Acts or omissions causing bodily harm or danger

s 304 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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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:

These per	iods are separated by a row which shows when the transitional provisions were enacted, and another
Glossary:	
agg	aggravated
att	attempted
AOBH	assault occasioning bodily harm
conc	concurrent
cum	cumulative
ct	count
dep lib	deprivation of liberty
EFP	eligible for parole
GBH	grievous bodily harm
imp	imprisonment
methyl	methylamphetamine
PCJ	pervert the course of justice
PG	plead guilty
poss	possession
susp	suspended
SW	search warrant
TES	total effective sentence
wiss	with intent to sell or supply

s 304(1) Acts/omissions (max penalty 7 yrs imp)

No.	Case	Antecedents	Summary/Facts	Sentence		
			Transitional ma	visions repealed (14/01/2000)	<u>k</u>	
	Transitional provisions repealed (14/01/2009)					
Prov	Provisions were held to apply to the offence of s 304(2) despite the offence coming into operation after the enactment of the provisions (21/05/2004) in Yates v The State of West					
majority decision in <i>The State of Western Australia v Wallam</i> [2008] WASCA 117 on that point.						

s 304(2) Acts/omissions with intent (max penalty 20 yrs imp)

No.	Case	Antecedents	Summary/Facts	Sentence	
10.	MYB v The State	41 yrs at time offending.	Ct 1: Strangulation.	Ct 1: 2 yrs 6 mths imp (conc).	Appeal dismissed (lea
	of Western	43 yrs at time sentencing.	Ct 2: Act with intent to harm causing	Ct 2: 5 yrs imp (conc).	
	Australia		bodily harm.		Appeal concerned len
		Convicted after PG (15%		TES: 5 yrs imp.	totality principle.
	[2024] WASCA 53	discount).	The victim of both counts of offending		
			was the appellant's de facto partner, V.	EFP.	At [59] 'amongst the
	Delivered	Significant criminal history in	The appellant and V were living		objective seriousness
	13/05/2024	NSW, Qld, and WA; 2 x AOBH;	together with their 9 mth old child. The	The sentencing judge did not accept the	seriousness of the app
		unlawful poss weapons;	appellant was on bail at the time of the	appellant's version of events, including the	seriousness of the app
		dishonesty offences; agg burg;	offending.	suggestion that the offending occurred in the	actual "bodily harm"
		drug offences; breach of CBO and		context of a mutual fight, or that the appellant	and the inherent poter
		bail.	At the couple's home, the appellant was	had acted in self-defence.	victim more serious "
			intoxicated and became agitated about		
		Born in NSW; moved to WA in	the prospect of V travelling. After V	The offending had a profound impact on V;	At [60] 'another facto
		2012.	locked herself in the house, the	she remains frightened of the appellant and	seriousness of an offe
			appellant entered the residence through	fear his release.	case, V, was the offen
		Left high school after yr 9.	an unlocked window.		
				The sentencing judge found that the appellant	At [63] 'in R v Kilic, 1
		Established a car restoration	The appellant grabbed V and threw her	showed some level of remorse; however, the	practices for offences
		business in WA; exposed to	to the floor, then held her in a headlock	remorse was heavily qualified in light of	time, in line with char
		various criminals and illicit drugs;	until she could barely breathe. The	prison phone calls recording the appellant	relations. The short an
		suffered workplace accident	appellant dragged V to the living room	abuse V.	caused by acts of dom
		resulting in hospitalisation and	and punched her to the face several	In the fate on all of the second s	present when such bel
		chronic pain.	times. The appellant then threatened to	In light of the appellant's criminal history, the	than it once was.'
		II: to me of each store and and	kill V and dragged her into the walk-in	sentencing judge concluded that the appellant	
		History of substance use.	wardrobe. The appellant continued to	was not a person of good character.	At [64] ' strangulat
		C	assault V, slamming her head against	The empellent's draw use was found to be a	domestic violence, an
			the wall, slamming her to the ground	The appellant's drug use was found to be a	both a predictive risk
			with his bodyweight, and punching her numerous times. The infant child was	key factor in his offending.	relatively common ca
					At [69] the appellant
			present in the bedroom during the assault.		At [68] 'the appellant
			assault.		absence of very seriou
			In solf defense Whit the annaliant and		address the psycholog
			In self-defence, V bit the appellant and fled to the main bedroom. The appellant		submissions adequate have escalated with fa
			pursued her, pushed her head into the		nave escalated with la
L			pursued her, pushed her head into the		

Appeal

tern Australia [2008] WASCA 144 overruling the

Appeal	
eave refused on both grounds).	

ength of sentence for ct 2 and the first limb of the

e factors that are relevant to the evaluation of the s of an offence against s 304(2) are: the nature and opellant's "intent to harm"; the nature and opellant's "act"; the nature and seriousness of the ' which the appellants' "act" caused to the victim; ential of the appellant's "act" to have caused the "bodily harm".'

For relevant to the evaluation of the objective fence against s 304(2)(a) is that the victim, in this ender's de facto partner.'

, the High Court observed that current sentencing es involving domestic violence have changed over anges in societal attitudes and towards domestic and long-term psychological and physical harm omestic violence to victims, and to children who are behaviour occurs, is much better appreciated now

ation [is] a particularly dangerous form of and recent studies have consistently shown that it is k factor for future severe domestic violence and a cause of domestic violence-related homicide.'

nt's submissions placed too much emphasis on the ous physical harm to V, and did not properly ogical effects of the offending on her; nor did the tely acknowledge the potential for the violence to fatal consequences to V.'

			corner and squeezed her neck until she		At [79] 'it is difficult
			could not breathe. The appellant		the appellant's profes
			mocked V as he strangled her. After the		V during their telepho
			appellant released his grip, he picked up their child and handed her to V. The		proceedings were
			appellant then headbutted V and bit her		At [81] 'having regard
			left ear. The appellant instructed V to		the sentence of 5 yrs'
			stay in the shower and hide from police.		exercise of her Honou
9.	SKL v The State of	35 yrs at time offending.	1 x Act with intent to harm which life,	4 yrs 4 mths imp.	Appeal allowed (Van
	Western Australia	25 yrs at time sentencing.	health or safety was endangered.	C	
				EFP.	Appeal concerned len
	[2024] WASCA 32	Convicted after PG (25%	The appellant had been suffering from		
		discount)	poor mental health and was	The sentencing judge found that the	Resentenced:
	Delivered		experiencing intrusive thoughts about	appellant's offending was serious and	
	27/03/2024	No criminal history.	killing herself as well as members of	concluded that it was above mid-range of	3 yrs 3 mths imp.
			her immediate family.	offending. The offending was premeditated	
		Born in WA; three siblings.		and senseless, and the appellant intended to at	EFP.
			The appellant decided to stab a stranger	least endanger the victim's health or safety.	
		Left school at yr 10; later	so she would be arrested and kept in		At [21] 'the appellant
		completed a university degree.	custody, which would stop her from	The sentencing judge accepted that the	by reason of her ment
		Delationship with hysherd since	acting on her thoughts.	appellant's ability to control her actions was	police, is genuinely re
		Relationship with husband since	The encolleget hought a large filleting	impaired; however, did not accept the	reasonable opportunit
		18 yrs; two children; adult	The appellant bought a large filleting	appellant's ability to control her actions was	objectives of general a
		stepson.	knife from a camping store and went to a shopping centre. She entered the shop	significantly impaired.	At [22] 'in combination
		No substance use.	and saw the victim stacking shelves.	Offending had profound impact on victim;	of a more lenient sent
		No substance use.	and saw the victum stacking sherves.	rendered immobile for weeks; experienced	properly be imposed.'
		Complex psychiatric history;	The appellant approached the victim	sleeplessness; panic attacks; suffered	property be imposed.
		suffered from anorexia nervosa	from behind, and stabbed her once to	financially.	At [23] 'a key sentend
		and obsessive-compulsive	the lower right back, just above the hip.		illness was the risk of
		disorder with absent insight and	The knife went into the victim's body to	Sentencing judge accepted the appellant's	His Honour emphasis
		delusional beliefs.	the hilt. The appellant then ran away.	mental health issues mitigated the extent to	the sentence he impos
				which she should be punished because her	1
			c X Y	moral culpability was reduced on the basis of	At [29] 'in some circu
				her impaired ability to control her actions.	be achieved by a long
			O Y		the case. Public protection
				Sentencing judge found that the appellant was	programs and treatme
				genuinely remorseful and had empathy for the	system or in the comm
				victim. Sentencing judge also found the	
				appellant had good prospects of rehabilitation.	At [34] 'in our opinio
					showed that the signif
					managed, to an accept
8.	SYO v The State of	38 yrs at time sentencing.	Ct 1: Agg burg.	Ct 1: 3 yrs 6 mths imp (conc).	Appeal dismissed (lea
	Western Australia		Ct 2: With intent to harm, did an act	Ct 2: 3 yrs 6 mths imp (cum).	
		Convicted after PG (25% for cts	which life health or safety of a person	Ct 3: 10 mths imp (conc).	Appeal concerned Bu
	[2024] WASCA 31	1–3, 10% for ct 4).	was likely to be endangered.	Ct 4: 5 yrs 6 mths imp (HS).	delay, and totality of s
	Delivered	Minor oriminal history walawf-1	Ct 3: Threat with intent to compel.	Ct 5: No penalty.	A+ [66] [70] diamatic
	Delivered	Minor criminal history; unlawful	Ct 4: Agg indecent assault.		At [66]–[72] discussion

It to see how any weight could have been given to ressed remorse in light of the statements he made to shone conversations while the sentencing re pending.'

ard to all of the relevant facts and circumstances ... rs' imprisonment was well within the proper your's sentencing discretion.'

andongen JA dissenting).

ength of sentence.

ant's moral culpability for the offence was reduced ental illness. The appellant was cooperative with remorseful, and pleaded guilty at the first nity ... By reason of her illness, the sentencing al and personal deterrence were moderated.'

ation, these factors pointed towards the imposition entence within the range of sentences that could d.'

encing consideration stemming from the appellant's of reoffending and the need for public protection. sised the need for public protection. We infer that bosed was increased to accommodate this factor.'

rcumstances, the protection of the public may only nger period of incarceration, but this is not always tection may also be achieved through rehabilitation nent, whether administered within the prison nmunity.'

ion, the evidence before the sentencing judge nificant need to protect the public could be eptable level, within the community.' leave refused on grounds 2 and 3).

Bugmy principles, insufficient weight given to of sentence.

sion of Bugmy principles.

Petaded officences breach of violence restricting order. CL1 FTP. classed by his mother, minimal involvement with his futher; mother was physically abusive at times; often left home alone for days as a child; lived with grandanother from 13 yrs; unstable home; frequently saw violence perpetrated hy uncles and annts. FTP. classed by his mother, minimal involvement with his futher; mother was physically abusive at times; often left home alone for days as a child; lived with grandanother from 13 yrs; unstable home; frequently saw violence perpetrated hy uncles and annts. FTP. classes of case. The 1 the appellant way into the mose that here appositive steps to relabilitation. Classes of case. The 1 the appellant way into the beform which DB and PC were sleeping. FTP. classes of case. The 1 the appellant way into the more of DB, a former patter. ON the appellant was child; lived with a metal bar. The strikes were to PC's head, hot; Arce, arms and legs; more tould work atter of yrs; the beform. FTP. classes of case. The 1 the appellant was intervient accepted responsibility for this offending had the appellant was intervient and to thit in once into the comer of the beform. Classes the appellant was intervient and to thit in once into the comer of the beform. Offending had severe impact on DB; axiety principally related to the appellant set and to thit in once into the comer of the beform. At [105] there is not on the halance of pro considerations. Vorked in mining and construction since 14 yrs; FTO violence and drug use. Classes the appellant was a strike the mid do thit in ordew as significance or exolution and discharge behains or injury; testing indicaned presence of inthis origin indicaned presence of intisocial	28/03/2024	damage; breach of restraining	Ct 5: Stealing.	TES: 9 yrs imp.	
 violence restraining order. Raised by his mother, minimal involvement with his finder: mother was physically abusive at times; collect home of DR, a former partner. Once inside, the appellant walked into a bis most of the soften on his offending, had been one of the soften on his offending. In the settencing judge found the appellant bin of the soften on his offending. In the settencing judge found the appellant bin of the soften on his offending. In the settencing judge found the appellant was impaired by wireles which be and the ordered PC out of the bed and the ordered PC out of the bed and bed by, face, and head, bedby, face, and head, bedby, face, and, bedby, face, and appellant was impaired by and that the appellant was impaired by a face and the gate. Worked in mining and construction since 14 yrs, FIPO work unit volumary separation in 2012. Several relationships of significance; one young doughter most relationships marred by violence and dug use. No major history of illness or high yristein galed are can also with PC. When DB relased, in example, and gain, moving face induced presence of anatisocial personality traits. Used al cohot to excess from the zohor musics with PC. Chard raised the bar in a dome. The appellant the fain major for a far abor. The appellant the internation for a soft the treatmandy magna consoler for bar in ado. Positive personal references. Positive personal references. CL1 The appellant demanded DB 's phone so that face roles in the condered DB of having any converties of the bari		order; agg burg; minor drug			At [70] 'it may be appr
Image: Second		,	<u>Ct 1</u>	EFP.	
Raised by his mother, minimal involvement with his fafter, mother was physically abusive at inside, the appellant walked into a beform which DB and PC were sceptrated with and taken positive steps to rabilitation.capacity o make choices which the off experimence. The appellant hiPC several times with an at antis.capacity o make choices which the off experimence.capacity o make choices which DB and PC were sceptrated to the positive steps to rabilitation.capacity o make choices which DB and PC were sceptrated to the positive steps to rabilitation.capacity o make choices which DB and PC were sceptrated to the positive steps to rabilitation.capacity o make choices which DB and PC were sceptrated to the positive steps to rabilitation.capacity o make choices which the off experimence.capacity or make choices which the off experimence on the bear on the bear on the bear on the strike were to PC's ampellant then ordered PC out of the bear or which DI the possition on devisor within the open land's scenario.capacity or make choices which the off experimence of the scenario on the bear on the off the prast.capacity or make choices which the off experimence on the off the prast.capacity or make choices which the off experimence on the choices which the off the prast.capacity or make choices which the off experimence on the choices which the off the prast.capacity or make choices which the off experimence on the choices which the off the prast.capacity		violence restraining order.			
 involvenient with his father; involvenient withis father; involvenient w					•
Image: Signed Line alone for days as a child; lived with grandmother from 13 yrs; unstable home: frequently saw wiolence perpertated by uncles and aunts.bedroom which DB and PC were sleeping.violence alone for transmither and aunts.C12 C12Offending had severe impact on DB; anxiety, sleeping.AJ 1051 having rev are with his Honor on the balance of pro- on the balance of pro- on the balance of pro- complied TAFF course at 15 yrs; and toth im on once into the course of the bodroom.Offending had severe impact on DB; anxiety, sleeping.AJ 1051 having rev are with his Honor on the balance of pro- on the balance of pro- on the balance of pro- considerations?Worked in mining and construction since 14 yrs; FIFO work undi volunary separation 2012.C1.3 The appellant then ordered PC out of the bed most relationships of significance; one young daughter, in a above his head as if to hit her with it, tra above his head as if to hit her with it, tra above his head as if to hit her with it, tra above his head as if to hit her with it, tra above his head as if to hit her with it, tra above his head as if to hit her with it, tra above his head as if to hit her with it, tra above his head as if to hit her with it, tra above his head as if to hit her with he appellant, slee exclused, her appellant, slee exclused, her appellant, slee exclused, 			· · ·		
dimes: often left home alone for grandmother from 13 yrs: unstable home; frequently saw violance perpetrated by uncles and auxis.deeping.enhabilitation.AL [105] 'having revi arge with his Bono on the Hahame of pro uppellant his C verval times with a metal har. The strikes were how the offending was and toth into more into the correr of the behrom.C12 CL The appellant shar. The appellant shar, the strike swere having and for a strike swere having a strike strike swere in a strike strike swere in a dot di him to more into the correr of the behrom.chall host, face, arms and legs, The uppellant then offered PC out of the bed rom to be characteristic.AL [105] 'having revi arge with his Bono on the Hahame of pro uppellant was impair and toth him nowe into the correr the behrom.C13 The appellant shar. The appellant shar. The appellant shar after di from sanges during childhood, however as profound childhood deprivation.AL [105] 'having revi arge with his Bono to make the appellant's conduct. The appellant shar the demanded DB take as profound childhood deprivation.AL [106] 'the proced experimed considerations.' to sis apperications with a second as profound childhood deprivation.AL [106] 'the proced experimed were not be characterised as profound childhood deprivation.Violence and drug use.C13 The appellant share of pro into the experimed were inspective and the strike is approcation and and the take appellant's conduct. Interpreting indicated presence of antisocial personality truits.C14 The appellant demanded DB's phone so thand.Fearing for her life. DB complied with the appellant again accused DB of having sex with PC and raised the bar in ig anouched ber labia majora with his hand. <td></td> <td></td> <td></td> <td>0 1</td> <td></td>				0 1	
days as a child; lived with grandmother from unstable home; frequently saw violence perpetrated by uncles 		1 5 5		· · · · ·	experience.'
grandmoher from 13 yrs; wiolence perpetrated by uncles and aunts.C12Offending had severe impact on DB; anviery, attacks, depression and PTSUagree with his flomon appellant the order off appellant the order off of appellant the order of PC aut of the bet one pheted TAFE course at 15 yrs; work until voluntary separation in 2012.C12Offending had severe impact on DB; anviery, appellant's illicace of person appellant's illicace of person considerations.'agree with his flomon appellant the order off or into the vert into the corner of the bedroom.Offending had severe impact on DB; anviery, appellant's illicace of person appellant's illicace of person considerations.'agree with his flomon appellant's illicace of person considerations.'Worked in mining and construction since 14 yrs; FIFO work until voluntary separation in 2012.C13The appellant then demanded DB take wated to inspect DB's vagina to find oit whether she had a right of his head, sift to his head as if to hit her writh it.The appellant shaped her and raised the wated to inspect DB's vagina to find oit whether she had a right of his head as if to hit her writh it.The sentencing judge found that the appellant's illicace of series and to inspect to be characterised is appreciated, all the contention that hes as personal references.At [123] 'the offence was a completed mericing and to make the personal references.Worked in mining and construction since 14 yrs; clubble of instance of antioscial personality traits.Fersonal references the appellant shaped for couch of his hand. The appellant shaped for couch of his hand. The appellant shaped for couch of his hand. The appellant section and nis with he hand.C14<		· · · · · · · · · · · · · · · · · · ·	sleeping.	rehabilitation.	
 Instable home; frequently saw violence perpetitied by uncles and aunts. I and aunts. <l< td=""><td></td><td></td><td></td><td></td><td></td></l<>					
 violence perpertated by uncles and aunts. Left high school at start of yr 9; completed TAFE course at 1 5yrs. Worked in mining and construction since 14 yrs; FIFO work mith volumetry separation in 2012. C12 Several relationships of significance: one young daughter most relationships on rated to inspect DB's vegina to find intercourse with FC. When DB refused is intercourse with FC. When DB refused is intercourse with FC. When DB refused intercourse with FC. When DB refused is reformed some detail the appellant signed ber and raised the minigatory effect and solver and and with with it. Used alcohol to excess from tendenging in solve. Positive personal references. The appellant demanded DB's plane as if to hit her with band. C15 The appellant again accused DB of having sex with FC and raised the hari a threatening manner. The appellant again accused DB of having sex with FC and raised the hari a threatening manner. The appellant again accused DB of having sex with FC and raised the hari a threatening manner. The appellant again accused DB of having sex with FC and raise again to inche the text messages. Positive personal references. Positive perso		-	$\underline{\operatorname{Ct}2}$		
and aums.an exit bar. The strikes were to PC's head, body, face, arms and legs. The appellant then ordered PC out of the bed appellant then ordered PC out of the bed out whether she had engaged in sexual the appellant shaped her and raised the be arabove his head as if to hit her with it, it.an exit bar. The strikes were to PC's the sentencing judge found that the appellant stad suffered from some dysfunction and out whether she had engaged in sexual the appellant shaped her and raised the bar above his head as if to hit her with it, it.an exit bar. The appellant stad the appellant stad suffered from some dysfunction and out whether she had engaged in sexual the appellant shaped her and raised the bar above his head as if to hit her with it, it.and it carful from appellant is conduct the sentencing judge found that the appellant sad subrates and the appellant shaped her and as profound childhood deprivation.reduced her his morit curve strikes were in to be characterised as profound childhood deprivation.chale is morit curve strikes were in the appellant strikes were in the appellant strike the area and as if to hit her with it, it appellant signed for example as nowing ther labia majora or a short time before removing his hand. The appellant actes and DB's phone so hand, woring his hand and the labia majora or a short time before removing his hand. The appellant demanded DB's phone so hand, how we similar see on of his hand is nort examelled in sec orion at heat enime and there there mange and co					-
Left high school at start of yr 9; completed TAFE course at 15 yrs. Worked in mining and construction since 14 yrs. FIFO work unil voluntary separation in 2012.Head, body, face, arms and legs. The and told him to move into the corner of the bedroom.The sentencing judge found the offending way principally related to the appellant's illicit drug use.Kat 1061 'hte procedu considerations.'' At 1021' the procedu disadvantages during childhood; however such experienced were not to be characteristed inster child softward for some dysfunction and disadvantages during childhood; however such experienced were not to be characteristed inster childhood to excess from teenage yrs; cannabis use form 13 yrs, developed a methyl habit from tar 2052, four use secalated after losing his job.Fearing for her life, DB complied with the appellant sid he bar in a threatening manner. The appellant a having sex with PC and raised the bar in a direatening manner. The appellant tagalit down with his hand.The appellant demanded DB's phone so that he could check her txxt messages.The appellant took her a tria side of or as 2,5 a tria side of or a 4, 1(131) 'in relation 'in to give effect to the n a direction of or a side the bar in a direction manner. The appellant agali nouched her labia majora for a short the before tria manded DB's phone so that the could check her txxt messages.The appellant took here a threat manded DB's phone so that the could check here txxt messages.The appellant took here a tria side or a downer and the tria side or a d		1 1 1	11		
Left high school at start of yr 9; completed TAFE course at 15 yr.appellant ihen ordered PC our of the bed rad told him to move into the corner of into bedroom.The sentencing judge found the offending was principally related to the appellant's illicit drug use.Considerations.'Worked in mining and construction since 14 yrs; IFFO work until voluntary separation 2012.C1.3The sentencing judge found that the appellant's illicit drug use.The sentencing judge found that the appellant's illicit drug use.At [163] 'there is no other than sentence the significance; one young daughter, most relationships mared by violence and furg use.The appellant shaped her and raised the bar above his head as if to hit her with increase with PC. When DB related, the appellant shaped her and raised the bar above his head as if to hit her with increase with PC. When DB related, the appellant shaped her and raised the bar above his head as if to hit her with increase yrs; cannabis use form 113 yrs; developed a methyl habit most relationship his job.Pearing for her life, DB complied with the appellant's demands. The appellant sequend be aring any set with PC and raised the bar in a fareating manner. The appellant significances with PC and raised the bar in a fareating manner. The appellant significances with PC and raised her bar in a fareating manner. The appellant significances of an the volue of her visit and and.At [143] 'in relation 1 to give effect to her of howing as with PC and raised her bar in a fareating manner. The appellant significances of bar her out of have been in a a fareating manner. The appellant is band.The appellant demanded DB's phone so that be could check her text tressages. Before he left, the appellant took herAt [151		and aunts.		and fearful from appellant's conduct.	1
Image: completed TAFE course at 15 yrs.and told him to move into the corner of the bedroom.principally related to the appellant's illicit drug use.At [106] 'the proced experienced some de the bedroom.Worked in mining and construction since 14 yrs; PIPO work until voluntary separation in 2012.CL3The sentencing judge found that the appellant diadvanages during childhood, however as the appellant stahe but each experienced were not to be characterised as profound childhood deprivation.At [106] 'the proced experienced some de the sentencing judge found that the appellant disadvanages during childhood, however as profound childhood deprivation.At [106] 'the proced experienced some de the sentencing judge found that the appellant disadvanages during childhood, however as profound childhood deprivation.At [106] 'the proced experienced some de the sentencing judge found that the appellant disadvanages during childhood, however as profound childhood deprivation.At [106] 'the proced experienced some de the sentencing judge found that the appellant disadvanages during childhood, however as profound childhood deprivation.At [106] 'the proced experienced some de the sentencing judge found that the appellant consent inthat the sentenced interconser with PC. When DB Fatsed, the appellant some counts with inti the appellant some appellant consent some distribution of a short the appellant counts on the profound childhood deprivation.At [106] 'the proced experienced some de visions counts within the count of the profound childhood deprivation.Volate alloh were sensitive personality traits from late 20; drug use scalated after losing his job.No methy hib indits for touch DB's hand.The appellant counts on t		Left high asheal at start of we O		The contours in dee found the offerding mes	0 1
Image: Construction since 14 yrs; FIFO work until voluntary separation in 2012.the bedroom.drug use.At [106] 'the procedu experienced some de At [125] 'there is not odisadvantages during childhood; however such experienced were not to be characterised as unformed the supellant staid he wanted to inspect DB's vagins to find of singury: testing indicated presence of antisocial personality traits.At [125] 'there is not odisadvantages during childhood; however such experienced were not to be characterised as performed childhood deprivation.At [125] 'there is not odisadvantages during childhood; however such experienced were not to be characterised as performed childhood deprivation.At [125] 'there is not odisadvantages during childhood; however such experienced were not to be characterised as performed childhood deprivation.At [125] 'there is not odisadvantages during childhood; however such experienced were not to be characterised as above his head as if to hit her with it.At [125] 'there is not odisadvantages during childhood; however such experienced were not to be characterised as appellant stapped her and raised the bar above his head as if to hit her with it.At [125] 'there is not odisadvantages during childhood; however such experienced were not to be characterised as appellant stapped her and raised the bar above his head as if to hit her with it.At [139] 'the offence submissions cannot b' submissions cannot			**		considerations.
C13C1		completed TAFE course at 15 yrs.			$\Lambda \in [106]$ (the proceedure
Construction since 14 yrs; FIFO work until voluntary separation D12.C1.3The sentencing judge found that the appellant had suffered from some dysfunction and disadvantages during childhood, however such experienced were not to be characterised as profound childhood deprivation.At [125] 'there is not ofter than sentence th justiceand within th separated to inspece DB's vagina to find out whether she had engaged in sexual intercourse with PC. When DB refused, the appellant spece her and raised the bar above his head as if to hit her with it.At [125] 'there is not ofter than sentence th justiceand within th separated to inspece DB's vagina to find out whether she had engaged in sexual intercourse with PC. When DB refused, the appellant spece her and raised the bar above his head as if to hit her with it.At [139] 'the offence serious. The appellant ofter than sentence th submissions cannot be' at papellant sentence in some available was inscience of antisocial personality traits.At [139] 'the offence serious. The appellant and in the vagina, moving her lakin angina for a the appellant seat and raised the bar in again touched her labia majora with his hand.At [143] 'in relation to to give effect to the no the specific of the rise appellant again touched her labia majora with his hand.At [143] 'in relation to give effect of the rise offer and set the specific of the rise appellant took herC1.5The appellant demanded DB's phones of that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonal/y arg		Worked in mining and	the bedroom.	drug use.	
work until voluntary separation in 2012.Work until voluntary separation in 2012.The appellant then demanded DB take of her pants. The appellant said he wanted to inspect DB's vagina to find out whether she had engaged in sexual intercourse with PC. When DB refused, the appellant slapped her and raised the bar above his head as if to hit her with it.had suffered from some dysfunction and disadvantages during childhood; however such experienced were not to be characterised as profound childhood deprivation.At [125] 'there is not disadvantages during childhood; however such experienced were not to be characterised as profound childhood deprivation.At [130] 'the gisting indicated presence is appreciated, all that contention that the set the appellant slapped her and raised the bar above his head as if to hit her with it.had suffered from some dysfunction and taischaracterised as profound childhood; however such experienced were not to be characterised to such experienced were not to be characterised as profound childhood deprivation.At [135] 'there is not disadvantages during childhood; however such experienced were not to be characterised to such experienced were not to be characterised as profound childhood deprivation.At [130] 'the dista during childhood; however such experienced were not to be characterised to content in that the set content in that the set to content in the set such experienced were not to be characterised the appellant stapped her and raised the bar above his head as if to hit her with it.At [131] 'there is not experienced were not to be characterised to content in the set submissions cannot b the appellant's demands. The appellant such experienced were not to be characterised the appellant gain accurate here and raised the bari			C+ 2	The contensing index found that the appellant	experienced some dela
2012.The appellant then demanded DB take off her pants. The appellant said he wanted to inspect DB's vagina to find out whether she had engaged in sexual intercourse with PC. When DB returns abayed her and raised the bar above his head as if to hit her with it.disadvantages during childhood; however sub experienced were not to be characterised sub experienced were not to be characterised is appreciated, all that contention that the se the appellant slapped her and raised the bar above his head as if to hit her with it.disadvantages during childhood; however sub experienced were not to be characterised sub experienced were not to be characterised is appreciated, all that contention that the se the appellant slapped her and raised the bar above his heads as if to hit her with it.disadvantages during childhood; however sub experienced were not to be characterised sub experienced were not to be characterised is appreciated, all that contention that the se the appellant slapped her and raised the bar above his heads to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of harding manner. The appellant again incuched her labia majora with his hand.disadvantages during childhood; however sub experienced were not to be characterised is appreciated, all that contention that the se the appellant demanded DB's phone so implement the set of the special took herdisadvantages during childhood; however sub experienced were not to be characterised is appreciated, all that contention that the set the appellant demanded DB's phone so the the could check her text messages. Before he left, the appellant took herdisadvantages during childhood; however short time before temosing the appellant took her <tr< td=""><td></td><td></td><td></td><td></td><td>At [125] 'there is nothing</td></tr<>					At [125] 'there is nothing
Several relationships of significance; one young daughter; most relationships marred by violence and drug use.off her pants. The appellant said he wanted to inspect DB's vagina to find out whether she had engaged in sexual intercourse with PC. When DB refused, the appellant slaped her and raised the bar above his head as if to hit her with it.such experienced were not to be characterised a profound childhood deprivation.justiceand within t discharge the duties of is appreciated, all the contention that the se the appellant slaped her and raised the bar above his head as if to hit her with it.such experienced were not to be characterised profound childhood deprivation.justiceand within t discharge the duties of is appreciated, all the contention that the se the implicated presence of antisocial personality traits.Used alcohol to excess from teenage yrs; cannabis use form 13 yrs; developed a methyl habit from late 20s; drug use escalated after losing his job.Fearing for her life, DB complied with the appellant sdemads. The appellant sdemads for ouch DB's short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.At [143] 'in relation to give effect to the or of home burglaries, p violence It is also e imposed for cts 2.3C1.5The appellant demanded DB's phone so hat the could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably agrees.		• •	The appellant then demanded DB take	-	
Several relationships of significance; one young daughter most relationships marred by violence and drug use.wanted to inspect DB's vagina to find out whether she had engaged in sexual intercourse with PC. When DB refused, the appellant slapped her and raised the bar above his head as if to hit her with it.as profound childhood deprivation.discharge the duties of is appreciated, all that contention that the se the appellant slapped her and raised the bar above his head as if to hit her with it.as profound childhood deprivation.discharge the duties of us appreciated, all that contention that the se the appellant slapped her and raised the bar above his head as if to hit her with it.as profound childhood deprivation.discharge the duties of us appreciated, all that contention that the se the appellant slapped her and raised the bar above his head as if to hit her with it.as profound childhood deprivation.discharge the duties of us appreciated, all that contention that the se the appellant slapped her and raised the bar above his head as if to hit her with it.Used alcohol to excess from teenage yrs; cannabis use form 13 yrs; developed a methyl habit from late 20s; drug use escalated after losing his job.Fearing for her life, DB complied with the appellant sdamads. The appellant and and the before removing his hand. The appellant again accursed DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.At [143] 'in relation 1 to give effect to the moving his hand. The appellant again accursed DB of hand.Destrict Destrict		2012.	± ±		
significance; one young daughter; most relationships marred by violence and drug use.out whether she had engaged in sexual intercourse with PC. When DB refused, the appellant slapped her and raised the bar above his head as if to hit her with it.is appreciated, all tha contention that the se the mitigatory effect submissions cannot he the appellant slapped her and raised the bar above his head as if to hit her with it.is appreciated, all tha contention that the se the mitigatory effect submissions cannot he the appellant serious. The appellant consent, and in the v was a completely un appellant used a metry appellant used a metry appellant used a metry after losing his job.At [139] 'the offence serious. The appellant was a completely un appellant used a metry appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora for a short time before removing his hand.At [143] 'in relation in to give effect to then of home burglaries, pr volence1t is also e imposed for cts 2,3 a in sentencing for for a din sentencing for for that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably arg		Several relationships of	1 11	-	5
Image: Section of the section of an isocial personality traits.intercourse with PC. When DB refused, the appellant slapped her and raised the bar above his head as if to hit her with it.contention that the section of the mitigatory effect submissions cannot be bar above his head as if to hit her with it.No major history of illness or injury; testing indicated presence of antisocial personality traits.Ct4At [139] 'the offence section of the appellant's demands. The appellant used an etc.At [130] 'the offence was a compared by ung appellant was a completely ung used one of his hands to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a theatening manner. The appellant again accused DB of hand.At [143] 'in relation of the use of viol have been, in a dome vagina, moving her labia majora with his hand.At [143] 'in relation of the use of viol have been, in a dome vagina, moving her labia majora with his hand.The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably arg		-		as protound chinanood deprivation.	U
 violence and drug use. No major history of illness or injury; testing indicated presence of antisocial personality traits. Used alcohol to excess from teenage yrs; cannabis use form 13 yrs; developed a methyl habit from late 20s; drug use escalated after losing his job. Positive personal references. Positive personal references. Positive personal references. Ct_5 The appellant demanded DB's phone so that he could check her text messages. Befor he left, the appellant took her 					
bar above his head as if to hit her with it. No major history of illness or injury; testing indicated presence of antisocial personality traits. Used alcohol to excess from teenage yrs; cannabis use form 13 yrs; developed a methyl habit from late 20s; drug use escalated after losing his job. Positive personal references. Positive personal references. Positive personal references. Positive personal references. bar above his head as if to hit her with it. Ct 4 Ct 4 Fearing for her life, DB complied with the appellant is demands. The appellant used one of his hands to fouch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand. Ct 5 The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took her		-	,		
No major history of illness or injury: testing indicated presence of antisocial personality traits.it.At [139] 'the offence serious. The appellant consent, and in the ver asleep The offence was a completely ung used one of his hands to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a direatening manner. The appellant again touched her labia majora with his hand.At [143] 'in relation to to give effect to then of home burglaries, p violenceIt is also e imposed for offect a fin sentencing for offect again touched her labia majora with his hand.Ct 4		violence and drug use.			
injury; testing indicated presence of antisocial personality traits.Ct 4At [139] 'the offence serious. The appellan consent, and in the va aslesThe offence was a completely und used one of his hands to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.At [143] 'the offence serious. The appellant onsent, and in the va aslesThe offence was a completely und appellant used a meta who was initially asle vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.At [143] 'in relation 1 to give effect to the m of home burglaries, p violence It is also e im sentencing for of the appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably arg		No major history of illness or			
of antisocial personality traits.Ct 4serious. The appellant consent, and in the va asleep The offence was asleep The offence asleep The offence was asleep The offence asleep The offence aslee					At [139] 'the offences
Used alcohol to excess from teenage yrs; cannabis use form 13 yrs; developed a methyl habit from late 20s; drug use escalated after losing his job.Fearing for her life, DB complied with the appellant's demands. The appellant used one of his hands to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a dimeatening manner. The appellant again touched her labia majora with his hand.At [143] 'in relation to to give effect to the n of home burglaries, p violence It is also e imposed for cts 2,3 a in sentencing for offect and 4, the use of viol have been, in a domeCt 5 The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably argu			Ct 4		
Used alcohol to excess from teenage yrs; cannabis use form 13 yrs; developed a methyl habit from late 20s; drug use escalated after losing his job.Fearing for her life, DB complied with the appellant's demands. The appellant used one of his hands to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand. Ct 5At [143] 'in relation to to give effect to the n of home burglaries, p violenceIt is also e imposed for cts 2,3 at in sentencing for offet and 4, the use of viol have been, in a dome At [151] [in consider is not reasonably argu-		1 5			consent, and in the ver
yrs; developed a methyl habit from late 20s; drug use escalated after losing his job.used one of his hands to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.appellant used a meta who was initially asleCt 5The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably argu		Used alcohol to excess from	Fearing for her life, DB complied with		asleepThe offence cl
yrs; developed a methyl habit from late 20s; drug use escalated after losing his job.used one of his hands to touch DB's vagina, moving her labia majora for a short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.appellant used a meta who was initially asleCt 5The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably argu		teenage yrs; cannabis use form 13	the appellant's demands. The appellant		was a completely unpre-
after losing his job.short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.At [143] 'in relation to to give effect to the model of home burglaries, p violenceIt is also e imposed for cts 2,3 at in sentencing for offec and 4, the use of viol have been, in a domeCt 5The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably argument.		yrs; developed a methyl habit	used one of his hands to touch DB's		appellant used a metal
after losing his job.short time before removing his hand. The appellant again accused DB of having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.At [143] 'in relation to to give effect to the model of home burglaries, p violenceIt is also e imposed for cts 2,3 at in sentencing for offec and 4, the use of viol have been, in a domeCt 5The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably argument.		from late 20s; drug use escalated	vagina, moving her labia majora for a		who was initially aslee
Positive personal references.having sex with PC and raised the bar in a threatening manner. The appellant again touched her labia majora with his hand.to give effect to the n of home burglaries, p violenceIt is also e imposed for cts 2,3 at in sentencing for offe and 4, the use of viol have been, in a domeCt 5The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took herAt [151] [in consider is not reasonably argument.		after losing his job.			
a threatening manner. The appellant of home burglaries, p a threatening manner. The appellant of home burglaries, p again touched her labia majora with his violenceIt is also e hand. imposed for cts 2,3 a Ct 5 and 4, the use of viole The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took her At [151] [in consider is not reasonably arguing is not reasonably arguing			The appellant again accused DB of		At [143] 'in relation to
again touched her labia majora with his hand. violenceIt is also e imposed for cts 2,3 at in sentencing for offer and 4, the use of viol have been, in a dome Ct 5 The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took her At [151] [in consider is not reasonably arguments of the could check her text messages. Before he left, the appellant took her		Positive personal references.	having sex with PC and raised the bar in		to give effect to the nee
hand. imposed for cts 2,3 are in sentencing for offer and 4, the use of viole have been, in a dome Ct 5 The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took her At [151] [in consider is not reasonably arguments of the solution			a threatening manner. The appellant		of home burglaries, par
Ct 5 in sentencing for ofference The appellant demanded DB's phone so that he could check her text messages. At [151] [in considerence Before he left, the appellant took her is not reasonably argued			again touched her labia majora with his		violenceIt is also equ
Ct 5 and 4, the use of viole have been, in a dome The appellant demanded DB's phone so that he could check her text messages. Before he left, the appellant took her At [151] [in consider is not reasonably arguments of the second			hand.		imposed for cts 2,3 and
Image: Construction of the second					in sentencing for offen
The appellant demanded DB's phone so that he could check her text messages.At [151] [in considerBefore he left, the appellant took heris not reasonably argue			<u>Ct 5</u>		
that he could check her text messages.At [151] [in considerBefore he left, the appellant took heris not reasonably arguments					have been, in a domest
Before he left, the appellant took her is not reasonably argu			11 1		
phone with him. unreasonable or plain					
			phone with him.		unreasonable or plainly

ppropriate to distinguish between two different first is where profound childhood deprivation has ed the capacity of an offender to behave nd class of case is where the offender retains full oices about unlawful behaviour, although the poor ffender makes may be influenced by childhood

viewed the material before the sentencing judge, we ur's conclusion that the material did not establish, obabilities, that any relevant capacity of the red by profound childhood deprivation which alpability for the offending or diminished the onal and general deterrence as sentencing

ural history of this matter shows the appellant elay before he was finally sentenced.'

thing to suggest that his Honour...did anything the appellant according to the rules of reason and those limits which an honest person competent to of his office ought to confine himself. When that at is left of the appellant's submission is a entencing judge should have given more weight to of delay. It follows that the appellant's be accepted.'

es committed by the appellant were extremely nt entered his former partner's home without her very early hours of the morning, when she was e charged in ct 2 was particularly serious. In what provoked attack by a physically powerful man, the cal bar to repeatedly strike the much younger PC, leep and defenceless.'

to ct 1, it was necessary for the sentencing judge need for general deterrence in relation to offences particularly those that involve the use of equally necessary to ensure that the sentences and 4 reflect the importance of general deterrence ences involving violence, and in relation to cts 1,3 lence by men on women with whom they are, or estic relationships.'

ring the relevant factors] 'we are of the view that it guable that the total effective sentence was nly unjust.'

7.	Gomboc v The	31-34 yrs at time offending.	Cts 2 & 11: Agg AOBH.	Ct 2: 10 mths imp (cum).	Allowed.
	State of Western	38 yrs at time sentencing.	Cts 4; 10; 12-13; 15; 19; 22: Threat to	Cts 4; 7 & 13: 12 mths imp (conc).	
	Australia		harm.	Ct 5: 4 yrs 6 mths imp.	Appeal concerned len
		Convicted after late PG (cts 2, 4,	Ct 5: Act with intent to harm.	Cts 6; 9; 23 & 28: 3 yrs imp (conc).	challenged.
	[2023] WASCA	6, 8, 10, 11, 12, 13, 15, 19, 22, 23,	Cts 6; 9; 23; 28-29 & 32: Threat to kill.	Cts 8 & 12: 10 mths imp (conc).	
	115	26 & 32) (18% discount).	Ct 7: Agg unlawful wounding.	Cts 10 & 15: 14 mths imp (conc).	Resentenced:
			Ct 8: Wilful and unlawful damage.	Ct 11: 2 yrs 2 mths imp (conc).	
	Delivered	Convicted after very late PG (cts	Ct 26: Armed to cause fear.	Ct 19 & 22: 16 mths imp (conc).	Cts 2; 6; 9; 23; 28 & 3
	24/07/2023	5, 7, 9, 28 & 29) (8% discount).		Ct 26: 18 mths imp (conc).	Cts 4; 7 & 13: 12 mth
		.	Gomboc was in a relationship with the	Ct 29: 3 yrs 6 mths imp (cum).	Ct 5: 4 yrs 6 mths imp
		Limited criminal history; previous	victim, which lasted for a number of	Ct 32: 3 yrs imp (cum).	Cts 8 & 12: 10 mths in
		conviction for common assault	yrs. They had purchased a house		Cts 10 & 15: 14 mths
		involving then fiancé.	together.	TES 11 yrs 10 mths imp.	Ct 11: 2 yrs 2 mths im
				EFP.	Cts 19 & 22: 16 mths
		Only child; good upbringing;	During the course of their relationship,	The sector is independent of the sector of	Ct 26: 18 mths imp (cr
		family remain supportive.	Gomboc subjected the victim to regular	The sentencing judge found there were a	Ct 29: 3 yrs 6 mths im
		Completed vr 12: experienced	physical and verbal abuse. He punched	number of serious features of the appellant's	TES 0 yrs 6 mths imp
		Completed yr 12; experienced verbal abuse and bullying at	and kicked her, strangled her, negligently wounded her with a knife,	offending as a whole; it persisted for three and a half years; there were 19 separate and	TES 9 yrs 6 mths imp. EFP.
		school.	smothered her with a pillow, threw	distinct offences over that period of time and	LIT.
		school.	objects at her, and repeatedly threatened	he had time to reflect on his conduct and	At [9] it is clear that
		Good work history; 7 yrs of army	to kill her, and was often armed when	choose not to do it again, but did not; he	sentenced to a very sig
		service; qualified scaffolder.	he did so.	deployed a number of methods and weapons	abhorrent and sickenir
		service, quanned seanoider.		to clearly communicate to the victim that he	mental health issues a
		Relationship with victim ended	In addition to having taken photographs	could end her life at his hands and very	held by others, the per
		2018; new romantic relationship	of several of her injuries, the victim	quickly, so as to make her fearful of him; the	offending required a lo
		commenced 2021; partner	regularly made audio recordings of the	appellant was physically stronger than the	violence used by the a
		remains supportive.	offending.	victim, who was vulnerable to his physical	strongest possible tern
		ioniuns supportive.	onending.	violence; the offending was in the context of a	strongest possible term
		Good physical health; significant	The victim was left with severe anxiety	domestic relationship; the threats to kill or	At [194] Her Hono
		history of mental health problems;	and post-traumatic stress disorder,	harm were often accompanied by the presence	appellant's offending v
		PTSD arising during time in	suffered physically, mentally,	of weapons and physical violence, which no	substantial term of im
		military service.	emotionally and financially	doubt elevating the fear of harm or death the	appellant's abhorrent a
		initially service.		victim experienced, and the fact that his	him and denounced of
		Heavy alcohol and cannabis use.		offending routinely incorporated statements	
			CCC CC	designed to degrade and humiliate the victim.	At [198] we cannot
					the appellant did not b
				The sentencing judge found the submissions	criminality involved in
				made by the appellant's counsel served to	
			Y	minimise the responsibility for his offending	At [220] In our view,
				and shifted the responsibility onto the victim;	metaphor of taking on
				his physical and verbal abuse in a domestic	looks wrong' is apt. A
				setting was 'very entrenched behaviour' and	almost 12 yrs, in light
				he remained at risk of reoffending unless he	rehabilitation as he has
				addressed his attitude and behaviour.	

ength of sentence. Individual sentences not

2 32: 3 yrs imp (conc). ths imp (conc). np (cum). 5 imp (conc). is imp (conc). is imp (conc). (cum). imp (cum).

ıp.

that it was necessary that the appellant be significant TES. The appellant's offending was ning. Notwithstanding [his] pleas of guilty, his and the otherwise high regard in which he was persistent, callous and menacing nature of his a long term of imp. The threatened and actual e appellant must be denounced by the courts in the erms. ...

nour rightly recognised that the totality of the g was extremely serious and called for a very mp. It was necessary that a TES be imposed for the t and sickening offending that properly punished offending like it in the strongest possible terms. ...

not avoid the conclusion that the TES imposed on t bear a proper relationship to the overall l in all of the offences.

y, this is truly one of those cases when the one 'last look at the total, just to see whether it And when we take a last look at the sentence of ht of the appellant's PGs and such potential for has, the sentence looks wrong.

eless, as we have set out at length above, the

				Offending profound impact on the victim; continues to require daily medication and ongoing therapy. Limited demonstrated remorse.	persistent, callous and long term of imp. Off penalties.
6.	Meadowcroft v The State of Western Australia [2023] WASCA 98 Delivered 21/06/2023	 52 yrs at time sentencing. Convicted after trial (ct 1). Convicted after PG (cts 3 and 4). No prior criminal history; prior traffic convictions for alcohol-related driving offences; no offending for more than thirty yrs. Death of father mths preceding trial; carer for his mother, now in a nursing home; suffered financially, including loss of his home, due to providing assistance to his parents. Father of three; close family. Good work history; qualified painter; employed as a trainer for 7 yrs in a correctional services facility. 	Ct 1: Act with intent to harm. Ct 3: Driver failing to stop after incident occasioning GBH. Ct 4: Driver failing to report incident occasioning GBH. The victim was cycling home and crossing a roundabout when Meadowcroft, driving a four-wheel drive utility vehicle equipped with a bull bar, came from the victim's left at speed. The victim was half-way across the road when he stopped on seeing Meadowcroft's vehicle approaching. Annoyed, that he was forced to ride around the front of Meadowcroft's vehicle, the victim made multiple obscene finger gestures at Meadowcroft. After passing the victim Meadowcroft did a U-turn. He then crossed to the incorrect side of the road, mounted the kerb and into the path of the victim. His vehicle struck the victim and his bike, causing the victim to fly through the air and into a fence. After the impact Meadowcroft drove from the scene. At no stage did he stop or report the incident to police. The victim suffered very significant injuries, including to his spine resulting in him being a tetraplegic and confined to a wheelchair.	Ct 1: 8 yrs imp. Ct 3: 2 yrs imp (conc). Ct 4:1 yr imp (conc). Sentence for ct 1 to commence 6 mths after commencement of other sentences. TES 8 yrs 6 mths imp. EFP. The trial judge was satisfied beyond reasonable doubt that the appellant had an intention to endanger the life of the victim; this intention, combined with the act of driving 'speaks to the singular serious example of this particular offence'. The trial judge did not accept the appellant was only travelling at a little over 20 km per hr; he did not reduce his acceleration, nor did he apply his brakes before the collision; the appellant crossed to the incorrect side of the road, mounted the concrete kerb and continued to drive on the verge for a distance of 12 metres before making contact with the victim and his bicycle on the footpath. Injuries significant impact on victim's life; spent extended period in hospital engaged in rehabilitation; suffered PTSD and depression; unable to work since the collision. Time in custody likely to be more arduous as a result of previous employment with Department of Corrections. Demonstrated remorse; unlikely to reoffend; good prospects of rehabilitation.	Dismissed (leave refu Appeal concerned len had a subjective interv At [110] his Honor were plainly open drive close to [the vict did intend to drive in a Having regard to the f mounting the kerb, dri cyclist on the footpath At [116] His Honour v appellant intended to a death was significant a At [117] the injurie GBH, let alone bodily injuries as catastrophi At [118] the potent apparent from the app vehicle equipped with increases the seriousn At [126] There is no c 1 was a severe one. H the offence and the ca sentence was appropri At [127] This was an harm the victim. That driving offences invol
5.	Cheeseman v The State of Western	35 yrs at time offending.36 yrs at time sentencing.	Indictment Cts 1-3: Act with intent to harm.	Ct 1: 3 yrs 6 mths imp (cum ct 2). Ct 2: 4 yrs 6 mths imp.	Dismissed.

nd menacing nature of his offending required a Offending of this kind must be denounced by severe

fused – error in finding).

ength of sentence and error in finding (appellant ent to endanger the life of the victim).

nour's findings regarding the intent of the appellant ... His Honour found that the appellant intended to victim] and, even if he did not intend to hit him, he in a manner that endangered the life of [the victim]. e fact that the driving involved crossing the road, driving across the gravel verge and towards a ath, that conclusion was, with respect, irresistible.

ar was satisfied beyond reasonable doubt that the to endanger the life of [the victim]. ... The risk of nt and aggravates the offending.

ries inflicted amount to a very serious example of ily harm ... It is accurate to describe [the victim's] bhic.

ential for [the victim] to have been killed is readily ppellant's manner of driving a turbo-charged ith a bull bar at a cyclist. This significantly sness of the appellant's offending.

b doubt that the sentence of 8 yrs imp imposed on ct However, having regard to the circumstances of catastrophic consequences for the victim that priate. ...

an offence involving a deliberate act intended to nat places it into a more serious category than volving mere negligence.

I	2023] WASCA 78 Delivered	Significant criminal history.	Cts 5, 7 & 8: Poss ammunition without	Ct 4: 6 mths imp (conc ct 6; cum ct 2).	fired the shots) and fact
I					,
	Delivered		a licence.	Ct 5: 3 mths imp (conc cts 7 and 8; cum ct 2.	principle.
	Delivered	Convicted after early PG (25%	Ct 6: Poss firearm reasonably suspected	Ct 6: 6 mths imp (conc ct 4; cum ct 2).	
		discount).	to be stolen.	Ct 7: 3 mths imp (conc cts 5 and 8; cum ct 2.	At [62] In our view, the
	19/05/2023			Ct 8: 3 mths imp (conc cts 5 and 7; cum ct 2.	understood as meaning
		Eldest of two children; mother	Section 32 Notice		that he had an equal deg
		gambling problem, falsely	Chs 1-2: Carried a controlled weapon.	TES 7 yrs 9 mths imp.	fired the shots
		attributed the families financial	Ch 3: Poss of items intended to be used	FED	
		issues on appellant; distressed and	as a disguise with intent to commit an	EFP.	At [69] When the senter
		harbouring anger and resentment	offence.	The sector sing index found the three visting	clear that her Honour se
		left home aged 15 yrs; no contact	Chs 4-5: Driving while MDL	The sentencing judge found the three victims	the unknown shooter, w
		with his parents until aged 21 yrs; since reconnected.	suspended.	were strangers to the appellant, all of whom	and not the appellant w
		since reconnected.	Indictment	were innocent and going about their own business, thus the offending was entirely	acknowledged by his Po shooter
		Experience extreme anger and	Ct 1	unprovoked and gratuitous; the victims were	SHOOLET
		distress in early 20s on learning	Cheeseman drove into a carpark. An	vulnerable and could do nothing to protect	At [75]-[76] In our viev
		sister a victim of sexual abuse;	unknown male passenger and a firearm	themselves from the gunshots; the impact of	an insight into the impa
		became her main source of	were in the vehicle. After parking the	the offending on the victims was likely to be	decisively against remo
		emotional and physical support.	vehicle Cheeseman approached the	grave; the firearm involved in the offending	identified the unknown
		emotional and physical support.	victim, seated in the driver's seat of his	was stolen and, thus, was a firearm he should	have been a significant
		Completed yr 10; commenced	car. Cheeseman did not know the	never had had and he was subject to a MDL	nave seen a significant
		working; employed various roles;	victim. They had a brief conversation,	susp at the time the offences were committed	At [86] As the sentenci
		completed trade pre-	during which Cheeseman asked for and	and, therefore, should not have been driving.	good luck that the poter
		apprenticeship; limited	was given a cigarette by the victim.		relation to ct 1, the bull
		employment history since aged 28		The sentencing judge concluded that the	went perilously close to
		yrs due to imprisonment and	Cheeseman returned to his vehicle and	appellant and another or others willingly	view mirror in close pro
		substance abuse.	after about 15 minutes reparked next to	engaged in random acts of life-endangering	while the bullet hit the t
			the victim's vehicle. He asked the	violence, which included having a firearm	travel of the vehicle, the
		Previously a member of an OMC.	victim whether he had any drugs, before	discharge at truly innocent victims.	of the vehicle's vehicle
			accusing him of being a police officer.		firing of a gun is inhere
		Three significant relationships;	After briefly moving his vehicle he	The sentencing judge observed that while	
		two children from first union;	again parked next to the victim's	committing the offences in company was not	At [87] the separatio
		seriously violent to her;	vehicle. Cheeseman again questioned	an agg factor, without a co-offender, the	ct 1 and the commission
		subsequently convicted and imp;	the victim about being a police officer.	offences could not have been committed in	overall culpability it
		no longer has contact with his	Following this short exchange	the time, place and manner that they were.	some accumulation betw
		children. Second relationship	Cheeseman reversed his vehicle and		for cts 2 and 3, to ensur
		marred by drug use; in a	drove towards the car park exit. As he	In the course of dealing with totality, the	appellant's overall crim
		relationship at time of sentencing;	did so the male passenger produced the	sentencing judge found cts 2 and 3 more	
		partner remains supportive.	firearm and fired one round at the	serious than ct 1, as they were the second	At [89] In evaluating th
		Common and mothed uses aged 18	victim's car. The bullet struck the rear	occasion he had deliberately and consciously	to recognise that his off
		Commenced methyl use aged 18	windscreen, travelled through the vehicle and struck the rear-vision	decided to go and randomly shoot at innocent	against the Firearms Ac
		yrs; alcohol use early 20s; under the influence of substances,	mirror, coming to rest on the vehicle's	victims.	At [94] Taking into acc
		including methyl, at time of	dashboard. When, in an effort to escape,	Showed very little victim empathy; failed to	offending and his perso
		offending.	the victim drove out of the car park	provide the identity of the male shooter to	relevant sentencing fact
		ononumg.	Cheeseman followed him, before	police; high risk of re-offending.	was an appropriate refle
		Suffered periods of depression,	overtaking the victim's vehicle and	Ponce, ingh fisk of te offending.	mus un appropriate rent
		anxiety and trauma symptoms;	driving away.		
		prescribed antidepressant			

otality principle; errors in sentencing (appellant fact (appellant not truly remorseful) and totality

the sentencing remarks cannot reasonably be ing that the appellant was sentenced on the basis degree of criminality to that of the person who

ntencing remarks are considered as a whole, it is r sentenced the appellant on the basis that it was r, who was the passenger in the appellant's car, t who fired the shots. The appellant was, as he s PG, criminally liable for the acts of the unknown

view, the appellant's lack of acknowledgement of npact of his offending on the victims weighed morse as a mitigating factor. ... Had the appellant wn shooter to the police, that would, no doubt, ant mitigating factor. ...

ncing judge observed, it was nothing more than otential for serious harm was not realised. In oullet entered the cab of the victim's vehicle and e to hitting him; it hit the driver's side of the rear proximity to the victim's head. On cts 2 and 3, he tray of the victim's vehicle, given the speed of , the bullet could very easily have gone into the cab cle and, in any event, a driver's reaction to the erently unpredictable.

ation in time and place between the commission of sion of cts 2 and 3 reinforced the appellant's .. it was both appropriate and necessary to impose between the sentences for ct 1 and the sentences usure that the sentence properly reflected the riminality.

g the appellant's overall criminality, it is important offending also included a number of offences Act.

account all the circumstances of the appellant's rsonal circumstances, and having regard to all factors, we are satisfied that the appellant's TES effection of his overall criminality. ...

4.	Hewins v The	20 yrs at time offending.	Cts 2 and 3 On the same day Cheeseman drove his vehicle with the same unknown male passenger in the backseat. He pulled alongside a vehicle being driven by the victim of ct 2 and the victim of ct 3 seated in the passenger seat. Cheeseman's passenger then pointed the firearm through the driver's-side window in the direction of the two victims. He fired a single round from the firearm at the two victims, striking the rear of their vehicle. Cheeseman then accelerated away. Cts 4-8 At the time of the offending the subject of cts 1-3 Cheeseman was subject to two MDL revocations and was suspended from driving. Cheeseman was arrested the following day and a search of his vehicle located a modified bolt action rifle, which had been stolen during a burglary. He knew this to be the case. Also located in his vehicle was a full box of .22 calibre ammunition and a jar containing loose .22 calibre cartridges, a pouch containing three rounds and one round within the rifle. A backpack containing two throwing knives, a butterfly knife, two bandannas and four face marks were also located in his vehicle. During a search of Cheeseman's home two shotgun shells and one 9mm cartridge were also located.	Ct 1: 5 yrs 2 mths imp (cum).	Dismissed (leave ref
	State of Western Australia	23 yrs at time sentencing.	Ct 2: With intent to harm did an act resulting in bodily harm.	Ct 2: 3 yrs imp (conc). Ct 3: 2 yrs imp (conc).	Appeal concerned le
	[2023] WASCA 2	Convicted after late PG - cts 1-3 (3% discount).	Ct 3: Criminal damage.	Ct 4: 3 yrs imp (cum).	At [57] When all of
		Convicted after trial (ct 4).	Mr Gornall and Mr Smith shared a house. Hewins and his brothers,	TES 8 yrs 2 mths imp.	considered in respec
	Delivered		house Hewing and his brothers		favourable to the app

refused).

d length of sentence and totality principle.

of the relevant facts and circumstances are pect of c 1, including all of those which are appellant, and bearing in mind the max penalty, it y be contended that the sentence imposed was

	the house.		manifestly excessive.
Born UK; raised loving and		The sentencing judge found the offences	Implied error has not
supportive family.	Hewins, his brothers, Mr Gornall and a	'very serious'; the appellant instigated both	
	Ms Barlett were at a nightclub. Hewins	agg burglaries; they were premediated and he	At [59] There can be
Educated to yr 10.	was pursuing a romantic relationship	went to the house with his brothers as 'back	having regard to the f
	with Ms Bartlett and he became angry	up', taking weapons and intending to inflict	very high. Having
Worked number of occupations.	when he perceived that Mr Gornall and	harm; he personally used violence in the first	brothers returned to t
	Ms Bartlett were flirting with each	burglary in circ where he was part of a group	violent home burglar
Birth of child while on bail.	other. When Hewins confronted Mr	attack upon an innocent third party and it	to clean up after the e
	Gornall and head-butting him he was	involved the use of a weapon and in circ	
History of substance use; at time	evicted from the premises.	where a gun was pointed.	At [60] Again, the of
of offending under the influence			Her Honour was corr
of ecstasy and alcohol.	That same evening Mr Smith was at	The sentencing judge found the seriousness of	was a second separate
	home. He went to bed at about	the appellant's conduct was not reduced by	degree of accumulation
	11.30pm, but some hrs later he awoke to find four men his bedroom. Three of	the fact he was not personally armed in either	At [62] Howing magon
	the men physically assaulted him. Two	agg burglary; he knew of the existence of the weapons carried by others and that they	At [63] Having regard the sentence properly
	of them punched him repeatedly while	would be used; the appellant's criminal	offences after taking i
	the third struck him with a baseball bat.	culpability for both agg burglaries was	factors, including the
	A fourth man stood near the door of his	'extremely high'.	unreasonable or plain
	room, pointing a gun at him. After the		established.
	assault the man with the gun told him	The sentencing judge found that despite the	
	that if he said anything they would be	appellant having had the opportunity after the	
	back. The four men than left the scene	first agg burglary to reflect on his behaviour	
	in a vehicle.	and conduct he went ahead and committed the	
		second agg burglary.	
	The house and some of its contents had		
	been extensively damaged. The damage	Lacked insight and victim empathy.	
	caused to the house cost \$20,342.84 to		
	repair. This did not include the value of		
	the furnishing that were damaged and		
	not replaced.		
	Mr Smith suffered bleeding and		
	swelling to his nose, face and chest. He		
	experienced difficulty breathing through		
	his nose for a number of wks and		
	migraine headaches and issues with his		
	balance for a period of time after the		
	incident.		
6	Later that afternoon Mr Gornall and Mr		
	Smith returned home. A group of		
	people came to help clean up. The		
	group were sitting in the house when		
	they heard yelling and screaming		
	outside. Hewins and his brothers		
	Thomas and Jacob had returned looking		
	for Mr Gornall. They had brought with		

ve. It was not unreasonable or plainly unjust. ot arguably been established.

be no doubt that the appellant's overall criminality, e facts and circumstances of all of the offences, was ... committed cts 1, 2 and 3, [he] and two of his the house later that day ... and committed another ary, terrorising Mr Gornall and those who had come e earlier offences.

offending was premeditated, violent and terrifying. prrect to note that the offending the subject of ct 4 ate instance of serious offending that justified some ation.

ard to the extremely serious nature of the offending, ly reflected the overall criminality of all of the g into account all relevant sentencing principles and he mitigating factors. The TES was not unly unjust. Implied error has not arguably been

-					
			The three men entered the house through an open door. Jacob pointed a gun and told everyone if they recorded the event they would be shot. Jacob used the taser on two men. Mr Gornall and another ran from the house. Hewins pursued them. Mr Smith ran into a garage where he was further assaulted by one of Hewins' brothers.		i ons
			When interviewed by police Hewins denied going to the house and any	-C`	
			wrongdoing.		
3.	Billett v The State	Billett	Billett	Billett	Appeal allowed.
	of Western	$\overline{27}$ yr at time sentencing.	$\overline{\text{Ct 1: Agg burg.}}$	$\overline{\text{Cts } 1}$ & 4: 18 mths imp (conc).	11
	Australia		Ct 2: Threat to harm.	Cts 2 & 5: 12 mths imp (conc).	Appeal concerned ler
		Convicted after early PG (25%	Ct 3: Unlawful damage.	Ct 3: 7 mths imp (conc).	principle.
	[2022] WASCA	discount).	Ct 4: Agg burg.		
	158		Ct 5: Act with intent to harm.	TES 18 mths imp.	Resentenced cts 1 an
		Prior criminal history; prior			5.01
	Delivered	conviction for violent offending.	Klinger	Klinger	Billett
	01/12/2022	Demants segmented a cod 19 sugar	Ct 1: Agg burg.	Cts 1 & 4: 18 mths imp (conc).	Ct 1: 3 yrs imp (conc
		Parents separated aged 18 yrs; close relationship with mother and	Ct 3: Unlawful damage.	Ct 3: 7 mths imp (conc). Cts 6 & 7: 12 mths imp (conc).	Ct 4: 4 yrs 3 mths im
		sister; little contact with alcoholic	Ct 4: Agg burg. Ct 6: AOBH.	Cts o & 7. 12 mins mp (conc).	TES 4 yrs 3 mths imp
		father, now in care suffering dementia.	Ct 7: Threat to harm.	TES 18 mths imp.	EFP.
		domentia.	Billett, Klinger and another man were	The sentencing judge found the home	Cts 1, 2, 3 and 5 cond
		Struggled at school; left yr 10;	socializing at a tavern.	burglaries serious, particularly as they	
		recently completed a Certificate in		involved forcible entry into premises known	Klinger
		community services; aspires to do	During the evening Billett obtained an	or suspect to be occupied and accompanied	Ct 1: 3 yrs imp (conc
		youth work.	address for a Mr Scerri. Some wks earlier there had been an incident	by threatened or actual violence.	Ct 4: 4 yrs 3 mths im
		Worked intermittently;	involving him and Mr Scerri. So Billett	The sentencing judge found the offending the	Cts 1, 3 6 and 7 conc
		unemployed past five yrs;	harboured a grievance against him.	subject of cts 1 and 4 agg by the fact the	
		undertaking volunteer work.		respondents were in company with each, that	TES 4 yrs 3 mths imp
			After Billett told TL and Klinger about	they knew or ought to have known the	EFP.
		Two significant relationships;	the incident all three decided to go	premises were occupied, they were both	
		three children, youngest aged 12	together to attend the address and	armed and both made threats and did harm.	At [57] the seriou
		mths at time sentencing; current	confront Mr Scerri.		were a significant nu
		partner positive and stable	After driving to the address all three got	Dillett	opportunistic offendi
		influence	After driving to the address all three got out of the vehicle. Billett had with him a	Billett Accepting of responsibility; understanding of	respondents agreeing with weapons before
		Long-term history of alcohol and	machete, Klinger a 15-inch tyre wall	seriousness of offending; steps taken to	company and at nigh
		substance abuse; allowed access	tester and TL a tomahawk.	change his lifestyle; maintaining abstinence	where it was likely, a
		to alcohol and firearms as a child;		from alcohol and illicit substances.	residents to be preser
		commenced binge drinking whilst	The house was occupied by a Mr Sorell,	a statistic and miner substances.	enter and, at least, int
	1				
		at school.	who was house-sitting for the owner.	Klinger	weapons; the burg

ength of sentences cts 1, 4 and 5 and totality

and 4:

```
nc).
mp (conc).
```

np.

nc with the sentence imposed ct 4.

nc). mp (conc).

nc with the sentence imposed ct 4.

np.

busness of the offending was self-evident ... There number of aggravating features: ... this was not ding, but, rather, planned conduct with the ng to attend at the premises and arming themselves re arriving; ... the offences were committed in ght; ... the offences were at residential premises , and indeed the respondents fully expected, ent; ... the purpose of the burglary offences was to intimidate the occupant by threatening him with arglary on the house involved threats to Mr ning behaviour with weapons; ... the burglary on

2.	Ridgway v The	41 yrs at time sentencing.	Ct 2: Att PCJ.	Ct 2: 12 mths imp (cum).	Dismissed (leave refu
			most serious a 5 cm laceration and fracture to his ankle that required surgery.		
			He was taken to hospital by ambulance and treated for various injuries. The		
		C	ankle and numerous cuts to his body.		
		L	Scerri bleeding from a large cut to his		
		depression.	Police arrived at the house to find Mr		
		History of alcohol abuse; increasing when he suffered	the men from the caravan.		
			tomahawk. Mr Scerri was able to chase		
		sentencing.	could see one of the men had a		
		son born a short time prior to	one he recognised as Billett. Mr Scerri		
		Number of intimate relationships;	himself. He believed he saw three men,		
		survived on Centrelink benefits.	Mr Scerri att to get up to defend		
		attempted to join the army;	the effect 'Do you want to die?'.		
		maintaining employment;	kids. Klinger then screamed words to		
		Numerous jobs; difficulties	him to stay away from his house and	O'	
			recognised the voice of Billet telling		
		10.	something harder all over his body. He		
		Attended high school until yr 9; educated special school leaving yr	curled into a ball to protect himself. He felt a couple of blows and then		
		Attended high school with an 0	Mr Scerri crawled onto his bed and	c X	
		live with his father aged 11 yrs.			
		with his mother until moving to	caravan door.		
		separated when young child; lived	the caravan then forced open the		
		and emotionally abusive; parents	the caravan. They smashed windows of		
		and mother frequently physical	Meanwhile, Billett and Klinger ran to		
		father 'a big drinker'; both father	Jumped a fence and md.		
		Third child of four children;	left the room he ran from the house, jumped a fence and hid.		
		Prior criminal history.	for his life. When Billett and Klinger	.050	good indication of the
			machete at him. Mr Sorrell was in fear		that Mr Scerri curled
		discount).	was a dead man, whilst pointing the		assault upon an outnu
		Convicted after early PG (25%	told Mr Sorrell not to move and that he		because it involved for
		25 yrs time orrending.	told him he was in the caravan. Billett		At [60] The second b
		29 yrs time offending.	whereabouts of Mr Scerri. Mr Sorrell		what he believed to b
		Klinger	Billett approach Mr Sorrell, pointing the machete at him and asked for the		serious Plainly, K what he believed to b
		sleep.	Dillett annuageh Mu Convell, nainting the		At [58] offences c
		apnoea; use of cannabis to assist	remained outside, acting as a lookout.		
		depression at 15 yrs; suffers sleep	bedroom occupied by Mr Sorrell. TL		and the offences w
		diagnosed and medicated with	through an unlocked door and to a		outnumbered and tran
		yrs; medicated until aged 12 yrs;	Billett and Klinger entered the house		threats to Mr Scerri a

ed forcible entry and the breaking of windows; ... ti and a serious assault upon him; ... Mr Scerri was tramped, and thus vulnerable to the attack upon him; s were, in essence, a revenge or vigilante attack ...

s committee as vigilante action are particularly Klinger was a willing and active participant in b be a revenge attack.

I burglary, that the caravan, was particularly serious I forced entry and the smashing of windows and an numbered victim on his bed at night. ... The fact ed upon his bed in an effort to protect himself is a the ferocity of the attack.

State of Western		Ct 3: With intent to harm did an act	Ct 3: 3 yrs 6 mths imp (cum).	
Australia	Convicted after trial.	resulting in bodily harm. Ct 5: Poss unlicensed ammunition.	Ct 5: 6 mths imp (conc).	Appeal concerned erro victim's injuries); leng
[2021] WASCA 143	Extensive criminal history; convicted wide variety of offences	Ridgway was in custody on remand	TES 4 yrs imp.	principle.
Delivered	over more than 20 yrs; numerous sentences of imp.	when a SW was executed at the home where he usually lived with his partner,	EFP.	At [50] Having regard photographs and the ev
Delivered 13/08/2021	 sentences of imp. Parents separated aged 7 yrs; lived with his mother; childhood marred by father's substance use and violence. Left school during yr 11. Sporadic work history; unemployed time sentencing; full- time employment available upon his release from prison. Three children from three relationships; married ADT after this offending; wife and mother- in-law supportive. Long-standing history of illicit drug use, particularly heroin and methyl; attempts made to rehabilitate himself; past participation in drug rehabilitation programs, including naltrexone implants. Suffers anxiety; depression and antisocial personality disorder. 	 where he usually lived with his partner, ADT. A quantity of methyl was located at the home and ADT was charged with two offences, including poss of methyl wiss. Some days later Ridgway was released to bail and returned to live at the house. He arranged for the victim, STH, to sign a statutory declaration form, blank save for the details of the witness before whom he had purportedly executed the document. Ridgway later completed the factual details of the statutory declaration, falsely stating the methyl found during the search belonged to STH. He then provided the completed statutory declaration form to police. Two days later STH went to Ridgway's home. Ridgway was angry with him for not giving the false statutory declaration to the police. He grabbed STH by his shirt and neck chain and dragged him inside. He then punched STH a number of times to the face and body, forced him onto a couch and continued to beat him over a long period of time. He also 	The sentencing judge found the offending serious and it was an aggravating factor that the offending was committed while he was on home detention bail. The sentencing judge found the offence of att PCJ was pre-planned; he involved STH in the offence; although it was not carried out over a longer period of time and the police were not induced to act on the false statutory declaration. The sentencing judge found ct 3 towards the low to mid-end of the scale of seriousness; the violence against STH were acts of vengeance; the injuries sustained by STH were not serious or permanent, but the deliberate act of setting STH alight using a flammable substance had the potential to result in very serious consequences and was a high risk act. Some signs of remorse; participated in counselling while in custody; motivated to avoid further illicit substance use.	photographs and the ev sentencing judge to ma suffered by STH, inclu- bruising, tenderness an left arm. At [52] Dr Wee ide superficial penetrating consistent with STH's with scissors by the ap were four penetrating such wound. His Hono At [54] – [54] There is erroneously assessed the the low to mid-end of the his finding that the act substance had the pote health and safety'. Suc At [67] Ct 2 was an appellant hatched a pla blame for the offence of blank statutory declarad details in which STH p the search of the house were not actually deced divert the investigation committed separately to punishment in order to
		sprayed aerosol degreaser onto STH's arm and set it on fire, causing a burn to his arm. STH fled the house and hid. Sometime later STH was found by		criminality. At [68] As to ct 5 T appellant's overall crim ultimately ordered to b
	0	police and taken to hospital. He sustained a broken nose, bruising and a small superficial penetrating wound to his arm, caused by Ridgway stabbing him with scissors.		
		Ridgway was arrested the next day at his home. A SW located 42 rounds of .22 calibre ammunition hidden in a vent		

rrors of fact (injuries suffered and seriousness of ngth of individual sentence ct 3 and totality

rd to the relevant testimony of STH, the six evidence of Dr Wee, it was well open to the make the findings he did about the injuries cluding the impugned findings concerning and the small superficial penetrating wound to the

dentified one of the four wounds, being the 'small ng wound to the left arm', as more recent. This was 's evidence that he had been stabbed in the arm appellant. ... his Honour did not find that there g wounds to the left arm. He referred only to one nour did not err in his finding ...

is no merit in the claim that his Honour I the injuries suffered by STH as being 'towards of the scale' ... Finally, his Honour did not err in act of setting STH alight using a flammable otential to result in a 'potential risk to [STH's] life, uch an act plainly had this potential. ...

a reasonably serious example of its type. The plan in which he recruited STH to falsely take the e committed by ADT. [He] had STH sign the aration form, then later completed the factual I purportedly stated that the methyl found during use ... belonged to him. ... Although the police ceived, the appellant's actions had the potential to on away from its true path. This offending was y to cts 3 and 5, and plainly warranted additional to properly reflect the appellant's overall

The presence of the ammunition ... increases the riminality, even though the sentence was be served conc.

			in a bedroom.		
1.	Thurston-Moon v The State of Western Australia [2021] WASCA 124 Delivered 15/07/2021	 41 yrs at time offending. 42 yrs at time sentencing. No prior criminal history. Convicted after PG (20% discount). Married; two children. Owner of lawnmowing and gardening business; well-regarded by those who know him. Good mental health. 	Ct 1: Armed likely to cause fear. Ct 2: With intent to harm did an act resulting in bodily harm. The offending occurred in broad daylight in and about a shopping precinct on a suburban street. It was witnessed by multiple bystanders. Thurston-Moon was sitting with some work colleagues. The victim, GCH, was nearby, asking members of the public for money. 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). 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. 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 snipper, striking him on the arm. This did not cause him any injury. As GCH ran to the other side of the street, Thurston-Moon walked back in the direction of his colleagues. Then,	Ct 1: 12 mths imp (conc). Ct 2: 18 mths imp (conc). TES 18 mths imp. EFP. 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. The sentencing judge found the offending premediated 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. No genuine remorse; no real insight into the seriousness of his offending; low risk of reoffending.	Dismissed. Appeal concerned err harm beyond that suff sentences. At [38] Clearly, the a manner for which it is weapon. He twice stru- lines in a more or less and his buttocks I fall in this process. At change positions. In s spinning lines of a wh victim in such areas a crouched or fallen, hi significantly more ser At [41] In our opinion open to his Honour to of the whipper snippe harm which could hav which was actually su At [52] His Honour's very serious, can hard characterisation that t infliction of gratuitou appellant was the agg up the whipper snippe pursue his unarmed at appellant's words and and, by giving his col himself for what he h At [53] The laceration to the range of injurie his Honour correctly is potential to cause sign were actually inflicted was pursued across a along a footpath, whe from a driveway or la potential injury as a re

rror in finding (high degree of significant potential ffered by victim) and type and length of individual

appellant was not using the whipper snipper in a is intended to be used. [He] chose to use [it] as a ruck the [victim] with it by holding the spinning ss horizontal position, hitting the victim on the arm It is not uncommon for people to stumble, trip or An attacker may, himself or herself, suddenly such unpredictable and sudden circumstances, the hipper snipper could have potentially lacerated the as his genitals, hands or fingers and, if he had his face, eyes or ears, all with the potential to cause erious injury than that which he actually suffered.

on, having regard to the evidence ..., it was well to conclude, as he did, that by reason of the nature per there was a high degree of significant potential ave been caused to the victim over and above that suffered by him.

s statement that the offending was, objectively, rdly be disputed. Nor can his Honour's the appellant's actions involved the unjustified us violence upon the victim. At all times, the gressor. He chose to walk to his work vehicle, pick per from the trailer and, over a period of minutes, and vulnerable victim. ... It is clear from the ad actions that he was intent upon inflicting harm obleagues the 'thumbs up', was pleased with had done.

on wounds were relatively low-level having regard les that may constitute bodily harm. However, as y found, the use of the whipper snipper had the gnificantly more serious injuries than those that ed. Furthermore, it is evident ... that the victim a road on which cars were travelling, and then here he had to avoid a vehicle entering the road laneway. Thus, the victim was exposed to further result of being struck by a vehicle, either on the path.

	again pursed GCH with the whipper snipper's line spinning. Lunging at GCH he struck him with the spinning line of the machine, inflicting multiple lacerations to his buttocks. Thurston-Moon walked back to his colleagues, smiling and gesturing to them with his thumbs up.	At [55] The mitigating significant, but, when v of the offending and th they did not permit a sl conditionally susp term
Provisions were held to apply to the offence of s 304		of the provisions (21/05/2004) in Yates v The State of Wester
	Provisions were held to apply to the offence of s 304	snipper's line spinning. Lunging at GCH he struck him with the spinning line of the machine, inflicting multiple lacerations to his buttocks. Thurston-Moon walked back to his colleagues, smiling and gesturing to them with his thumbs up.

ren of h. stalla v Wallan 12.

ng factors identified by his Honour ... are en weighed against the very serious circumstances the need to denunciate and deter such conduct, a shorter term of imp or leave open a susp or erm of imp.

tern Australia [2008] WASCA 144 overruling the