



Sentencing Factors Part 2 by Sahaub Missaghi

In continuation to last week's article, there are other factors that affect sentencing either by increasing or decreasing the severity of a sentence. First, if the crime was committed with a motive of prejudice or hate, then the sentence will be more severe. Race, religion and sex are a basis for such crimes. Also, crimes of domestic violence result in a more severe sentence because in a domestic setting there is an expectation that each member of a couple, whether married or not, can live safely under the same roof and feel that they can leave the relationship at anytime.

In upholding justice, there is a concept of universality in that similar offenders that commit similar offences with similar circumstances ought to have a similar sentence. Justice would not be served otherwise. Sentencing, nonetheless, becomes tricky if circumstances only slightly differ for a similar crime by a similar offender, yet even a slight difference is sufficient in lessening or increasing a sentence. For instance, assume that two offenders are exactly similar in every single way and both commit the crime of marijuana possession. However, also

assume the following difference in circumstances – Offender #1 is caught with possession in a bar, whereas Offender #2 is caught with possession in a high school. The very fact that the victims in each setting are different, particularly in age whereby it is expected that the bar crowd would be older than 18 years and the high school crowd would mostly be younger than 18, will affect sentencing. The consequence of the differing circumstances is that Offender #2 will face a more severe sentence.

Still using the above mentioned example, now assume that both offenders again commit the same crime but now they both commit it at the high school. Furthermore, Offender #1 has been convicted for marijuana possession twice before. Here, the offense is similar and so are the circumstances, but the offenders are no longer the same; one of them has committed this crime before and obviously has not learned his lesson. Offender #1 has been previously convicted, i.e. “a repeat offender,” and this will cause him to have a more serious sentence than Offender #2.

Another major factor to consider is an offender abusing a position

of trust or authority in relation to the victim. Similar to the domestic violence factor, because the parties involved are so close to one another, there is increased chance for the occurrence of crime, and as such the punishment increases to deter the offender from committing further crime. Examples of positions of trust are a school teacher or a baby-sitter.

Crimes committed for the benefit of a criminal organization also lead to increased sentences, as they further the cause of an organization dedicated to crime. As mentioned in Part I of Sentencing Factors, the purpose of sentencing is to maintain a just, peaceful and safe society. To assist a criminal organization undermines this to the fullest and thus will make the sentence more serious.

The main point to remember about sentencing is that the purpose of punishment is to prevent the occurrence of future crime, in order to have a peaceful and safe society.