

## Attacks with a glass or bottle

ss 301, 294 and 297 *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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
conc	concurrent
cum	cumulative
PG	plead guilty
agg	aggravated
burg	burglary
sex pen	sexual penetration without consent
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
att	attempted
TIC	time in custody
TES	total effective sentence
SJA	single judge appeal

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
1.	<p><i>Moir v The State of Western Australia</i></p> <p>[2014] WASCA 25</p> <p>Delivered 04/02/2014</p>	<p>32 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal record including burglary, dishonesty, traffic offences and breaching court orders.</p> <p>Suffered significant trauma as a child and adult; history of severe sexual abuse and domestic violence.</p> <p>Abused alcohol for many years.</p> <p>Diagnosed with ADHD; some characteristics of post-traumatic stress disorder; personality disorder with emotionally unstable paranoid and antisocial features.</p> <p>Claimed that the offences on Indictment and s32 were whilst she was adversely affected by the effects of her medication.</p> <p>At time of committing these offences was subject to an 18 mth ISO imposed for agg unlawful wounding.</p>	<p><u>Indictment</u> Ct 1: Unlawful wounding. Ct 2: Stealing.</p> <p><u>s32 notice</u> Ct 1: Assault public officer. Ct 2: Trespass. Ct 3: Obstruct public officer.</p> <p><u>Breach</u> Breach of ISO - agg unlawful wounding. (By re-offending and non-compliance).</p> <p><u>Breach</u> The appellant was drinking at a nightclub when she encountered the victim and his partner. During a conversation with them, she threw the contents of her glass over the victim's partner. Either the victim or his partner then threw the contents of their drink at the appellant. She reacted by throwing the rest of the contents of her glass at the victim and, in doing so, the glass she was holding left her hand and struck the victim just above his left eye with such force that the glass broke and inflicted a 5 cm cut to the victim's forehead.</p> <p><u>Indictment and s32 notice</u> The victim and her 10 year old son were at their community library. The appellant, who was intoxicated, was seated at a computer station a couple of seats away from them. Without warning the appellant struck the victim to the left side of her face with a partially filled bottle of</p>	<p><u>Indictment</u> Ct 1: 16 mths imp (cum). Ct 2: 6 mths imp.</p> <p><u>s32 notice</u> Ct 1: 6 mths imp (cum). Ct 2: 3 mths imp. Ct 3: 3 mths imp.</p> <p><u>Breach</u> 9 mths imp (cum).</p> <p>TES 2 yrs 7 mths imp.</p> <p>EFP.</p> <p>Appellant told sentencing judge she intended to re-engage in rehabilitation programs.</p> <p>Both unlawful wounding offences were unprovoked, unexpected and unjustified.</p>	<p>Dismissed – on papers.</p> <p>At [24] When viewed as a whole, the appellant's offending was unquestionably serious. On two separate occasions she, without any justification, unlawfully wounded her victims.</p>

			<p>whisky which broke on contact. The victim suffered a 10cm cut to her left eyebrow and damage to the retina of her left eye. She then fled after stealing a purse from the victim's handbag.</p> <p>The appellant then went to and entered an acquaintances address in Orelia without his consent. The victim returned home and made several requests for her to leave however his requests were ignored. The police were contacted. Instead of leaving, the appellant took a bath and then hid under the victim's bed. She refused all requests by police to leave. Eventually she climbed out a window, stood in the garden and pleaded with the victim to allow her to stay. She resisted police attempts to arrest her and kicked a police officer in the face and leg.</p>		
<b><i>Transitional Provisions Repealed (14/01/2009)</i></b>					
<b><i>Transitional Provisions Enacted (31/08/2003)</i></b>					