

# **Possess MDMA (ecstasy) with intent to sell or supply**

s 6(1)(a) and 6(1)(c) *Misuse of Drugs Act*

**From 1 January 2014**

**Transitional Sentencing Provisions:** Each of the two tables 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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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:

methyl	methylamphetamine
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
wiss	with intent to sell or supply
imp	imprisonment
susp	suspended
immed	immediate
conc	concurrent
cum	cumulative
PG	plea guilty
ct	count
TES	total effective sentence
EFP	eligible for parole
SIO	suspended imprisonment order
UCO	undercover police operative

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
25.	<p><i>Hollingsworth v The State of Western Australia</i></p> <p>[2018] WASCA 47</p> <p>Delivered 10/04/2018</p>	<p><u>Ind 46</u> 23 yrs at time offending.</p> <p><u>Ind 47</u> 24 yrs at time offending.</p> <p><u>Ind 46</u> Convicted after PG 20% discount) (cts 1 &amp; 2) Convicted after trial (ct 5).</p> <p><u>Ind 47</u> Convicted after PG (25% discount).</p> <p>Minor criminal history.</p> <p>Parents separated aged 2 yrs; brought up by his mother and stepfather; both highly supportive.</p> <p>Completed school; did reasonably well.</p> <p>Qualified plumber; stable work number of years; lost job as a result of drug use.</p> <p>No physical health issues.</p> <p>Finding prison psychologically challenging; medicated.</p>	<p><u>Ind 46</u> Cts 1: Poss MDMA wiss 29.9g at 16% purity. Ct 2: Poss money suspected of being unlawfully obtained. Ct 5: Poss MDMA wiss approx. 1.4kg at 15%-19% purity.</p> <p><u>Ind 47</u> Ct 1: Poss MDMA wiss 148g at 1% purity. Ct 2: Poss methyl wiss 23.5g at 75%-87% purity. Ct 3: Poss money suspected of being unlawfully obtained.</p> <p><u>Ind 46</u> Hollingsworth took a backpack containing 3,488 MDMA tablets and stored them at the home of his co-offender, Mr Sims. The next day Hollingsworth and Mr Sims obtained and stored at the home an altered sawn-off .22 calibre rifle. Later that day Hollingsworth took some of the MDMA tablets from his backpack and he, and Mr Sims, drove to a number of locations intending to sell some of the tablets. Hollingsworth conducted the drug</p>	<p><u>Ind 46</u> Ct 1: 2 yrs 4 mths imp (conc). Ct 2: 12 mths imp (conc). Ct 5: 7 yrs 6 mths imp (cum with ct 2 ind 47).</p> <p><u>Ind 47</u> Ct 1: 3 yrs imp (conc). Ct 2: 2 yrs 6 mths imp (cum with ct 5 ind 46). Ct 3: 16 mths imp (conc).</p> <p>TES 10 yrs imp. EFP.</p> <p>The sentencing judge found the appellant a significant mid-level to upper-level dealer; engaged for a significant period in an extensive and ongoing course of drug dealing; the offences were not isolated incidents, nor out of character.</p> <p>The sentencing judge found the appellant engaged in drug dealing and committed the offences for profit, to</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned parity principle (ct 5).</p> <p>At [50] Mr Sims’ criminality in ct 5 was of a different, and significantly lesser, quality than the criminality of the appellant. Mr Sims was not the owner of the MDMA. ... Mr Sims’ participation was limited to a temporary joint possession with the appellant ... for the purpose of making the tablets available for collection from his bedroom by the appellant as and when he required. Mr Sims, ..., was not aware of the precise quantity of the drug. ... his role was very much secondary to that of the appellant.</p> <p>At [51] ... the appellant’s antecedents were favourable to him and were more favourable than Mr Sims’ antecedents. However, it is well established that, in drug offending of the kind engaged in by the appellant, favourable personal circumstances, ... are subsidiary</p>

		<p>History of MDMA use.</p>	<p>transaction by himself, whilst Mr Sims remained in the vehicle.</p> <p>That afternoon the vehicle was stopped by police. As this occurred Hollingsworth broke one of four mobile phones he had in his vehicle to destroy records of his drug dealing activities.</p> <p>Hollingsworth was searched and found in possession of 105 MDMA tablets (ct 1).</p> <p>\$2,525 cash was also found on his person and in his car (ct 2), along with an exercise book containing a record of his drug dealing business.</p> <p>The same day police executed a search warrant at the home of Mr Sims and discovered Hollingsworth's backpack containing the MDMA tablets, along with the firearm (ct 5).</p> <p><u>Ind 47</u> Some months later police executed a search warrant at Hollingsworth home. Hidden in a number of locations inside the home were MDMA tablets and powder (ct 1) and various quantities of methyl (ct 2).</p>	<p>make money over and above what he needed to repay a debt and fund his own addiction.</p> <p>The sentencing judge found the offences the subject of ind 46 very serious; committed as part of an ongoing and significant course of serious criminal conduct and the offences the subject of ind 47 were aggravated by the fact they were committed while on bail for the offences the subject of ind 46.</p> <p>Undertook rehabilitative programmes and educational courses on remand; remorseful; accepted responsibility for his offending; insight into seriousness of his criminal conduct.</p>	<p>considerations because of the need to provide for general and personal deterrence.</p> <p>At [52] ... we are satisfied that it is not reasonably arguable that the disparity of three yrs between the sentences imposed on the appellant and Mr Sims for ct 5 infringed the parity principle or the principle of equal justice. The disparity reflected the much more serious criminality of the appellant ...</p>
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			Also found at the home was AU\$21,250 and US\$800 in cash (ct 3).		
24.	<p><i>Tirkot v The State of Western Australia</i></p> <p>[2018] WASCA 41</p> <p>Delivered 04/04/2018</p>	<p>20 yrs at time offending. 22 yrs at time sentencing.</p> <p>Convicted after PG (10% discount cts 1-23; 25% discount ct 24).</p> <p>No prior criminal history.</p> <p>Strong, supportive and loving family.</p> <p>Private school education; performed well academically; well-accepted by peers and teachers.</p> <p>Completed first yr law; certified personal trainer and beauty therapist.</p> <p>Idolised her father; effected by his death in 2016; significant role in supporting him and her mother during his illness.</p> <p>Loving mother to young child; partner violent and abusive; subsequently abandoned her and his child.</p>	<p>Cts 1; 3-7; 9-11; 13; 15-16 &amp; 20: Offer to supply MDMA. Cts 2; 8; 12; 14; 17-19 &amp; 21: Offer to supply methyl. Ct 23: Poss MDMA wiss 2.11g. Ct 24: Att poss MDMA wiss 21g at 27% purity.</p> <p>Tirkot was stopped by police driving her motor vehicle.</p> <p>Her mobile phone revealed that over a two-month period Tirkot offered to sell or supply more than 2,850 MDMA pills and more than 10g of methyl for a total price exceeding \$42,400 (cts 1-21).</p> <p>A search of her vehicle located six capsules of MDMA powder (ct 23).</p> <p>At her home a clipseal bag containing 78 tablets of fluoroamphetamine were located (ct 24).</p> <p>Digital scales, a box of clipseal bags, a tick list and clipseal bags containing small quantities of MDMA and fluoroamphetamine</p>	<p>Cts 1; 5; 7; 11; 15 &amp; 23: 2 mths imp (conc). Ct 2: 12 mths imp (cum). Cts 3-4; 16 &amp; 20: 6 mths imp (conc). Ct 6: 46 mths imp (head). Ct 8; 10; 18 &amp; 21: 4 mths imp (conc). Cts 9 &amp; 13: 9 mths imp (conc). Cts 12; 14; 17 &amp; 19: 12 mths imp (conc). Ct 24: 5 mths imp (conc).</p> <p>TES 4 yrs 10 mths imp.</p> <p>The sentencing judge found the appellant a commercial drug dealer, operating at the higher end of the scale, well above street level; was selling drugs to make money and had access to large quantities of drugs.</p> <p>The sentencing judge rejected the submission the appellant was dealing drugs solely or for the</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 6) and totality principle.</p> <p>At [68] ... The appellant offered to sell ... MDMA pills and ... methyl for prices totalling more than \$42,000. The offers were made in the context of an ongoing and persistent commercial drug operation. ... motivated by commercial gain. The appellant was a commercial dug dealer, operating at the higher end of the scale, well above street level. ... the appellant had access to large quantities of drugs specially MDMA. In relation to ct 6, ..., although the appellant did not have stock ... she was able to get two quotes from two suppliers for 2,000 pills on the same day.</p> <p>At [80] ... accounting for the scale, persistence and commercial character of the</p>

		<p>Diagnosed with depression and anxiety.</p> <p>No history of illicit drug use.</p>	<p>were also found at her home.</p>	<p>benefit of her drug dealer acquaintances.</p> <p>Insight into her offending; genuinely remorseful; low risk of future offending.</p>	<p>appellant's offending, the TES ... imposed is broadly consistent with the sentencing outcomes in other cases with some comparable features, ...</p>
<p>23.</p>	<p><i>Lenton v The State of Western Australia</i></p> <p>[2017] WASCA 224</p> <p>Delivered 04/12/2017</p>	<p>47 yrs at time sentencing.</p> <p>Convicted after very late PG; first day of trial (5% discount).</p> <p>Long criminal history; prior drug and firearm related offences; prior sentences of imp.</p> <p>Unsettled childhood during period of parents separation aged 2 yrs. Close and supportive family.</p> <p>Attended numerous schools; completed yr 12; completed first yr of university degree.</p> <p>Employed various roles; including intermittent work in family business prior to imp for present offences.</p> <p>Divorced; no dependents.</p> <p>Long history of illicit substance abuse; methyl and cocaine from age 29; periods of abstinence with</p>	<p>Ct 1: Reckless driving. Ct 2: Poss MDMA 2.09g. Ct 3: Poss methyl wiss 84.15g at 37%-52% purity. Ct 4: Poss cocaine wiss 1.98g. Ct 5: Poss MDA 0.5g (2 tablets). Ct 6: Agg poss firearm. Ct 7: Fail to obey data access order.</p> <p>Lenton was driving a motorcycle when police signalled for him to pull over. He did not do so and instead accelerated and fled from police. The pursuit continued for several km, during which he travelled at high speed and through two red traffic lights.</p> <p>When attempting to evade a second police vehicle he lost control of the motorcycle and was apprehended.</p> <p>Lenton's backpack and satchel were searched. Clipseal bags containing various quantities of MDMA were located (ct 2), along with a container holding various quantities of methyl</p>	<p>Ct 1: 12 mths imp (cum). Ct 2: 1 mths imp (conc). Ct 3: 6 yrs imp (head). Ct 4: 6 mths imp (conc). Ct 5: 1 mths imp (conc). Ct 6: 12 mths imp (cum). Ct 7: 6 mths imp (conc).</p> <p>TES 8 yrs imp.</p> <p>The sentencing judge found ct 3 the most serious offence and based on the cash; tick lists; weapons; scales and mobile phones found the appellant was actively engaged in commercial drug dealing and that his involvement was at a much higher level than that of a street dealer or person selling drugs to pay for their own consumption.</p>	<p>Dismissed.</p> <p>Appeal concerned totality. Individual sentences were not challenged.</p> <p>At [61] The possession of a variety of drugs and a relatively large quantity of cash together with tick lists and a firearm led to the inevitable conclusion that the appellant was playing a significant role in the sale and delivery of prohibited drugs and that this involvement had occurred in the context of a continuing commercial criminal enterprise.</p> <p>At [62] The possession of a loaded firearm was a particularly serious feature of his overall offending ... A cumulative sentence for this offence was necessary to properly reflect the criminality involved in the drug and firearm</p>

		<p>gradual relapsed into drug use; little effort made to address his substance abuse problems.</p> <p>Medicated and counselled for post-traumatic stress disorder.</p>	<p>(ct 3). A cipseal bag of cocaine (ct 4) and two MDA tablets were also found (ct 5).</p> <p>An unlicensed .32 calibre five-shot revolver containing one round of live ammunition was also found (ct 6).</p> <p>Lenton was also found in possession of \$767 cash, \$4,000 cash, a flick knife, four mobile phones; tick lists; a set of electronic scales and a laptop computer. The tick lists listed names, amounts owing (in excess of \$100,000) and references to pounds and ounces.</p> <p>The four mobile telephones and laptop were locked and he failed to obey a data access order to reveal the PIN or pass codes for the devices (ct 7).</p>	<p>offences.</p> <p>At [63] The reckless driving also entailed additional criminal behaviour and put the safety of other road users, and the police officers involved, at risk. ... His attempt to explain this conduct as caused by PTSD was rightly viewed as secondary to his desire to avoid discovery of the drugs. A cumulative sentence for this offence was also appropriate.</p> <p>At [64] ... The finding of four mobile telephones and a laptop computer in the appellant's possession was consistent with these items being used in connection with the sale of drugs. Data contained on such items may provide evidence of other offences. There is often a strong incentive for offenders in the appellant's position not to comply with a data access order. That incentive should be countered by appropriate deterrent sentences. ...</p> <p>At [71] The TES ... imposed on the appellant bears a proper</p>
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					relationship to the overall criminality involved in all of the offences ...
22.	<p><i>Chadburne v The State of Western Australia</i></p> <p>[2017] WASCA 216</p> <p>Delivered 23/11/2017</p>	<p>45 yrs at time offending. 48 yrs at time sentencing.</p> <p>Convicted after trial (cts 1-4). Convicted after PG (ct 5) (5% discount).</p> <p>Minor NSW criminal history.</p> <p>Raised and lived NSW.</p> <p>Disadvantaged background; father physically and psychologically abusive.</p> <p>Difficulties at school; expelled yr 9.</p> <p>Strong work ethic; consistently employed as a van/truck driver since aged 20.</p> <p>9 yr relationship; three adult children together; primary carer of his children after separation.</p> <p>Suffered severe depression and stress as a result of his apprehension.</p>	<p>Ct 1: Poss MDMA wiss 8.4153kg (34,475 tablets) at 30% purity. Ct 2: Poss methyl wiss 2.046kg at 66%-82% purity. Ct 3: Poss cocaine wiss 482.76g at 76%-77% purity. Ct 4: Poss cocaine wiss 275g at 58% purity. Ct 5: Fail to obey data access order.</p> <p>Chadburne was a member of a syndicate involved in the transportation and supply of large quantities of prohibited drugs from NSW into WA.</p> <p>On several occasions Chadburne attended the motor works business of one of the syndicate members. He facilitated the concealment of 15 sealed packages containing drugs into motor vehicle gear transmissions (cts 1-3).</p> <p>The engine transmissions, containing the prohibited drugs, were placed on a pallet into the tray of a utility vehicle, which Chadburne commenced to drive to WA. During the journey he collided with a</p>	<p>Ct 1: 14 yrs 6 mths imp. Ct 2: 12 yrs imp (conc). Ct 3: 5 yrs imp (conc). Ct 4: 1 yr 6 mths imp (cum). Ct 5: 6 mths imp (cum).</p> <p>TES 16 yrs 6 mths imp.</p> <p>EFP.</p> <p>The trial judge found the offending very serious; it involved a high level of criminality; the appellant's role was integral to the operation and the crime syndicate of which he was a part of and working with and the offending was committed out of greed and purely for commercial gain.</p> <p>The trial judge found the appellant more than that of a mere courier and it was not a one-off opportunistic attempt.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 1) and totality principle.</p> <p>At [60] The appellant was more than a mere courier of the drugs. ... The appellant participated in packing the drugs .... He held face to face discussions with the apparent head of the syndicate. He organised the vehicles used to transport the drugs. This was done as part of an ongoing operation, and could not be regarded as behaviour which was aberrant or out of character for the appellant. The appellant expected to make a substantial profit from the operation.</p> <p>At [64] ... the appellant's actions after the collision with the kangaroo showed that he was able to respond to an unexpected setback with adaptability and initiative. He demonstrated a relatively sophisticated understanding of</p>

		<p>Very heavy drinker; occasional user of methyl; denied ongoing use.</p>	<p>kangaroo causing substantial damage to the utility. He arranged a replacement vehicle and hire trailer.</p> <p>During the change of vehicles Chadburne located a sixteenth package left on the rear seat of the utility, which unknown to him could not be accommodated into the transmissions. He was given permission to keep this drug so he hid the package inside the wheel arch panelling of the replacement vehicle (ct 4).</p> <p>Chadburne continued his journey and eventually arrived in WA where he was stopped by police. The vehicle was seized and the sealed packages hidden within the transmissions located.</p> <p>Chadburne's Blackberry was also seized and he failed to obey a data access order to reveal its pass code. As a result it remained encrypted and inaccessible to police.</p> <p>The drug secreted in the wheel arch remained undetected. The vehicle was eventually repossessed for sale by auction. On bail and aware the drug had not been located he called</p>	<p>No demonstrable evidence of remorse or insight.</p>	<p>the implications of finding the package of cocaine on the rear seat ...</p> <p>At [65] ... While the appellant may have been vulnerable to exploitation by others due to his social vulnerability and difficulties with emotional regulation, he knew what he was doing was illegal and appreciated the risks involved.</p> <p>At [66] ... The amount and quality of MDMA in the appellant's possession was greater than in many of those cases [referred to]. He was an active member of the syndicate which brought the drugs into WA, whose involvement extended beyond the mere provision of transport. The appellant expected to obtain a significant financial reward from the activity.</p> <p>At [67] ... The circumstances of the ... offending, particularly that which was the subject of cts 4 and 5, increased the overall criminality of the appellant's conduct in a manner that</p>
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			<p>the auction company a number of times, rousing suspicions. A drug detection dog inspected the vehicle and the package was discovered.</p> <p>Information from intercepted telephone calls revealed Chadburne expected to earn \$40,000- \$50,000 from the venture. It was also not the first occasion he had participated in the distribution of illicit drugs, having previously travelled to WA on behalf of the syndicate.</p> <p>The package of cocaine (ct 4) had an estimated street value of \$98,000 - \$206,000.</p> <p>Evidence at trial indicated an individual MDMA pill sold for \$15 - \$35, giving a potential value of the MDMA tablets discovered at between \$517,125.00 - \$1,206.625.00.</p>		<p>warranted some accumulation of the sentences.</p> <p>At [68] ... The seriousness of [ct 4] was agg by the fact that these drugs were to be sold wholly for the appellant's personal benefit, and by the attempts after his arrest to regain possession of the drugs.</p> <p>At [69] ... Cumulacy of this sentence [ct 5] was called for in order to avoid the result that a person apprehended in the course of committing serious offences might refuse to comply with an order that will produce evidence of the offending without any practical adverse consequences ...</p> <p>At [70] The appellant's overall criminality is also agg by the substantial quantities of methyl and cocaine which were the subject of cts 2 and 3.</p>
21.	<i>The State of Western Australia v Doyle</i>	18-19 yrs at time offending. Convicted after PG (25%)	Cts 1-14; 16-17; 19-23; 25-29; 31-32; 34-38; 40; 42-45; 47; 49-57; 61-64; 66; 68-69; 71-72; 74; 76-77 &	Cts 1-20; 22-31; 33-43; 45-46; 48-55; 57-61; 63-76; 78-82: 9 mths imp	Allowed.  Appeal concerned length of

<p><b>[2017] WASCA 207</b></p> <p>Delivered 08/11/2017</p>	<p>discount).</p> <p>Short criminal history; offences of poss MDMA; poss stolen or unlawfully obtained property and assault public officer.</p> <p>Born raised in Perth; one of four children.</p> <p>Supportive family.</p> <p>Paraplegic father; assisted him with dealing with his disability.</p> <p>Left school yr 10; commenced apprenticeship.</p> <p>Illicit drug use; history of abusing ecstasy and cocaine. Using 20-30 ecstasy pills per week and in excess of 6g of cocaine per week at time offending.</p>	<p>79: Offer to supply MDMA 3.3kg. Cts 15; 18; 24; 30; 33; 58-59; 65; 67; 70; 73 &amp; 80: Offer to supply cocaine 31g.</p> <p>Cts 39; 46; 60 &amp; 75: Offer to supply methyl 11.5g.</p> <p>Ct 48: Offer to supply GBH (aka fantasy) 8ml.</p> <p>Ct 78: Offer to supply cannabis.</p> <p>Cts 41 &amp; 82: Failing to comply with data access order.</p> <p>Ct 81: Poss unlawfully obtained property.</p> <p>A search warrant was executed at Doyle's home. Illicit drugs and a Blackberry device were located.</p> <p>Approximately 10 mths later a search warrant was again executed at the respondent's home. Illicit drugs and items commonly associated with the sale and supply of illicit drugs, including electronic scales, controlled weapons and numerous mobile telephones, including two encrypted Blackberry telephones were seized.</p> <p>The respondent's phone was found to contain numerous text messages in which he offered to sell or supply illicit substances to various people on</p>	<p>(conc).</p> <p>Ct 21: 12 mths imp (cum).</p> <p>Ct 32; 44 &amp; 47: 12 mths imp (conc).</p> <p>Ct 56: 18 mths imp (head sentence).</p> <p>Ct 62: 18 mths imp (cum).</p> <p>Ct 77: 18 mths imp (conc).</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the respondent was part of the commercial distribution of prohibited drugs into the community; he was involved in drug dealing on a commercial basis and the offending was pretty persistent and relentless.</p> <p>The sentencing judge found the respondent did not sell the offered prohibited drug in a significant number of the cts. However there can be no suggestion that when he offered drugs for sale</p>	<p>sentences (cts 21, 32, 44, 47, 55-56, 62, 77 &amp; 79) and totality principle.</p> <p>Re-sentenced on cts 21, 32, 44, 47, 55, 56, 62, 77 and 79.</p> <p>Cts 21; 32 and 47: 2 yrs imp.</p> <p>Cts 44; 55 &amp; 79: 18 mths imp.</p> <p>Cts 56; 62 &amp; 77: 3 yrs imp.</p> <p>Cts 56 (head sentence) and 62 cum; all other sentences conc with each other and with head sentence.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>At [35] ... Each offence was committed by the respondent as part of an ongoing and long-term business of supplying illicit drugs. The respondent's primary motive was to obtain money to fund the lifestyle he could not otherwise afford. While it must be accepted that each offer was not in fact fulfilled, this was only because his supplier would not extend him credit for such substantial quantities of</p>
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			<p>a regular basis over a period of approximately 18 months.</p>	<p>he didn't intend to sell them if he could have.</p> <p>Remorseful. Engaged in a drug programme and counselling to address his drug problems.</p>	<p>MDMA. ... He clearly intended to effect each sale. It cannot be overlooked that each offer was not an isolated event.</p> <p>At [36] This court has not been previously called upon to decide whether an individual sentence for offering to sell or supply a prohibited drug is manifestly inadequate or manifestly excessive. Thus, there are no relevant comparable cases.</p> <p>At [38] ... each sentence is, when all relevant circ and all relevant sentencing factors are considered, unreasonable or plainly unjust. ... Each sentence was substantially outside the sentencing range open to his Honour on a proper exercise of his discretion.</p> <p>At [41] The overall criminality involved in the offending was very serious. The respondent was engaged in the business of dealing with methyl, MDMA, cocaine, GBH and cannabis for profit and with the particular aim of promoting his lifestyle. ... about half of the offers</p>
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					<p>resulted in the substance in question being sold or supplied.</p> <p>At [42] The appellant also twice defied data access orders. ... Offenders who fail to comply are obstructing law enforcement authorities from undertaking their role in detecting offences.</p> <p>At [43] ... a TES of 4 yrs imp falls a long way short of bearing a proper relationship to the overall criminality involved in the commission of all of the offences.</p>
20.	<p><i>Goodwin v The State of Western Australia</i></p> <p>[2017] WASCA 184</p> <p>Delivered 12/10/2017</p>	<p>34 yrs at time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (14% discount).</p> <p>Prior criminal history; including breaches of VRO and poss prohibited drug.</p> <p>Time spent in immigration detention after arrest for offences subject of appeal; assaulted and sustained significant injuries whilst in detention; ongoing surgery required.</p>	<p>25 x Offer to supply methyl 1g – 1.73g and 0.1 - 3.5g. 1 x Sold MDMA.</p> <p>Goodwin sent group text messages advertising the sale of methyl. Over 16 different days over a 69 day period he communicated with 12 separate individuals about supplying them with the drug.</p> <p>Goodwin took anti-detection measures by using four different telephone numbers.</p> <p>An UCO met with the appellant and arranged to purchase MDMA or</p>	<p>Cts 1-5; 8; 10-15; 20 &amp; 25: 12 mths imp. Cts 6 &amp; 9: 16 mths imp. Cts 7; 17-18 &amp; 26: 14 mths imp. Cts 16; 19; 21-24: 6 mths imp.</p> <p>Cts 6 &amp; 26 cum with each other, conc all other sentences.</p> <p>TES 2 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge</p>	<p>Dismissed.</p> <p>Appeal concerned failure to account for time spent in immigration detention.</p> <p>At [26] ... her Honour was entitled to recognise and give credit for the time the appellant had spent in immigration detention by reducing the length of the individual sentences and the TES she would otherwise have imposed. ... her Honour did not make an error of fact or law by recognising and giving credit for the time the appellant</p>

		<p>Born in UK, arrived in Australia in 2010.</p> <p>Married; separated after a short period due to illicit drug use.</p> <p>Good prospects of employment; stable accommodation and supportive family and friend in UK.</p> <p>History of illicit drug use; methyl addiction; drug free since taken into immigration detention.</p>	<p>ecstasy from him. The UCO subsequently purchased 20 tablets from him for \$600 (ct 6).</p>	<p>found the appellant had a considerable customer base and he was an active street-level dealer, at the mid-range, selling to end users.</p> <p>The sentencing judge found the appellant had not fully accepted responsibility for his offending and PGs were entered after numerous adjournments and delays.</p>	<p>had spent in immigration detention in the manner that she did, rather than backdating the TES.</p> <p>At [27] ... each individual sentence imposed on the appellant was appropriate having regard to the max penalty for the offence, the objective seriousness of the offence, the standards of sentencing customarily observed with respect to the offence, the place which the appellant's criminal conduct occupies on the scale of seriousness of offences of the kind in question, the appellant's personal circumstances and all other relevant sentencing factors ...</p>
19.	<p><b><i>Franklin v The State of Western Australia</i></b></p> <p><b>[2017] WASCA 102</b></p> <p>Delivered 01/06/2017</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No relevant prior criminal history.</p> <p>Supportive family and girlfriend.</p> <p>Left school yr 10; recently commenced tertiary studies.</p>	<p>Ct 1: Att poss of MDMA 1.91g. Ct 2: Att poss of MDMA 32g at 29% purity. Ct 3: Poss MDMA wiss 3.26g at 87% purity. Ct 4: Att poss of MDMA 6.9g at 83-86% purity. Ct 5: Att poss of MDMA 33.7g at 25% purity.</p> <p>A parcel addressed to Franklin was identified at an Australia Post mail</p>	<p>Ct 1: 4 mths imp (conc). Ct 2: 3 yrs imp (cum). Ct 3: 6 mths imp (cum). Ct 4: 15 mths imp (conc). Ct 5: 3 yrs imp (conc).</p> <p>TES 3 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge noted the quantity and</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of individual sentences on cts 2 and 5 and totality.</p> <p>At [30] The appellant's overall offending was serious. The appellant conducted a calculated and well-organised drug dealing enterprise. While the scale of the appellant's enterprise was</p>

		<p>Good employment history; started apprenticeship; before working manual labour positions.</p> <p>History of drug use; commenced aged 15 yrs; increased following relationship breakup.</p>	<p>centre. It contained approx 100 MDMA tablets. These tablets were substituted with an inert substance (ct 2).</p> <p>Two days later two further parcels addressed to Franklin were identified. One parcel contained a quantity of MDMA powder (ct 1).</p> <p>The same day Franklin attended the post office and collected all three parcels. He was arrested and conveyed to his home address. A search of his home located a further quantity of MDMA powder (ct 3).</p> <p>Meanwhile a further search of the mail centre identified another parcel addressed to Franklin. This parcel contained a quantity of MDMA powder (ct 4).</p> <p>The following day another package addressed to Franklin was found. The package contained approx 100 yellow banana-shaped MDMA tablets (ct 5).</p> <p>Franklin admitted he would share the drugs with friends and would sell some to fund his own use and that he purchased illegal items, including</p>	<p>purity of the drugs; found the appellant intended to both supply his friends and to 'make money' and the offending too serious to permit suspension of the terms.</p> <p>Cooperative; remorseful; positive prospects for rehabilitation.</p>	<p>relatively small by comparison to other cases ... it was by no means insignificant and was calculated to, in part, make a profit.</p> <p>At [31] The appellant sourced MDMA in both tablet and powder form ... to protect his identity. He did so in small batches and had then sent to a post office box. Both of these measures were taken to avoid detection. ... it was of a very high purity and had the potential to be cut further for distribution ... The pills could not be said to be of low purity.</p> <p>At [32] While the appellant cannot be sentenced for uncharged offences, it is clear from his admissions ... that the offences for which he was charged and convicted were not isolated occurrences.</p>
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			drugs, over the dark net.		
18.	<p><i>The State of Western Australia v Nillson</i></p> <p>[2017] WASCA 68</p> <p>Delivered 18/04/2017</p>	<p>23 yrs at time offending. 24 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No relevant prior criminal history. This offence was the first serious offending.</p> <p>Previously of good character.</p> <p>Supportive family.</p> <p>Excellent work history until made redundant.</p> <p>Drug user following redundancy; drug dealing to fund habit and lifestyle.</p> <p>Determined efforts at rehabilitation while remanded in custody.</p>	<p>Ct 1: Att poss of methyl 129g at 77% purity. Ct 2: Poss methyl wiss 121.41g at 47-81% purity. Ct 3: Poss MDMA wiss 9.74g. Ct 4: Poss cannabis wiss 96.9g. Cts 5 &amp; 10: Poss unlawfully obtained money. Ct 6: Poss methyl wiss 127.24g at 68-74% purity. Ct 7: Poss 25C-NBOMe wiss 7.74g. Ct 8: Poss MDA wiss 0.84g. Ct 9: Poss MDMA wiss 0.37g.</p> <p><u>Ct 1</u> Police inspected an envelope containing methyl which was addressed to James Willson at a post office box registered to Nillson. Police replaced the methyl with an inert substance and the envelope was delivered to Nillson's post office box. Nillson collected the envelope and returned home.</p> <p><u>Cts 2-5</u> Later that day, police executed a search warrant at Nillson's address and found Nillson attempting to dispose of the inert substance in the shower.</p>	<p>Ct 1: 30 mths imp (cum). Ct 2: 30 mths imp (conc). Ct 3: 9 mths imp (conc). Ct 4: 6 mths imp (conc). Ct 5: 12 mths imp (conc). Ct 6: 2 yrs imp (cum). Ct 7: 9 mths imp (conc). Ct 8: 3 mths imp (conc). Ct 9: 3 mths imp (conc). Ct 10: 12 mths imp (conc).</p> <p>TES 4 yrs 6 mths imp.</p> <p>EFP.</p> <p>Sentencing judge found Nillson to be an active retail and midlevel drug dealer and the sole proprietor of the drug dealing business; there was evidence of a very organised, large-scale polysubstance drug dealing operation; Nillson's culpability was high; the set-up pointed to widespread retailing and deep market penetration and that Nillson must</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences for cts 1, 2 and 6, and totality.</p> <p>Nillson re-sentenced on cts 1, 2 and 6 only:</p> <p>Ct 1: 4 yrs 6 mths imp (cum). Ct 2: 4 yrs 6 mths imp (conc). Ct 6: 2 yrs imp (reduced from 4 yrs 6 mths imp for totality reasons) (cum on ct 1).</p> <p>TES 6 yrs 6 mths imp.</p> <p>Other sentences and orders remain.</p> <p>At [32] The sentencing judge was...mistaken in concluding that there had been a softening of approach... such a conclusion was not one that could ordinarily be reached on the basis of an inference drawn from a comparison of three cases and it was not one that could be reached in this instance, not least because it was based upon</p>

			<p>Police found 26 containers of methyl ranging from 0.05g to 32.7g (ct 2), 8.52g of MDMA and 5 MDMA pills weighing 1.22g (ct 3), cannabis (ct 4), \$23,635 cash (ct 5), unused clipseal bags and plastic containers, digital scales, a brass weight, a tick list and approx. 200g of cutting agent.</p> <p><u>Cts 6-10</u> Police searched Nillson's car at a self-storage unit and found 16 containers of methyl (ct 6), 25C-NBOMe (ct 7), MDA (ct 8), MDMA (ct 9), \$12,150 cash (ct 10), unused clipseal bags, digital scales and cutting agent.</p>	<p>have been an important player in the Geraldton drug distribution business.</p> <p>Sentencing judge found good prospects of rehabilitation and that Nillson would not reoffend in a similar way.</p> <p>Remorse and acceptance of responsibility.</p>	<p>an erroneous analysis of those cases.</p> <p>At [35] The offending...was very serious. The respondent was aptly described by the sentencing judge as the sole proprietor of a 'very organised, large-scale polysubstance drug dealing operation'. The amount of methyl involved in each of cts 1, 2 and 6 was substantial and at a high level of purity. The drug dealing was a commercial operation carried on for profit to fund both the respondent's drug habit and his lifestyle, in circumstances where... the respondent was 'overwhelmed with greed' ... Apart from the PG...the only mitigating factor was the respondent's favourable personal circumstances, which was not a factor of great weight in the context of the offending.</p>
17.	<p><i>Rinaldi v The State of Western Australia</i></p> <p>[2017] WASCA 48</p> <p>Delivered</p>	<p>37 yrs at time offending. 39 yrs at time sentencing.</p> <p>Very late PG (5% discount).</p> <p>Minor criminal history.</p> <p>Traumatic childhood; supportive</p>	<p>Ct 1: Poss MDMA wiss 888.01 grams of 25%-73% purity. Ct 2: Poss methyl wiss 1650.67g of 45%-77% purity. Ct 3: Poss cocaine wiss 7.29g of 68% purity. Cts 4-17: Poss firearm. Cts 18-38: Poss ammunition.</p>	<p>Ct 1: 18 mths imp (reduced from 5 yrs for totality reasons) (cum). Ct 2: 8 yrs imp (cum). Ct 3: 2 yrs imp (conc). Ct 4: 18 mths imp (cum). Ct 5: 18 mths (conc). Cts 6, 8-11, 15-17: 12</p>	<p>Dismissed.</p> <p>Appeal concerned totality and PG discount.</p> <p>At [54] ... the sentencing judge did not err by failing to make a finding that the appellant's PG to</p>

	<p>17/03/2017</p>	<p>family.</p> <p>Left school midway through yr 11.</p> <p>Obtained a trade; good employment history and strong work ethic.</p> <p>History of illicit drug use; escalated after his marriage break down.</p>	<p>Ct 39: Poss GPS jamming device.</p> <p>Police executed a search warrant at Rinaldi's home and discovered a 'wine cellar' accessible via a retractable trapdoor. The home was protected by a security system, comprising a steel reinforced front door, outside sensor lights and monitored CCTV cameras.</p> <p>Large quantities of drugs and ammunition, 14 unlicensed firearms and cash were found, along with the GPS jamming device.</p> <p>The unlicensed firearms comprised five rifles, one shotgun and eight handguns. Three of the weapons had their serial numbers removed and two of the rifles were unable to be lawfully owned in WA. Compatible magazines, silencers and shoulder holsters were also found in the house.</p> <p>In total 2,386 rounds of ammunition were found.</p> <p>\$337,220 in cash was found in bundles in various locations in the house, including in a washing machine and the roof cavity.</p>	<p>mths imp (conc).</p> <p>Ct 7: 12 mths (cum).</p> <p>Ct 12: 14 mths imp (cum).</p> <p>Cts 13-14: 14 mths imp (conc).</p> <p>Cts 18, 21 and 31: 6 mths imp (conc).</p> <p>Ct 19: 8 mths imp (cum).</p> <p>Ct 20: 3 mths imp (conc).</p> <p>Ct 22-23: 2 mths imp (conc).</p> <p>Cts 24-25: 8 mths imp (conc).</p> <p>Cts 26-27 and 30: 3 mths imp (conc).</p> <p>Cts 28-29 and 32-33: 1 mths imp (conc).</p> <p>Ct 34-36: 3 mths imp (conc).</p> <p>Ct 37: 4 mths imp (conc).</p> <p>Ct 38: 2 mths imp (cum).</p> <p>Ct 39: \$1000 fine.</p> <p>TES 14 yrs imp. EFP. Fine \$1000.</p> <p>The sentencing judge described the premises as a 'fortified drug house' used for the purpose of storing and warehousing illicit drugs, firearms and cash. It was in a large</p>	<p>cts 1-33 and ct 39 were entered at the first reasonable opportunity. Very plainly, they were not made at the first reasonable opportunity. ... The reduction of 5% was, in all of the circumstances, open to his Honour.</p> <p>At [55] ... in respect of the five ex officio charges (cts 34 to 38). ... the appellant's PG in respect of these cts were made at the first reasonable opportunity. This concession was properly made and should be accepted. In our opinion, a reduction of 25% ... should have been made for these offences. However, having regard to all relevant circumstances ... exercising the sentencing discretion afresh, we would not have imposed different sentences for cts 34 to 38.</p> <p>At [66] ... the appellant's overall criminality was extremely serious. While... not directly involved in the sale of the drugs, firearms and ammunition, he voluntarily participated in what was clearly a large-scale</p>
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				<p>scale distribution network for drugs and guns as part of an illegal, commercial enterprise and from which the appellant would have derived 'some commercial gain or benefit'.</p>	<p>commercial enterprise aimed at distributing into the community a large quantity of dangerous illicit drugs and firearms. The appellant's willing complicity in these offences is well illustrated by the modifications to his residence, most notably the wine cellar in which the drugs and most of the firearms and ammunition were stored. The large quantities of drugs, firearms, ammunition and cash show the scale of the operation. It is true that the appellant was not in command, but it is also true that a high degree of trust had been reposed in him.</p> <p>At [67] A significant aggravating feature of the appellant's overall criminality are the firearms offences, which involve a quantity and variety of weapons not previously seen by this court. Their number and type are very sinister. The amount of ammunition, including ammunition suitable for use in the firearms present at the house, is concerning.</p>
16.	<i>Al-Rafei v The State of Western</i>	23 yrs time of offence. 24 yrs time of sentencing.	1 x Poss MDMA wiss 2.24kg of 23% purity.	8 yrs 6 mths imp.	Dismissed.

	<p><i>Australia</i></p> <p><b>[2017] WASCA 4</b></p> <p>Delivered 12/01/2017</p>	<p>PG (15% discount).</p> <p>No prior criminal history.</p> <p>One of four sons; raised by his mother from aged 7 yrs following parents separation.</p> <p>Mother struggled financially.</p> <p>Educated to yr 12; obtained drafting certificate.</p> <p>In full time employment and had casual job at time of offending.</p> <p>History of steroid use, but no other illicit drug or alcohol use.</p>	<p>Al-Rafei and an acquaintance drove to a house and collected a chiller bag.</p> <p>A short time later his vehicle was stopped. On admitting he had illegal steroids the car was searched.</p> <p>Inside a gym bag was the chiller bag containing two large clipseal bags containing 10,281 tablets.</p>	<p>The sentencing judge found the appellant's role was as a paid courier and the volume of the drugs involved made the offending very serious. He found the offending was purely for financial gain.</p> <p>Remorseful and good prospects of rehabilitation.</p>	<p>Appellant appealed length of sentence.</p> <p>At [22] ... the appellant's offending was appropriately described by the sentencing judge as 'very serious'. He must ... have been aware that he was facilitating a scheme to distribute a large quantity of illicit drugs into the community. That role of a courier is an important element in the dissemination of drugs into the community. ... The appellant's participation in that scheme as a courier was simply for his own commercial gain.</p>
<p>15.</p>	<p><i>Barton v The State of Western Australia</i></p> <p><b>[2016] WASCA 196</b></p> <p>Delivered 18/11/2016</p>	<p>37 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Prior criminal history; multiple offences of poss prohibited drugs; no previous sentences of imp.</p> <p>Two long-term relationships, including a prior marriage.</p> <p>Self-employed; unlikely to be able to continue working as a</p>	<p>Cts 1 &amp; 2: Poss stolen property. Ct 3: Poss methyl wiss 33.6g of 68% purity and 25.4% purity. Ct 4: Poss MDMA wiss 5.57g. Ct 5: Poss cocaine wiss 6.29g of 69% purity. Ct 6: Poss methyl wiss 5.6g. Ct 7: Poss thing reasonably suspected to be unlawfully obtained. Ct 8: Poss methyl wiss 61.46g of 82% and 81% purity.</p> <p>Police recovered from Barton's home two stolen iPads (cts 1 &amp; 2). A</p>	<p>Cts 1 &amp; 2: 6 mths imp each ct (conc). Ct 3: 2 yrs 7 mths imp (conc). Ct 4: 10 mths imp (conc). Ct 5: 10 mths imp (conc). Ct 6: 10 mths imp (conc). Ct 7: 6 mths imp (conc). Ct 8: 3 yrs 3 mths imp (cum with ct 3).</p> <p>TES 5 yrs 10 mths imp.</p> <p>The sentencing judge</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality principle. Individual sentences not challenged.</p> <p>At [38] ... the appellant's drug dealing offences were, no doubt, serious. ... The quantity and purity of the drugs the subject of cts 3 and 8 were significant.</p> <p>At [43] ... it was necessary, in order properly to mark the</p>

		<p>mortgage broker.</p> <p>Illicit drug user.</p> <p>History of anxiety and ADHD; prescribed medication.</p>	<p>search located two cipseal bags containing 26.7g and 6.9g of methyl (ct 3), along with 23 MDMA tables and power (ct 4). In addition 5.24g and 1.05g of cocaine were found (ct 5).</p> <p>Barton was on bail for the above offences when he was stopped driving a vehicle. A search of the car located a quantity of methyl (ct 6); \$1,185 in cash (ct 7) and two mobile phones containing messages relating to prohibited drugs. A further search of his home located two cipseal bags, each containing 27.5g of methyl, and an additional 6.46g of methyl (ct 8). Digital scales, plastic straw scoops, spoons, cipseal bags in various sizes and 'tick lists' were also located.</p>	<p>found the appellant was a willing and motivated vendor of drugs into the community and his offending was for 'commercial gain' based on the presence of the tick lists, cash and phone messages.</p> <p>The appellant accepted responsibility for his offending and was addressing his drug addiction.</p>	<p>appellant's overall criminality in committing eight offences on two disparate occasions, to accumulate the individual sentences for cts 3 and 8.</p>
14.	<p><i>Santos v The State of Western Australia</i></p> <p>[2016] WASCA 107</p> <p>Delivered 29/06/2016</p>	<p>41 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history, including drug convictions.</p> <p>Engaged in the cultivation of cannabis at time of offending and later sentenced to a term of imp in NSW for this offence.</p>	<p>Ct 1: Poss MDMA wiss 8kg of 23-26% purity.</p> <p>Ct 2: Poss methyl wiss 22kg of 8-12% purity.</p> <p>Santos piloted a light plane from NSW to WA. His only passenger, the co-offender. Stowed in the cargo hold of the aircraft was a quantity of MDMA and methyl which Santos and the co-offender were jointly transporting from Sydney to Perth, as</p>	<p>Ct 1: 13 yrs imp (conc).</p> <p>Ct 2: 15 yrs imp (conc).</p> <p>TES 15 yrs imp. EFP.</p> <p>The sentencing judge found the appellant's role as 'critical to the enterprise'. Despite having committed drug-related offences in the</p>	<p>Dismissed.</p> <p>Appellant appealed length of sentence and challenged under parity and totality principle.</p> <p>At [45] As the learned sentencing judge recognised, there were differences in the roles played by the appellant and Mr Micalizzi in the commission of the offences. He regarded the</p>

		<p>Resident of NSW.</p> <p>An undischarged bankrupt at time offending.</p> <p>Co-offender Micalizzi sentenced to TES 15 yrs imp. EFP.</p>	<p>part of a larger drug distribution enterprise.</p> <p>Shortly after landing in WA the aircraft was intercepted and searched and the drugs located.</p> <p>Santos was found in possession of just over \$9,000 in cash and two mobile phones not in his name.</p>	<p>past, he was prepared to fly an aircraft, aware that illicit drugs were on board.</p>	<p>role played by Mr Micalizzi as being more important than that played by the appellant. By itself, that may have justified Mr Santos receiving lesser sentences. However, the appellant's antecedents are worse than Mr Micalizzi's.</p> <p>At [52] ... the TES, including the sentence imposed in NSW, was proportionate to the criminality involved in all of the offences, viewed in their entirety and having regard to the circumstances of the case, including those referable to the appellant personally.</p>
13.	<p><i>Stokes v The State of Western Australia</i></p> <p>[2016] WASCA 87</p> <p>Delivered 31/05/2016</p>	<p><u>Stokes</u> 23 yrs at time offence. 24 yrs at time sentence.</p> <p>Early PG (25% discount).</p> <p>Short criminal history in Ireland and Western Australia.</p> <p>Irish national. Strong parental and family support.</p> <p>Diagnosed with ADHD as a child for which he was medicated.</p>	<p>Ct 1: Poss MDMA wiss 80.9g of 44%-45% purity, Ct 2: Att poss MDMA wiss 115.8g of 44%-47% purity Ct 3: Poss alpha-PVP wiss 993g of 5%-6% purity</p> <p>Stokes and Busher were jointly charged.</p> <p>Stokes leased a private post box, its sole purpose for the delivery of drugs. A number of parcels containing illicit drugs were delivered to the post box. On each</p>	<p><u>Stokes</u> Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum). Ct 3: 5 yrs imp (cum).</p> <p>TES 8 yrs imp. EFP</p> <p><u>Busher</u> Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum)</p>	<p>Allowed.</p> <p>Appellants challenged length of sentence.</p> <p>Mr Stokes resented to: Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum). Ct 3: 3 yrs imp (cum).</p> <p>TES 6 yrs imp. EFP.</p> <p>Mr Busher resented to: Ct 1: 12 mths imp (cum). Ct 2: 12 mths imp (cum).</p>

		<p>Educated to Year 11.</p> <p>Problems with illicit substance use and a heavy drinker.</p> <p><u>Busher</u> 25 yrs at time offence. 26 yrs at time sentence.</p> <p>Early PG (25% discount).</p> <p>No prior criminal history.</p> <p>Irish national. Large close-knit family.</p> <p>Qualified tradesman with good work record.</p> <p>No problems with alcohol or illicit substances.</p>	<p>occasion Stokes was paid to collect the parcels and deliver them.</p> <p>A package containing 468 MDMA tablets was delivered to the post box. The package was intercepted by police and the MDMA was replaced with an inert substance (ct 2).</p> <p>A week later another two packages were delivered to the post box. One contained 329 MDMA tablets (ct 1) and the other alpha-PVP (ct 3).</p> <p>Busher and two others attempted to collect the parcels, but were unable to do so.</p> <p>Later that day Busher collected the packages using a false driver's licence as identification.</p>	<p>Ct 3: 2 yrs 2 mths imp (cum).</p> <p>TES 5 yrs 2 mths imp. EFP</p> <p><u>Stokes</u> The sentencing judge found he played a very important role by leasing the post box and that the operation was "sophisticated" and "well organised".</p> <p><u>Busher</u> The sentence judge described his involvement as a "one-off out of character aberration, somewhat opportunistic in nature". He willingly and persistently took part in the offences and must have appreciated he was being asked to pick up a valuable shipment of drugs.</p>	<p>Ct 3: 2 yrs imp (cum).</p> <p>TES 4 yrs imp. EFP.</p> <p>At [59] There is no evidence that Mr Stokes played any role in planning, organising, or orchestrating the offences.</p> <p>At [60] ... nor that he was to be involved in their ultimate sale or supply into the community.</p> <p>At [62] ... the enterprise in which Mr Stokes played a role involved large quantities of dangerous drugs being distributed into the community. Mr Stokes' willing provision of a post box to which packages containing illicit drugs were sent was an important, if not crucial, link in the distribution chain. The offending was not a "one-off" event or a momentary aberration.</p> <p>At [79] Mr Busher's criminality was less than that of Mr Stokes. Nevertheless, he willingly played an important role in the offences with a considerable degree of persistence, and was</p>
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					<p>motivated by financial gain. Without his involvement, the packages containing the illicit drugs could not have reached those who intended to distribute them into the community.</p>
12.	<p><i>Bailey v The State of Western Australia</i></p> <p>[2016] WASCA 10</p> <p>Delivered 13/01/2016</p>	<p>32 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No relevant criminal history.</p> <p>Experienced significant trauma as a child and adult.</p> <p>No settled employment.</p> <p>Long history of drug use.</p>	<p>1 x Poss MDMA wiss 4.46g of 31% purity (18 tablets).</p> <p>The appellant's vehicle was stopped and searched by police. Police found 18 white tablets inside the appellant's wallet. The appellant admitted that the drugs were his. The appellant's mobile contained text messages related to drug dealing.</p> <p>The appellant initially denied intent to sell or supply. However, later made admissions that he intended to sell a portion of the tablets and use some himself.</p>	<p>16 mths imp.</p> <p>Sentencing judge found at the relevant time the appellant was involved in the sale and supply of drugs of a high order.</p>	<p>Dismissed – on papers.</p> <p>Appellant challenged type, not length, of sentence.</p> <p>At [16]... it does not fall within the exceptional category. The appellant possessed the MDMA in part to distribute it into the community. There was an aspect of commerciality to the offence. The sale of the tablets would have funded the purchase of more illicit drugs. It was not a 'one-off' event; rather, it occurred in the context of other drug dealing.</p> <p>At [17]... given the significant weight that must be given to general deterrence... the efforts the appellant has taken towards his rehabilitation do not bring the case within the exceptional category.</p>
11.	<p><i>Hughes v The State of Western</i></p>	<p>28 yrs at time sentencing.</p>	<p>Ct 1: Poss MDMA wiss 509g of 18% purity (2,035 tablets).</p>	<p>Ct 1: 3 yrs imp (cum). Ct 2: 9 yrs imp (cum).</p>	<p>Dismissed.</p>

	<p><b>Australia</b></p> <p><b>[2015] WASCA 164</b></p> <p>Delivered 24/08/2015</p> <p>Co-offender of</p> <p><b>Guler v The State of Western Australia</b> [2014] WASCA 83</p>	<p>Convicted after trial.</p> <p>No relevant criminal history.</p> <p>Two children from prior relationship; educated to yr nine.</p> <p>Owens a struggling roofing business.</p> <p>Co-offender Rizeq convicted after trial and sentenced to TES 10 yrs imp.</p> <p>Co-offender Guler convicted after early PG and sentenced to TES 8 yrs imp.</p> <p>Co-offender Sumner convicted after late PG and sentenced to TES 6 yrs imp.</p>	<p>Ct 2: Poss methyl wiss 403ml of 80% purity.</p> <p>The appellant organised and coordinated an operation for the drugs to be driven from Sydney to Perth.</p> <p>In Sydney, Hughes secreted the drugs in the compartment of the bull bar of the vehicle, along with 1.063kg of the cutting agent MSM. Rizeq prepared the vehicle mechanically. Guler assisted in re-installing the bull bar on the vehicle.</p> <p>Guler and Sumner drove the vehicle from Sydney to Perth. Hughes and Rizeq flew to Perth and stayed at a hotel.</p> <p>Police executed search warrants at the hotels that the appellant and his co-offenders were staying. They seized the vehicle and found the drugs and MSM in the bull bar.</p>	<p>TES 12 yrs imp.</p> <p>Sentencing judge found that the appellant hid the drugs in the bulbar; knew the exact composition of the drug consignment; had ready access to a significant commercial supply of prohibited drugs; and was in sole executive control of the enterprise.</p> <p>Sentencing judge found that the appellant was the organiser, coordinator and entirely autonomous leader and principal of the operation.</p> <p>Sentencing judge found that the appellant was at a high risk of reoffending in a similar way.</p>	<p>At [9] The liquid methyl would have been further processed and mixed with the MSM and was capable of producing at least a kilogram of good user-level methyl.</p> <p>At [83] Mr Hughes' involvement in, and culpability for, the offending was the highest of all the co-offenders.</p> <p>At [92] The individual sentences and the TES imposed on Mr Hughes are broadly consistent with the sentences customarily imposed in this jurisdiction.</p>
10.	<p><b>Sathipittayayudh v The State of Western Australia</b></p> <p><b>[2015] WASCA 152</b></p>	<p>34 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal history, including convictions for poss prohibited weapons, drugs and explosives.</p>	<p>Ct 1: Supply methyl 27.8g.</p> <p>Ct 2: Poss handgun, whilst not being the holder of a licence or permit.</p> <p>Ct 3: Poss methyl wiss 358g.</p> <p>Ct 4: Poss MDMA wiss 71.6g.</p> <p><u>Ct 1</u></p>	<p>Ct 1: 3 yrs imp (cum).</p> <p>Ct 2: 12 mths imp (cum).</p> <p>Ct 3: 7 yrs imp (cum).</p> <p>Ct 4: 3 yrs imp (conc).</p> <p>TES 11 yrs imp.</p>	<p>Allowed.</p> <p>TES set aside.</p> <p>Resentenced to: Ct 1: 3 yrs imp (conc). Ct 2: 12 mths imp (cum).</p>

	<p>Delivered 04/08/2015</p>	<p>Born in Thailand; parents separated when aged three; raised by paternal grandmother until age 11; travelled to Australia at age 11 to join his mother.</p> <p>Completed school to yr 11; completed civil engineering course at TAFE and computer engineering.</p> <p>Worked as courier driver and powder coater.</p> <p>History of illicit drug use, including cannabis, methyl and MDMA; admitted to dealing commercially.</p>	<p>The appellant supplied Evans with approx. 27.85g of methyl. Later that day Evans sold the drugs to an UCO for \$12,000. Some of that cash formed part of approx. \$600,000 located during a search of a property owned by the appellant's parents.</p> <p><u>Cts 2-4</u> Police executed a search warrant at the appellant's house and located a loaded .32 calibre Beretta handgun. The appellant made some admissions regarding poss and ownership of the gun.</p> <p>Police also located 245g of methyl of more than 50% purity in a glass Pyrex tray, 113g methyl in a large clipseal bag and 71.6g of MDMA rolled up inside a newspaper.</p>	<p>EFP.</p> <p>Sentencing judge found appellant was involved in commercial drug dealing and in the upper half of the pyramid of drug trafficking criminality, at quite a high level.</p>	<p>Ct 3: 7 yrs imp (cum). Ct 4: 2 yrs 6 mths imp (cum).</p> <p>TES 10 yrs 6 mths imp.</p> <p>At [26] ...the sentencing judge made a factual error when including ct 4 in comments regarding lateness of the plea.</p> <p>At [27]... the appellant was caught red-handed and the prosecution case against him in respect of cts 2 to 4 was very strong. In these circumstances an appropriate discount for ct 4 is 20%.</p> <p>At [36]-[39] Discussion of comparable cases.</p> <p>At [40] Whilst the other cases referred to involved larger quantities of methyl this needs to be seen in the context that the appellant admitted he was involved in commercial dealing in the drug... In these circumstances the methyl and MDMA located at his premises ... must be viewed as merely his stock in trade. Whilst he is not to be punished on the basis that</p>
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					he had more than this amount in his poss cts 3 and 4 need to be seen in the context of a continuing commercial enterprise. It was clear that the appellant was a principal in this enterprise and that it was a highly successful one.
9.	<p><i>MSO v The State of Western Australia</i></p> <p>[2015] WASCA 78</p> <p>Delivered 14/04/2015</p>	<p>Convicted after PG.</p> <p>Favourable antecedents.</p>	<p><u>Indictment</u></p> <p>Ct 1: Poss methyl wiss 10.54kg of 46-75% purity.</p> <p>Ct 2: Poss heroin wiss 2.46kg of 41-59% purity.</p> <p>Ct 3: Poss cocaine wiss 599g of 52-62% purity.</p> <p>Ct 4: Poss MDMA wiss 1.09kg of 5-10% purity.</p> <p><u>Section 32 Notice</u></p> <p>Poss stolen or unlawfully obtained property x1.</p> <p>The appellant provided warehousing and related services to two drug traffickers, A and B, for one year from his legitimate retail business. The appellant collected, weighed, checked, stored, made up orders and delivered drugs on behalf of A and B as instructed by coded text messages. The appellant, when instructed, added cutting agents to the drugs supplied to him on behalf of B and</p>	<p><u>Indictment</u></p> <p>Ct 1: 8 yrs 3 mths imp.</p> <p>Ct 2: 7 yrs 6 mths imp (conc).</p> <p>Ct 3: 5 yrs imp (conc).</p> <p>Ct 4: 6 yrs imp (conc).</p> <p><u>Section 32 Notice</u></p> <p>12 mths imp (conc).</p> <p>TES 8 yrs 3 mths imp.</p> <p>EFP.</p> <p>Sentencing judge found that motivation for offending was a combination of beliefs arising from B's implied threat and a desire to make a significant financial gain.</p> <p>Remorseful; fully accepted responsibility for</p>	<p>Dismissed.</p> <p>At [28] ...the judge viewed the appellant's conduct as extremely serious, because the appellant played an integral role in the success of what was obviously a sophisticated large-scale drug distribution network.</p> <p>At [69] Although it is common to speak of discounts for cooperation with authorities in terms of percentages, as Gleeson CJ observed in <i>R v Gallagher</i>, the court must have regard to the TES imposed after the discount so as to ensure that the sentence is not so far out of touch with the circumstances of the offending conduct that it... would contravene the requirement of s 6(1) of the <i>Sentencing Act</i> which requires the sentence imposed on an</p>

			<p>then repackaged the resulting product. The appellant was paid in cash for his services.</p> <p><u>Ct 1</u> Police found a total of 10.54kg of methyl in 18 packages. Each package ranged in size from between 26.6g and 575g and 1kg, of 46%-75% purity. Police also found scales, clip seal bags, cutting agent, heat sealing equipment and an envelope with handwritten names and quantities on it. Street value was estimated at \$4.7-\$5.2 million (if sold in 28g lots) and at \$10.5 million (if sold in 0.1g lots).</p> <p><u>Ct 2</u> Police found three packages of heroin, two of which were a little under 1kg with 41% purity and the third containing a little less than 500g with 59% purity. Street value was estimated at \$1.1 million (if sold in 1 oz lots) and \$1.2-\$2.5 million (if sold in 0.1g lots).</p> <p><u>Ct 3</u> Police found three packages containing 109g of cocaine of 52% purity, 190g of cocaine of 56% purity and 300g of cocaine of 62% purity, respectively. Street value estimated</p>	<p>conduct; low risk of reoffending.</p> <p>Letter of recognition; appellant provided very substantial assistance.</p>	<p>offender to be commensurate with the seriousness of the offence.</p> <p>At [70] In this case the appellant received a reduction in the sentence that would otherwise have been imposed upon him of 8 yrs and 3 mths in recognition of the assistance which he provided to law enforcement agencies. On any view, that is a very substantial discount.</p>
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			<p>at \$450,000 (if sold in 1g lots) and \$214,000 (if sold in 1 oz lots).</p> <p><u>Ct 4</u> Police found 3,815 ecstasy tablets, which belonged to B and had been at the factory for a year. They ranged in purity between 5% and 10%. Street value estimated at \$152,600 (if sold individually) and \$53,000-\$57,000 (if sold in lots of 1,000).</p> <p><u>Section 32 Notice</u> Police found \$232,000 cash during the search.</p> <p>The appellant cooperated fully with police.</p>		
8.	<p><i>Davies v The State of Western Australia</i></p> <p>[2015] WASCA 14</p> <p>Delivered 22/01/2015</p>	<p>41 yrs at time sentencing.</p> <p>Conviction after late PG – TOI to resolve dispute as to appellant’s role.</p> <p>No relevant criminal history.</p> <p>Born in Western Australia; lives with wife in Melbourne.</p> <p>Co-offender Rogers charged with supply MDMA. Convicted after PG and sentenced to 2 yrs imp susp 2 yrs with supervision and</p>	<p>1 x Supply MDMA 246g of 10-16% purity (940 tablets).</p> <p>Between 28 June and 3 July 2012 the appellant made arrangements to supply Mellican with a quantity of MDMA. The appellant lived in Melbourne and Mellican lived in Perth.</p> <p>The appellant asked Gok, a friend in Perth, to arrange for the MDMA to be delivered to Mellican. Gok arranged for Rogers to make the delivery. Gok asked the appellant</p>	<p>3 yrs imp.</p> <p>EFP.</p> <p>Treated Mellican and the appellant as equals in drug dealing hierarchy.</p>	<p>Dismissed – on papers.</p> <p>At [30] The differences between the sentences imposed on the appellant and the co-offenders were justified by their different circumstances.</p> <p>At [36] Even taking the most beneficial view of the circumstances it is difficult to see how the appellant could have deserved more than the 10% discount that the sentencing judge granted him.</p>

		<p>programme conditions.</p> <p>Co-offender Mellican charged with 2 x poss MDMA, poss LSD and cultivate cannabis. Convicted after PG and sentenced to 2 yrs 9 mths for poss 940 MDMA tablets. TES 4 yrs 9 mths imp.</p> <p>Co-offender Gok charged with supply MDMA. Convicted after trial and sentenced to 3 yrs imp.</p>	<p>whether he needed him to collect payment for the drugs and the appellant responded that this was 'sorted'.</p> <p>On 3 July 2012, police observed Rogers and Mellican meet in a car park. After Rogers left, police arrested Mellican in poss of 940 MDMA tablets. The appellant subsequently flew to Perth and was arrested on 22 August 2012.</p> <p>The appellant maintained that his role was limited to coordinating the arrangement for the supply of the drugs. He denied having any ownership interest in the drugs. He claimed Gok was the principal offender. Judge found at TOI that the appellant planned and organised the supply of drugs for his own commercial benefit. The appellant's DNA was on outer wrapping of one parcel containing MDMA. On the basis of telephone intercept material, the judge concluded that the appellant discussed quality, price and volume of the drugs with Mellican. The appellant exercised a degree of control over Gok.</p>		
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<p>7.</p>	<p><i>The State of Western Australia v Baldini</i></p> <p>[2015] WASCA 39</p> <p>Delivered 06/03/2015</p>	<p>19 yrs at time offending.</p> <p>Convicted after PG.</p> <p>No prior criminal history.</p> <p>Had taken steps to rehabilitate before sentencing.</p> <p>Stable family support; good character; stable employment.</p> <p>Began using prohibited drugs at 16; engaged in gambling and excessive alcohol use at time offending.</p>	<p><u>Indictment</u></p> <p>Ct 1: Sell MDMA (65 tablets). Ct 2: Poss MDMA wiss 129.57g of 19-31% purity (490 tablets).</p> <p><u>Section 32 notice</u></p> <p>Ct 1: Poss unlawfully obtained property.</p> <p>Police arrested respondent at a shopping centre after observing him leave his home address. Police searched him and seized \$600 cash and two mobile phones. One phone contained messages relating to sale of prohibited drugs and notes detailing money owed.</p> <p>Search warrant executed at respondent's home. The respondent declared he was in possession of MDMA tablets and cash. He told police he purchased 500 MDMA tablets for \$16.50 each a week prior. He admitted he sold 65 MDMA tablets for \$30 each.</p> <p>Police found 490 MDMA tablets in respondent's bedroom inside locked box with clipseal bags, digital scales and \$3,200 cash. The respondent admitted poss of MDMA wiss and that some of the cash was from the</p>	<p><u>Indictment</u></p> <p>Ct 1: 12 mths imp (conc). Ct 2: 18 mths imp (conc).</p> <p><u>Section 32 notice</u></p> <p>Ct 1: 3 mths imp (conc).</p> <p>TES 18 mths imp, susp on conditions 18 mths; \$4,000 global fine.</p> <p>Judge found respondent was a modest/street dealer; selling for commercial gain; profit would have been approx. \$5,000.</p> <p>Remorse; cooperated with police; on the road to rehabilitation; moderate risk of reoffending.</p>	<p>Allowed – conditional susp terms and fine set aside.</p> <p>TES 18 mths imp substituted.</p> <p>EFP.</p> <p>At [28] There can be no doubt that children and youths are well and truly in the target market of drug dealers.</p> <p>At [29] The application of accepted sentencing principles for the offences committed by the respondent leads to only one conclusion, being that a term of immediate imprisonment is the only appropriate sentencing option.</p> <p>At [30] The circumstances of the offending are towards the higher end of the scale of seriousness.</p> <p>At [39]-[46] Discussion of the residual discretion.</p> <p>At [45] ... the long accepted sentencing principles that apply to drug dealing offences...are not abandoned when it comes to the residual discretion stage.</p>
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			sale of drugs.		
6.	<p><i>Jenkin v The State of Western Australia</i></p> <p>[2014] WASCA 226</p> <p>Delivered 04/12/2014</p> <p>Co-offender of <i>Pittard v The State of Western Australia</i> [2013] WASCA 126</p>	<p>29 yrs at time offending. 34 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Criminal history including drug-related convictions.</p> <p>History of substance abuse.</p> <p>After being charged stopped using illicit drugs; disassociated himself from adverse influences and resumed employment.</p> <p>Co-offender Forman charged with 11 Cts on indictment and 6 Cts on s32 notice. PG to all and sentenced to TES 6 yrs imp. EFP.</p> <p>Co-offender Pittard charged with 2 x sell/supply methyl and MDMA and poss cannabis wiss. Convicted after trial and sentenced to TES 7 yrs imp. EFP.</p>	<p>Ct 1: Poss methyl wiss 54.8g of 20-21% purity. Ct 2: Poss MDMA wiss 58.7g of 23% purity.</p> <p>The appellant and another (Forman) were involved in the routine distribution of drugs in Geraldton for profit. The appellant had established a relationship with a drug dealer in Perth (Pittard).</p> <p>The appellant arranged for Pittard to supply Forman with methyl and MDMA. Forman drove from Geraldton to Perth, collected from Pittard methyl and 199 MDMA tablets and returned to Geraldton. On his return he was stopped by Police who seized the drugs.</p>	<p>Ct 1: 5 yrs 6 mths imp. Ct 2: 6 mths imp (cum). TES 6 yrs imp. EFP.</p> <p>Judge found appellant was involved in the planning and organising of the 'drug run' carried out by Forman, who acted at the appellant's direction.</p>	Dismissed.
5.	<p><i>Rossi v The State of Western Australia</i></p> <p>[2014] WASCA</p>	<p>38 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p><u>Indictment 1182/12</u></p>	<p><u>Indictment 1182/12</u> Ct 1: Possess methyl wiss 12.19g of 56% purity. Ct 3: Possess methyl wiss 48.91g of 0.3-82% purity.</p>	<p><u>Indictment 1182/12</u> Ct 1: 2 yrs 2 mths imp (cum). Ct 3: 3 yrs 6 mths imp (head sentence).</p>	<p>Dismissed.</p> <p>Discusses scope of s9AA Sentencing Act, Criminal Procedure Act and appearance</p>

<p><b>189</b></p> <p>Delivered 21/10/2014</p>	<p>Cts 1 &amp; 3 accepted in full satisfaction of indictment.</p> <p><u>Indictment 790/13</u> Subject to negotiations 3, charges discontinued.</p> <p>Significant criminal history including AOBH, poss drugs, poss smoking utensil, stealing, traffic offences and breach of susp imp.</p> <p>Lengthy history of prohibited drug use.</p> <p>In a de facto relationship for 2 yrs.</p> <p>Diagnosed with systemic sclerosis and severe pulmonary arterial hypertension.</p> <p>Despite twice being arrested, charged and bailed the appellant continued to engage in drug dealing. Some of the offending occurred when he was on a suspended term of imprisonment.</p>	<p><u>Section 32 notice 1182/12</u> Ct 1: Possess stolen or unlawfully obtained property. Ct 2: Possess unlawfully obtained property. Ct 3: Possess smoking utensil. Ct 4: Possess cannabis. Ct 5: Possess MDMA.</p> <p><u>Indictment 790/13</u> Ct 1: Offer to sell methyl 28g.  Ct 2: Offer to sell methyl 1g. Ct 3: Sold methyl 6.98g of 44% purity. Ct 4: Offer to sell methyl 1g. Ct 5: Offer to sell methyl 3.5g. Ct 6: Offer to sell methyl 3.5g.</p> <p><u>Section 32 notice 790/13</u> Ct 1: Possess smoking utensil. Ct 2: Possess prohibited weapon. Ct 3: Possess methyl.</p> <p><u>Breach of CSIO</u> No authority to drive.</p> <p><u>Indictment 1181/12 &amp; associated offences</u> Police executed a search warrant at the appellant's home and located methyl in a safe. Police also located</p>	<p><u>Section 32 notice 1182/12</u> Ct 1: 5 mths imp (conc).  Ct 2: 7 mths imp (conc). Ct 3: 1 mth imp (conc). Ct 4: 1 mth imp (conc). Ct 5: 1 mth imp (conc).</p> <p><u>Indictment 790/13</u> Ct 1: 2 yrs 4mths imp (cum) Ct 2: 6 mths imp (conc). Ct 3: 12 mths imp (conc). Ct 4: 6 mths imp (conc). Ct 5: 9 mths imp (conc). Ct 6: 9 mths imp (conc).</p> <p><u>Section 32 notice 790/13</u> Ct 1: 1 mth imp (conc). Ct 2: 1 mth imp (conc). Ct 3: 3 mths imp (conc).</p> <p><u>Breach of CSIO</u> 8 mths imp (conc).</p> <p>TES 8 yrs imp.</p> <p>Sentencing judge found was a 'significant operative in the commercial distribution of methyl in the</p>	<p>framework.</p> <p>At [77] The appellant pleaded guilty at the fourth and fifth disclosure/committal hearing. The sentencing judge did not err by failing to make a finding that the appellant's pleas of guilty to the charges in Indictment 790 were entered at the first reasonable opportunity. They were not.</p> <p>At [87] The need for personal deterrence was a very weighty sentencing consideration for this case. The only significant mitigating factor was the appellant's plea of guilty. The sentencing judge was correct to conclude that any hardship to the appellant's partner should have no significant impact on the length of the sentence.</p>
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		<p>cash, drug paraphernalia and a notepad recording the appellant's drug dealing activities. The appellant was arrested and released on bail. About 4 mths later police executed a search warrant where the appellant was residing. Methyl was located in the master bedroom. Police also found cash, two smoking implements with traces of methyl, a small quantity of cannabis, 1 MDMA tablet and drug paraphernalia.</p> <p><u>Indictment 790/13 and associated offences</u>          Whilst on bail for those offences police intercepted calls where, with the exception of count 3, the appellant offered to sell methyl. In one instance the appellant sold 6.98g of methyl to another. The purchaser was stopped by police immediately after leaving the appellant's home. Police executed a search warrant at the appellant's house and located a smoking utensil, and a Taser disguised as a torch. The appellant had 0.5g of methyl in his pocket.</p> <p><u>Breach of CSIO</u>          The appellant drove whilst disqualified/suspended for which a term of 8 mths susp for 12 mths was</p>	<p>community'.</p> <p>Accepted that offending was driven by drug addiction.</p> <p>Sentencing judge concluded that ill health of partner did not have any significant impact on the sentencing process.</p> <p>Head sentenced reduced for each offence by one half (12.5%) of the maximum allowed under s 9AA of the <i>Sentencing Act</i>.</p>	
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			given. The commission of offences subject of Cts 5 & 6 in indictment 790/13 and associated s32 notice was a breach of this order.		
4.	<p><i>Doherty v The State of Western Australia</i></p> <p>[2014] WASCA 142</p> <p>Delivered 06/08/2014</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history including some drug offences.</p> <p>Whilst on bail for possession of MDMA and methyl wiss the appellant committed Cts 3 – 6.</p> <p>Stable employment history.</p> <p>Commenced using methyl two years prior; soon began using on a daily basis.</p> <p>Significant steps taken to rehabilitate himself whilst in custody.</p> <p>Character references spoke well of the appellant.</p>	<p>Ct 1: Possess MDMA wiss 6.84 grams of 19% purity.</p> <p>Ct 2: Possess methyl wiss 95.2 grams of 51-73% purity.</p> <p>Ct 3: Possess methyl wiss 16.03 grams of 48% purity.</p> <p>Ct 4: Agg possess firearm.</p> <p>Ct 5: Agg possess firearm.</p> <p>Ct 6: Agg possess firearm.</p> <p><u>Cts 1 &amp; 2:</u> Police executed a search warrant at the appellant's house and found a carry bag in which were a number of clip seal bags containing methyl. The amounts ranged from 1.71 grams and 3.62 grams. Another larger bag contained 57.6 grams. The total quantity seized was 95.2 grams.</p> <p>Also located in the carry bag were four bags containing various quantities of MDMA. The total weight being 6.84 grams.</p> <p>Also located were a number of items indicative of drug dealing. They included two electronic digital scales,</p>	<p>Ct 1: 12 mths imp.</p> <p>Ct 2: 3 yrs 9 mths imp (conc).</p> <p>Ct 3: 12 mths imp (cum).</p> <p>Ct 4: 6 mths imp (cum).</p> <p>Ct 5: 6 mths imp (conc).</p> <p>Ct 6: 6 mths imp (conc).</p> <p>TES 5 yrs 3 mths imp.</p> <p>Some remorse.</p> <p>Appellant claimed drug use had caused him to incur a drug debt and he was pressured into selling drugs to repay the debt – Judge said that this was not a mitigating factor and did not lessen his culpability.</p> <p>Sentencing judge characterised offences as serious and as indicating a significant commercial</p>	<p>Dismissed – on papers.</p> <p>At [24] It is very difficult for an appellant to succeed on a ground that alleges that too little weight was given to a particular factor.</p> <p>At [25] Any delay between being charged and being sentenced is not, in itself, a mitigating factor. However, progress towards rehabilitation that occurs in such a period should be taken into account.</p> <p>At [27] Progress towards rehabilitation is a factor personal to an offender. Personal factors have less weight in regard to drug trafficking offences because of the importance of general deterrence.</p>

			<p>numerous unused clip seal bags, mobile telephones, SIM card packets and notebooks containing names and amounts.</p> <p><u>Cts 3 – 6</u> About six months later police again attended the appellant's house and conducted a search warrant. Police located two clip seal bags containing a total of 16.03 grams of methyl, \$7000 was also found together with a number of unused clip seal bags and a quantity of bulking agent, electronic scales, more clip seal bags, three mobile telephones and \$5420 cash.</p> <p>Police also located a number of firearms.</p>	<p>enterprise.</p> <p>Only mitigating factor was that the appellant had pleaded guilty at an early stage.</p>	
3.	<p><b><i>Zohdy v The State of Western Australia</i></b></p> <p><b>[2014] WASCA 141</b></p> <p>Delivered 06/08/2014</p>	<p>20 yrs at time offending. 21 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Youngest of 4 children; close supportive family.</p> <p>In relationship with husband for 6 years.</p> <p>Suicide of brother related to use of illicit substances had a</p>	<p>Ct 1: Sell MDMA 260 tablets. Ct 2: Sell MDMA 1000 tablets.</p> <p><u>Ct 1:</u> Over a two day period the appellant exchanged text messages and telephone calls with her husband (and co-offender). Her husband was working away. Arrangements were made for the appellant to receive a quantity of MDMA pills at her home address and then supply those pills to a third party.</p>	<p>Ct 1: 12 mths imp. Ct 2: 2 yrs 6 mths imp (conc).</p> <p>TES 2 yrs 6 mths imp.</p> <p>Evasive in ROI but subsequently co-operated with police and provided information.</p> <p>Judge accepted that she was partly driven by blind</p>	<p>Dismissed – on papers.</p> <p>At [22] There was no suggestion that she was coerced or pressured into complying and the text messages show that she was ready to perform the role that her husband gave her.... That she may have been partly motivated by a wish to assist her husband in discharging his drug debt does nothing to mitigate the offences.</p>

		<p>devastating effect on appellant.</p> <p>Mother died shortly before the appellant was sentenced.</p> <p>Amphetamine user.</p> <p>Husband had been a user of drugs and accumulated a significant debt. He had engaged in dealing in order to discharge his debt and had persuaded the appellant to help him.</p> <p>Husband faced additional charges, PG and sentenced to 5 yrs imp.</p>	<p>The appellant, having received 260 tablets, supplied them to another person at \$20 each pill. The appellant received \$5200.</p> <p><u>Ct 2:</u> About 15 days later the appellant exchanged text messages and telephone calls with her husband. Her husband was again working away. Arrangements were made for a further supply of MDMA. The appellant's husband arranged for 1000 MDMA pills to be delivered to the appellant at her home. Following instructions from her husband the appellant supplied the 1000 tablets to a purchased for \$17 each. The total amount received was \$17000.</p>	<p>loyalty to her partner.</p>	
2.	<p><i>Le v The State of Western Australia</i></p> <p>[2014] WASCA 120</p> <p>Delivered 13/06/2014</p>	<p>31 yrs at time offending. 33 yrs at time sentencing.</p> <p>Convicted after late PG (first day of trial).</p> <p>Extensive prior criminal history; including possess prohibited drugs wiss, possess prohibited drugs and carried a prohibited weapon.</p> <p>Family from Vietnam; appellant</p>	<p>Ct 1: s19(1), 19(1ac) <i>Firearms Act</i> poss altered firearm W/O licence. Ct 2: Poss methyl wiss 16.46g of 78-85% purity. Ct 3: Poss cannabis wiss 14.7g. Ct 4: Poss MDPV wiss 6.64g. Ct 5: Poss methyl wiss 56.17g of 69-72%. Ct 6: Att poss MDMA wiss 46.65g. Ct 7: Poss cannabis wiss 55.3g. Ct 8: Poss methyl wiss 11.6g of 80%.</p> <p>The appellant's mother contact police</p>	<p>Ct 1: 12 mths imp. Ct 2: 2 yrs 4 mths imp. Ct 3: 6 mths imp. Ct 4: 18 mths imp. Ct 5: 4 yrs 2 mths imp. Ct 6: 2 yrs 4 mths imp. Ct 7: 12 mths imp. Ct 8: 2 yrs 6 mths imp.</p> <p>Ct 2 cum on Ct 5.</p>	<p>Dismissed.</p> <p>At [42] s 6(1)(a) applies to a person who is in possession of a prohibited drug merely as a bailee for another.</p> <p>At [45] His primary motivation in dealing with the drugs was to repay a debt to the owner of the drugs seized during the first search.</p>

		<p>born in Australia.</p> <p>Childhood marred by domestic violence; parents later separated.</p> <p>Seven yr old daughter from previous relationship.</p> <p>Completed Year 12.</p> <p>Regularly employed in various occupations.</p> <p>Long history of illicit drug abuse; commenced using cannabis at 14 years; heroin at 18 yrs; methyl at 20 yrs; occasional user of ecstasy.</p>	<p>after discovering a firearm and a bag containing white powder in his bedroom in her house. Police searched and discovered a 410 gauge shotgun with a shortened barrel; 16.46g of methyl; 14.7g of cannabis and 6.64g of MDPV, a derivative of methyl. Police also discovered \$36,000 cash in two shotgun cartridges. The appellant was arrested, charged and released on bail.</p> <p>The prosecution conceded that the firearm and drugs were owned by another person and that the appellant was holding them for that person. Also conceded \$36,000 cash was the same owner and that the appellant was holding the cash for the owner.</p> <p>About six months later, police searched a house where the appellant as living with his girlfriend. Police located 56.17g of methyl; 14.65g of tablets which resembled MDMA but later analysis revealed they did not contain any illicit substances and 55.3g of cannabis.</p> <p>Later on that same day, police again searched the home of the appellant's mother and located 11.6g of methyl</p>	<p>All other sentences conc with Ct 5.</p> <p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The appellant had been engaging in the distribution of illicit drugs for at least a month before his second arrest.</p> <p>Sentencing judge accepted that Cts 1-4 the appellant had been acting as a bailee for a friend, he had received no benefit for holding the firearm, drugs and cash.</p> <p>Judge accepted Cts 5-8 that five men had demanded that the appellant repay the value of the property seized by the police (earlier charges) had threatened him and his family with violence if he did not comply.</p>	<p>At [51] The appellant's role in relation to the drugs was important. He was concealing a significant quantity of an illicit drug on behalf of a person who wanted to distance himself from the drugs. The appellant knew the drugs were intended for distribution into the community.</p> <p>At [65] At two different times and in two different ways, the appellant was prepared to facilitate the dissemination into the community of substantial quantities of illicit drugs.</p>
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			and other items associated with drug dealing.		
1.	<p><i>Guler v The State of Western Australia</i></p> <p>[2014] WASCA 83</p> <p>Delivered 22/04/2014</p> <p>Co-offender of</p> <p><i>Hughes v The State of Western Australia</i> [2015] WASCA 164</p>	<p>28 yrs at time of offending.</p> <p>Convicted after early PG.</p> <p>NSW criminal history of no relevance.</p> <p>Qualified spray painter.</p> <p>Very good references.</p> <p>Not a user of illicit substances.</p> <p>Model prisoner whilst on remand.</p>	<p>Ct 1: Poss MDMA wiss – 509g of 18% purity (2,035 tablets).</p> <p>Ct 2: Poss methyl wiss – 403ml of 80% purity.</p> <p>The appellant was recruited for the operation several days before departing from Sydney.</p> <p>The appellant and two others drove from Sydney to Perth with the MDMA and methyl secreted inside the vehicle’s bull bar, along with 1.063kg of the cutting agent MSM.</p> <p>A search warrant was later conducted on a hotel the appellant and his co-offenders were staying where the drugs and MSM were found in the bull bar.</p>	<p>Ct 1: 2 yrs imp.</p> <p>Ct 2: 6 yrs imp (cum).</p> <p>TES 8 yrs imp.</p> <p>EFP.</p> <p>Deliberately lied in his record of interview, although did make some admissions to Police including he was promised \$5,000 for his efforts.</p> <p>Judge accepted was not principal offender and that offending was out of character.</p> <p>Purely motivated by commercial gain.</p> <p>Low risk of re-offending.</p>	<p>Dismissed.</p> <p>At [24] The venture was planned and well organised. The offence is a serious example of its type and the appellant bears substantial criminal culpability.</p> <p>At [25] Although the appellant has good antecedents and poses little or no risk of further similar offending, general deterrence remains a very important sentencing factor.</p> <p>At [37] The so-called one transaction rule is not a rule at all. It is a handy rule of thumb. It does not have to be applied whenever an offender commits a number of offences which form part of one transaction. In the context of drug offending, it will not necessarily be the case that an offender who is found in possession of a number of different types of drugs at the one time will receive wholly concurrent sentences.</p>

***Transitional Provisions Repealed (14/01/2009)***

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***Transitional Provisions Enacted (31/08/2003)***