

Armed robbery

Banks or financial institutions and jewellers

ss 392 and 393 *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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
att	attempted
EFP	eligible for parole
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
3.	<p><i>Williams v The State of Western Australia</i></p> <p>[2016] WASCA 232</p> <p>Delivered 23/12/2016</p>	<p>31 yrs at time offending (cts 1-7). 34 yrs at time offending (ct 8).</p> <p>Convicted after trial.</p> <p>Lengthy criminal history. Ct 8 committed when on bail.</p> <p>Troubled childhood, father died when very young. Cared for her seriously ill mother until her death several months before offence of ct 8.</p> <p>Abused from age 14 yrs. Left home at 16 yrs.</p> <p>Irregular school attendance.</p> <p>No vocational skills.</p> <p>Four children; all cared for by others.</p> <p>Entrenched history of illicit drug and alcohol abuse.</p> <p>Diagnosed with schizophrenia. Impaired insight into her mental illness and tendency to avoid psychiatric treatment.</p>	<p>Ct 1: Steal motor vehicle. Ct 2: Armed robbery. Ct 3: Att armed robbery. Ct 4: Stealing. Ct 5: Agg armed robbery Ct 6: Robbery. Ct 7: Armed robbery. Ct 8: Att armed robbery.</p> <p>Williams stole a car (ct 1). With her face concealed by a hat, sunglasses and bandana she went to a hotel bottle shop and threatened staff with a knife, yelling for the till be opened. She stole \$500 (ct 2).</p> <p>Armed with a knife Williams went to a petrol station and demanded the keys to a vehicle. The mechanic ran and called police (ct 3). Williams rummaged through the car and took a mobile phone (ct 4).</p> <p>Williams approached a 75 yr-old female and demanded her car keys. Grabbing the keys from the victim's hand she then held a knife to her neck. Pushing the victim aside she got into the car and drove away, narrowly missing the victim, who was pulled from the path of the reversing car by a passerby (ct 5).</p> <p>With her jumper pulled over her head and wearing sunglasses Williams entered a bank. With her hands concealed in her jumper she told</p>	<p>Ct 1: 1 yr imp (conc). Ct 2: 4 yrs imp (cum). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 3 mths imp (conc). Ct 5: 5 yrs imp (conc). Ct 6: 2 yrs imp (conc). Ct 7: 3 yrs imp (cum). Ct 8: 3 yrs imp (conc).</p> <p>TES 7 yrs imp. EFP.</p> <p>The sentencing judge noted the offences as 'extremely serious' but found her judgment was impaired and her ability to control her actions reduced due to mental illness. This reduced her moral blameworthiness.</p> <p>Risk of re-offending</p>	<p>Dismissed.</p> <p>Appellant appealed totality principle, individual sentences not challenged.</p> <p>At [36] The existence of a causal relationship between a mental illness and the offences does not automatically result in the offender receiving a lesser sentence. While the existence of a causal connection might reduce moral blameworthiness and the importance of general deterrence, it might also, in some cases, increase the importance of specific deterrence or the need to protect the public. This is such a case.</p> <p>At [37] The protection of the public was an important sentencing factor in this case, having regard to the nature of the offending, its repetitive nature and the risk of reoffending posed by the appellant.</p>

			<p>a teller to put money into a bag. The teller handed her \$700 (ct 6).</p> <p>With her face concealed by a jumper, sunglasses and a cloth Williams entered a bank. She produced a knife and repeatedly yelled at a teller to give her money. When given money she demanded more and produced another knife. She left taking \$1,450 (ct 7).</p> <p>Holding a knife Williams demanded the victim get out of his vehicle. She tried unsuccessfully to open the car door when the victim refused (ct 8).</p>	'medium to high'.	
2.	<p><i>Truslove v The State of Western Australia</i></p> <p>[2015] WASCA 1</p> <p>Delivered 09/01/2015</p>	<p>49 yrs at time of sentencing.</p> <p>Convicted after PG at earliest opportunity.</p> <p>Long criminal record commencing age 11 yrs. Had offended one or more times each year since 1979, except when imprisoned.</p> <p>Present offence committed within three weeks of release from imp imposed for similar offence in 2010.</p> <p>Neglected and abusive childhood. Record of drug and alcohol abuse from age of 13 yrs. Formerly addicted to heroin, but currently on the methadone programme.</p>	<p>1 x Armed robbery.</p> <p>Appellant went into a bank, approached a teller and demanded cash.</p> <p>Appellant was not armed, but held one hand out of sight by way of pretence.</p> <p>The teller put \$950 cash into the appellant's bag, and the appellant left.</p> <p>Appellant was apprehended later the same day, and admitted the offence. The money was not recovered. Appellant claimed he had given the money to a motorcycle gang in repayment of a drug debt.</p>	<p>2 yrs 8 mths imp.</p> <p>Not EFP.</p> <p>Sentencing judge noted similarity to offence in 2010.</p> <p>Considered appellant would probably die in prison.</p>	<p>Appeal solely in relation to refusal of parole eligibility.</p> <p>Dismissed.</p> <p>At [20] His Honour concluded that in the light of the appellant's persistent offending primary concern must be protection of the public. In our respectful opinion, that was plainly correct.</p> <p>At [23] The range of sentences commonly imposed for a single offence of armed robbery, excluding matters of mitigation, is 4 to</p>

		<p>Had made little effort to rehabilitate himself while in prison where majority of adult life had been spent.</p> <p>Appellant suffering from a number of medical conditions including severe pulmonary hypertension and cirrhosis which were described as end-state conditions.</p>			<p>6 years' imprisonment: <i>Forkin v The State of Western Australia</i> [2013] WASCA 51 [15].</p> <p>At [24] In this case, there was nothing by way of mitigation beyond the appellant's early plea of guilty, for which his Honour allowed the maximum discount of 25%. The appellant evinced no remorse.</p> <p>At [25] In our view, it was plainly within the proper exercise of his Honour's discretion under s 89(4) of the <i>Sentencing Act</i> to refuse to make a parole eligibility order.</p>
1.	<p><i>Wilson v The State of Western Australia</i></p> <p>[2014] WASCA 236</p> <p>Delivered 22/12/2014</p>	<p>47 yrs at time of sentencing in 2000.</p> <p>Convicted after early PG.</p> <p>Criminal record including armed robbery.</p> <p>Appellant suffered abuse as a child.</p> <p>Trained as a psychiatric nurse in</p>	<p>7 x Armed robbery.</p> <p>s 391, 393 <i>Criminal Code</i> (as in force 1999).</p> <p>Over a period of three weeks in 1999, the appellant committed 7 similar robberies.</p> <p>He entered banks, Insurance Fund premises, a shop and a restaurant. He held his hand under his clothes as if armed with a weapon and</p>	<p>Cts 1-6: 8 yrs imp on each conc. Ct 7: Life imp (non-parole 8 yrs).</p> <p>Sentencing judge noted long-term addiction to heroin. Considered appellant</p>	<p>Application for leave to appeal out of time (which expired 2000) on Ct 7 only.</p> <p>Allowed.</p> <p>Re-sentenced to TES 15 yrs backdated to original sentencing date. EFP.</p>

		<p>WA. Twice attacked by patients in 1980 and 1981, suffering injuries that left him unable to continue nursing.</p> <p>Subsequently became addicted to heroin, and was imprisoned in NSW for offences committed to finance his drug habit.</p> <p>Appellant returned to WA, and in 1992 committed 2 armed robberies. While on work release from prison, he committed further offences that included 6 armed robberies similar to those on current indictment.</p> <p>The appellant was released on parole in 1999, and shortly after committed present offences.</p> <p>While in prison pending appeal, suffered various medical problems.</p> <p>Released on parole in 2010 after serving almost 9 yrs of life sentence (other terms having been completed).</p> <p>While on parole, he committed 2 further similar offences, and was sentenced to 5 yrs imp.</p> <p>Parole was revoked.</p>	<p>demanded cash. He obtained between \$250-\$3,300 on each occasion. No money was recovered, save for \$300 which he abandoned as it was stained with anti-theft dye.</p> <p>Only Ct 7 was subject of appeal against sentence.</p> <p>Ct 7 represented a second robbery of the same Insurance Fund premises which he had robbed one week before.</p>	<p><i>‘would not be able to live in the community without a great deal of supervision and without constant risk to other people.’</i></p>	<p>At [27] and [38], application depended <i>‘on whether there would be a substantial miscarriage of justice.’</i></p> <p>At [40] The State accepts that the imposition of a life sentence on count 7 was an error. That concession is properly made.</p> <p>At [43] As serious as the offence constituted by count 7 was, it clearly does not fall within the worst category of cases of armed robbery.</p> <p>At [47] The range of sentences commonly imposed from robbery after trial in 2000 was six to nine years’ imprisonment, without taking mitigating and aggravating factors into account: <i>Miles v The Queen</i> (1997) 17 WAR 518.</p> <p>At [53] and [54] Unless again granted parole on the life sentence he faces the prospect of being in prison for the rest of his natural life. If an extension of time to</p>
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<i>Transitional Provisions Enacted (31/08/2003)</i>					