

Aggravated dangerous driving occasioning death & vehicular manslaughter

From 1 January 2014

Transitional Sentencing Provisions: This table is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

These periods are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

imp	imprisonment
susp	suspended
conc	concurrent
cum	cumulative
PG	plead guilty
occ	occasioning
BAC	blood alcohol content
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
BH	bodily harm
att	attempted
EFP	eligible for parole
DDOGBH	dangerous driving occasioning grievous bodily harm
DDOD	dangerous driving occasioning death
DDOBH	dangerous driving occasioning bodily harm
agg	aggravated
circ	circumstances
TES	total effective sentence
SCP	summary conviction penalty

No.	Case	Antecedents	Summary/ facts	Sentence	Appeal
1.	<p><i>Billing v The State of Western Australia</i></p> <p>[2017] WASCA 80</p> <p>Delivered 21/04/2017</p>	<p>37 yrs at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Prior criminal history, including convictions of 3 x breaching VROI, 3 x criminal damage, 3 x threats to injure and several driving offences.</p> <p>Divorced; three children.</p> <p>Educated to yr 10; sandblaster by trade.</p>	<p><u>Indictment</u> Ct 1: Agg DDOD.</p> <p><u>Section 32 Notice</u> Ch 1: DDOBH. Ch 2: DDOBH. Ch 3: Driver failing to report incident occasioning death or GBH. Ch 4: Failed to render assistance to victim of incident occasioning BH, not GBH or death Ch 5: No MDL (fine suspension) Ch 6: Breach of VRO.</p> <p>The three victims were all passengers in Billing's car.</p> <p>Approx. 30 mins before the fatal crash, Billing drove in a grossly dangerous fashion. He drove at speeds of up to 220km per hour and through four red lights. At one intersection he nearly collided with another car. He drove over one victim's foot at a service station. He did a burnout out at his former partner's house in breach of a VRO.</p> <p>Billing ignored pleas from two victims asking him to stop and let them out.</p> <p>Billing drove at 145km per hour in a residential street where the speed limit was 50km per hour. The street was a two-lane carriageway. Another car had to swerve to avoid colliding with Billing's car. Billing collided with a raised median island,</p>	<p><u>Indictment</u> Ct 1: 10 yrs imp.</p> <p><u>Section 32 Notice</u> Ch 1: 6 mths imp (conc). Ch 2: 6 mths imp (conc). Ch 3: 12 mths imp (conc). Ch 4: 12 mths imp (conc). Ch 5: \$1500 fine. Ch 6: \$2000 fine.</p> <p>5 yrs 9 mths MDL disqualification.</p> <p>TES 10 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge erroneously found that the agg DDOD fell within the worst category.</p> <p>Sentencing judge found that the DDOBH offences were severe, but noted that the victims suffered relatively minor injuries.</p> <p>Sentencing judge found that Billing's dangerous driving was willful and did not involve an error of judgment or other momentary driving error.</p>	<p>Allowed in part.</p> <p>Appeal concerned finding of agg DDOD as worst case of its kind.</p> <p>Re-sentenced to:</p> <p><u>Indictment</u> Ct 1: 8 yrs imp.</p> <p><u>Section 32 Notice</u> Ch 1, 2 and 3: to be served cum upon each other and Ct 1. Ch 3: to remain conc with new sentence on Ct 1.</p> <p>All other sentences to remain.</p> <p>TES 10 yrs imp (thus the TES was left unchanged).</p> <p>At [34] ... while the overall circumstances of the offence and the offender warranted a lengthy sentence of immediate imp, it did not warrant the maximum prescribed penalty.</p> <p>At [37] ... his Honour erred in his assessment of the gravity of the offence of DDOD. A different and lower sentence should have been imposed with respect to the indictable offence.</p>

			<p>causing him to lose control of the car. The car struck the vegetation on the median island and the rear passenger side struck a large pole. The impact caused fatal injuries to the left rear passenger. The front passenger suffered a deep cut to the scalp, grazing and bruising. The right rear passenger suffered a cut to his top lip and scratches to both arms.</p> <p>Billings got out of the car and urged the victims to leave with him. One victim said that another was critically injured, and Billings responded "I don't give a fuck". Billings fled from the scene.</p> <p>Billings repeatedly denied being the driver and being involved. He failed to report the crash. He attempted to implicate one of the victims.</p> <p>Billings had a BAC of 0.048%.</p> <p>Billings was not authorised to drive, having previously been disqualified from holding an MDL for 8 mths.</p>	<p>He found that while the outcome was not inevitable, the risk of a catastrophic outcome became grossly unacceptable by the time the collision occurred.</p> <p>Sentencing judge characterised Billings' behaviour in abandoning the victim shortly after the crash as callous and deliberate.</p> <p>Sentencing judge noted that Billings had been drinking alcohol before driving and that at the time of the crash this was in his system.</p>	<p>At [39] Although the offence of agg DDOD was not in the worst category of cases, it was nevertheless a bad offence of its kind.</p> <p>At [44] The only significant matter in mitigation in the present case was the appellant's PG, which was entered at the first reasonable opportunity. Having regard to the strength of the case against the appellant I would give a discount of 20%...</p> <p>At [49] ... the TES imposed by his Honour of 10 yrs' imp was appropriate...</p>
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Amendments to RTA s59 – reversal of onus of proof (01/01/2005)</i>					

Transitional Provisions Enacted (31/08/2003)

Office of the Director of Public Prosecutions