

Armed robbery

smaller, more vulnerable targets eg pharmacy, post office, shop etc...

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
Sex Pen	sexual penetration without consent
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
Dep Lib	deprivation of liberty
Att	attempted
EFP	eligible for parole
TES	total effective sentence
ISO	intensive supervision order
PSO	pre-sentence order
CBO	community based order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
7.	<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 a teller to put money into a bag. The teller</p>	<p>Ct 1: 1 yr imp (conc). Ct 2: 4 yrs imp (cum). Ct 3: 2 yrs 6 ths 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 'medium to high'.</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>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>		
6.	<p><i>Marshall v The State of Western Australia</i></p> <p>[2016] WASCA 171</p> <p>Delivered 29/09/2016</p>	<p>34 yrs at time sentencing.</p> <p>Late PG (8% discount).</p> <p>Extensive prior criminal history, including convictions for armed robbery; stealing; weapon and firearm offences.</p> <p>Raised by his grandparents.</p> <p>Left school at yr 8.</p> <p>Never employed.</p> <p>Birth of his first child while in custody for this offence.</p>	<p>1 x Armed robbery.</p> <p>Armed with a large knife and a jumper over his face Marshall went to the reception desk of a hotel. Brandishing the knife he demanded money. The staff member ran into a rear office so he took \$30 cash from an envelope before fleeing the premises.</p> <p>Marshall was identified from his DNA.</p>	<p>4 yrs 2 mths imp.</p> <p>EFP.</p> <p>High risk of re-offending.</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentence.</p> <p>At [13] ... long history of persistent offending ... that offending demonstrates that the appellant has little regard for the law and that personal deterrence is of particular important in this case.</p> <p>At [15] ... has said that he is motivated to address his substance abuse through</p>

		Long history of heroin abuse. Affected by drugs at time of offending.			programmatic intervention, that assertion has appeared in most of the previous pre-sentence reports without any lifestyle changes being subsequently made.
5.	<p><i>Wallam v The State of Western Australia</i></p> <p>[2015] WASCA 132</p> <p>Delivered 29/06/2015</p>	<p>19 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Lengthy criminal history, including violent offending.</p> <p>Parents separated when aged 14; talented footballer; educated to yr 10; no employment history.</p> <p>Appellant had a chronic major depressive episode with significant anti-social personality traits.</p> <p>Using alcohol and drugs at time offending.</p> <p>At time offending, appellant serving a 12 mth CSIO for offence of agg rob. Order breached by bail offence and failing to attend supervision appointments.</p>	<p>Ct 1: Stealing a motor vehicle. Ct 2: Agg assault with intent to rob. Ct 3: Agg armed robbery.</p> <p><u>Ct 1:</u> The appellant was a passenger in a stolen car. He travelled in it knowing it to be stolen and became a party to the offence of stealing by that conduct.</p> <p><u>Ct 2:</u> The stolen car was driven through the car park of a shopping centre. The appellant got out of the car and yelled out to a young woman demanding that she hand her handbag to him. The appellant tried to pull the bag away from her and in the ensuing struggle he struck her to the side of the head with a clenched fist. He continued to demand the handbag and struck the victim to the head several times as she lay on the ground. He was then joined by the driver of the vehicle who also assaulted the victim and a female friend of the victim who was trying to assist. The appellant and his co-offender ran off without the bag.</p>	<p>Ct 1: 9 mths imp (conc). Ct 2: 5 yrs 6 mths imp. Ct 3: 4 yrs 6 mths imp (conc). Breach of CSIO: 12 mths imp (cum).</p> <p>TES 6 yrs 6 mths imp.</p> <p>Sentencing judge accepted that the appellant's mental illness diminished his ability to think rationally.</p> <p>Psychiatric report noted that the risk of reoffending was assessed as being at the higher end of the spectrum.</p>	<p>Allowed.</p> <p>Resentenced to: Ct 1: 6 mths imp (conc). Ct 2: 4 yrs 9 mths imp. Ct 3: 4 yrs imp (conc).</p> <p>Requirement to serve previously susp sentence was unaffected.</p> <p>TES 5 yrs 9 mths imp.</p> <p>At [34]-[40] Discussion of comparable cases.</p> <p>At [47] The first two offences were committed within two weeks of that [CSIO] sentence being imposed. To offend in these circumstances shows contempt for the law.</p> <p>At [56] In respect of ct 2</p>

			<p>The appellant subsequently identified his cousin as being driver of the car.</p> <p><u>Ct 3:</u> The appellant entered a liquor store armed with a machete and approached the counter demanding money. The attendant began to open the tills to get out money and while the appellant menaced him with the machete. After being given a quantity of cash the appellant stole a four pack of pre-mixed alcoholic drinks and left the store.</p>		<p>his Honour reduced the sentence by 18 mths, but this is less than the 25% that he said he would allow.</p> <p>At [57] ... it is apparent that the discounts for PG were the only reductions allowed in respect of all three cts. This is not consistent with the fact that the sentencing judge acknowledged that the appellant's youth, limited cooperation and mental illness were deserving of some weight.</p>
4.	<p><i>Fisher v The State of Western Australia</i></p> <p>[2015] WASCA 114</p> <p>Delivered 02/06/2015</p>	<p>27 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history including assault, obstructing police officer and trespass.</p> <p>Stable and supportive family.</p> <p>Drug and alcohol addiction.</p> <p>Accumulated significant drug debt immediately preceding the</p>	<p>6 x Armed robbery.</p> <p>All offences were committed over a 13 hr period.</p> <p>At 8.46pm, the appellant entered a bottle shop and while brandishing an unused syringe, demanded that the attendant give him money from the till. The attendant handed over \$830 (ct 1).</p> <p>At 12.45am, the appellant went to a service station. He placed his right hand under his jumper pretending to be armed with a gun and</p>	<p>Ct 1: 3 yrs im (cum). Ct 2: 1 yr imp (cum). Ct 3: 2 yrs 9 mths imp (conc). Ct 4: 1 yr imp (cum). Ct 5: 2 yrs 9 mths imp (conc). Ct 6: 2 yrs 9 mths imp (conc).</p> <p>TES 5 yrs imp.</p> <p>Remorseful; low risk of re-offending.</p>	<p>Dismissed – on papers.</p> <p>At [26] ... the fact that there is no weapon that could be used to inflict harm needs to be seen in the context that an offender who pretends to be armed intends that those he confronts will believe that he is armed and will comply with his demands out of fear for their safety. The appellant</p>

		<p>offences; abducted, assaulted and threatened by men seeking repayment of debt.</p> <p>History of depression and anxiety.</p> <p>Appellant completed some programmes in custody prior to sentencing.</p>	<p>demanded cash from the attendant, threatening to shoot him if he did not comply. He repeated the threat and the attendant handed over \$900 (ct 2).</p> <p>At 3.55am, the appellant went to another service station. He placed his right hand under his jumper and pretended to be armed with a gun. He demanded cash from the attendant threatening to shoot him if he did not comply. The attendant handed over \$150 (ct 3).</p> <p>Between 3.50am and 4.10am, the appellant attended another service station. He placed his right hand under his jumper pretending to be armed with a gun and demanded that the attendant give him cash from the till. The attendant refused and the appellant jumped on the counter and reached through the security wiring in an attempt to grab cash from the till. The attendant handed over \$1000. In order to leave the store, the appellant kicked at the glass doors until one was dislodged from its mountings, and pushed on the door until the glass shattered (ct 4).</p> <p>At 9.33am, the appellant attended another service station. He placed his right hand under his jumper pretending to be armed with a gun and demanded that the attendant give him cash from the till. The attendant opened the till and started taking out money. The appellant</p>	<p>Robberies committed on premises that were very vulnerable.</p> <p>Sentencing judge found that the appellant committed the offences out of desperation as a result of the threats made to him.</p>	<p>clearly had such an intention and reinforced it making verbal threats... The use of a syringe in the first offence was correctly described by the sentencing judge as an aggravating factor.</p> <p>At [29]-[35] Discussion of comparable cases.</p> <p>At [37] In my view it is not reasonably arguable that the TES of 5 yrs imp infringed the totality principle. There is no challenge to the individual sentences imposed in this case and they clearly fell within the range customarily imposed for such offences. Some degree of accumulation was appropriate to reflect the number of offences and the persistence of the offending.</p>
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			<p>reached over and attempted to take money from the till. The attendant tried to stop him by pushing his hand away. The appellant managed to grab \$150 from the attendant's hand before leaving the store (ct 5).</p> <p>At 9.46am, the appellant attended another service station. He placed his right hand under his jumper pretending to be armed with a gun and demanded that the attendant give him cash from the till. The attendant handed over \$280 (ct 6).</p>		
3.	<p><i>Pilling v The State of Western Australia</i></p> <p>[2014] WASCA 146</p> <p>Delivered 12/08/2014</p>	<p>30 yrs at time sentencing.</p> <p>Convicted after very late PG.</p> <p>Significant prior criminal history including burglary and stealing.</p> <p>Committed first of the present offences less than two weeks after release from prison.</p> <p>Parents separated when 12 yrs old and caused marked instability in his life.</p> <p>Been intermittently in detention and prison since 13 yrs old.</p> <p>Did not perform well at school and was frequently truant.</p>	<p>3 x Armed robbery. 1 x Att armed robbery. 4 x Agg armed robbery.</p> <p>The appellant went on a crime spree in just over a three week period. Four of the offences were committed while the appellant was in company who either entered the premises or drove a getaway car.</p> <p>The appellant entered small businesses including pharmacies disguising his face and head.</p> <p>The appellant made threats and demanded money, Sudafed or pseudoephedrine from staff whilst armed with either a screwdriver, small replica handgun or tyre lever.</p> <p>On fleeing the final armed robbery, police had</p>	<p>TES 10 yrs imp.</p> <p>EFP.</p> <p>Admitted committing several armed robberies although reluctant to provide details; committed offences to obtain money to fund his drug addiction.</p> <p>Little by way of mitigation.</p> <p>Sentencing judge concluded was a 'seasoned criminal' and had an 'unregulated and raging substance abuse</p>	<p>Dismissed – on papers.</p> <p>At [37] the sentencing judge's failure to quantify the s9AA discount was not a material error and did not invalidate the sentence imposed.</p> <p>At [44] A failure to order a pre-sentence report, psychiatric or psychological report does not in itself indicate any error in the sentence.</p> <p>At [45] It must be recognised that the mitigating effect of mental illness may be offset by</p>

		<p>Illicit drug addiction.</p> <p>Suffers an antisocial personality disorder and borderline personality traits.</p> <p>Co-offender in relation to two of the offences Jason Hapke pleaded guilty and sentenced to 4 yrs 6 mths imp.</p>	<p>obstructed the appellant's vehicle which stopped. He and his co-offender escaped. The appellant used a tyre lever to smash a window of the police vehicle and demanded the officer get out. His co-offender pointed a replica handgun at the officer through the window. The officer pulled his own firearm and pointed it at the co-offender. The co-offender was distracted by another officer who was approaching with his firearm drawn. The co-offender turned towards the other officer, pointed the replica gun at him and attempted to flee on foot. The appellant also attempted to flee. Both were apprehended by police.</p>	<p>problem'.</p> <p>Significant risk factors in relation to re-offending.</p>	<p>other factors eg. where a particular condition or illness raises the risk of re-offending.</p>
2.	<p><i>Pryor v The State of Western Australia</i></p> <p>[2014] WASCA 143</p> <p>Delivered 06/08/2014</p>	<p>36 yrs at time offending and sentencing.</p> <p>Convicted after early PG.</p> <p>Extensive criminal record including breach of VRO, assault, AOBH, stalking, drug possession and burglary.</p> <p>Breached various community and suspended imprisonment orders.</p> <p>Unstable childhood.</p> <p>Father of 4 children from previous relationship; relationship was marred by domestic violence</p>	<p>Ct 1: Agg burg (dwelling). Ct 2: Steal MV. Ct 3: Agg burg (dwelling). Ct 4: Steal MV. Ct 5: Agg burg (dwelling). Ct 6: Agg armed robbery. Ct 7: Agg burg (place).</p> <p>The appellant went on a crime spree over an eight day period.</p> <p><u>Ct 1 & Ct 2:</u> The appellant entered the victim's house through an unsecured rear door. The victim was home but distracted. The appellant took a set of car keys, left the house and using the keys stole the victim's motor vehicle.</p>	<p>Ct 1: 2 yrs imp. Ct 2: 3 yrs imp (conc). Ct 3: 3 yrs imp (conc). Ct 4: 1 yr imp (conc). Ct 5: 2 yrs imp (conc). Ct 6: 4 yrs imp. Ct 7: 1 yr imp (conc).</p> <p>Ct 1 cum on Ct 6.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>Remorseful.</p> <p>Made full and frank admissions.</p>	<p>Dismissed – on papers.</p> <p>At [27] The aggravated armed robbery committed by the appellant was a serious example of its type.</p> <p>At [32] Although the burglaries were not the most serious cases of their type, they were serious enough.</p>

		<p>perpetrated by the appellant.</p> <p>Current partner is supportive of appellant.</p> <p>Entrenched substance abuse problem.</p> <p>Made efforts towards his reformation, however not successful.</p>	<p><u>Ct 3 & 4:</u> Five days later the appellant entered the victim's garage. The victim was home and busy with her 2 small children. The appellant saw the victim had left the keys in her motor vehicle to which he got in and started it. The victim heard this, ran to the garage and attempted to open the car door. The appellant drove away. During her efforts to stop the appellant the victim fell to the ground and grazed her left leg.</p> <p><u>Ct 5:</u> The appellant and another entered the victim's residence through an unsecured door. Inside they searched and located items to take. While committing the offence the victim arrived home. As a result, they fled the scene. No property was taken.</p> <p><u>Ct 6:</u> Early the next day the appellant and his accomplice drove to a service station in the stolen motor vehicle. Carrying a lighter and a plastic bottle which contained petrol, he approached the counter while his accomplice stole a bottle of soft drink. The appellant threatened set fire to the victim if he did not give him money. Fearing for his safety, the victim retreated to the office.</p> <p><u>Ct 7:</u></p>	<p>Committed the offences in the context of a methyl binge.</p> <p>Sentencing judge noted that the only significant matter in mitigation was the plea of guilty.</p>	
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			The appellant and his accomplice then drove to a business which was closed. The appellant used a brick to smash a glass door and the two entered. Inside they stole food and drink.		
1.	<p><i>The State of Western Australia v Walley</i></p> <p>[2014] WASCA 85</p> <p>Delivered 23/04/2014</p>	<p>31 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Criminal history including manslaughter.</p> <p>Exposed to violence in early childhood and during relationships with male sexual partners.</p> <p>Left school at 12 yrs old.</p> <p>Engaged in substance abuse and criminal behaviour in teenage yrs.</p> <p>Consumed methyl for some time.</p> <p>Mother of 5 children; do not reside with her.</p> <p>Respondent's 14 yr old daughter PG to agg robb and sentenced to 6 months YCBO.</p> <p>Charge against adult co-offender did not proceed because of</p>	<p>Ct 1: Agg armed robbery. Ct 2: Unlawful wounding.</p> <p>The respondent attended the BWS liquor store in Palmyra with her 14 year old daughter and another adult female. The respondent was armed with a black handled knife with a 10 cm long serrated blade. She brandished the knife, approached an employee and threatened him with the knife.</p> <p>The employee backed away and the responded walked behind the service counter and picked up a bottle of bourbon and dropped it which caused it to smash.</p> <p>She picked up another bottle and was then approached by another employee who confronted and challenged her. The responded lunged at this employee with the knife, striking him underneath the shoulder blade. This caused a 1 cm deep penetration wound. He later attended hospital and the wound was sutured.</p> <p>After the knifing the two employees retreated. The respondent took more bottles of alcohol and placed them on the service counter. She</p>	<p>Ct 1: 2 yrs 6 mths imp. Ct 2: 12 mths imp (conc).</p> <p>TES 2 yrs 6 mths imp.</p> <p>EFP.</p> <p>Vague recollection of the offence due to intoxication.</p> <p>Remorseful although limited understanding of impact to victim.</p> <p>Moderate to high risk of re-offending in a violent manner.</p> <p>Admitted in PSR that she formed a plan with the others while drinking to commit the offence to obtain more alcohol.</p>	<p>Allowed.</p> <p>Re-sentenced to 4 yrs imp Ct 1.</p> <p>Respondent conceded appeal should be upheld.</p> <p>At [16] The sentencing judge's statement that the respondent did not have a history of serious violence is surprising in view of the conviction of manslaughter I which she used a knife and fatally stabbed her partner in a drunken argument.</p> <p>At [16] This was a serious case of aggravated armed robbery. The offending was not spontaneous and she armed herself with and was willing to use a knife.</p> <p>At [19] The sentence imposed for the robbery</p>

		identification issues.	then picked up several bottles and threw them at one of the employees. While the respondent was taking the bottles and throwing them, the respondent's adult female companion and the respondent's 14 year old daughter entered the store, took the bottles of alcohol and ran.		charge was manifestly inadequate and this had the result that the total sentence was manifestly inadequate.
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Transitional Provisions Enacted (31/08/2003)</i>					