

Dangerous driving occasioning death

No circumstances of aggravation

From 1 January 2021

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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

AOBH	assault occasioning bodily harm
agg	aggravated
att	attempted
BAC	blood alcohol content
circ	circumstances
conc	concurrent
cum	cumulative
ct	count
DDOBH	dangerous driving occasioning bodily harm
DDOD	dangerous driving occasioning death
DDOGBH	dangerous driving occasioning grievous bodily harm
disq	disqualification
EFP	eligible for parole
GBH	grievous bodily harm
imp	imprisonment
occ	occasioning
PG	plead guilty
SCP	summary conviction penalty
TES	total effective sentence
susp	suspended

No.	Case	Antecedents	Summary/ facts	Sentence	Appeal
3.	<p><i>Smith v The State of Western Australia</i></p> <p>[2022] WASCA 170</p> <p>Delivered 16/12/2022</p>	<p>32 at time offending. 33 at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Diagnosed with ADHD.</p> <p>Supportive family.</p> <p>Commenced, but did not complete yr 12.</p> <p>Struggled to find work; employed FIFO worker in mining industry past five yrs.</p> <p>Seven yr relationship; no children; partner diagnosed with cancer; at time of sentencing free from detectable cancer but 5%-10% chance of a recurrence within next 10 yrs.</p> <p>Good physical health; most of his life suffered anxiety and depression.</p>	<p>1 x DDOD.</p> <p>The victim, Sorensen, was driving her motor vehicle on the freeway. She was the sole occupant of the vehicle.</p> <p>The weather was fine, the road was dry and visibility was good.</p> <p>Roadworks were being carried out in the area so the speed limit was reduced to 80 km p/h. The traffic in Sorensen's lane slowed until she was stationary behind other vehicles.</p> <p>Smith, was driving a motor vehicle with a bull bar when he collided with the back of Sorensen's vehicle. At the time of the collision he was travelling at 88 km p/h.</p> <p>The collision shunted Sorensen's vehicle into the rear of the vehicle in front of her. She died from injuries sustained in the collision.</p> <p>Prior to the collision Smith was noticed by several drivers and passengers in other vehicles because of his speed and the manner in which he was driving. He drove his vehicle very close to the rear of a number of vehicles travelling at the 80 km p/h speed limit, before accelerating past them.</p>	<p>3 yrs imp.</p> <p>EFP.</p> <p>MDL disq 2 yrs.</p> <p>The sentencing judge found the appellant's behaviour prior to the collision involved a 'selfish disregard for other road users'; he failed to keep a proper lookout and moments before impact he had been speeding from 95 down to 88 at impact.</p> <p>Significant and ongoing grief suffered by victim's family.</p> <p>Low-risk of reoffending; co-operative; accepting of responsibility; aware of significant impact of his offending; suffered emotionally; thoughts of self-harm; helped and continuing to receive counselling at time sentencing.</p>	<p>Dismissed (leave refused).</p> <p>Appeal challenged type and length of sentence.</p> <p>At [47] In the present case, the offence committed by the appellant involved serious offending of its kind.</p> <p>At [48] The appellant's interaction with [other drivers prior to the collision] is part of the context in which his moral culpability for the offending must be assessed. The appellant was driving a vehicle of significant size and weight. The vehicle was fitted with a bull bar. The appellant's driving ... was aggressive. He drove in excess of the speed limit and dangerously close to their vehicles. ...</p> <p>At [49] The appellant's</p>

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					<p>driving behaviour in relation to Mrs Sorensen and her vehicle was dangerous in that: ... [he] failed to keep a proper lookout in relation to the vehicles in front of him ... [He] had driven frequently on that part of the [freeway]. ... [He] was travelling at about 15 km p/h in excess of the speed limit of 80 km p/h. The extent to which the appellant exceeded the limit was, in the circumstances, significant. ...</p> <p>At [53] ... after evaluating all relevant facts and circumstances and all relevant sentencing factors, that the sentence ... was commensurate with the seriousness of the appellant's offence.</p>
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<p>2.</p>	<p><i>Rhodes v The State of Western Australia</i></p> <p>[2022] WASCA 168</p> <p>Delivered 16/12/2022</p>	<p>27 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior traffic history.</p> <p>Born Tasmania; resided in WA since 2009.</p> <p>Left school middle of yr 11.</p> <p>Commenced employment with a local business; at time of sentencing carried on a cleaning business.</p> <p>Daughter aged 8 yrs; son aged 2 mths; 4 yr relationship, partner the father of her young son.</p> <p>Good health; does not drink or use illicit drugs.</p>	<p>1 x DDOD.</p> <p>Rhodes was driving a high-powered vehicle. Her 6 yr-old daughter was a passenger in the vehicle.</p> <p>At a controlled intersection Rhodes stopped her vehicle on the red traffic signal. Traffic was moderate and the area was well lit. Also stopped at the intersection was the driver of a Holden motor vehicle. While stationary at the intersection the driver of the Holden revved the vehicle's engine. Rhodes responded by revving her vehicle's engine. The driver of the Holden moved slightly over the white line so Rhodes revved her engine, activating both the brake and the accelerator, before releasing the brake.</p> <p>Rhodes' vehicle launched into the intersection, contrary to the red traffic signal, resulting in a collision between her vehicle and another motor vehicle driven by Mr A.</p> <p>Mr A died at the scene from injuries he sustained in the collision.</p> <p>Rhodes' daughter was also injured.</p>	<p>4 yrs 6 mths imp.</p> <p>EFP.</p> <p>MDL disq 3 yrs 6 mths.</p> <p>The trial judge found a number of agg factors; the appellant was initially stationary at the red traffic signal; the cross-traffic was entitled to expect other drivers to obey the red traffic signal and to assume it was safe to travel through the intersection; the appellant's vision was blocked by a truck so she could not ascertain whether any traffic, such as Mr A's vehicle, was entering the intersection; she drove at an excessive speed as a result of the extraordinary acceleration of her vehicle over a short distance before the collision; her manner of driving before the collision was attributable to her informed and deliberate decision in circ where it should have been obvious to her that to drive in the manner she did was dangerous and inviting possible disaster.</p>	<p>Dismissed (leave refused).</p> <p>Appeal challenged length of sentence.</p> <p>At [41] ... the appellant's offending conduct was undoubtedly serious. ... She made a deliberate decision to launch her vehicle into the intersection at a high rate of acceleration by activating both the brake and the accelerator and then releasing the brake. ... The interplay between the appellant and the driver of the Holden Nova had the flavour of a challenge as to which of them could accelerate more quickly from their stationary position at the intersection. So, to that extent, the challenge involved, in essence, an invitation to race their vehicles. The appellant's offending conduct was extremely dangerous. ...</p>
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				Appellant not fully and genuinely remorseful; not accepting of responsibility for her offending.	At [43] It is also true that the appellant's vehicle travelled a distance of only about 14 metres before the collision. However, that fact does not diminish the seriousness of the dangerous manner in which [she] drove her vehicle. ...
1.	<p><i>Lyons v The State of Western Australia</i></p> <p>[2022] WASCA 81</p> <p>Delivered 07/07/2022</p>	<p>35 yrs at time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No prior criminal history; prior traffic convictions.</p> <p>Born UK, migrated to Australia to join elder brother; remaining family continue to reside in the UK; formative yrs positive without any significant trauma or abuse.</p> <p>Visa cancelled; unable to work; ineligible for welfare or Medicare assistance; relies on financial assistance friends, acquaintances, cash employment.</p>	<p>1 x DDOD.</p> <p>In the early hrs of the morning Lyons commenced driving a motor vehicle from Perth to Albany. At the time she was not entitled to drive and she had slept very little in the preceding three days.</p> <p>During the journey Lyons stopped and messaged her boyfriend that she had fallen asleep twice, perhaps three times.</p> <p>Some two hrs later, Lyons was driving on a sealed two-way road, separated by double continuous white lines. The road was in good repair. The victim was driving his vehicle in the opposite direction.</p> <p>Lyons failed to negotiate a sweeping bend and drove onto the incorrect side of the road, colliding with the victim's vehicle head-on.</p> <p>The victim sustained life-threatening injuries.</p>	<p>7 yrs imp.</p> <p>MDL disq 7 yrs.</p> <p>EFP.</p> <p>The sentencing judge found the appellant's offending more serious than the average and in the upper end of offending of the kind in question.</p> <p>Offending enormous and devastating impact on victim's family.</p> <p>Appellant genuinely remorseful.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence.</p> <p>At [75] The appellant's offending was very serious. ... The appellant embarked on a 400 km journey at night on a country road. ... The appellant did not have a valid MDL. ... When she embarked on the journey and during the journey [she] knew that she was fatigued. ... The appellant fell asleep two or three times while she was driving and awoke when her vehicle was on the gravel shoulder of the road. ... The appellant's response to her fatigue was</p>

		<p>Completed equivalent of yr 12 and 2 yr apprenticeship in disability support work.</p> <p>Dysfunctional on/off five yr relationship; subjected to emotional, psychological and physical abuse; no dependants.</p> <p>History of depression and anxiety.</p> <p>Experimented variety of illicit drugs; however no protracted or entrenched history of substance abuse.</p>	<p>He was airlifted to hospital and died from his injuries.</p> <p>Analysis of Lyons blood showed it contained 0.36 mg per litre of methyl and 0.03 mg per litre of amphetamine. Also located in her vehicle was a clipseal bag containing methyl.</p>	<p>to intoxicate herself with methyl to such an extent as to make her incapable of having proper control of her vehicle. ... The appellant drove for long periods while she was, to her knowledge, fatigued or intoxicated by methyl and therefore not in a fit state to have proper control of her vehicle.</p> <p>At [80] In our opinion, the sentence ... was commensurate with the seriousness of the offence. ... The sentence is not manifestly excessive.</p>
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