

Aggravated burglary

Commercial Premises

s 401 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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
PCJ	pervert the course of justice
Att	attempted
EFP	eligible for parole
TES	total effective sentence
ISO	intensive supervision order
PSO	pre-sentence order
CBO	community based order
wiss	with intent to sell or supply

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
10.	<p><i>Debono v The State of Western Australia</i></p> <p>[2019] WASCA 193</p> <p>Delivered 29/11/2019</p>	<p>35 yrs at time sentencing.</p> <p>Convicted after late PG (12.5% discount).</p> <p>Long and significant criminal history.</p> <p>Two young children, one in care; one residing with mother; no current contact with his children.</p> <p>Victim of stabbing 2010; not employed since; on disability support pension.</p> <p>Victim of sexual assault diagnosed with PTSD.</p> <p>Methyl and cannabis use from aged 17 yrs; abstained from illicit drug use 2 1/2 yrs ; relapse attributed to relationship difficulties and loss of custody of then 3 yr-old son.</p>	<p>Ct 1: Unlawful damage. Ct 2: Agg burg (commercial). Ct 3: Agg burg (commercial). Ct 4: Stealing. Ct 5: Burglary. Ct 6: Stealing. Ct 7: Att PCJ.</p> <p><u>Cts 1 & 2</u> In the early hrs of the morning Debono, in company with a juvenile co-accused, used a brick to smash the window of a drive-through fast-food restaurant. A short time later they both entered the premises through the smashed window. They rummaged around the office before leaving empty handed.</p> <p><u>Cts 3 & 4</u> The same morning Debono and the juvenile co-accused attended a shopping centre. They gained entry to the centre by using a hammer to smash a window. Inside they smashed holes in the display window of a jewellery shop, removing 159 watches valued at \$46,888.</p> <p><u>Cts 5 & 6</u> Several days later Debono returned to the shopping centre the subject of cts 3 and 4. Removing the protective plastic covering the previously broken window he entered the premises. Inside he used a hammer to smash the display window of another jewellery store. He then stole 52 watches valued at \$17,089.</p>	<p>Ct 1: 6 mths imp (conc). Ct 2: 12 mths imp (cum). Ct 3: 18 mths imp (cum). Ct 4: No punishment. Ct 5: 18 mths imp (conc). Ct 6: No punishment. Ct 7: 6 mths imp (cum).</p> <p>TES 3 yrs imp. EFP.</p> <p>Participation in drug and alcohol rehabilitation; some commitment shown to turn his life around.</p>	<p>Appeal allowed (backdating of sentence).</p> <p>Appeal concerned error in backdating and totality.</p> <p>Re-sentenced same terms of imp. EFP.</p> <p>Sentence backdated 189 days.</p> <p>At [33] ... the information provided to the sentencing judge was in error. The appellant has spent 189 days in custody on remand, which were available to be taken into account ...</p> <p>At [38] In backdating the appellant's sentences, [the sentencing judge] took account of only 172 days of the available 189 days. ... the appellant did not receive credit for 17 days which he had spent in custody on remand. ...</p> <p>At [56] While ... the appellant's progress</p>

			<p>Later the same day Debono was arrested at his home. The majority of the watches from the two jewellery stores were recovered.</p> <p><u>Ct 7</u> While on remand in custody Debono made several phone calls. On two occasions he spoke to his co-offender and offered to pay him \$5,000 - \$10,000 to say he had nothing to do with the burglaries and to prepare a false affidavit in relation to the offences.</p> <p>At the time of committing these offences Debono was on bail for additional offending, for which he was sentenced to terms of imp in the District and Magistrates Courts.</p>	<p>towards rehabilitation is a significant mitigating factor, the seriousness of the appellant's offending must not be overlooked. Each of the burglary offences committed ... was serious. Each involved a degree of planning and premeditation. The offences ... were committed in company with a juvenile offender. The burglary on [the jewellery stores] were committed on separate occasions and involved the theft of a substantial quantity of watches of considerable value. ... All of these offences were committed while ... on bail.</p> <p>At [57] The facts and circumstances of ct 7 are also serious. ... Again, the offence shows persistence.</p> <p>At [62] ... the individual</p>
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					sentences and the TES imposed ... appropriately reflect all relevant sentencing considerations ... Some accumulation of the sentences is appropriate to reflect that the burglary offences occurred on separate days and the separate nature of the appellant's att to pervert the course of justice.
9.	<p><i>Kitto v The State of Western Australia</i></p> <p>[2019] WASCA 161</p> <p>Delivered 25/10/2019</p>	<p>38 yr at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history.</p> <p>Born and raised in QLD; elder sister; never met biological father; three younger siblings from mother's new relationship.</p> <p>Difficult childhood; stepfather physically and mentally abusive; time spent in government care.</p> <p>In contact with family residing in QLD.</p> <p>Consistent employment history;</p>	<p>Ct 1: Steal motor vehicle. Ct 2: Stealing. Ct 3: Criminal damage. Ct 4: Agg burg (commercial). Ct 5: Stealing. Ct 6: Criminal damage.</p> <p>Kitto and two others (collectively known as the accused), together with a Mr C, formed a plan to commit a ram-raid to steal an ATM situated inside a shopping centre.</p> <p>To use in the commission of the ram-raid one or more of the accused went to a car yard and hotwired a four-wheel drive with a bull bar affixed. The vehicle, valued at about \$17,500, was driven from the premises.</p> <p>Some hrs later Kitto and Mr C went to the</p>	<p>Ct 1: 16 mths imp (conc). Ct 2: 8 mths imp (conc). Ct 3: 20 mths imp (cum). Ct 4: 2 yrs 2 mths imp. Ct 5: 18 mths imp (cum). Ct 6: 16 mths imp (conc).</p> <p>TES 5 yrs 4 mths imp.</p> <p>Cum with sentence of imp already serving; TES 7 yrs 8 mths imp.</p> <p>EFP.</p> <p>The trial judge found the offending very serious; it was premeditated and planned; caused</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [124] The offences of which Mr Kitto was convicted ... were preceded, by several months, by the offences for which [he] was convicted and sentenced by [the District Court]. ... The ram-raid associated offences were, in large part, followed by the offences for which Mr Kitto was convicted and sentenced [by the</p>

		<p>variety of jobs; managerial role prior to 2015.</p> <p>Purchased and living own home.</p> <p>Close relationship with young daughter from former partner.</p> <p>Suffered number of tragic events in 2015; unexpected death of mother; within three weeks suffered loss of pregnant sister and 7 yr-old nephew at hands of stepfather, who then took his own life; days later close friend killed in traffic accident; death of younger sister to suicide shortly before trial; sudden death of new partner a number of months after relationship commenced.</p> <p>Recent user of methyl; ceased illicit drug use in custody.</p> <p>No significant health issues or any major mental illness.</p> <p>On bail at time of committing offences; sentenced in District Court to 2 yrs imp; sentenced in Magistrates Court to 4 mths imp, cum with above term of 2 yrs imp. TES 2 yrs</p>	<p>shopping centre for the purpose of having a close-up look at the ATM they planned to steal. It was decided a trailer would be needed for the stolen ATM.</p> <p>That evening one of the accused drove a vehicle (the LandCruiser) to a residential address and removed a hire trailer, valued at about \$8,307, from the premises. The trailer was loaded with furniture and other items, which were later disposed of and never recovered.</p> <p>Shortly after midnight Kitto and Mr C drove the stolen vehicle and the LandCruiser and trailer to the shopping centre. The accused dressed to conceal their identities.</p> <p>The stolen vehicle was then driven through the glass front of the vacant premises next to the entrance to the shopping centre. The cost of repairs to the shopping centre was in the vicinity of \$36,000.</p> <p>Once inside the centre the vehicle was used to ram the ATM from its foundations. Kitto and Mr C then attached the ATM to the towbar of the vehicle and dragged it out of the shopping centre. It was then loaded onto the trailer.</p> <p>The ATM was valued at \$8,000 and held \$275,100 in its safe compartment.</p>	<p>significant damage and involved the theft of a very large amount of money; offending aggravated by the fact he was on bail for other offences at the time.</p> <p>The trial judge found he was not able to make with any degree of certainty a finding as to which offender, if any, played a more major role in the planning of the offences or as to who was the ring leader of the course of offending.</p> <p>The appellant, by his conduct in using the trailer in the commission of the ram-raid offence, also committed a fraudulent conversion of the trailer, and he was convicted of ct 2 on that basis.</p> <p>Initially denied offending; belated acceptance of responsibility and remorse</p>	<p>Magistrates Court]. ... the overall offending involved a sustained pattern of serious law-breaking over about an eight-month period, including poss of cannabis with intent to supply or sell, burglary and the ram-raid associated offences. The ram-raid associated offences were objectively serious ... They occurred while [he] was an adult and on bail. ...</p> <p>At [125] ... the sentence imposed by the sentencing judge was high, ... Nevertheless, in all the circumstances, it cannot be said that a total sentence of 7 yrs 8 mths imp was beyond what might properly be taken as a reflection of the total criminality involved in all of the offending. ... The TES bore a proper relationship to the overall criminality involved in all of the offending, viewed</p>
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		4 mths imp.	<p>After the ram-raid the stolen vehicle and LandCruiser with the trailer attached were driven from the shopping centre in convoy. The stolen vehicle was set alight to remove the possibility of any forensic evidence being discovered. The vehicle was destroyed.</p> <p>The accused and Mr C then drove to an unknown location. The safe was opened, the cash removed and then distributed amongst the four men. None of the money was recovered.</p>	for his conduct.	in its entirety and having regard to the circumstances of the case, including those referable to Mr Kitto personally.
8.	<p><i>Boase v The State of Western Australia</i></p> <p>[2018] WASCA 93</p> <p>Delivered 19/06/2018</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Minor criminal history; stealing and traffic offences.</p> <p>Supportive family and partner; three children.</p> <p>Offending precipitated by car accident; left with physical injuries restricting his ability to work resulting in loss of employment and financial difficulties.</p> <p>History of illicit substance use.</p>	<p>Ct 1: Burg (commercial). Ct 2: Stealing. Ct 3: Criminal damage by fire.</p> <p><u>Cts 1 and 2</u> Boase cut a chain to gain access to a local government depot. Once inside he started a motor vehicle and drove it from the premises.</p> <p><u>Ct 3</u> Several weeks later Boase was involved in a police pursuit whilst driving the stolen vehicle he had fitted with stolen plates. To evade police he drove into bushland, where the vehicle became bogged. He then set fire to the vehicle in an attempt to destroy evidence.</p> <p><u>Magistrates Court sentences</u> Boase fitted the stolen vehicle with different number plates at different times and used it to commit a number of serious offences during a</p>	<p>Ct 1: 12 mths imp (conc). Ct 2: 12 mths imp (conc). Ct 3: 18 mths imp (cum).</p> <p>TES 18 mths imp; cum on 4 yrs imp currently serving.</p> <p>The sentencing judge found some premeditation and planning in the burglary and stealing offences and that the criminal damage by fire was agg by the possibility of catastrophic damage; it was committed in an att to destroy evidence; at night when the chance of detection was lower and other property in the car</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality principle, including Magistrates Court sentence.</p> <p>At [25] As the sentencing judge rightly observed, the fact that the appellant committed the offence of criminal damage by fire in order to avoid detection for other offences was an agg factor of the appellant’s offence of criminal damage by fire.</p> <p>At [28] ... in our view it would have been inappropriate to have</p>

			<p>six-week crime spree.</p> <p>The offences committed during the spree include 10 burglaries, five agg burglaries, three stealing motor vehicle offences, two reckless driving to escape police, five poss stolen and unlawfully obtained property and a number of other offences.</p> <p>TES 4 yrs imp for Magistrates Court offences.</p>	<p>was also destroyed.</p> <p>Remorseful.</p>	<p>made the sentences for the three offences wholly conc with the existing terms of imp. The appellant's conduct ... called for some accumulation on top of the 4 yr term already imposed ... particularly true of the offence of criminal damage by fire, which was a serious offence in its own right, and which involved a distinctly different form of criminality.</p>
7.	<p><i>Kolek v The State of Western Australia</i></p> <p>[2017] WASCA 180</p> <p>Delivered 12/10/2017</p>	<p>44 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No prior criminal history in WA; criminal history in Victoria including convictions for burglary.</p> <p>Father to six children from two previous relationships; young child with current partner (co-accused).</p> <p>Left school aged 16 yrs.</p> <p>Consistent work history until aged 36 yrs age; unemployed since then</p>	<p>Ct 1; 3; 5 & 7: Agg burg (commercial). Ct 2; 4 & 6: Stealing.</p> <p>Kolek and his partner planned and executed burglaries at various Bunnings stores. Prior to the burglaries they went to the stores to look at the safes they used.</p> <p>In the early hours Kolek and his partner went to a Bunnings store. Disguising themselves they forced entry into the store. With tools they carried with them they forced open a machine and stole approx \$5,000 in cash (cts 1 and 2).</p> <p>On another occasion Kolek, in company with two unidentified co-offenders, attended a</p>	<p>Ct 1: 2 yrs imp (conc). Ct 2: No penalty. Ct 3: 3 yrs imp (cum). Ct 4: No penalty. Ct 5: 3 yrs imp (cum). Ct 6: No penalty. Ct 7: 2 yrs imp (conc).</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge identified an important aggravating factor was the planning and</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentences and TES.</p> <p>At [27] ... each of the agg burglaries committed by the appellant was self-evidently a serious instance of agg burglary on commercial premises.</p> <p>At [32] ... The agg burglaries were well planned. The appellant</p>

		<p>as a consequence of his serious illicit drug addiction.</p> <p>Came to WA from Victoria with partner to escape drug culture.</p>	<p>Bunnings store. They disguised themselves, forced entry into the store and using tools stole \$17,732 cash by breaking into a machine (cts 3 and 4).</p> <p>On another occasion, Kolek, in company with two unidentified co-offenders, went to a Bunnings store. Disguised, they forced entry into the store and, using tools which they brought with them, broke into a machine, stealing \$20,701 in cash (cts 5 and 6).</p> <p>On another occasion Kolek and his partner went to a Bunnings store with an unidentified co-offender. After disguising themselves they forced entry to the store and, using tools they carried with them, attempted to break into a machine. They fled on being interrupted by security guards (ct 7).</p>	<p>premeditation involved in the execution of the four burglaries.</p> <p>The sentencing judge noted the appellant did not have the benefit of prior good character.</p>	<p>targeted Bunnings stores which had safes containing cash that he regarded as vulnerable. He assembled co-offenders and obtained the tools necessary to break open the ... machines. Each burg occurred at night and was executed with skill. The first three agg burglaries netted the offenders a substantial sum of money.</p> <p>At [33] ... 6 years' imp was a proper reflection of the appellant's total criminality, bearing in mind the facts and circumstances of all of the offences as well as the appellant's personal circumstances.</p>
6.	<p><i>BWE v The State of Western Australia</i></p> <p>[2016] WASCA 197</p> <p>Delivered</p>	<p>19 yrs at time offending.</p> <p>Convicted after early PG (25% discount).</p> <p>Prior juvenile and adult criminal history.</p>	<p>Cts 1-14; 16-18; 20-31: Agg burg (commercial). Ct 15: Att agg burg (commercial). Ct 19: Dep of liberty.</p> <p>BWE and a juvenile co-offender committed 30 burglaries on small businesses over 10 different nights over a period of about a month. They smashed windows to gain entry and targeted</p>	<p>Cts 1, 4, 7, 11, 14 & 31: 2 yrs imp each ct (cum ct 31) Ct 2: 6 mths imp (cum). Cts 3, 5-6, 8-10; 12-13; 16-17; 20-30: 18 mths imp each ct (conc). Ct 15: 12 mths imp</p>	<p>Allowed.</p> <p>Appeal challenged lack of discount for cooperation; and totality.</p> <p>Re-sentenced: Ct 31 reduced to 15 mths</p>

	<p>28/11/2016</p> <p>Significantly disrupted upbringing and unsettled at school.</p> <p>Bricklayer at time offending.</p> <p>Regular cannabis and methyl user.</p>	<p>commercial premises, late at night, where safes were likely to be found.</p> <p>The offences were committed when the premises were unoccupied. However, on one occasion BWE and his co-offender entered the premises of a store when they knew a worker was still inside (ct 18). The co-offender stood over the worker armed with a sledgehammer (ct 19) as BWE tried unsuccessfully to open a safe with an angle grinder.</p> <p>On another occasion BWE and his co-offender broke into a store when they were interrupted by the owner responding to the alarm (ct 15). They fled, leaving behind tools and disguises.</p> <p>A total of \$21,881 was stolen from six of the burgled premises.</p>	<p>(conc). Ct 18: 2 yrs 6 mths imp (cum). Ct 19: No penalty.</p> <p>TES 5 yrs imp. EFP.</p> <p>The sentencing judge identified an element of planning in the offences and the repeated targeting of commercial premises late at night and, in one case, causing considerable fear to a person working on the premises, constitutes a serious example of these kinds of offences. The overall criminality involved in all the offences was significant.</p> <p>The sentencing judge took into account the contrition and remorse demonstrated by his cooperation with police.</p>	<p>imp for cooperation.</p> <p>TES 4 yrs 3 mths. EFP.</p> <p>At [35] ... the TES of 5 yrs' imp was not disproportionate to the overall criminality involved in the appellant's offences.</p> <p>At [54] The voluntary provision by the appellant to the police of information of value in bringing the juvenile co-offender to justice in respect of these offences is a mitigating factor. ... even if motivated entirely by self-interest rather than contrition, because of the actual or potential utilitarian benefits in bringing another offender to justice.</p> <p>At [57] The significance of the cooperation is limited by the fact that the appellant did not undertake to provide any</p>
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					<p>future assistance ... It is also significant that the appellant did not name other co-offenders whose identities were not then known to police. There is no material suggesting that the appellant is subject to any particular risk ...</p> <p>At [58] ... If known to the sentencing judge, they should have had the effect of reducing the length of the sentence the appellant would otherwise be required to serve.</p>
5.	<p><i>Taylor v The State of Western Australia</i></p> <p>[2016] WASCA 38</p> <p>Delivered 04/03/2016</p>	<p>40 yrs at time offending. 42 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Extensive criminal history, including offences of violence; armed robbery and multiple convictions for agg burg; burg and stealing.</p> <p>Five prior releases to parole, compliance with supervision poor.</p>	<p>1 x Agg burg (commercial).</p> <p>The appellant, in company with another, forced entry to a jewellery shop, causing considerable damage to the premises. Jewellery to the value of approx. \$27,000 was stolen. The appellant was identified by his blood in the premises.</p>	<p>4 yrs imp.</p> <p>EFP</p> <p>Sentencing judge noted the agg factors to be; the offence occurred in the early hours; the appellant was in company; the significant damage to the premises and total value of stolen property was substantial with no indication any jewellery</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentence.</p> <p>At [33] ...extensive and serious prior criminal record... The previous convictions underscored the importance of personal deterrence.</p> <p>At [35] The mitigating factors were confined to</p>

		<p>Stable upbringing, left home 16 yrs.</p> <p>Two adult children from previous relationship. Long term current partner and step father to two children.</p> <p>Limited schooling, difficulty with reading and writing.</p> <p>Sporadic employment.</p> <p>Long history of amphetamine and cannabis abuse.</p> <p>Prior to sentencing undertook rehabilitative programmes, including drug and alcohol therapy</p>		<p>had been recovered.</p> <p>Some level of planning and premises specifically targeted for high value jewellery.</p>	<p>the appellant's late PG, his expressions of remorse ... and his participation in various rehabilitative programmes However, the weight to be given to the expressions of remorse was tempered by the lateness of the appellant's plea and his refusal to reveal the identity of his co-offender. Although the appellant's participation in rehabilitative programmes was commendable and mitigating, the weight to be given to that consideration was tempered by the serious nature of the current offence in the context of his extensive and serious prior criminal record and his entrenched and lengthy abuse of illicit substances.</p> <p>At [36] The appellant was not youthful or inexperienced for sentencing purposes.</p>
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<p>4.</p>	<p><i>Redfern v The State of Western Australia</i></p> <p>[2014] WASCA 199</p> <p>Delivered 31/10/2014</p>	<p>28 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Criminal record including numerous road traffic offense, AOBH and common assault.</p> <p>Since childhood, led a chaotic, transient and dysfunctional life; from a young age exposed to substance abuse, criminal activity, sexual abuse and violence.</p> <p>Long term history of alcohol and illicit drug abuse.</p> <p>Mother to 3 young children; some history of post-natal depression.</p> <p>History of resistance to rehabilitative programs and inability to complete them.</p> <p>Co-offender sentenced to 3 yrs 6 mths imp.</p>	<p>1 x Agg burg (commercial).</p> <p>The appellant, in company with another was at a suburban shopping centre. The co-offender smashed a glass panel near the entry doors of the centre. The co-offender forced open the front door of a jewellery store and broke open a display cabinet. They both stole jewellery. Their activities activated various alarms and they were apprehended by police inside the store.</p>	<p>18 mths imp.</p> <p>Declined to comment in ROI.</p> <p>It was accepted that the co-offender was the more culpable; however appellant was willingly and actively involved.</p> <p>Motive was to steal property to sell in order to buy drugs.</p>	<p>Dismissed – on papers.</p>
<p>3.</p>	<p><i>Anderson v The State of Western Australia</i></p> <p>[2014] WASCA 167</p>	<p>18 yrs 5 mths at time of offending.</p> <p>Convicted after early PG.</p> <p>Good relationship with mother; father died with 3 or 4 yrs.</p>	<p><u>Indictment</u> Ct 1: Agg burg (dwelling). Ct 2: Stealing.</p> <p><u>Section 32</u> Ct 1: Agg burg (dwelling).</p>	<p><u>Indictment</u> Ct 1: 4 yrs imp. Ct 2: No penalty.</p> <p><u>Section 32</u> Ct 1: 12 mths imp (cum).</p>	<p>Dismissed – on papers.</p> <p>At [24] The offending became more serious as it progressed, moving from a commercial premise to</p>

<p>Delivered 09/09/2014</p>	<p>Exposed to domestic violence at a young age; family life was unsettled; significant involvement by welfare agencies.</p> <p>Spent much of teenage years in juvenile detention; suffered depression and self-harming behaviour.</p> <p>History of substance abuse; using between 1g and 1.5g of amphetamine per day.</p> <p>Uncooperative with preparation of PSR and psychological report.</p>	<p>Ct 2: Stealing. Ct 3: Agg burg (dwelling). Ct 4: Stealing. Ct 5: Agg burg (commercial). Ct 6: Stealing. Ct 7: Steal motor vehicle. Ct 8: No MDL.</p> <p>The appellant committed a crime spree over nine days. The spree only stooped when the appellant was apprehended by police.</p> <p><u>Indictment</u> The appellant in company with another forced entry into a house and stole property and cash valued at \$575,150.</p> <p><u>Section 32 notice</u> <u>Cts 1-4:</u> The appellant in company with two others forced entry into houses and stole property.</p> <p><u>Cts 5-6:</u> The appellant in company with another; rode through a Hungry Jacks drive-through on bikes. The appellant forced open a sliding door. The associate held open the window while the appellant leant through and removed the tray from the cash register.</p> <p><u>Cts 7-8:</u> The appellant drove a motor vehicle from the</p>	<p>Ct 2: No penalty. Ct 3: 12 mths imp (conc). Ct 4: No penalty. Ct 5: 9 mths imp (conc). Ct 6: No penalty. Ct 7: 12 mths imp (conc). Ct 8: \$100 fine.</p> <p>TES 4 yrs imp. EFP.</p> <p>Offences committed in order to obtain funds to feed drug addiction.</p> <p>Judge noted offending was very serious.</p>	<p>homes and with increasing force.</p> <p>At [26] Having regard to the appellant's personal circumstances and the nature of the offending conduct, the present offences could not be seen as a mere youthful aberration.</p>
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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 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>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><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></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>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>	<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>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> 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.</p>		
1.	<p>McKinley v Edmonds</p> <p>[2014] WASC 43</p> <p>Delivered 04/02/2014</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal history; single traffic conviction.</p> <p>Single; no dependents.</p>	<p>1 x Agg burg.</p> <p>1 x Wilful and unlawful damage.</p> <p>1 x Stealing.</p> <p>1 x Stealing.</p> <p>The appellant in company with another; used an angle grinder to cut the rear roller door of a store, smashed a locked door and entered. Inside they attempted to open a safe again using an</p>	<p>8 mths imp.</p> <p>No penalty.</p> <p>3 mths imp (conc).</p> <p>1 mth imp (conc).</p> <p>TES 8 mths imp.</p> <p>Said he committed the burglary by being talked</p>	<p>Dismissed.</p> <p>At [17] ... Whilst the appellant was relatively young and had no prior record of significance, the offences were premeditated, occurred over a period of time,</p>

		<p>Daily user of methyl for over 18 mths; Claims ceased using & been abstinent for 4 mths prior to sentencing.</p> <p>Financial problems.</p> <p>Gainfully employed.</p> <p>Shown no interest in counselling.</p> <p>Disassociated from co-offenders.</p>	<p>angle grinder, sledgehammer and crowbar. They were unsuccessful in opening the safe.</p> <p>Damage to the safe was beyond repair. The invoices shown to the court cost in excess of \$12,000 to repair however appellant sentenced on \$4,885.</p> <p>Police conducted a search of the appellant's house and located property in connection with the burglary. Other stolen items were also located.</p>	<p>into it by the co-offender; also it was a way to get out of debt.</p> <p>Risk of further offending.</p> <p>Magistrate considered the offences were serious examples of their type; Drug use had clearly played a part in the offending, but was not something appellant wishing to address.</p>	<p>involved property with significant value and had involved a co-offender who the appellant had not identified.</p>
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Transitional Provisions Enacted (31/08/2003)</i>					