent in jail or prison.

My saying say ‘appropriate situation’ and with reference to “suspended sentence”, my thought goes to the situation where records and data of offenders are kept.

As we know there are “concurrent” and “consecutive” sentences which can be imposed by the Court. Concurrent sentences are where the Defendant found guilty for more than one crime serves prison at the same time and only lasts as long as the longest term imposed.

Consecutive sentences are where the Defendant is found guilty for more than one crime and the terms for several crimes are served one after another – see ***WILLIE JOHN V STATE (1966) ANLR 211***.

There is another form of sentencing, but not known in our Criminal Laws or jurisprudence. This form of sentencing is referred to as "indeterminate" sentences. In this instant, the actual release date of the Defendant is not set and will be based on review of his prison conduct.

A criminal sentence refers to the formal legal consequences associated with a conviction. As noted above, types of sentences include probation, fines, short-term incarceration, suspended sentences, which only take effect if the convict fails to meet certain conditions, payment of restitution to the victim, community service, or drug and alcohol rehabilitation for minor crimes. More serious sentences include long-term incarceration, life-in-prison, or the death penalty capital murder cases.

His Lordship Justice Douglas, in his paper titled Administration of Criminal Justice: Sentencing Policy presented at Conference of All Nigerian Judges, 1988 defined thus:

> "*The term "sentence" or "judgment" in legal parlance may be said to denote the action of a Court of criminal jurisdiction formally declaring to an accused the legal consequences of the guilt to which he has confessed or of which he has been convicted. Generally, therefore, a sentence is the punishment inflicted upon a convict at the end of the criminal trial*".

The author of Black's Law Dictionary defines a sentence as:

> "*The judgment that a court formally pronounces after finding a criminal Defendant guilty; or the punishment imposed on a criminal wrongdoer*".

While Oxford Advanced Learner`s Dictionary defines a sentence as:

> "*the punishment given by a Court of law*".

Okonkwo and Naish, in their views, stated that if punishment is the object of criminal law, then sentencing is simply the way in which principles of punishment are applied to individual offenders.

And lastly on the definition, Bob Osamor in his book, Fundamentals of Criminal Procedure Law in Nigeria defines a sentence as:

> "*The pronouncement by the Court, upon the accused person after his conviction in criminal prosecution, imposing the punishment to be inflicted*".

From all these definitions highlighted in this paper, one thing is clear. The Defendant or Defendants must have been convicted by the Court before the sentence can be imposed. Without a conviction, there cannot be a sentence.

As noted above, the different forms or types of sentences include fines, community service, restitution or other punishment, or terms of probation. Let us examine each one, albeit briefly.

Fines:

Fine have various meanings like a sum of money, which, by judgment of a competent jurisdiction, is required to be paid for the punishment of an offence. This is a pecuniary punishment imposed by Court, upon a person convicted of crime or misdemeanor.

A fine is money that a Court of law or other authority decides has to be paid as punishment for a crime or other offence. The amount of a fine can be determined case by case, but it is often announced in advance and mostly provided by Law.

The purposes of imposing a criminal fine are to punish the offender, help compensate the State for the offence, and deter any future criminal acts.

Section 422 of the Administration of Criminal Justice Act 2015 gives the Court the option to sentence a Defendant to pay fine instead of imprisonment.

Community service:

In the criminal law, community service, also known as community restitution, refers to a form of sentencing involving an activity that benefits the community to compensate for harm done. Judges and Magistrates often order offenders to perform community service in addition to or instead of other forms of punishment, such as incarceration, fines, or probation.

See section 460 of the Administration of Criminal Justice Act 2015.

Restitution:

The term "restitution" in the criminal justice system means payment by an offender to the victim for the harm caused by the offender's wrongful acts. Courts in Nigeria and in some instances, have the authority to order convicted offenders to pay restitution to victims as part of their sentences.

Restitution has to be contrasted with the law of compensation, which is the law of loss-based recovery. When a Court orders restitution it orders the Defendant to give up his/her gains to the Complainant or Victim for his or her loss.

One law of the Federation that easily comes to mind that specifically provides for the restitution is Section 11 of the Advance Fee fraud And Other Related Offences Act, Cap A6, Laws of the Federation of Nigeria, 2006. The provision of the section is as follows:

Section 11 (1):

> *"In addition to any other penalty prescribed under this Act, the High Court shall order a person convicted of an offence under this Act to make restitution to the victim of the false pretence or fraud*

by directing that person-

(a). where the property involved is money, to pay to the victim an amount equivalent to the loss sustained by the victim; in any other case –

(i). to return the property to the victim or to a person designated by him; or

(ii). to pay an amount equal to the value of the property, where the return of the property is impossible or impracticable".

(2). "*An order of restitution may be enforced by the victim or by the prosecutor on behalf of the victim in the same manner as a judgment in a civil action*".

From the wordings of the section just reproduced, it will be apparent that it is only the High Court that is conferred with the power to order restitution under that law.

I should add that in the event a Court wants to impose restitution, and the issue has not been heard during trial, the Court ought to invite parties to address it on it. In the situation where a Court fails to so do, the order of restitution may be set aside on appeal - see ***SAHEED RAJI V STATE (2012) LPELR-7968(CA)***.

Another provision of the Law that makes Restitution a form of sentencing is section 297 (1) of the Administration of Criminal Justice Law of Lagos State, 2015 and section 342 of the Administration of Criminal Justice Act 2015 gives the Court the option to impose probation and other non-custodial sentences instead of imprisonment.

Section 297 (1) of the Administration of Criminal Justice Law of Lagos State, 2015 provides that:

> "*Where any person is convicted of having stolen or of having received stolen property, the Court convicting him may order that such property or a part of it be restored to the person who appears to be the owner, either on payment or without payment of any sum named in such order by the owner to the person in possession of such property or a part of it*".

Other punishments:

These will include prison terms as provided by the various laws dealing with criminal actions, be it Tax Law, Criminal Law and the Advance Fee fraud And Other Related Offences Act, just to mention a few.

Probation:

Probation in criminal law is a period of supervision over an offender, ordered by the Court instead of serving time in prison. In some jurisdictions, the term '*probation'* applies only to community sentences, such as suspended sentences. In others, probation also includes supervision of those conditionally released from prison on parole.

An offender on probation is ordered to follow certain conditions set forth by the Court. During the period of probation an offender faces the threat of being incarcerated if found breaking the rules set by the Court or Probation officer.

Offenders may be ordered to remain employed or participate in an educational program, abide to a curfew, live at a directed place, obey the orders of the Probation officer, or not leave the jurisdiction. The offender might be ordered as well to refrain from contact with the victims (such as a former partner in a domestic violence), with potential

victims of similar crimes (such as minors, if the instant offence involves child sexual abuse), or with known criminals, particularly co-Defendants.

Additionally, the restrictions can include a ban on possession or use of alcoholic beverages, even if alcohol was not involved in the original criminal charges. Offenders on probation might be fitted with an electronic tag (or monitor), which signals their movement to officials.

Also, offenders have been ordered to submit to repeat alcohol/drug testing or to participate in alcohol/drug or psychological treatment, or to perform community service work. Some Courts permit Defendants of limited means to perform community service in order to pay off their probation fines.

Having stated all as above, I think it will be prudent on me to state that all the forms sentencing discussed above, though not exhaustive, can only be imposed if there is a law permitting such and the law gives the Court a discretion to so impose. The reason being, in criminal action, the Court can only impose the sentence a Defendant is charged under.

For example in ***AMOSHINA V THE STATE (2011) VOL 6 PT II MJSC PG 1 @ 18 paras D - E***, the Apex Court held:

> "*where a statute prescribes a mandatory sentence in clear terms, the Courts are without jurisdiction to impose anything less than the mandatory sentence as no discretion exists to be exercised in the matter. It is a duty imposed by law*."

See also ***AMANCHUKWU V STATE (2007) 6 NWLR (1029) 1 @ 23*** where the position was restated specifically that where a mandatory sentence of life imprisonment is prescribed by law for offences, the Court cannot impose a lesser sentence.

Another instance can be seen in the case of ***BALOGUN V AG. OGUN STATE (2002) 6 NWLR (PT 763) 512 (SC)*** where the apex Court held that the proper sentence for attempted armed robbery was life imprisonment and any reduction in the sentence cannot be justified under whatever circumstance.

In ***ISANG V STATE (1996) 9 NWLR PT 473 PG 458. @ 471***, it was held that: -

> "*It is a combined principle of criminology and penology that where a sentencing language in a Statute is specific and mandatory, a Court of law has no discretionary power to exercise. It must give the specific and mandatory sentence provided for in the Statute. However, where a sentencing language is general without fixing a mandatory ceiling by way of sentence, a Court of law can exercise its discretionary power to pass a sentence which it thinks is commensurate to the factual situation of the case*."

However, in cases where a sentence is not mandatory, discretion must be exercised judiciously and judicially. The Courts have also been advised that in exercising discretion in matters of sentence, the reasons or factors that influenced the Judge's decision should be stated in the judgment - see ***AGBANYI V STATE (1994) LPELR – 14108 (CA)***.

Sections 453 to 455 of the Administration of Criminal Justice Act 2015 gives the Court the option to impose probation and other non-custodial sentences instead of imprisonment.

Now, as noted at the beginning of this paper, the topic chosen for me is "**Sentencing: Practice and Procedure under the Administration of Criminal Justice Act and Criminal Justice Laws**". And I had also sought permission that I use the Administration of Criminal Justice Law of Lagos State, 2015 as the base of this presentation.

I am also aware that sections 410 to 437, 439 to 451 and 453 to 467 of the Administration of Criminal Justice Act 2015 provides for some form of sentences, some which I have discussed above in this paper, but I will want to be permitted to limit this discuss on the provision of the Administration of Criminal Justice Law 2015.

Lagos State first introduced the Administration of Criminal Justice Law, 2007 and the Law was re-enacted in 2011 and later 2015 (ACJL) to govern criminal proceedings in Lagos State. This Law brought radical changes into the administration of Criminal Justice in Lagos State with several provisions aimed at improving the administration of Criminal Justice in the State.

Going through the ACJL of Lagos State, 2015, the section that deals with sentencing are sections 75 and 76 of ACJL. Those provisions of the law has lent its hands in a push towards the adoption of the concept of plea bargain as an accepted procedure in criminal proceedings. These sections of the ACJL has firmly entrenched Plea Bargain into our Criminal Justice system.

The wordings of these sections of ACJL are reproduced:

75. "*Notwithstanding anything in this Law or in any other law, the Attorney-General of the State shall have power to consider and accept a plea bargain from a person charged with any offence where the Attorney-General is of the view that the acceptance of such plea bargain is in the public interest, the interest of justice and the need to prevent abuse of legal process*".

76. (1). "*The Prosecutor and a Defendant or his legal practitioner may before the plea to the Charge; enter into an agreement in respect of -*

(a) plea of guilty by the Defendant to the offence charged or a lesser offence of which he may be convicted on the charge, and

(b) an appropriate sentence to be imposed by the Court if the Defendant is convicted of the offence to which he intends to plead guilty".

2. "*The Prosecutor may only enter into an agreement contemplated in subsection (1) of this Section -*

(a) after consultation with the Police Officer responsible for the investigation of the case and if reasonably feasible, the victim, and

(b) with due regard to the nature of and circumstances relating to the offence, the Defendant and the interest of the community".

3. "*The Prosecutor, if reasonably feasible shall afford the complainant or his representative the opportunity to make representations to the prosecutor regarding -*

(a) the contents of the agreement; and

(b) the inclusion in the agreement of a compensation or restitution order".

4. "*An agreement between the parties contemplated in subsection (1) shall be reduced to writing and shall -*

(a) *state that, before conclusion of the agreement, the Defendant has been informed -*

(i) *that he has a right to remain silent;*

(ii) *of the consequences of not remaining silent;*

(iii) *that he is not obliged to make any confession or admission that could be used in evidence against him*".

(b) "state fully the terms of the agreement and any admissions made and,

(c) be signed by the Prosecutor, the Defendant, the legal practitioner and the interpreter as the case may be".

5. "*The Presiding Judge, or Magistrate before whom criminal proceedings are pending shall not participate in the discussions contemplated in subsection (1):*

Provided that he may be approached by Counsel regarding the contents of the discussions and he may inform them in general terms of the possible advantages of discussions; possible sentencing options or the acceptability of a proposed agreement".

6. "*Where a plea agreement is reached by the Prosecution and defence, the prosecutor shall inform the Court that the parties have reached an agreement and the Presiding Judge or Magistrate shall then inquire from the Defendant to confirm the correctness of the agreement*".

7. "*The Presiding Judge or Magistrate shall ascertain whether the Defendant admits the allegations in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence and may -*

(a) if satisfied that the Defendant is guilty of the offence to which he has pleaded guilty, convict the Defendant on his plea of guilty to that offence, or;

(b) if he is for any reason of the opinion that the Defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the Defendant has pleaded guilty or that the agreement is in conflict with the Defendant's rights referred to in subsection (4) of this Section, he shall record

a plea of not guilty in respect of such charge and order that the trial proceed".

8. "*Where a Defendant has been convicted in terms of subsection (7) (a), the Presiding Jude or Magistrate shall consider the sentence agreed upon in the agreement and if he is -*

(a) satisfied that such sentence is an appropriate sentence impose the sentence; or

(b) of the view that he would have imposed a lesser sentence than the sentence agreed upon in the agreement, impose the lesser sentence; or

(c) of the view that the offence requires a heavier sentence than the sentence agreed upon in the agreement, he shall inform the Defendant of such heavier sentence he considers to be appropriate".

9. "*Where the Defendant has been informed of the heavier sentence as contemplated in subsection (8) above, the Defendant may -*

(a) abide by his plea of guilty as agreed upon in the agreement and agree that, subject to the Defendant's right to lead evidence and to present argument relevant to sentencing, the Presiding Judge, or Magistrate proceed with the sentencing: or

(b) withdraw from his plea agreement, in which event the trial shall proceed de novo before another Presiding Judge, or Magistrate, as the case may be".

10. "*Where a trial proceeds as contemplated under subsection (9) (a) or de novo before another Presiding Judge, or Magistrate as contemplated in subsection (9) (b) –*

(a) no reference shall be made to the agreement;

(b) no admissions contained therein or statements relating thereto shall be admissible against the Defendant; and

(c) the prosecutor and the Defendant may not enter into a similar plea and sentence agreement".

11. "*Prosecutor" for the purpose of this section means a Law Officer*."

What is plea bargain arrangement?

Bryan Garner's Blacks Law dictionary (8th edition) at page 1190 defines plea bargain as:

"*A negotiated agreement between a prosecutor and a criminal Defendant whereby the Defendant pleads guilty to a lesser offence or to one of multiple charges in exchange of some concession by the prosecutor usually a more lenient sentence or a dismissal of the other charges*".

The advantages of plea bargain include:

(1). Accused can avoid the time and cost of defending himself at trial, the risk of harsher punishment, and the publicity the trial will involve.

(2). The prosecution saves time and expense of a lengthy trial.

(3). Both sides are spared the uncertainty of going to trial.

(4). The court system is saved the burden of conducting a trial on every crime charged - Per OGUNWUMIJU, J.C.A. (Pp. 75-76, paras. F-A) in ***FEDERAL REPUBLIC OF NIGERIA V LUCKY (2014) LPELR-22760(CA)***.

There are generally two basic types of plea bargains. These are charge bargain and sentence bargain. In a charge bargain, the Defendant agrees to plead guilty to a specific charge and the Prosecutor agrees to

dismiss any other charges or to prosecute for a lesser offence.
In sentence bargaining, the Defendant wants the Prosecutor to recommend a more lenient sentence than the normal sentence for the crime or to agree not to oppose the recommendation made by the defence. The end result in both types of plea bargains is that the Defendant is likely to get a lighter punishment in consideration for pleading guilty.

The plea agreement shall state that before its conclusion, the Defendant has been informed that he has a right to remain silent; of the consequences of remaining silent; and that he is not obliged to make any confession or admission that could be used in evidence against him. The plea agreement is also required to state fully the terms of the agreement and any admission made. The plea agreement must be in writing and signed by the Prosecutor, the Defendant, the Legal Practitioner and the interpreter when required.

One interesting aspect of this procedure, which is to be noted, is that the Court is not allowed to participate in plea discussions. However, the Court may be approached in open sitting or in Chambers regarding the contents of discussions and may inform the parties in general terms of the possible advantages of discussions, possible sentencing options or the acceptability of a proposed agreement. Where a plea agreement is reached by the prosecution and defence, the Prosecutor shall inform the Court that the parties have reached an agreement and the Court enquires from the Defendant to confirm the correctness of the agreement.

It is the duty of the Court to ascertain whether the Defendant admits the allegations in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence. If the Court is satisfied of the Defendant's guilt, it may then

convict the Defendant on his guilty plea. The Court must find a factual basis for a guilty plea before entering such judgment. Where the Court is of the opinion that the Defendant cannot be convicted of the offence in respect of which the agreement was reached or that the agreement is in conflict with the Defendant's rights, the Court shall record a plea of not guilty in respect of such charge and order that the trial proceed.

Where the Defendant has been convicted on a plea bargain agreement, the Court shall consider the sentence agreed upon in the agreement and if the Court is (a) satisfied that such sentence is an appropriate sentence impose the sentence; or (b) of the view that it would have imposed a lesser sentence than the sentence agreed upon in the agreement, impose the lesser sentence; or (c) of the view that the offence requires a heavier sentence than the sentence agreed upon in the agreement, it shall inform the accused of such heavier sentence considered to be appropriate.

The foregoing provision empowering the Court to impose a lesser sentence than the sentence agreed upon in the plea agreement enables the Court to intervene and protect Defendants. The Law also enables the Court to intervene and protect the interest of the society by ensuring that the sentence recommended in the plea agreement meets the justice of the case. The Law gives a Defendant who has been informed by the Court of its decision to impose a heavier sentence two options, namely, the Defendant abides by the guilty plea as agreed upon in the agreement and subject to the Defendant's right to lead evidence and to present argument relevant to sentencing, the Court may proceed with sentencing or the Defendant may withdraw from the plea agreement and the trial shall proceed de novo before another Court.

In a situation where a trial proceeds de novo after a Defendant withdraws from the plea before another Court, it should be stated that no reference shall be made to the agreement; no admissions contained therein or statements relating to it shall be admissible against the Defendant and the Prosecutor and the Defendant may not enter into a similar plea and sentence agreement.

It is my view that there exist a problem with sections 76 (7) and (8) of ACJL. The problem identified is in a situation whereby the Court has already convicted the Defendant before deciding to impose a higher sentence and the Defendant exercise his option under section 76 (9) (b) of ACJL to withdraw from the plea agreement, the Court will have to set aside the conviction already entered before the matter can proceed de novo before another Court.

A way round this problem is that after the Court satisfying itself that the Defendant is guilty of the offence charged and there is a factual basis for conviction, it is for the Court to inform the Defendant that a heavier sentence is the appropriate sentence before convicting. By this way, the Defendant is given an option to abide with his guilty plea or withdraw. If he withdraws, the matter can then proceed de novo before another Court, without any conviction been made.

Having tried to highlight the principle of plea bargain as provided in ACJL, I have to say that in Lagos State, pursuant to section 274 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and all other powers enabling, the Honourable Chief Judge brought forth a practice direction we refer to as “LAGOS STATE JUDICIARY (SENTENCING GUIDELINES) PRACTICE DIRECTIONS, 2018”.

I will have wished to have attached the guidelines to this paper, but the document is of 72 (seventy two) pages. I shall attempt to give a brief overview of the guidelines in this paper.

The objective and guiding principles of the Sentencing Guidelines is contained in Part 1 of the guidelines. The purport of the guidelines is to ensure uniformity in sentencing in the State such that at all times the Court will bear in mind prevention, restraint, rehabilitation, deterrence, education of the public, retribution, restitution and restoration in sentencing a convict; and sets out the guidelines for sentencing in the following range of offences, namely:-

(i). offences against public order,

(ii). offences against the administration of law & justice and against public authority,

(iii). offences against morality and sexual offences,

(iv). offences against persons and relating to parental rights and duties,

(v). offences relating to homicide,

(vi). offences against property; and

(vii). offences relating to corruption.

Each case shall be treated on its own merit, and while doing this, the interest of the victim, the convict and the community shall be considered. The guidelines also permit for the consideration of the appropriateness of non-custodial sentence or treatment in lieu of imprisonment in each case.

The range of offences the guidelines is applicable, when considering sentencing, are as reproduced above. All Courts with criminal jurisdiction in the State are required to apply the guidelines, and the guidelines do not derogate from the statutory and inherent discretion conferred on a Court to determine and impose sentences. However, it

ought to be pointed out that the guidelines shall not be applied to any person below 18 years of age.

The guidelines provides for some procedural steps to be taken, which are as follows:

(a). after conviction, a convict shall be asked if he wishes to call any witnesses to character if he has not previously done so;

(b). after such witnesses have been heard, if any, the convict shall be asked if he desires to make any statement or produce any evidence or information in mitigation of punishment;

(c). the prosecutor shall thereafter produce evidence of any previous conviction of the convict unless such evidence has already been given;

(d). the Court may then pass sentence on the convict or adjourn to consider and determine such sentence which shall be announced in open Court; and

(e). the Court shall be guided by the procedural steps specified in these guidelines.

From Part 2 to Part 8 of the guidelines, different sort of offences are considered and the procedural steps to adopt for sentencing is explained for the different categories of the offence. The schedule of the guidelines contains a chart showing the starting point and the category range for the different offences.

For example the starting point and category range for offences against Public Order is as follows:

If the level of harm is serious, for High culpability the starting point is 80%, while the range is between 80% - 100% and for Low culpability the starting point is 50%, while the range is between 50% - 60%

In concluding this paper, it ought to be stated that criminal justice, on the other hand embodies a method through which administration of criminal law, establishes procedures aimed at fair, accurate and expeditious determination of guilt or innocence that do not infringe upon the rights of citizens and aim to provide an enlightened but effective system of punishment for those found guilty. Therefore, the chief aim of the entire criminal justice system comprises deterrence, atonement and retribution through punishment administered at the instance of the State. It is against this background that it is always said that the aim of criminal law is to protect the society and the citizens and to pay the wicked for his wrongdoing.

In short, the enterprise of criminal justice system is to make the community safer by identifying and then removing (or at least watching) those who have shown themselves to be dangerous, be it a corporation or an individual.

Criminal law theorists believe that sentences serve two purposes. First, they serve the goal of deterring future crime by both the convict and by other individuals contemplating a committal of the same crime. Second, a sentence serves the goal of retribution, which posits that the criminal deserves punishment for having acted criminally. When sentencing, a judge must impose the least severe sentence that still achieves both goals, while also considering the need for societal protection.

It must however, be noted, that sentence should not be passed in anger or pity. It should be passed with the aim of doing justice.

Also, and as noted earlier in this paper, where separate offences are charged together, each must receive a separate sentence but if they all form part of the same criminal action, sentences will be concurrent. Where however a term of imprisonment in default of fine is ordered, it cannot run concurrently with a sentence of imprisonment imposed at the same time or with default sentence in respect of another offence. In sentencing an offender to a fine, it must not be heavy for him to pay and the fines imposed on different counts at the same trial are to be cumulative.

I thank you all for your attention.