

Armed With an Offensive Weapon
Likely to Cause Fear

s 68(1)

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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

agg	aggravated
att	attempted
burg	burglary
CBO	community based order
conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
imp	imprisonment
ISO	intensive supervision order
PG	plead guilty
PSO	pre-sentence order
susp	suspended
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
2.	<p><i>Wilson v The State of Western Australia</i></p> <p>[2025] WASCA 8</p> <p>Delivered 15/01/2025</p>	<p>47 yrs at time sentencing.</p> <p>Convicted after PG (15% discount for ct 1; 5% discount for cts 2 and 4; 10% discount for cts 3 and 7; 25% discount for cts 5 and 6).</p> <p>Criminal history; DDOD and DDOGBH; other lesser driving offences.</p> <p>Born in WA and grew up on the family farm.</p> <p>Completed a degree in accounting; worked for a period as a graduate; later returned to farming.</p> <p>Two significant relationships; two children from first relationship; second relationship was with the victim.</p>	<p>Ct 1: Persistent family violence. Cts 2 and 3: Agg AOBH. Cts 4, 5 and 7: Act which life, health or safety was endangered. Ct 6: Armed likely to cause fear.</p> <p>The relationship between the appellant and the victim commenced in 2014. The victim had two young children from a previous relationship. The victim moved with her children to the appellant's farm.</p> <p><u>Ct 1:</u></p> <p>Ct 1 related to six incidents of family violence over a period of five years. Over that period, the appellant assaulted the victim numerous times, using punches and kitchen instruments on her.</p> <p><u>Cts 2 and 3:</u></p> <p>Count 2 related to an incident where the appellant took a power drill and used it on the victim's upper body. The drill left a red burn on the victim's back.</p> <p>Ct 3 related to an incident where the appellant elbowed the victim to her face. The assault resulted in swelling and a bruised eye.</p> <p><u>Cts 4, 5 and 7:</u></p> <p>Ct 4 related to an incident where the appellant choked the victim, requiring her 13-year-old daughter to pull him off of her mother.</p> <p>Ct 5 related to an incident where the appellant threw a glass tumbler at the victim's face. The glass tumbler caused numerous cuts to the victim's face.</p> <p>Ct 7 occurred on the same day as ct 6. The appellant pushed the victim over, sat on her back, and slammed her head into the ground.</p>	<p>Ct 1: 2 yrs 6 mths imp (cum). Ct 2: 12 mths imp (cum). Ct 3: 4 mths imp (coc). Ct 4: 2 yrs imp (cum). Ct 5: 12 mths imp (conc). Ct 6: 18 mths imp (cum). Ct 7: 12 mths imp (conc).</p> <p>TES: 7 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found that the complainant was vulnerable in that she was smaller than the appellant and had no real chance of defending herself. A number of the offences involved the use of weapons.</p> <p>The sentencing judge found that a number of the offences occurred in the presence of children.</p> <p>The appellant provided a letter to the sentencing judge expressing his deepest regret and apologies for his behaviour. The sentencing judge found that personal deterrence was required, as the appellant's remorse was not of the highest degree.</p> <p>The victim described the profound impact of the offending; she often feared she would die; described the relationship as 'going through hell'.</p>	<p>Appeal dismissed (leave refused).</p> <p>Appeal concerned the discount given pursuant to s 9AA and the first limb of the totality principle.</p> <p>At [195] '... offences of this nature generally involve an abuse of trust and a victim who is vulnerable to the offender. Victims often have difficulty extricating themselves from an abusive relationship. ... Domestic violence is a scourge on society.'</p> <p>At [196] '... the commission of violence offences in the presence of a child exposes the child to the risk that the cycle of violence may extend to another generation. Children may be distressed and suffer long-term trauma as a result of being exposed to violence. Violence may become normalised over time.'</p> <p>At [197] '... in the present case, the appellant physically, psychologically and emotionally abused the complainant. The appellant's offending included behaviour that was calculated to terrorise, intimidate, coerce and control the complainant. Denunciation of the appellant's criminal conduct, in addition to personal and general deterrence, was an important sentencing consideration.'</p> <p>At [199] 'the circumstances of the offending in this case were very serious. The appellant engaged in a series of violent offences against the complainant over a period of give years. The offences involved assaults by punching, pushing, shaking and grabbing by the throat and strangling the complainant. Some of the assaults occurred in the presence of the complainant's young children. The appellant threatened the complainant with weapons. He verbally abused and denigrated her. The complainant was vulnerable, lived in fear and the effects on her were significant. As the sentencing judge noted, the complainant suffered both physical and psychological harm.'</p> <p>At [200] 'as regards the appellant's personal circumstances, he had no prior record of violence and had taken some steps towards rehabilitation ... he did not have the benefit of youth and his expressions of remorse were offset by the initial minimisation of his conduct and his late pleas of guilty ... The character references had to be viewed in light of the obvious fact that the way in which the appellant presented to others was not consistent with his behaviour when alone with the complainant.'</p> <p>At [206] 'having regard to the maximum penalties, the circumstances of the offences, the appellant's personal circumstances and the limited assistance of comparable cases, it is not reasonably arguable that the total effective sentence in this case was unreasonable or plainly unjust.'</p>

			<p><u>Ct 6:</u></p> <p>After an argument between the appellant and the victim, the appellant picked up an unloaded shotgun and cocked it. The appellant then dry-fired the gun pointing it away from the victim.</p>		
1.	<p><i>Thurston-Moon v The State of Western Australia</i></p> <p>[2021] WASCA 124</p> <p>Delivered 15/07/2021</p>	<p>41 yrs at time offending. 42 yrs at time sentencing.</p> <p>No prior criminal history.</p> <p>Convicted after PG (20% discount).</p> <p>Married; two children.</p> <p>Owner of lawnmowing and gardening business; well-regarded by those who know him.</p> <p>Good mental health.</p>	<p>Ct 1: Armed likely to cause fear. Ct 2: With intent to harm did an act resulting in bodily harm.</p> <p>The offending occurred in broad daylight in and about a shopping precinct on a suburban street. It was witnessed by multiple bystanders.</p> <p>Thurston-Moon was sitting with some work colleagues. The victim, GCH, was nearby, asking members of the public for money.</p> <p>Following a verbal argument with GCH, Thurston-Moon walked to his vehicle and armed himself with a line trimmer (commonly known as a whipper snipper).</p> <p>In the meantime, GCH entered a liquor store and was temporarily out of sight. However, on seeing GCH leave the store Thurston-Moon started the whipper snipper and walked towards him. GCH retreated into the store. Thurston-Moon shouted at GCH while revving the motor of the whipper snipper. Fearing for his safety GCH picked up a bottle for protection. Thurston-Moon briefly walked away so GCH put down the bottle and left the store.</p> <p>As GCH walked away Thurston-Moon continued to yell and pursue him, revving the motor of the whipper snipper. In the middle of the roadway he lunged at GCH with the whipper</p>	<p>Ct 1: 12 mths imp (conc). Ct 2: 18 mths imp (conc).</p> <p>TES 18 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the offending very serious; the appellant was at all times the aggressor and it was wanton, gratuitous violence which was totally unjustified.</p> <p>The sentencing judge found the offending premeditated and sustained over a period of time; the appellant ignored the plight of the victim and the concerns of other innocent members of the public.</p> <p>No genuine remorse; no real insight into the seriousness of his offending; low risk of reoffending.</p>	<p>Dismissed.</p> <p>Appeal concerned error in finding (high degree of significant potential harm beyond that suffered by victim) and type and length of individual sentences.</p> <p>At [38] Clearly, the appellant was not using the whipper snipper in a manner for which it is intended to be used. [He] chose to use [it] as a weapon. He twice struck the [victim] with it by holding the spinning lines in a more or less horizontal position, hitting the victim on the arm and his buttocks. ... It is not uncommon for people to stumble, trip or fall in this process. An attacker may, himself or herself, suddenly change positions. In such unpredictable and sudden circumstances, the spinning lines of a whipper snipper could have potentially lacerated the victim in such areas as his genitals, hands or fingers and, if he had crouched or fallen, his face, eyes or ears, all with the potential to cause significantly more serious injury than that which he actually suffered ...</p> <p>At [41] In our opinion, having regard to the evidence ..., it was well open to his Honour to conclude, as he did, that by reason of the nature of the whipper snipper there was a high degree of significant potential harm which could have been caused to the victim over and above that which was actually suffered by him.</p> <p>At [52] His Honour's statement that the offending was, objectively, very serious, can hardly be disputed. Nor can his Honour's characterisation that the appellant's actions involved the unjustified infliction of gratuitous violence upon the victim. At all times, the appellant was the aggressor. He chose to walk to his work vehicle, pick up the whipper snipper from the trailer and, over a period of minutes, pursue his unarmed and vulnerable victim. ... It is clear from the appellant's words and actions that he was intent upon inflicting harm and, by giving his colleagues the 'thumbs up', was pleased with himself for what he had done.</p> <p>At [53] The laceration wounds were relatively low-level having regard to the range of injuries that may constitute bodily harm. However, as his Honour correctly found, the use of the whipper snipper had the</p>

			<p>snipper, striking him on the arm. This did not cause him any injury.</p> <p>As GCH ran to the other side of the street, Thurston-Moon walked back in the direction of his colleagues. Then, without provocation, Thurston-Moon again pursed GCH with the whipper sniper’s line spinning. Lunging at GCH he struck him with the spinning line of the machine, inflicting multiple lacerations to his buttocks.</p> <p>Thurston-Moon walked back to his colleagues, smiling and gesturing to them with his thumbs up.</p>		<p>potential to cause significantly more serious injuries than those that were actually inflicted. Furthermore, it is evident ... that the victim was pursued across a road on which cars were travelling, and then along a footpath, where he had to avoid a vehicle entering the road from a driveway or laneway. Thus, the victim was exposed to further potential injury as a result of being struck by a vehicle, either on the roadway or the footpath.</p> <p>At [55] The mitigating factors identified by his Honour ... are significant, but, when weighed against the very serious circumstances of the offending and the need to denunciate and deter such conduct, they did not permit a shorter term of imp or leave open a susp or conditionally susp term of imp.</p>
<i>Transitional Provisions Repealed (14/01/2009)</i>					