

Possess MDMA (ecstasy) with intent to sell or supply

s 6(1)(a) *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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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	plead 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
19.	<p><i>Franklin v The State of Western Australia</i></p> <p>[2017] WASCA 102</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>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>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 centre. It contained approx 100 banana-shaped 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</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. EFP.</p> <p>The sentencing judge noted the quantity and 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>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 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</p>

			<p>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 drugs, over the dark net.</p>		<p>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>
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>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 & 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</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</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>Determined efforts at rehabilitation while remanded in custody.</p>	<p>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>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>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 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>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 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</p>
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					personal circumstances, which was not a factor of great weight in the context of the offending.
17.	<p><i>Rinaldi v The State of Western Australia</i></p> <p>[2017] WASCA 48</p> <p>Delivered 17/03/2017</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 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 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. 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</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 mths imp (conc). Ct 7: 12 mths (cum). Ct 12: 14 mths imp (cum). Cts 13-14: 14 mths imp (conc). Cts 18, 21 and 31: 6 mths imp (conc). Ct 19: 8 mths imp (cum). Ct 20: 3 mths imp (conc). Ct 22-23: 2 mths imp (conc). Cts 24-25: 8 mths imp (conc). Cts 26-27 and 30: 3 mths imp (conc). Cts 28-29 and 32-33: 1 mths imp (conc). Ct 34-36: 3 mths imp</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 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</p>

		<p>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>(conc). Ct 37: 4 mths imp (conc). Ct 38: 2 mths imp (cum). 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 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>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 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</p>
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					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.
16.	<i>Al-Rafei v The State of Western Australia</i> [2017] WASCA 4 Delivered 12/01/2017	23 yrs time of offence. 24 yrs time of sentencing. PG (15% discount). No prior criminal history. One of four sons; raised by his mother from aged 7 yrs following parents separation. Mother struggled financially. Educated to yr 12; obtained drafting certificate. In full time employment and had casual job at time of offending. History of steroid use, but no other illicit drug or alcohol use.	1 x Poss MDMA wiss 2.24kg of 23% purity. Al-Rafei and an acquaintance drove to a house and collected a chiller bag. A short time later his vehicle was stopped. On admitting he had illegal steroids the car was searched. Inside a gym bag was the chiller bag containing two large clipseal bags containing 10,281 tablets.	8 yrs 6 mths imp. 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. Remorseful and good prospects of rehabilitation.	Dismissed. Appellant appealed length of sentence. 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.
15.	<i>Barton v The State of Western Australia</i>	37 yrs at time sentencing. Convicted after early PG (25%)	Cts 1 & 2: Poss stolen property. Ct 3: Poss methyl wiss 33.6g of 68% purity and 25.4% purity.	Cts 1 & 2: 6 mths imp each ct (conc). Ct 3: 2 yrs 7 mths imp	Dismissed – on papers. Appeal concerned totality

	<p>[2016] WASCA 196</p> <p>Delivered 18/11/2016</p>	<p>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 mortgage broker.</p> <p>Illicit drug user.</p> <p>History of anxiety and ADHD; prescribed medication.</p>	<p>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 & 2). A 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>(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 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>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 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>41 yrs at time sentencing. Convicted after trial.</p>	<p>Ct 1: Poss MDMA wiss 8kg of 23-26% purity. Ct 2: Poss methyl wiss 22kg of 8-12%</p>	<p>Ct 1: 13 yrs imp (conc). Ct 2: 15 yrs imp (conc).</p>	<p>Dismissed. Appellant appealed length of</p>

	<p>[2016] WASCA 107</p> <p>Delivered 29/06/2016</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>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>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 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>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 past, he was prepared to fly an aircraft, aware that illicit drugs were on board.</p>	<p>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 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><u>Stokes</u> 23 yrs at time offence. 24 yrs at time sentence.</p> <p>Early PG (25% discount).</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><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>Allowed.</p> <p>Appellants challenged length of sentence.</p> <p>Mr Stokes resentenced to:</p>

<p>Delivered 31/05/2016</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>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>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 occasion Stokes was paid to collect the parcels and deliver them.</p> <p><u>Indictment</u> 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>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) 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</p>	<p>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 resentenced to: Ct 1: 12 mths imp (cum). Ct 2: 12 mths imp (cum). 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-</p>
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				the offences and must have appreciated he was being asked to pick up a valuable shipment of drugs.	off' event or a momentary aberration. 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 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.
12.	<i>Bailey v The State of Western Australia</i> [2016] WASCA 10 Delivered 13/01/2016	32 yrs at time sentencing. Convicted after early PG. No relevant criminal history. Experienced significant trauma as a child and adult. No settled employment. Long history of drug use.	1 x Poss MDMA wiss 4.46g of 31% purity (18 tablets). 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. 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.	16 mths imp. Sentencing judge found at the relevant time the appellant was involved in the sale and supply of drugs of a high order.	Dismissed – on papers. Appellant challenged type, not length, of sentence. 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.

					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.
11.	<p><i>Hughes v The State of Western Australia</i></p> <p>[2015] WASCA 164</p> <p>Delivered 24/08/2015</p> <p>Co-offender of</p> <p><i>Guler v The State of Western Australia</i> [2014] WASCA 83</p>	<p>28 yrs at time sentencing.</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 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 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</p>	<p>Ct 1: 3 yrs imp (cum).</p> <p>Ct 2: 9 yrs imp (cum).</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</p>	<p>Dismissed.</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>

			MSM in the bull bar.	that the appellant was at a high risk of reoffending in a similar way.	
10.	<p><i>Sathitpittayayudh v The State of Western Australia</i></p> <p>[2015] WASCA 152</p> <p>Delivered 04/08/2015</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>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>Ct 1: Supply methyl 27.8g. Ct 2: Poss handgun, whilst not being the holder of a licence or permit. Ct 3: Poss methyl wiss 358g. Ct 4: Poss MDMA wiss 71.6g.</p> <p><u>Ct 1</u> 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>Ct 1: 3 yrs imp (cum). Ct 2: 12 mths imp (cum). Ct 3: 7 yrs imp (cum). Ct 4: 3 yrs imp (conc).</p> <p>TES 11 yrs imp.</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>Allowed.</p> <p>TES set aside.</p> <p>Resentenced to: Ct 1: 3 yrs imp (conc). Ct 2: 12 mths imp (cum). 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</p>

					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 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.	<i>MSO v The State of Western Australia</i> [2015] WASCA 78 Delivered 14/04/2015	Convicted after PG. Favourable antecedents.	<u>Indictment</u> Ct 1: Poss methyl wiss 10.54kg of 46-75% purity. Ct 2: Poss heroin wiss 2.46kg of 41-59% purity. Ct 3: Poss cocaine wiss 599g of 52-62% purity. Ct 4: Poss MDMA wiss 1.09kg of 5-10% purity. <u>Section 32 Notice</u> Poss stolen or unlawfully obtained property x1.	<u>Indictment</u> Ct 1: 8 yrs 3 mths imp. Ct 2: 7 yrs 6 mths imp (conc). Ct 3: 5 yrs imp (conc). Ct 4: 6 yrs imp (conc). <u>Section 32 Notice</u> 12 mths imp (conc). TES 8 yrs 3 mths imp. EFP.	Dismissed. 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. At [69] Although it is common to speak of discounts for cooperation with authorities in terms of percentages, as Gleeson

			<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 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</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 conduct; low risk of reoffending.</p> <p>Letter of recognition; appellant provided very substantial assistance.</p>	<p>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 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>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 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.	<i>Davies v The State of Western Australia</i>	<p>41 yrs at time sentencing.</p> <p>Conviction after late PG – TOI to resolve dispute as to appellant’s</p>	<p>1 x Supply MDMA 246g of 10-16% purity (940 tablets).</p> <p>Between 28 June and 3 July 2012 the</p>	<p>3 yrs imp.</p> <p>EFP.</p>	<p>Dismissed – on papers.</p> <p>At [30] The differences between the sentences imposed on the</p>

<p>[2015] WASCA 14</p> <p>Delivered 22/01/2015</p>	<p>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 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>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 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</p>	<p>Treated Mellican and the appellant as equals in drug dealing hierarchy.</p>	<p>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>
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			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.		
7.	<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> 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> 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><u>Indictment</u> Ct 1: 12 mths imp (conc). Ct 2: 18 mths imp (conc).</p> <p><u>Section 32 notice</u> 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</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 sale of drugs.		residual discretion. At [45] ... the long accepted sentencing principles that apply to drug dealing offences...are not abandoned when it comes to the residual discretion stage.
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).</p> <p>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.

<p>5.</p>	<p>Rossi v The State of Western Australia</p> <p>[2014] WASCA 189</p> <p>Delivered 21/10/2014</p>	<p>38 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p><u>Indictment 1182/12</u> Cts 1 & 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>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>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.</p> <p>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 & associated</u></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><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>Dismissed.</p> <p>Discusses scope of s9AA <i>Sentencing Act, Criminal Procedure Act</i> and appearance 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><u>offences</u> Police executed a search warrant at the appellant's home and located methyl in a safe. Police also located 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></p>	<p>TES 8 yrs imp.</p> <p>Sentencing judge found was a 'significant operative in the commercial distribution of methyl in the 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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			The appellant drove whilst disqualified/suspended for which a term of 8 mths susp for 12 mths was 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 & 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>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 lesson his culpability.</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>Also located were a number of items indicative of drug dealing. They included two electronic digital scales, 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>Sentencing judge characterised offences as serious and as indicating a significant commercial enterprise.</p> <p>Only mitigating factor was that the appellant had pleaded guilty at an early stage.</p>	
3.	<p><i>Zohdy v The State of Western Australia</i></p> <p>[2014] WASCA 141</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>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</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>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</p>

		<p>Suicide of brother related to use of illicit substances had a 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>address and then supply those pills to a third party.</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>Judge accepted that she was partly driven by blind loyalty to her partner.</p>	<p>debt does nothing to mitigate the offences.</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>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>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>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</p>

		<p>Family from Vietnam; appellant 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>The appellant's mother contact police 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>Ct 2 cum on Ct 5.</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</p>	<p>search.</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.	family with violence if he did not comply.	
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 <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)