

Deprivation of Liberty

s 333 Criminal Code

From 1 January 2014

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

imp	imprisonment
susp	suspended
PG	plead guilty
agg	aggravated
burg	burglary
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
att	attempted
ct	count
TES	total effective sentence
EFP	eligible for parole
VRO	violence restraining order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
1.	<p><i>Adams v The State of Western Australia</i></p> <p>[2014] WASCA 191</p> <p>Delivered 28/10/2014</p>	<p>44 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>No relevant criminal history.</p> <p>Parents separated when 3 yrs old; raised by his mother; very difficult upbringing.</p> <p>Previously married; long term relationship; no children.</p> <p>Former AFP, Customs and Immigration officer.</p>	<p><u>Indictment</u></p> <p>Deprivation of liberty x 1.</p> <p>Att armed robbery x 1.</p> <p>Armed robbery x 1.</p> <p>Fraud x 9.</p> <p>Attempted fraud x 9.</p> <p>Possess identification material w/i to commit an offence x 1.</p> <p><u>Section 32 Notice</u></p> <p>Stealing Commonwealth property x 1.</p> <p>Bringing stolen goods into State x 1.</p> <p>Stealing x 2.</p> <p>Poss prohibited weapon x 3.</p> <p>Poss controlled weapon x 1.</p> <p>Unlicensed ammunition x 1.</p> <p>Possess stolen or unlawfully obtained property x 2.</p> <p>Possess false number plates x 1.</p> <p>Sometime before the appellant left the AFP in 2006, he dishonestly appropriated a number of items belonging to his employer, including a police radio, a ballistic vest & a container of OC spray.</p> <p>Between 2006 and 2010 the appellant resided and was employed as a customs officer in Darwin. Whilst his neighbours were on holiday the appellant broke into their unit and stole property and identification. The appellant subsequently transferred to Perth between November 2010 and January 2011 and took with him these items.</p> <p>In 2011 the appellant became and immigration officer. During this time he applied online for credit</p>	<p>TES 10 yrs imp.</p> <p>EFP.</p> <p>\$300 fine.</p> <p>Remorse; victim empathy; acceptance of responsibility.</p> <p>Sentencing judge described robberies and sexual offences as involving ‘a significant measure of premeditation, sexual motivation and planning’; described fraud as ‘deliberate, systematic and planned criminality over a significant period’.</p> <p>Low - moderate risk of re-offending in a sexual way; moderate – high risk of committing further dishonesty offences.</p>	<p>Allowed – Grounds 3 & 6.</p> <p><u>Section 32 notice</u></p> <p>Ct 1 varied – release after serving 7 mths of it on recognizance in the sum of \$10,000.</p> <p>At [8] It is very difficult, for the purposes of comparison in the context of the first limb of the totality principle, to identify any relevant total effective sentences imposed in previous cases. The nature, extent and diversity of the appellant’s overall offending, by a person with his antecedents, is very unusual. No previous case is truly comparable.</p> <p>At [61] The past, present and likely future conditions of the appellant’s imprisonment, by reason of his status as a former police officer, were a relevant sentencing consideration that his Honour was bound to take into account.</p>

			<p>cards using the stolen identity details as well as incorrect information as to his employment, assets and liabilities. Some of the false information as to his employment came from documents he had accessed through his employment. The applications were approved. The appellant also attempted to apply for further credit cards but when asked for further documentation he did not proceed or did not collect the card.</p> <p>In 2011 the appellant stole a cheque from a letterbox and deposited into one of his false accounts, withdrew money from the credit account he had opened and stole cheques from a cheque deposit box at a bank and then deposited the cheque into an access account he had opened.</p> <p>In 2012 the appellant rented a self-storage unit and post office box under the false name and address previously stolen. The box was used as a mailing address for invoices for the rented storage unit and applications for bank accounts.</p> <p>In March 2012 the appellant received two parking infringements for failing to display an unexpired ticket. Affixed to the vehicle were registration plates from another vehicle. The purpose being he would avoid paying the parking fees.</p> <p>On 30 March 2012 the victim, a 19 yr old Finnish national, was at a bus stop waiting for a bus. The appellant approached the victim, armed with a BB gun and demanded money. He forced the victim to a secluded location where he digitally penetrated her and performed cunnilingus. The victim tried to</p>	<p>At [138] The appellant's overall offending was self-evidently very serious. It was varied and substantial. It involved deliberate, systematic and planned criminality executed with considerable sophistication... The appellant used the skills he had gained in the work he had undertaken in the banking and law enforcement sectors to commit the offences, and went to considerable lengths to avoid detention.</p> <p>Discussion on the scope of section 32 notices and Commonwealth offences.</p> <p>At [174] Ground 3 is capable of affecting the total effective sentence imposed by his Honour. However, having regard to all of the circumstances of the case and particularly to the seriousness of the appellant's overall offending and the need for deterrence, I would not impose a different</p>
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			<p>attempt to remove the handgun however the appellant produced a large black-handled knife from his backpack and threatened to slash her throat.</p> <p>One month later the appellant approached another female victim. He exposed a handgun tucked into his shorts. Terrified, the victim threw her handbag at the appellant and ran.</p> <p>A search warrant was executed on the appellant's house where police located 38 items of mail stolen by the appellant from addresses in Perth. A further search warrant was executed at the storage facility where nine items of stolen mail was located. Also found were unlicensed registration plates, weapons and unlicensed ammunition.</p>		<p>sentence.</p>
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Transitional Provisions Enacted (31/08/2003)</i>					