

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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

|         |                                    |
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| agg     | aggravated                         |
| att     | attempted                          |
| AOBH    | assault occasioning bodily harm    |
| burg    | burglary                           |
| CBO     | community based order              |
| conc    | concurrent                         |
| cum     | cumulative                         |
| ct      | count                              |
| dep lib | deprivation of liberty             |
| EFP     | eligible for parole                |
| GBH     | grievous bodily harm               |
| imp     | imprisonment                       |
| ISO     | intensive supervision order        |
| PG      | plead guilty                       |
| PSO     | pre-sentence order                 |
| sex pen | sexual penetration without consent |
| susp    | suspended                          |
| TES     | total effective sentence           |

| No. | Case   | Antecedents  | Summary/Facts   | Sentence   | Appeal  |
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| 9.  | <p><i>The State of Western Australia v Hussian</i></p> <p>[2020] WASCA 186</p> <p>Delivered 16/11/2020</p> | <p><u>Hussian</u><br/>35 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Minor criminal history; poss cannabis; no prior criminal history outside WA.</p> <p>Born Myanmar; second of 10 children to father's two wives.</p> <p>Very basic education; cannot read or write; left school young age; worked parents' farm; very limited English.</p> <p>Married; not seen his wife or 10 yr old son about 10 yrs.</p> <p>Time in refugee camp; came to Australia 2013; held 12 mths in immigration detention.</p> <p>Difficulties obtaining consistent employment; relies on benefits.</p> <p>Medicated for condition resulting in intestinal bleeding.</p> <p><u>Pyu</u><br/>37 yrs at time sentencing.</p> | <p>Cts 1; 2 &amp; 3: Dep lib.<br/>Cts 4-9: Sex pen.<br/>Ct 10: Agg robbery.</p> <p>The victim S owned and managed a massage parlour. The victims B and C worked at the parlour.</p> <p>With the intention of stealing money and property Hussian and Pyu went to the parlour, armed with a knife and plastic tubing and cables. They decided that, if necessary, they would use threats of violence to facilitate the theft. They also intended to compel the women to engage in sexual activity with them.</p> <p>On arrival Hussian and Pyu discussed what services they wanted and selected B and C.</p> <p>When being led to his room Hussian placed his arm around B's neck and produced the knife. He then pushed, shoved and dragged B and S into the room.</p> <p>Hearing the screams C went to the room. Pyu followed. Hussian and Pyu tied the three victims' hands with the tubing and cables.</p> <p>When Pyu left the room to search the parlour for items to steal Hussian sexually offended against C (cts 4 and 5). During the assaults he continued to hold the knife and C's hands remained tied.</p> | <p><u>Hussian</u><br/>Ct 1: 12 mths imp (cum).<br/>Ct 2: 2 yrs imp (conc).<br/>Ct 3: 4 yrs 6 mths imp (cum).<br/>Ct 5: 5 yrs 2 mths imp (conc).<br/>Ct 9: 5 yrs imp (cum).<br/>Ct 10: 18 mths imp (conc).</p> <p>TES 10 yrs 6 mths imp.</p> <p>EFP.</p> <p><u>Pyu</u><br/>Ct 1: 12 mths imp (cum).<br/>Ct 2: 2 yrs imp (conc).<br/>Ct 3: 2 yrs imp (conc).<br/>Ct 6: 4 yrs 8 mths imp (cum).<br/>Ct 7: 4 yrs 2 mths imp (conc).<br/>Ct 8: 4 yrs 4 mths imp (cum).<br/>Ct 10: 2 yrs 4 mths imp (conc).</p> <p>TES 10 yrs imp.</p> <p>EFP.</p> | <p>Allowed.</p> <p>Appeal concerned length of sentence and totality principle.</p> <p>Resentenced to:</p> <p><u>Hussian</u><br/>Ct 1: 2 yrs 6 mths imp (cum).<br/>Cts 2 &amp; 3: 3 yrs imp (conc).<br/>Ct 4: 7 yrs imp (conc).<br/>Ct 5: 8 yrs 6 mths imp (cum).<br/>Ct 9: 8 yrs imp (conc).<br/>Ct 10: 2 yrs imp (cum).</p> <p>TES 13 yrs imp. EFP.</p> <p><u>Pyu</u><br/>Ct 1: 2 yrs 6 mths imp (cum).<br/>Cts 2 &amp; 3: 3 yrs imp.<br/>Ct 6: 6 yrs imp.<br/>Ct 7: 5 yrs 6 mths imp.<br/>Ct 8: 6 yrs 6 mths imp (cum).<br/>Ct 10: 3 yrs imp (cum).</p> <p>TES 12 yr imp. TE.</p> |

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|  |  | <p>Convicted after trial.</p> <p>Minor criminal history; drug convictions; no criminal history outside WA.</p> <p>Born Myanmar; one of a large number of children; good upbringing; good relationship with his parents; family financially comfortable.</p> <p>Two brothers killed in Myanmar; unknown whether parents and siblings alive.</p> <p>Limited education; left equivalent of yr 4; worked family farm.</p> <p>Time in refugee camp before arriving in Australia by boat operated by people smugglers 2013; 6 mths spent in immigration detention; itinerant lifestyle in Perth; secure accommodation at time offending.</p> <p>Limited English.</p> <p>Married; not seen wife and two children since leaving refugee camp; regularly speaks to his</p> | <p>Pyu returned and took C to another room and sexually assaulted her (ct 7) and (ct 8). C's hands remained tied throughout the offending.</p> <p>While Pyu was out of the room with C, Hussian sexually offended against B. He was still holding the knife. (ct 9).</p> <p>Pyu returned with C, untied B from S and took B from the room. He then sexually assaulted B (ct 6) before returning her to the room.</p> <p>Pyu again searched the parlour for money and property to steal. Hussian, still holding the knife, remained in the room guarding the three victims.</p> <p>Pyu returned to the room and left with S, asking her where the money was. He asked S for sex, but she refused without a condom. He touched her breasts with his hands, before threatening someone would get hurt if she did not tell him where the money was. S pointed to a draw containing \$700, which he took, along with a gold necklace S was wearing (ct 10).</p> <p>Pyu and Hussian then left the parlour, leaving the victims tied up. They took with them the \$700 cash, jewellery, handbags and mobile telephones. They also took with them the hard drive from the parlour's CCTV system to</p> | <p>The trial judge found Hussian and Pyu engaged in a very serious course of criminal conduct; it was premediated and involved a degree of planning; the unlawful detention offences were relatively serious examples of their type; having regard to the period for which the three women were detained, the use of the knife to assist in detaining them and their conduct in tying the hands of the women with tubing and cables to further restrict their ability to escape.</p> <p>Pyu was the principal offender in the commission of the agg robbery.</p> <p>The trial judge found the sexual acts the victims were forced to engage in</p> | <p>At [109] The facts and circumstances of the unlawful detention offences ... were very serious. ... The offences were premediated and planned ... were committed in company. ... were committed at the victims' place of work. ... involved the use of physical force and threats of violence while Mr Hussian was armed with the knife. ... involved forcing the victims into a room where they would be guarded ... The victims were detained for about 2 hrs. ... after committing the offences, the victims remained physically restrained. ... S suffered bruising and pain on her wrists as a result of the restraints.</p> <p>At [113] In our opinion, the sentence ... for each of the unlawful detention offences ... was not commensurate with the</p> |
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|  |  | <p>family.</p> <p>Employed.</p> <p>Type 2 diabetic; suffers depression; prescribed antidepressant medication.</p> | <p>prevent their identities being discovered.</p> | <p>were significant, degrading and humiliating; the seriousness of the offences committed against C were agg by the fact that her hands were tied; the victims were subjected to a very frightening and traumatising ordeal over an extended period; they were at their workplace; the offending occurred at night and they were extremely vulnerable.</p> <p>Victims suffered significant emotional trauma.</p> <p><u>Hussian</u><br/>No demonstrated remorse; continued to deny offending; refusal to accept responsibility; limited language skills significant barrier to engaging in treatment programs.</p> <p>Subject to deportation</p> | <p>seriousness of the offence ... the length of each sentence was unreasonable or plainly unjust</p> <p>At [115] ... Each sentence was manifestly inadequate.</p> <p>At [123] The facts and circumstances of the sex offences committed by Mr Hussian and Mr Pyu were very serious. ...</p> <p>At [126] In our opinion, the sentence for each of the sex offences was not commensurate with the seriousness of the offence. ... the length of each sentence was unreasonable or plainly unjust.</p> <p>At [136] ... The agg rob offence was also serious. It was premeditated and planned. The massage parlour was a vulnerable small business. It operated at night. No actual violence was used in committing the offence.</p> |
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|    |  |   |  | <p>upon release from prison.</p> <p><u>Pyu</u><br/>No demonstrated remorse; continued stance of denial; limited English barrier to treatment options.</p> <p>Unlawful non-citizen; subject to deportation upon release from prison.</p>   | <p>However, none was necessary, having regard to the facts and circumstances that preceded it. The value of the property stolen was not insignificant.</p>   |
| 8. | <p><i>Lawson v The State of Western Australia</i></p> <p>[No 3] [2018]<br/>WASCA 129</p> <p>Delivered<br/>31/07/2018</p> | <p>Aged 31 yrs time of sentencing.</p> <p>Convicted after PG.</p> <p>Prior criminal history; prior sentence of imp.</p> <p>Aged 2 when parents separated; suffered loss of his mother aged 19 yrs; close to his father.</p> <p>No contact with young daughter from previous relationship.</p> <p>Serious mental illness; number of yrs on disability support pension.</p> <p>Poor compliance with medication.</p> | <p><u>Indictment</u><br/>1 x Armed robbery.</p> <p><u>Section 32 Notice</u><br/>1 x Dangerous driving causing GBH (PE 97543/14).<br/>1 x Agg reckless driving (AL 2307/14).<br/>1 x Careless driving.<br/>3 x Poss prohibited drugs.<br/>1 x Fraudulently altering prescription.<br/>3 x False details to police.<br/>9 x Stealing.<br/>2 x Att fraud.<br/>5 x Fraud.<br/>1 x Criminal damage.<br/>2 x Stealing motor vehicle.<br/>1 x Trespass.<br/>1 x Breach of bail.</p> | <p><u>Indictment</u><br/>2 yrs imp.<br/>EFP.</p> <p><u>Section 32 Notice</u><br/>12-mths PSO; MDL disqualified 3 yrs (PE 97543/14 and AL 2307/14).</p> <p>TES 4 yrs 9 mths imp; MDL disqualified 3 yrs 6 mths (PE 97543/14 and AL 2307/14).</p> <p>EFP.</p> <p>The sentencing judge</p> | <p>Allowed (MDL disqualification only).</p> <p>Appeal concerned length of sentence and totality principle and error in MDL disqualification and finding of seriousness of offending.</p> <p>3 yrs 6 mths MDL disqualification set aside.</p> <p>At [39] ... The sentencing judge was empowered, and properly exercised his discretion, on 1 March 2016 to impose the periods</p> |

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|  |  | <p>History of illicit substance abuse.</p> | <p>2 x Traffic offences.</p> <p><u>Indictment</u><br/>Lawson drove a stolen motor vehicle to a service station. He entered the store and demanded a refund for items stolen from another service station. When the request was refused he continued to demand a refund before threatening the employee with a pair of secateurs. Feeling threatened and in fear for his personal safety the employee gave Lawson \$180 cash.</p> <p><u>Section 32 Notice</u><br/>Lawson was charged with 33 summary offences committed over a period of about 8 mths.</p> <p>Lawson stole items from shops and then obtained cash refunds for the items.</p> <p>Lawson stole two motor vehicles belonging to people he knew. He drove recklessly and carelessly, by driving at speeds significantly in excess of the speed limit.</p> <p>Whilst driving a vehicle at high speed Lawson failed to slow sufficiently to negotiate a bend. His vehicle left the road and onto the gravel shoulder. Losing control of the vehicle he crossed into the right lane and collided with a vehicle travelling in the opposite direction. The</p> | <p>found the armed robbery and dangerous driving occasioning GBH offences were very serious in nature; the stealing and fraud offences and the property damage offences serious in nature.</p> <p>The sentencing judge found the appellant's mental illness was a contributing factor, but not the sole contributing factor, for his offending and that voluntary illicit substance abuse played a significant role.</p> <p>The sentencing judge found the appellant's offending was not spontaneous and did not appear to be part of a psychotic episode.</p> <p>Remorseful; vulnerable in prison; mental health with make custody more difficult.</p> | <p>of disqualification in respect of PE 97543/14 and AL 2307/14, ... His Honour erred by imposing periods of disqualification in respect of PE 97543/14 and AL 2307/14 on 2 March 2017 ...</p> <p>At [63] ... the principle that where a sentencing judge's discretion has miscarried in respect of one of the individual sentences forming part of the TES, the appellate court should set aside the TES ... does not apply, in the present case, either directly or by way of analogy. ...</p> <p>At [73] ... although a MDL disqualification imposed by a court under s 59 or s 60 of the <i>Road Traffic Act</i> is not part of the sentence imposed on the offender, the imposition of the period of disqualification is an order that is ancillary or</p> |
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|  |  | <p>victim suffered GBH.</p> <p>On another occasion Lawson and others entered a building site where he stole quantities of copper cabling.</p> | <p>incidental ... to the sentence. The order imposing the period of disqualification is therefore an 'order made as a result of the conviction' of the offender ...</p> <p>At [95] ... although the appellant's offending, in the present case, was not within the most serious category of offences of armed robbery, his offending was nevertheless very serious in nature. ... there was some planning and premeditation. ...</p> <p>At [96] The facts and circumstances of armed robbery offences vary significantly. Comparable cases can provide only general guidance. ...</p> <p>At [97] A non-custodial sentence for the offence of armed robbery is, as a matter of fact, exceptional.</p> |
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|    |                       |                                     |                            |                        | <p>A term of immediate imp is ordinarily the only appropriate disposition.</p> <p>At [115] ... Although the appellant's offending was not within the most serious category of offences of armed robbery, his offending was nevertheless very serious in nature.</p> <p>At [116] ... we are not persuaded that the dangerous driving occasioning GBH offence was not serious or was towards the lower end of the scale of seriousness. ...</p> <p>At [117] ... the stealing and fraud offences, considered as a whole, were serious in nature, repetitive, persistent and planned. ... The appellant's method of offending was ... cunning. The offending was also brazen. ...</p> |
| 7. | <i>Williams v The</i> | 31 yrs at time offending (cts 1-7). | Ct 1: Steal motor vehicle. | Ct 1: 1 yr imp (conc). | Dismissed.  |

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| <p><i>State of Western Australia</i></p> <p><b>[2016] WASCA 232</b></p> <p>Delivered<br/>23/12/2016</p> | <p>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 2: Armed robbery.<br/>Ct 3: Att armed robbery.<br/>Ct 4: Stealing.<br/>Ct 5: Agg armed robbery<br/>Ct 6: Robbery.<br/>Ct 7: Armed robbery.<br/>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 2: 4 yrs imp (cum).<br/>Ct 3: 2 yrs 6 ths imp (conc).<br/>Ct 4: 3 mths imp (conc).<br/>Ct 5: 5 yrs imp (conc).<br/>Ct 6: 2 yrs imp (conc).<br/>Ct 7: 3 yrs imp (cum).<br/>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>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> |
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|    |  |   | <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><b>[2016] WASCA 171</b></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> |

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|    |   | 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><b><i>Wallam v The State of Western Australia</i></b></p> <p><b>[2015] WASCA 132</b></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.<br/>Ct 2: Agg assault with intent to rob.<br/>Ct 3: Agg armed robbery.</p> <p><u>Ct 1:</u><br/>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><br/>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).<br/>Ct 2: 5 yrs 6 mths imp.<br/>Ct 3: 4 yrs 6 mths imp (conc).<br/>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:<br/>Ct 1: 6 mths imp (conc).<br/>Ct 2: 4 yrs 9 mths imp.<br/>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> |

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|    |   |   | <p>The appellant subsequently identified his cousin as being driver of the car.</p> <p><u>Ct 3:</u><br/>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><b><i>Fisher v The State of Western Australia</i></b></p> <p><b>[2015] WASCA 114</b></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).<br/>Ct 2: 1 yr imp (cum).<br/>Ct 3: 2 yrs 9 mths imp (conc).<br/>Ct 4: 1 yr imp (cum).<br/>Ct 5: 2 yrs 9 mths imp (conc).<br/>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>   |

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|  |  | <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><b><i>Pilling v The State of Western Australia</i></b></p> <p><b>[2014] WASCA 146</b></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 wks after release from prison.</p> <p>Parents separated when 12 yrs old; marked instability in his life.</p> <p>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.<br/>1 x Att armed robbery.<br/>4 x Agg armed robbery.</p> <p>Pilling went on a crime spree in just over a three wk period. Four of the offences were committed while he was in company who either entered the premises or drove a getaway car.</p> <p>Pilling entered small businesses including pharmacies disguising his face and head.</p> <p>Pilling 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 obstructed and stopped Pilling's vehicle.</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>The 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> |

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|    |  | <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, PG and sentenced to 4 yrs 6 mths imp.</p>  | <p>Pilling 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. Pilling 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><b><i>Pryor v The State of Western Australia</i></b></p> <p><b>[2014] WASCA 143</b></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 history; 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 marred by domestic violence perpetrated by the appellant.</p> | <p>Ct 1: Agg burg (dwelling).<br/>Ct 2: Steal MV.<br/>Ct 3: Agg burg (dwelling).<br/>Ct 4: Steal MV.<br/>Ct 5: Agg burg (dwelling).<br/>Ct 6: Agg armed robbery.<br/>Ct 7: Agg burg (place).</p> <p>Pryor went on a crime spree over an eight-day period.</p> <p><u>Ct 1 &amp; Ct 2:</u><br/>Pryor entered the victim’s house through an unsecured door. The victim was home but distracted. Pryor took a set of car keys, left the house and using the keys stole the victim’s motor vehicle.</p> <p><u>Ct 3 &amp; 4:</u><br/>Five days later Pryor entered the victim’s</p> | <p>Ct 1: 2 yrs imp.<br/>Ct 2: 3 yrs imp (conc).<br/>Ct 3: 3 yrs imp (conc).<br/>Ct 4: 1 yr imp (conc).<br/>Ct 5: 2 yrs imp (conc).<br/>Ct 6: 4 yrs imp.<br/>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</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> |

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|  |  | <p>Current partner supportive.</p> <p>Entrenched substance abuse problem.</p> <p>Made efforts towards his reformation, however not successful.</p> | <p>garage. The victim was home and busy with her 2 small children. Pryor saw the victim had left the keys in her vehicle to which he got in and started it. The victim heard this, ran to the garage and att to open the car door. Pryor drove away. During her efforts to stop Pryor the victim fell to the ground and grazed her left leg.</p> <p><u>Ct 5:</u><br/>Pryor 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><br/>Early the next day Pryor and his accomplice drove to a service station in the stolen motor vehicle. Carrying a lighter and a plastic bottle containing petrol, he approached the counter while his accomplice stole a bottle of soft drink. Pryor 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><br/>Pryor and his accomplice then drove to a business which was closed. Pryor used a brick to smash a glass door and the two entered. Inside they stole food and drink.</p> | <p>in the context of a methyl binge.</p> <p>The sentencing judge noted that the only significant matter in mitigation was the early PG.</p> |  |
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| <p>1.</p> | <p><b><i>The State of Western Australia v Walley</i></b></p> <p><b>[2014] WASCA 85</b></p> <p>Delivered<br/>23/04/2014</p> | <p>31 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Prior criminal history; including manslaughter.</p> <p>Exposed to violence in early childhood and during relationships with male sexual partners.</p> <p>Left school age 12 yrs.</p> <p>Mother of 5 children; do not reside with her.</p> <p>Engaged in substance abuse and criminal behaviour in teenage yrs.</p> <p>Consumed methyl for some time.</p> <p>14 yr old daughter PG to agg robb; sentenced to 6 months YCBO.</p> <p>Charge against adult co-offender did not proceed because of identification issues.</p> | <p>Ct 1: Agg armed robbery.<br/>Ct 2: Unlawful wounding.</p> <p>Walley attended a liquor store with her 14 year-old daughter and another adult female. She was armed with a knife with a 10 cm long blade. Brandishing the knife she approached an employee and threatened him with the knife.</p> <p>The employee backed away so Walley walked behind the service counter and picked up a bottle of bourbon and dropped it, causing it to smash.</p> <p>Walley picked up another bottle and was confronted by an employee who challenged her. Walley lunged at the 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 this incident the two employees retreated. Walley took more bottles of alcohol and placed them on the service counter. She then picked up several bottles and threw them at one of the employees. While she was taking the bottles and throwing them, the adult female companion and her 14 year-old daughter entered the store, took the bottles of alcohol and ran.</p> | <p>Ct 1: 2 yrs 6 mths imp.<br/>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 charge was manifestly inadequate and this had the result that the total sentence was manifestly</p> |
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| <i>Transitional Provisions Repealed (14/01/2009)</i> |  |  |  |  |             |
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| <i>Transitional Provisions Enacted (31/08/2003)</i>  |  |  |  |  |             |
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