

Property Laundering

s 563A Criminal Code

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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 burg	aggravated burglary
att	attempted
conc	concurrent
cum	cumulative
ct	count
circ	circumstances
CRO	conditional release order
EFP	eligible for parole
imp	imprisonment
ISO	intensive supervision order
PG	plead guilty
PNG	plea not guilty
poss	possess
susp	suspended
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
9.	<p><i>The State of Western Australia v Hoxha</i></p> <p>[2025] WASCA 101</p> <p>Delivered 16/05/2025</p>	<p>44 yrs at time offending. 47 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Born and raised in Albania; eldest of four children; unremarkable childhood.</p> <p>Left school at 16 yrs of age; worked for 10 years in the hospitality industry in Athens; painter in Adelaide.</p> <p>After a dispute with his neighbour in Albania, fled to Australia as a refugee.</p> <p>Married with children; sole provider for his family.</p> <p>Sound physical and mental health.</p>	<p>Ct 1: Sold cannabis (8.77 kg) Ct 2: Poss money the proceeds of an offence (\$10,000).</p> <p>The respondent travelled from Adelaide, where he resided, to Perth in late 2022. While in Perth, the respondent spent time with a long-term associate, Mr A. Mr A had been involved in the sale of cannabis for several years.</p> <p>While in Perth, the respondent also spent time with another associate, Mr H. The respondent became aware that Mr H had a quantity of cannabis he wanted to sell. The respondent then contacted Mr A, and facilitated a meeting between him and Mr H.</p> <p>Later that afternoon, the respondent was observed arriving at Mr A's house alone in Mr H's vehicle. Cannabis was then transported from the boot of Mr H's car into Mr A's home. Once inside, Mr A tested some cannabis buds to ascertain the tetrahydrocannabinol in the material. The cannabis was also weighed. Mr A agreed to purchase the cannabis for \$50,000 and the respondent left Mr A's house to again meet with Mr H. The respondent took \$10,000 as his fee for his services; the remaining money was left in Mr H's vehicle.</p> <p>A search warrant was executed at Mr A's house. There, police found 83.6 kg of cannabis, including the 8.77 kg the subject of count 1.</p>	<p>Ct 1: 10 mths imp. Ct 2: 8 mths imp (conc).</p> <p>TES: 10 mths imp.</p> <p>EFP.</p> <p>The sentencing judge characterised the offending as 'a one-off, opportunistic transaction'; the respondent was characterised as a courier and a 'low-level offender'.</p> <p>The sentencing judge found that the offending was not the purpose of the respondent's visit to Perth.</p> <p>The sentencing judge observed that general deterrence was the predominant sentencing consideration for the respondent.</p> <p>Mr A</p> <p>Ct 1: Cultivation of cannabis. Ct 2: Poss of cannabis wiss (83.6 kg). Ct 3: Poss of cash unlawfully obtained (\$5,675).</p> <p>Convicted after PG (25% discount) Discount given for past and future cooperation; displayed genuine remorse.</p> <p>Ct 1: 11 mths imp (conc). Ct 2: 3 yrs 2 mths imp (conc). Ct 3: 4 mths imp (conc).</p> <p>TES: 3 yrs 2 mths imp.</p>	<p>Appeal allowed.</p> <p>Appeal concerned length of sentences imposed on cts 1 and 2, and the first limb of the totality principle.</p> <p>Resentenced:</p> <p>Ct 1: 18 mths imp. Ct 2: 14 mths imp (conc).</p> <p>TES: 18 mths imp.</p> <p>EFP.</p> <p>At [58] 'the characterisation of the respondent by the sentencing judge as "a low-level offender" is not a finding of fact, and is not binding on this court. While the respondent's offending may have been opportunistic, and a one-off occurrence, these factors do not diminish the serious criminality involved in what the respondent actually did in this case.'</p> <p>At [59] 'the respondent was fully aware that both Mr A and Mr H were each involved in the business of selling cannabis. Seeing an opportunity from which he thought he would profit, the respondent put together a "deal" in which Mr H sold to Mr A 8.77 kg of cannabis.'</p> <p>At [60] 'the respondent was more than an intermediary. He initiated and drove the transaction. He saw the opportunity and brought the parties together. He conducted the negotiations between vendor and purchaser. He obtained the cannabis from Mr H and took it to Mr A's house. After Mr A assessed the cannabis and the price of \$50,000 was agreed, Mr A gave this sum to the respondent. The respondent paid himself \$10,000 and was on his way to Mr H's house with the balance when he was arrested. Had the respondent not been stopped, Mr H would have received \$40,000.'</p> <p>At [61] 'without the involvement of the respondent, the transaction would not have occurred, given that, prior to the respondent's intervention, the parties to the transaction did not know each other. The respondent was plainly trusted by both vendor and purchaser. The respondent's motive for committing count 1 (which became a reality) was to make a quick and substantial profit.'</p> <p>At [63] 'none of the facts and circumstances of the comparable cases are on all fours with the current case. They are of only limited assistance and represent a broad spectrum of seriousness. Given the relative modest maximum penalty for a cannabis offence contrary to s 6(1) or s 7(1) of the <i>Misuse of Drugs Act</i>, there is some compression of the sentencing outcomes in cases involving very large quantities of</p>

					<p>cannabis.’</p> <p>At [65] ‘the respondent was a mature adult who had no prior criminal history, and was a person of prior good character. He had good prospects of rehabilitation, and posed a low risk of reoffending. While these matters are relevant, they could not be accorded great weight, having regards to the importance of general deterrence. In addition to the respondent’s personal circumstances, it must be accepted that the respondent’s time in prison in WA will be more onerous for him, given his separation from his family.</p> <p>At [72] ‘in our opinion, her Honour did not properly appreciate or have regard to the seriousness of the respondent’s offending, as described in [59]-[61] above, and the need for general deterrence. The individual sentence imposed by her Honour was not merely low, it was manifestly inadequate. The length of the sentence was not justified by the mitigating circumstances her Honour identified, either individually or in combination, or by parity considerations.’</p> <p>At [73] ‘in our opinion, the individual sentence imposed for ct 2 of 8 months immediate imprisonment was also manifestly inadequate. The sentence ... imposed by her Honour did not properly reflect the maximum penalty for the offence, the serious nature of the offending, or the need for general deterrence, and was not justified by the mitigating factors, either individually or in combination.’</p>
8.	<p><i>BSA v The State of Western Australia</i></p> <p>[2025] WASCA 31</p> <p>Delivered 28/02/2025</p>	<p>33 yrs at time offending. 35 yrs at time sentencing.</p> <p>Convicted after PG (20% discount, 10% discount for cooperation).</p> <p>Grew up in a close family; parents remain supportive.</p> <p>No children; two significant past relationships; experienced considerable domestic violence from second relationship.</p> <p>Completed yr 10; gained qualifications in makeup artistry, aromatherapy, beauty and body therapy; later worked in FIFO; worked as a sex worker to repay drug debts.</p> <p>Methyl use; had lapsed from periods of abstinence; offender to pay drug debts.</p>	<p>Ct 1: Att to poss methyl 5 kg at 80–84%.</p> <p>Ct 2: Poss money that was the proceeds of an offence.</p> <p>Ct 3–5: Att to supply methyl 493–498 g at 80–84%.</p> <p><u>Cts 1 and 2:</u></p> <p>The appellant entered into an agreement to take possession of 5 kg of methyl in exchange for \$1 million. The appellant directed K to collect the money, as another associate attended a separate location to collect the money. K’s residence was searched by police and a total of \$3,004,785 was seized.</p> <p><u>Ct 3:</u></p> <p>The appellant was responsible for coordinating the sending of a parcel containing 498.56 g of methyl by directing associates in Victoria and</p>	<p>Ct 1: 10 yrs imp (cum). Ct 2: 3 yrs imp (cum). Ct 3: 6 yrs imp (conc). Ct 4: 6 yrs imp (conc). Ct 5: 16 mths imp (cum).</p> <p>TES: 14 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that the offending was persistent and not isolated. The appellant was found to be at the higher end of the drug distribution chain.</p> <p>The appellant had cooperated with police and the Court was provided a letter of recognition. The appellant’s assistance was graded at a level 2.</p> <p>The sentencing judge found that there was a connection between the appellant’s traumatic experiences and substance abuse which in turn led to her compromised mental health, neurocognitive disorder and poor decision-</p>	<p>Appeal allowed.</p> <p>Appeal concerned the deduction of discounts from the total effective sentence, rather than the individual sentences imposed.</p> <p>Resentenced:</p> <p>Ct 1: 8 yrs 6 mths imp. Ct 2: 5 yrs 6 mths imp (cum). Ct 3: 5 yrs (conc). Ct 4: 5 yrs (conc). Ct 5: 5 yrs (conc).</p> <p>TES: 14 yrs imp.</p> <p>EFP.</p> <p>At [40] ‘... we are satisfied that the sentencing judge erroneously applied the discounts allowed for the early guilty pleas, and the appellant’s cooperation with, and assistance to, law enforcement agencies, to the total effective sentence rather than the individual sentences.’</p> <p>At [57] ‘when ... considering the charged offences in their entirety, the appellant’s offending was very serious. In essence, her role was at the</p>

		Diagnosed PTSD, depression and anxiety.	<p>WA.</p> <p><u>Ct 4:</u></p> <p>The appellant was responsible for coordinating the sending of a parcel containing 495.8 g of methyl by directing associates in NSW and WA.</p> <p><u>Ct 5:</u></p> <p>The appellant was responsible for coordinating the sending of a parcel containing 493.1 g of methyl by directing associates in Victoria and WA.</p>	<p>making; however, this did not reduce the appellant's criminal responsibility.</p> <p>The sentencing judge erroneously deducted the discounts allowed for the pleas of guilty, and the assistance to law enforcement from the total effective sentence and not from each individual sentence.</p>	<p>higher end, when compared to her co-offenders, of a sophisticated and lucrative drug trafficking operation involving the distribution or large amounts of methylamphetamine within the community for commercial gain. The offending was also not isolated.'</p> <p>At [59] 'since being sentenced, the appellant voluntarily entered a therapeutic program ... The appellant's progress in addressing her drug addiction and other challenges is to her credit and, of course, a relevant factor to take into account on resentencing the appellant.'</p> <p>At [61] 'the appellant's past assistance was graded at a level 2. After the appeal hearing, the court was advised that no further arrests, seizures or results were achieved through the information provided by the appellant. There was no suggestion of an "future" cooperation with the authorities.'</p> <p>At [64] 'in the present case, the appellant's cooperation and assistance to law enforcement agencies led to an arrest, and the seizure of a firearm. However, to our mind it could not be characterised as exceptional ... we consider that a ... discount of 15% is appropriate, that being slightly more than afforded by the sentencing judge.'</p>
7.	<p><i>Smith v The State of Western Australia</i></p> <p>[2025] WASCA 22</p> <p>Delivered 31/01/2025</p>	<p>28 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Significant criminal history; previously sentenced for poss wiss methyl.</p> <p>Left school after yr 9 and finished yr 10 at TAFE; bullied at school; began an apprenticeship as a boilermaker; unemployed at time offending.</p> <p>Started cannabis use from 13 yrs; MDMA from 15 yrs; and methyl from 19 yrs; daily habit of methyl.</p> <p>Father of twins aged 6 yrs old.</p>	<p>11 x Offer to supply methyl. 6 x Offer to supply methyl (trafficable quantity). 1 x Poss methyl wiss 238.49 g at 80%. 2 x Poss money that was the proceeds of an offence totalling \$694,115. 1 x Att to wilfully destroy evidence.</p> <p>Police lawfully intercepted the appellant's mobile telecommunication service. The interception revealed that the appellant had made numerous communications to arrange the sale of prohibited drugs. The total amount of methyl the appellant offered to supply was 322 g.</p> <p>Police later executed a SW at the appellant's hotel room and at the appellant's mother's home. When police entered the hotel room, the appellant attempted to destroy methyl.</p> <p>Police would later seize a trafficable quantity of methyl (238.49 g at 80%) as well as a large amount of cash from the hotel room.</p> <p>Police also located a large amount of</p>	<p>Poss methyl wiss: 6 yrs imp (HS). 1 x Poss proceeds of an offence (\$471,690): 11 mths (cum). 1 x Poss proceeds of an offence (\$222,425): 7 mths (conc). Att destroy evidence: 14 mths imp (cum). 1 x Off to supply methyl: 1 yr 7 mths imp (cum). All other off to supply methyl conc.</p> <p>TES: 9 yrs 8 mths imp.</p> <p>The sentencing judge found that the appellant intended to sell the drugs. He possessed trafficable quantities of methyl for sale and commercial gain.</p> <p>The sentencing judge found that the appellant significantly contributed to the criminal enterprise he was a part of.</p> <p>The sentencing judge found that the appellant displayed limited remorse.</p>	<p>Appeal allowed.</p> <p>Appeal concerned the totality principle and errors made in the discount of individual sentences.</p> <p>Resentenced:</p> <p>Poss methyl wiss: 5 yrs 8 mths imp (HS). 1 x Poss proceeds of an offence (\$471,690): 3 yrs 6 mths imp (conc). 1 x Poss proceeds of an offence (\$222,425): 2 yrs 8 mths imp (conc). Att destroy evidence: 1 yr 2 mths imp (cum). 1 x Off to supply methyl: 2 yrs 10 mths imp (cum). All other off to supply methyl conc.</p> <p>TES: 9 yrs 8 mths imp.</p> <p>At [71] 'her Honour's sentencing remarks and the individual sentences her Honour imposed reveal that ... the total discount for all mitigating factors allowed by her Honour in respect of the individual sentences ranged between 13.33% and about 42%.'</p> <p>At [73] 'we are satisfied that ... there is an unacceptable risk that her Honour's exercise of the sentencing discretion also miscarried in relation to at least some of the other individual sentences.'</p> <p>At [74] 'in the circumstances, all of the individual sentences imposed by the primary judge should be set aside.'</p> <p>At [82] 'in our opinion, the individual sentences imposed by her</p>

			cash, which belonged to the appellant, at the appellant's mother's home.		<p>Honour for the money laundering offences ... were manifestly inadequate. The maximum penalty for each of those offences is 20 years' imprisonment. The sentence for count 23 (which involved \$222,425 cash) was 7 months' imprisonment. The sentence for count 24 (which involved \$471,690 cash) was 11 months' imprisonment.'</p> <p>At [84] 'further, in our opinion, some of the individual sentences imposed by her Honour for the drug offences were lenient'</p> <p>At [85] 'similarly, in our opinion, the total effective sentence imposed by the primary judge was towards the lower end of the range open on a proper exercise of the sentencing discretion.'</p>
6.	<p><i>Diamantopoulos v The State of Western Australia</i></p> <p>[2024] WASCA 82</p> <p>Delivered 12/07/2024</p>	<p>30 yrs at time offending. 32 years at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Extensive criminal history; on parole for drug offending; two prior poss pwiss methyl.</p> <p>Second of three children; supportive family.</p> <p>Left school mid yr 12; sporadic employment since.</p> <p>Cannabis user from 13 yrs; used methyl from 17 yrs; extensive drug use; drug dependent.</p> <p>Stimulant use disorder; borderline personality disorder; major depression; anxiety; and PTSD.</p>	<p>Ct 1: Dealing with money proceeds of an offence \$4,498,790. Ct 2: Poss methyl wiss 42.92 kg at 77–82%.</p> <p><u>Co-offender – Edwards</u></p> <p>Ct 1: Poss methyl wiss (119 kg). Ct 2: Poss methyl wiss (43 kg). Ct 3: Dealing with money proceeds of an offence \$4,503,630.</p> <p>Prior to the offending, the appellant had been informed his previous drug debt of \$20,000 had been increased to \$60,000. The appellant was informed that if he accepted a courier job his debt would be wiped. The appellant accepted the job.</p> <p>One afternoon, Edwards parked a white truck in a truck bay along a highway. Shortly after, Mr R parked next to the truck. Edwards then unloaded multiple boxes from his truck to Mr R. Mr R then left with the boxes. A police SW at Mr R's address located 11 boxes with 119 kg of methyl.</p> <p>On the same day, the appellant drove a van into the same truck bay alongside Edwards. The appellant exited the van and placed a number of large suitcases in Edwards' truck. Edwards then retrieved multiple boxes from the truck and handed them to the appellant. The police attempted to arrest the appellant at the truck bay. After a short chase, the appellant was taken into custody and</p>	<p>Ct 1: 8 yrs imp (conc). Ct 2: 14 yrs 6 mths imp.</p> <p>TES: 14 yrs 6 mths. EFP.</p> <p>Co-offender – <i>The State of Western Australia v Edwards</i> [2022] WASCA 141:</p> <p>Ct 1: 17 yrs imp. Ct 2: 15 yrs imp (conc). Ct 3: 8 yrs imp (conc).</p> <p>The sentencing judge found that the appellant's offending was very serious. The enterprise was 'sophisticated, well planned and well resourced' with a 'clear commercial motivation'.</p> <p>The sentencing judge was satisfied that the appellant was genuinely remorseful and that there were good prospects of rehabilitation.</p> <p>The sentencing judge found that in many respects, the appellant and Edwards were at the same level of the drug distribution's hierarchy, although performing different tasks.</p> <p>The sentencing judge identified two facts that suggested Edwards' role was more significant: he transported the methyl into WA from the Eastern States, and his motivation was purely commercial gain.</p> <p>The sentencing judge identified three countervailing factor that suggested the appellant's offending was more serious:</p>	<p>Appeal dismissed (leave refused).</p> <p>Appeal concerned parity and length of sentence imposed on ct 2.</p> <p>At [51] '... the authorities make it clear that there is no hard and fast rule in terms of what might be a relevant comparator as to sentence in the case of co-offenders. The parity principle may apply to each and every component of the co-offenders' respective sentences. Generally speaking, in evaluating parity, all the facts and circumstances must be considered ...'</p> <p>At [56] 'in his sentencing remarks, the sentencing judge expressly referred to Mr Edwards' additional offending (the 119 kg of methyl supplied to Mr R) and the term of imprisonment for that offending ...'</p> <p>At [60] 'ground 1 fails. In our view the ground was based on an overly technical view of the sentencing remarks. When the sentencing remarks are read in full and in context, as they should be, ground 1 had no reasonable prospect of succeeding.'</p> <p>At [63] 'we accept that there was a relevant difference between the appellant's motivation for his offending and Mr Edwards' motivation for Mr Edwards' offending. Mr Edwards was solely motivated by commercial gain ... By contrast the appellant was clearing a \$60,000 drug debt.'</p> <p>At [64] 'it is apparent, however, that Mr Edwards was also under pressure, albeit pressure of a different kind.'</p> <p>At [65] 'the unfortunate reality is that many offenders commit offences because they are under pressure of some kind. The extent to which this minimises the criminal culpability of the offender for the offending, if at all, depends on the facts and circumstances that bring about the pressure.'</p> <p>At [66] 'in the present case no actual threats were directed to the appellant's family. The appellant was simply told to settle the debt or face the consequences.'</p>

			<p>42.92 kg of methyl was found in the appellant's van. The methyl was between 77%–82% purity.</p> <p>A search of Edwards' truck revealed the suitcases contained \$4,498,790 in cash.</p>	<p>Edwards pleaded guilty at an earlier stage; the appellant had a significant criminal history; and he was on parole at the time of offending.</p>	<p>At [67] 'the primary consideration in assessing the seriousness of the appellant's offending is to consider what the appellant did. That is unaffected by the appellant's motivation. In terms of what motivated the appellant to offend there was, on his own account, a personal advantage that accrued by reason of the offending — the appellant cleared a substantial drug debt ... Accordingly, so far as the appellant was under a degree of pressure to participate in the offending, it was the appellant's prior actions and involvement with illicit drugs that made the appellant susceptible to that pressure.'</p> <p>At [69] '... it remains the case that the appellant was actuated, at least in part, by commercial gain. The appellant was clearing a substantial drug debt. The appellant therefore acted for reward.'</p> <p>At [81] 'once very lengthy sentences are reached there is a diminishing marginal effect so far as personal and general deterrence are concerned in further increases in the severity of the sentence imposed on an offender. Accordingly, it is not to be expected that sentences concerning very large quantities of prohibited drugs should have a linear relationship with the weight of the prohibited drugs involved in the offending.'</p> <p>At [83] 'the limited disparity in the total effective sentences is explained by the proper application of sentencing law and principles.'</p>
5.	<p><i>Watson v The State of Western Australia [No 2]</i></p> <p>[2024] WASCA 66</p> <p>Delivered 14/06/2024</p>	<p>27 yrs at time offending. 30 yrs at time sentencing.</p> <p>Convicted after PG (20% discount for IND 1136 and 25% discount for IND 925).</p> <p>Minor criminal history; traffic offences in both NZ and Australia.</p> <p>Born in NZ; happy childhood.</p> <p>Left school in yr 13 and undertook some study before finding gainful employment.</p> <p>Moved to Australia; became isolated and unmotivated; stopped working; receiving Centrelink payments at time of offending.</p> <p>In a relationship; partner remained supportive; no children.</p>	<p><u>IND 1136</u></p> <p>Ct 1: Supplied methyl 3.99 kg at 69–72%.</p> <p>Ct 2: Poss money that was the proceeds of an offence (\$5,987,220).</p> <p><u>IND 925</u></p> <p>Ct 2: Conspiracy to poss methyl wiss 30 kg.</p> <p>Ct 3: Conspiracy to poss cocaine wiss 10 kg.</p> <p>Ct 4: Conspiracy to poss heroin wiss 10 kg.</p> <p><u>IND 1136</u></p> <p>The appellant was observed by police parking his vehicle near a bush reserve. The appellant got out of the car and entered the reserve carrying a black backpack. A short time later he returned to the car, no longer carrying the backpack.</p>	<p><u>IND 1136</u></p> <p>Ct 1: 10 yrs imp.</p> <p>Ct 2: 3 yrs imp (cum).</p> <p>13 yrs imp.</p> <p><u>IND 925</u></p> <p>Ct 2: 8 yrs imp (conc).</p> <p>Ct 3: 7 yrs imp (conc).</p> <p>Ct 4: 7 yrs imp (conc).</p> <p>8 yrs (cum on IND 1136).</p> <p>TES: 21 yrs imp.</p> <p>EFP.</p> <p><u>IND 1136</u></p> <p>The appellant was sentenced on the basis that he was more than a warehouseman and more than a courier.</p>	<p>Allowed.</p> <p>Appeal concerned the first limb of the totality principle.</p> <p>Resentenced:</p> <p><u>IND 925</u></p> <p>Ct 2: 4 yrs imp (conc).</p> <p>Ct 3: 4 yrs imp (conc).</p> <p>Ct 4: 4 yrs imp (conc).</p> <p>4 yrs imp (cum on IND 1136).</p> <p>TES: 17 yrs imp.</p> <p>At [93] 'the totality principle ... [i]n practical terms will require the sentencing judge to consider the whole of the offending conduct and give consideration to whether the total effective sentence is a fair and just punishment for that conduct.'</p> <p>At [94] 'in this case two other issues also impacted on sentencing. First, the possession of the cash, whilst the subject of a separate charge, was also relevant as part of the conduct relating to the conspiracy ... It is apparent from the facts relied on in the two</p>

		Bi-weekly cannabis use; social drinker.	<p>On the same day, another man, Mr C was observed entering the reserve. A short time later, Mr C was observed carrying the black backpack left by the appellant. Police executed a SW of Mr C's vehicle and found a package containing 3.999 kg.</p> <p>On another occasion, the appellant and two co-offenders Mr W and Mr O were packaging cash at the appellant's home. The cash was packed into six boxes containing a total of \$5,987,220. The boxes were left in the appellant's residence, and later transported by Mr O to another residence. During a SW of the appellant's residence, police located a Ciphrr phone, cash counting equipment and boxes matching the \$5,987,220.</p> <p><u>IND 925</u></p> <p>The three conspiracy cts relate to a single agreement between Mr O, Mr W and the appellant to import 50 kg of drugs into WA. The Ciphrr phone seized from the appellant revealed an agreement to possess 30 kg of methyl, 10 kg of cocaine, and 10 kg of heroin.</p>	<p>The sentencing judge found the appellant's involvement in the criminal enterprise was continuous, and not isolated.</p> <p>The sentencing judge found that the appellant was an enthusiastic supporter, but not a decision maker. However, the people higher in the hierarchy did repose a large degree of trust in him.</p> <p>The appellant has participated in the commission of the offence was commercial reward; the paltry compensation he received did not excuse his offending.</p> <p><u>IND 925</u></p> <p>The sentencing judge found that cts 2–4 alleged separate offences, but they were the same criminal conduct.</p> <p>The criminality of the appellant found to be co-extensive with the scope of the broader criminal enterprise. The sentencing judge found that there was no meaningful distinction between the role of the appellant and that of Mr O.</p> <p>The sentencing judge found that the offending was motivated by personal gain.</p> <p>As with IND 1136, the appellant was found to have been an enthusiastic participant in the agreement.</p> <p>The sentencing judge found that appellant was sincerely remorseful for his conduct. It was also accepted that the appellant had undertaken study and passed bridging courses whilst in custody.</p>	<p>sentencing proceedings that all of the charges arose from a series of closely connected events. It was important in that context to ensure that the appellant was not doubly punished for any part of the conduct.'</p> <p>At [95] 'second, the exact nature of the conspiracy was significant in assessing the seriousness of the appellant's conduct ... The conspiracy the appellant was convicted of was not necessarily coextensive with the activities and objectives of the broader criminal enterprise.'</p> <p>At [100] 'although the description of a courier was disavowed by defence counsel, the appellant's role was closer to that of a courier than someone at a more senior position in the criminal enterprise. He also had a role in the movement of the cash that was used to purchase the drugs, but only in a role that was likened to that of a clerk who counted and stored the money.</p> <p>At [101] 'the sentencing judge's descriptions of the agreement to which the appellant was a party were an inaccurate reflection of the admitted facts ... The effect of this was that the appellant was dealt with on a basis that attributed to him much greater criminality than he had in fact admitted.'</p> <p>At [102] 'in our view, the total sentence of 21 yrs' imprisonment was unreasonable or plainly unjust having regard to the appellant's limited role in both sets of offending and his early pleas of guilty. Where large amounts of drugs are involved there are likely to be many people in the enterprise, and those people are likely to vary significantly in their level of criminality. In such cases the role of the offender is often a more significant consideration than the amount of drugs.'</p>
4.	<p><i>Singh v The State of Western Australia</i></p> <p>[2023] WASCA 31</p> <p>Delivered 14/02/2023</p>	<p>35 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Criminal history; prior convictions of fraud.</p> <p>Born India; youngest of three</p>	<p>Cts 1-8; 10 & 11: Fraud. Ct 9: Property laundering. Ct 12: Preparation for forgery.</p> <p>Mr Kilsby engaged Singh, a software developer, to develop an adult entertainment application suitable for mobile devices (the app). Mr Kilsby had conceived and developed the underlying</p>	<p>Ct 1: 4 yrs imp (cum). Cts 2 & 3: 2 yrs imp (cum). Cts 4; 8; 9 & 11: 2 yrs imp (conc). Cts 5-7 & 10: 3 yrs imp (conc). Ct 12: 1 yrs imp.</p> <p>TES 8 yrs imp.</p> <p>EFP.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned totality principle.</p> <p>At [73] ... a particularly serious example of offending of this kind: ... The appellant's offending was not constituted by the maintenance or repetition of a single continuing false representation. ... He engaged in an elaborate fraudulent scheme involving a series of fictitious persons, companies and documents. He repeatedly manufactured ongoing</p>

		<p>children; profoundly impacted by death of father 2016.</p> <p>Moved to Australia 2004.</p> <p>Separated; ex-wife only significant relationship; one child; continued to live together; not divorced at time sentencing.</p> <p>Varied work history.</p> <p>Alcohol use; extreme gambling addiction.</p>	<p>idea and had registered a patent.</p> <p>Singh made a series of fraudulent representations to Mr Kilsby, including the creation of several fictitious persons and entities, who were purported to be interested in purchasing the app for substantial sums of money.</p> <p>There were a total of 67 cash transfers over a period of almost four yrs.</p> <p>With this conduct Singh defrauded Mr Kilsby and nine other individuals of a total of \$1,462,461.70.</p> <p>None of the money has been repaid.</p>	<p>The sentencing judge found the appellant's offending 'a very serious example of each type of offence'; the offending was serious by the amount he derived through the course of his offending; the duration and persistence of the offending and the level of deception in which he engaged to hide his offending; he went to great lengths to cultivate Mr Kilsby's trust through false representations convincing Mr Kilsby to turn to people who knew and trusted him to secure investment funds.</p> <p>The sentencing judge characterised the fraud offence as highly sophisticated, extensive; deliberate, brazen and sustained and 'nothing short of callous'; the appellant's offending was motivated by greed and not need.</p> <p>The sentencing judge found the seriousness of the offending such that terms of imp were the only justifiable outcome and the fact so many offences had been committed over so many victims over four yrs justified a strong measure of accumulation in his sentence.</p> <p>Offending had profound psychological impact on victims; devastated by the financial losses sustained; some lost their homes or are unable to meet health or other ordinary living expenses.</p> <p>No finding appellant remorseful.</p>	<p>extensive chains of communication between fictitious persons he had created and Mr Kilsby. ... [He] was motivated by greed ... there can be no doubt that the appellant was aware that Mr Kilsby was not the source of all of the funds being paid towards the purported project ... [He] must have known that at least a substantial part of the funds he obtained from Mr Kilsby ... came from others. ... The appellant's offending has had a devastating effect on his victims. ...</p> <p>At [75] The appellant commenced this offending about two yrs after being convicted of two cts of fraud and about a yr after completing a susp term of imp for that offending. ...</p> <p>At [88] ... the appellant's TES cannot, even arguably, be said to infringe the first limb of the totality principle. The appellant's sentence sits comfortably within the bounds of an appropriate exercise of the sentencing discretion and bears a proper relationship to the overall criminality involved in all of the offences.</p>
3.	<p><i>Knowler v The State of Western Australia</i></p> <p>[2023] WASCA 27</p> <p>Delivered 10/02//2023</p>	<p>28 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after PG (22% discount).</p> <p>'Really bad' criminal history; on bail other serious offending at time.</p> <p>Prior NSW conviction for property laundering; offending committed two months after release from custody.</p> <p>Parents separate aged 3 yrs; childhood marred by exposure to</p>	<p>1 x Property laundering.</p> <p>Knowler was part of a criminal enterprise stealing large quantities of diesel fuel from petrol stations and then onselling the fuel to others.</p> <p>In total the group stole about \$23,400 worth of fuel.</p> <p>Knowler admitted to stealing fuel on eight occasions, worth between \$12,000 and \$15,000 in total, which he then laundered by on selling.</p>	<p>2 yrs 4 mths imp.</p> <p>EFP.</p> <p>On bail for other serious offending at time of offending.</p> <p>The sentencing judge found the appellant was an integral part of a very organised and somewhat sophisticated scheme; he was involved in the scheme from the outset and had full knowledge of what he was involved in; he disguised himself and used false number plates so as to avoid detection; he targeted petrol stations he knew were vulnerable and the offending was persistent.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence.</p> <p>At [27] ... The appellant was a key member of an organised syndicate. Unlike the offenders in most of the cases to which [he] referred, he was not in the nature of a courier. The appellant was a full participant in the enterprise, from start to finish. [He] dealt with the stolen property – namely, the fuel, - in full knowledge that it had been stolen, having himself been involved in the original theft. The appellant's offence involved a number of transactions and so was not isolated. The offence was motivated by financial gain.</p> <p>At [29] ... the fact that the appellant was on bail for other serious offending at the time he committed this offence, and that he committed the offence only two mths after being released from custody for property laundering in NSW – when he was supposed to be on good</p>

		<p>domestic violence and abuse.</p> <p>Supportive friend.</p> <p>Completed yr 11; commenced, but did not complete, apprenticeship.</p> <p>Unemployed sustained period.</p> <p>12-month-old child with former partner time of sentencing; has contact with his child.</p> <p>Significant drug history; no plans to abstain from drug use.</p>		<p>The sentencing judge found the appellant motivated purely by financial gain; he wanted ‘quick cash’ to help provide for his young child.</p> <p>Some degree of insight and remorse into offending; rehabilitation courses undertaken; obtained work and a secure place to live and removed himself from previous peers at time sentencing.</p>	<p>behaviour – all underlined the significance of personal deterrence.</p> <p>At [30] ... the appellant has fallen well short of demonstrating that his sentence was manifestly excessive. ...</p>
2.	<p><i>Nguyen v The State of Western Australia</i></p> <p>[2021] WASCA 198</p> <p>Delivered 25/11/2021</p>	<p>49 yrs at time offending. 51 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Born and educated to tertiary level in Vietnam.</p> <p>Arrived WA 2015; limited English; communication difficulties.</p> <p>Married; three children; wife and two youngest children residing Vietnam; some family members in Vietnam in frail and poor health at time sentencing.</p> <p>Supportive family in Vietnam; no family support WA.</p> <p>Business interests in Vietnam.</p>	<p>Cts 1 & 2: Property laundering (\$70,000 and \$15,630 cash). Cts 3-9: Cultivation cannabis wiss.</p> <p>Nguyen was part of a sophisticated and extensive commercial cannabis growing enterprise. Although not involved in the physical operation of growing cannabis, he managed the financial operation of a number of grow houses, including keeping records of the expenses and revenues for each grow house and the preparation of financial analyses for each property.</p> <p><u>Cts 1-2</u> A search warrant was executed at Nguyen’s home. During the search two cash bundles of \$70,000 and \$15,630 were located. This money was the proceeds of the sale of cannabis cultivated at one or more of the grow houses at an earlier time.</p> <p><u>Cts 3-9</u> Seven separate ‘grow house’ had been converted for cultivating cannabis. Each house consisted of a sophisticated hydroponic set-up, including the use of</p>	<p>Ct 1: 1 yr 4 mths imp (cum). Ct 2: 10 mths imp (conc). Ct 3: 2 yrs 8 mths imp (head). Ct 4: 2 yrs 4 mths imp (conc). Ct 5: 2 yrs 6 mths imp (cum ct 3). Ct 6: 2 yrs 8 mths imp (conc). Ct 7: 2 yrs 8 mths imp (conc). Ct 8: 2 yrs 8 mths imp (conc). Ct 9: 2 yrs 4 mths imp (conc).</p> <p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge accepted other people apart from the appellant were involved in the cannabis growing operations and that the appellant was not the principal of the cannabis growing enterprise; but he played an important and trusted role in respect of each grow house; he provided his services for a ‘not insignificant’ reward.</p> <p>The sentencing judge found the money held by the appellant showed he played an ‘important role’ and demonstrated the trust that had been placed in him by his superiors; his possession of the cash enabled it to be held separately from the owners of the grow houses, reducing the prospect of it coming to the attention of police.</p> <p>Prison more onerous on the appellant given his limited English and no personal family</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [42]-[44] The appellant managed the financial operation associated with the grow houses. He did so over a lengthy period of time. While he was not involved in the physical set-up of the operation or the actual cultivation of cannabis plants, he must have been aware of the scale and sophistication of the enterprise. ... and must have been closely monitoring their progress. ... [He] oversaw and managed the payment of expenses. It cannot be doubted that his function was to ensure, as far as he could, the maximum commercial benefit from each grow house. ... [He] was an important, trusted and willing participant in the enterprise and shouldered significant responsibility in it. The enterprise was potentially highly profitable, concerning, as it did, the hydroponic cultivation of a large number of cannabis plants in seven separate grow houses with the potential value of the cannabis being grown being several hundred thousand dollars. We regard the appellant’s role as involving a high degree of criminality. ... his importance to the organisation of the enterprise cannot be doubted.</p> <p>At [46] ... The appellant’s role was to ensure that the grow houses operated efficiently and to maximise the financial returns for the owners of the business. Those who, for reward, use their financial expertise to assist those who grow cannabis and enhance the profitability of their illegal operation must understand that their actions involve a high degree of criminality and that, if convicted, substantial punishment will surely follow.</p> <p>At [48] ... we are not persuaded that the TES in this case did not bear a proper relationship to the overall criminality involved in the nine offences, viewed in their entirety ... While we would regard the TES that was imposed as high, it was not unreasonable or plainly unjust.</p>

			<p>an electricity bypass system.</p> <p>A total of 1081 plants were being cultivated.</p> <p>During the search of Nguyen's home police located handwritten notes, feed charts, excerpts from account books and receipts for items (including nutrients to feed the cannabis plants) purchased to facilitate the growth of cannabis plants.</p> <p>Six mobile telephones, one for each of the grow houses were also found. Nguyen was found also in possession of the floor plans and measurements of four of the grow houses.</p> <p>Nguyen received bills relating to two of the properties and he communicated with the owner of one of the houses regarding the payment of rent.</p>	<p>support available to him in WA.</p> <p>Moderate risk of reoffending.</p>	
1.	<p><i>The State of Western Australia v Zhuang</i></p> <p>[2021] WASCA 56</p> <p>Delivered 01/04/2021</p>	<p><u>Zhuang</u> 33 yrs at time offending.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Resides Victoria; no family in WA.</p> <p><u>Li</u> 29 yrs at time offending.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Resides Victoria; no family in WA.</p>	<p>Ct 2: Poss unlawfully obtained property (\$467,000 cash).</p> <p>Ct 4: Poss unlawfully obtained property (\$998,900 cash).</p> <p>Ct 5 & 7: Property laundering (\$1,420,000 and \$1,608,920 cash).</p> <p>The total amount of cash the subjects of the indictment was \$4,494,820.</p> <p>Zhuang and Li were involved in a large scale money laundering syndicate based in Victoria.</p> <p>On four separate occasions Zhuang and Li travelled from Victoria to WA by commercial aircraft, for the sole purpose of collecting cash. Zhuang hired motor vehicles for the purpose of collecting and transporting the cash.</p> <p>While in WA, Zhuang and Li met with unidentified 'cash sources'. A member of the syndicate organised and facilitated the meetings and gave instructions to Li. During the meeting Zhuang and Li were jointly involved in</p>	<p><u>Zhuang</u> Ct 2: 9 mths imp (conc). Ct 4: 12 mths imp (cum). Ct 5: 2 yrs imp (cum). Ct 7: 2 yrs imp (cum).</p> <p>TES 5 yrs imp. EFP.</p> <p><u>Li</u> Ct 2: 9 mths imp (conc). Ct 4: 12 mths imp (cum). Ct 5: 2 yrs imp (cum). Ct 7: 4 yrs imp (cum).</p> <p>TES 7 yrs imp. EFP.</p> <p>The trial judge found that the money the subject of cts 5 and 7 was derived by criminals and/or criminal organisations from criminal activities on a very significant scale.</p> <p>The trial judge found it a very serious example of property laundering; it involved very significant amounts of cash; it was serious in its repetition and duration and in its</p>	<p>Allowed.</p> <p>Appeal concerned length of sentences cts 4; 5 & 7 and totality principle.</p> <p>Resentenced:</p> <p><u>Zhuang</u> Ct 2: 6 mths imp (cum). Ct 4: 9 mths imp (cum). Ct 5: 5 yrs 3 mths imp (conc). Ct 7: 5 yrs 9 mths imp (cum).</p> <p>TES 7 yrs imp. EFP.</p> <p><u>Li</u> Ct 2: 9 mths imp (cum). Ct 4: 12 mths imp (cum). Ct 5: 6 yrs 9 mths imp (conc). Ct 7: 7 yrs 3 mths imp (cum).</p> <p>TES 9 yrs imp. EFP.</p> <p>At [171] ... the offending of Mr Li and Mr Zhuang in relation to ct 7 was very serious. Mr Li's offending on ct 7 was more serious than Mr</p>

			<p>receiving substantial amounts of Australian currency, which they then transported to Victoria, either by motor vehicle or commercial aircraft.</p> <p>In Victoria Li would deliver the cash. Others would then offset the cash by means of a series of online banking transactions to various Chinese bank accounts. Li would act as the ‘go between’ to verify the transfers.</p> <p>On one of the occasions Zhuang and Li were in Perth they were stopped driving a motor vehicle. In the vehicle police found two suitcases containing \$1,608,920 cash and three mobile phones.</p> <p>Later analysis of the mobile phones revealed communications negotiating the terms of the collection of money. Li acted as a general agent in Australia.</p> <p>The syndicate was structured to provide anonymity to those higher in the chain of command and to distance the origin of the cash from its intended destination. The collection of the cash was clandestine and protected by the use of tokens and an intermediary to facilitate the handover.</p>	<p>planning and organisation; the offending could not be regarded as a result of naivety or an isolated lapse of judgement.</p> <p>The trial judge found the appellant’s played an active and significant role (in particular Li who was in charge of transporting the money and who was entrusted to take possession of it) and it was a reasonably sophisticated operation, as illustrated by the use of tokens, the involvement of an international controller and the interstate transportation of money.</p> <p>The trial judge found the appellants were joint principal offenders; but the criminality of the appellant Li’s offending was objectively more serious; he recruited the appellant Zhuang as an assistant and at all material times Zhuang acted at his direction.</p> <p>The trial judge rejected submissions appellants remorseful; low risk of reoffending; good prospects of rehabilitation.</p>	<p>Zhuang’s offending. ... The offending involved a large amount of money ... The offending was not isolated, but formed part of an ongoing course of criminal conduct ... Each ... committed ct 7 for the purpose of financial gain. ... Each ... (especially Mr Li) had an active and significant role in the offending on ct 7. ... The offending on ct 7 was reasonably sophisticated</p> <p>At [173] ... the length of the sentence imposed on each of Mr Zhuang and Mr Li for ct 7 was unreasonable or plainly unjust. ... Each sentence was not merely ‘lenient’ or ‘at the lower end of the available range’. In each case, it was substantially less than the sentence that was open to the trial judge on a proper exercise of his discretion.</p> <p>At [176]-[177] Mr Li’s overall offending on the cts in the ind of which he was convicted was very serious. ... Mr Zhuang’s overall offending on the cts in the ind of which he was convicted was also very serious, although less serious than Mr Li’s overall offending. ...</p> <p>At [182] ... we are satisfied, ... that the sentence imposed on each of Mr Li and Mr Zhuang for ct 7 was manifestly inadequate and that the TES imposed on each of them infringed the first limb of the totality principle.</p>
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