

## Armed Robbery with a Dangerous Weapon

### 2-3 Armed Robbery Offences

#### s.97(2) (NSW) Crimes Act

- s 97(1) Being armed with an offensive weapon, or instrument, or being in company with another person,  
 robs, or assaults with intent to rob, any person, or  
 stops any mail, or vehicle, railway train, or person conveying a mail, with intent to rob, or search the same,  
 (2) Commit offence under subsection (1) when armed with a dangerous weapon

Maximum Penalty: 25 years

s 4 (1) Dangerous weapon means:

- (a) a firearm, or an imitation firearm, within the meaning of the Firearms Act 1996, or  
 (b) a prohibited weapon within the meaning of the Weapons Prohibition Act 1998, or  
 (c) a spear gun.

Commenced: 23.12.1994

|    | Case<br>(age if known)  | Offences  | Plea | Sentence   | Appeal   | Weapon                            | Record  | Other Features   |
|----|---|---|------|--|----------|-----------------------------------|---|--|
| 1. | <b>Pintos</b><br>(37)<br><a href="#">[1999] NSWCCA 209</a>    | 3 x s.97(2)   | PG   | MT 4y<br>AT 2y   | AD       | sawn-off<br>shotgun               | Lengthy<br>including<br>firearm<br>offences.                              | <b>3 x s.97(2)</b><br>Robbed two service stations and liquor store – first time<br>fired shot into shelf after ordering attendant from room.<br>Heroin addict – contrition - two teenage children.   |
| 2. | <b>Tuncbilek</b><br>(21)<br><a href="#">[2000] NSWCCA 465</a> | s.97(2)<br><br>s.97(2)<br><br>Sched:<br>2 x s.97(2)<br>Take<br>conveyance | VG   | 6y<br>NPP 3y<br><br>FT 3y<br>(concurrent)<br><br><u>Total:</u><br>6y<br>NPP 3y | Crown AD | replica pistol<br>and<br>handguns | history of<br>serious<br>offences -<br>offences<br>committed on<br>parole | <b>2 x s.97(2)</b><br>Robbed newsagency and son of attendant with co-<br>offender armed with replica pistol - also robbed bottle<br>shop and female pedestrian.<br>On appeal - sentence inadequate except for intellectual<br>disability and attention deficit disorder. |

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|----|---|---|---|--|---|--|---|---|
| 3. | <b>Bates</b><br><a href="#">[2001] NSWCCA 374</a>       | Att s.97(2)<br><br>s.97(2)  | PG  | FT 2y 6m<br><br>7y 6m<br>NPP 5y<br><br><u>Total:</u><br>10y<br>NPP 7y 6m                               | AA<br>FT 2y 6m<br><br>6y 6m<br>NPP 4y 6m<br><br><u>Total:</u><br>8y<br>NPP 6y | shotgun  | priors - on<br>recog at time<br>of offences | <b>2 x s.97(2)</b><br>Attempted to rob TAB - co-offender discharged shotgun<br>at lock in attempt to obtain access - robbed bank<br>On appeal - parity  |
| 4. | <b>Cosier</b><br><a href="#">[2001] NSWCCA 513</a>      | Consp s.97(2)<br><br>s.97(2)<br><br>s.97(2)<br><br>Harbour<br>escapee<br><br>Sched:<br>6 x s.97(2)<br>2 x SMV | PG<br>(50% for plea<br>and<br>assistance) | FT 6y<br><br>FT 6y<br><br>7y 6m<br>NPP 4y 6m<br><br>FT 17m<br><br><u>Total:</u><br>10y 5m<br>NPP 7y 5m | AD  | shortened<br>lever action<br>.22 calibre<br>rifle and<br>shotgun |   | <b>3 x s.97(2)</b><br>Conspiracy to abduct manager of local business and<br>force to access to safe, detaining family until money<br>obtained – thwarted by family dog – robbed conference<br>centre and golf club armed with guns – staff threatened<br>- tied up at first robbery and assaulted at second –<br>harboured relative of wife who had escaped local<br>prison – related offences on schedule<br>Assistance to authorities admitting involvement |
| 5. | <b>Raad</b><br>(18)<br><a href="#">[2002] NSWCCA 75</a> | s.97(2)<br><br>97(2) Assault<br>with intent to AR<br><br>s.97(1)<br><br>Sched:<br>s.97(2)<br>4 other offences | PG<br>(25%)                               | 6y<br>NPP 4y<br><br>6y<br>NPP 4y<br><br>FT 2y<br><br>(all concurrent)                                  | AA<br>6y<br>NPP 3y<br><br>6y<br>NPP 3y<br><br>FT 2y<br><br>(all concurrent)   | knife, replica<br>rifle and<br>replica pistol                    | minor                                       | <b>2 x s.97(2) / s.97(1)</b><br>Robbed driver with knife - robbed person in foyer of<br>hotel using knife and replica rifle - attempted to rob two<br>men in street using replica pistol<br>Prior good character - good prospects of rehabilitation -<br>contrition   |

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|----|---|--|-------------|--|--------|----------------|---------------------------------------|--|
| 6. | <b>EI-Hage</b><br>(18)<br><a href="#">[2003] NSWCCA 118</a> | s.97(2)<br><br>s.97(2)<br><br>s.94 Assault with intent to rob<br><br>Sched:<br>2 dishonesty offences   | PG          | 2y<br>NPP 12m<br><br>18m<br>NPP 9m<br><br>15m<br>NPP 9m<br><br><u>Total</u><br>3y<br>NPP 2y 6m<br>Periodic Det | AD     | Flick knife    | nil                                   | <b>2 x s.97(2)</b><br>Robbed 13 year old victim of credit card – withdrew \$300 – threatened with flick knife – three weeks later demanded more money from same victim – with co-offender robbed person on train, threatening them with knife.<br>Mentally slow and suggestible<br>Pre-sentence custody – 6m   |
| 7. | <b>Hooper</b><br><a href="#">[2004] NSWCCA 10</a>           | 2 x s.97(2)<br><br>s.97(2) Assault with intent to AR<br><br>Mal discharge weapon to avoid apprehension | PG<br>(15%) | FT 8y<br><br>10y<br>NPP 6y<br><br>FT 5y<br><br><u>Total:</u><br>16y<br>NPP 12y                                 | AD     | sawn-off rifle | long record for less serious offences | <b>3 x s.97(2)</b><br>With co-offender robbed newsagency armed with rifle – co-offender fired shot over shoulder of employee – co-offender shot at pursuing police during police chase – driver for co-offender who robbed second newsagency – female employee shot in chest during struggle – with girlfriend robbed service station – offender fired shot in direction of employee |
| 8. | <b>Kain</b><br><a href="#">[2004] NSWCCA 143</a>            | s.97(2)<br><br>s.97(2)<br><br>2 x SMV<br><br>Sched:<br>s.97(2)   | VG          | 10y<br>NPP 6y<br><br>7y<br>NPP 5y<br><br>FT 3y<br><br><u>Total:</u><br>12y<br>NPP 8y                           | AD     | handgun        | breached bail                         | <b>2 x s.97(2)</b><br>Robbed bank with co-offender – co-offender armed with handgun – offender armed with screwdriver – offender jumped counter and removed cash – stood watch while co-offender robbed credit union with handgun – schedule offence also involved robbery of credit union – stolen cars used in robberies   |

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|-----|---|--|---|---|---|------------------------|--|---|
| 9.  | <b>Gardner</b><br><a href="#">[2003] NSWCCA 199</a>         | s.97(2) Assault with intent to AR<br><br>s.97(2)<br><br>Sched:<br>8 offences                       | PG<br>(1/3 <sup>rd</sup> plea and assist) | 6y<br>NPP 3y 9m<br><br>8y<br>NPP 5y<br>(concurrent)   | AD  | .22 calibre rifle      |  | <b>2 x s.97(2)</b><br>With co-offender demanded drugs from male resident – subsequently robbed young employee at McDonalds shortly after 1am<br>Assistance to police  |
| 10. | <b>Dimoski</b><br>(26)<br><a href="#">[2004] NSWCCA 309</a> | 3 x s.97(2)<br><br>Sched:<br>2 x 97(2)   | PG  | 4y<br>NPP 2y  | AA<br>3y<br>NPP 18m   | Imitation wooden knife | Nil                                    | <b>3 x s.97(2)</b><br>Entered residence with co-offender mistakenly believing occupants drug dealers – demanded and took property<br>Evidence of rehabilitation – protective custody - assistance to authorities.   |
| 11. | <b>Pitt</b><br>(42)<br><a href="#">[2005] NSWCCA 304</a>    | s.97(2)<br><br>s.97(2)<br><br>Mal wound<br><br>Possess unauth firearm<br><br>Possess unreg firearm | PG  | 4y 6m<br>NPP 3y<br><br>6y<br>NPP 3y<br><br>FT 3y<br><br>FT 2y<br><br>FT 2y<br><br><u>Total:</u><br>7y<br>NPP 4y | AA<br>3y 6m<br>NPP 2y<br><br>5y<br>NPP 2y<br><br>FT 2y<br><br>FT 1y<br><br>FT 1y<br><br><u>Total:</u><br>6y<br>NPP 3y | .357 calibre magnum    | less serious – alcohol related driving | <b>2 x s.97(2)</b><br>Female – robbed service station and pizza place with magnum gun – intoxicated – 3m earlier, after drinking binge, cut wrists with knife and cut husband's throat<br>History of debilitating mental health problems and alcohol abuse causing brain damage |

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|-----|--|----------------------|--|-----------------------------------|--------------------------------|----------------|------------------------|--|
| 12. | DB<br>(16)   | s.97(2)              | PG<br>(20%)  | 6y<br>NPP 4y                      | AA<br>6y<br>NPP 3y             | Pistol / knife | Agg assault<br>w/i/rob | <b>3 x s.97(2) / 4 x s.97(2)</b><br>With co offenders robbed computer stores armed with<br>pistol / knife – owners and / or employees tied up,<br>threatened and struck.   |
|     |  | s.97(2)              |  | 8y<br>NPP 6y                      | 8y<br>NPP 4y                   |                |                        |  |
|     |  | s.97(2)              |  | 5y 7m<br>NPP 1y                   | 5y<br>NPP 2y                   |                |                        |  |
|     |  | Sched<br>11 offences |  | <u>Total:</u><br>12y 7m<br>NPP 8y | <u>Total:</u><br>10y<br>NPP 6y |                |                        |  |
| 12. | DNN<br>(27)  | s.97(2)              | PG<br>(20%)  | 10y<br>NPP 6y                     | 10y<br>NPP 6y                  |                | Receiving,<br>GIC.     |  |
|     | (2007) 167 A<br>Crim R 393<br><a href="#">[2007] NSWCCA<br/>27</a> | s.97(2)              |  | 6y<br>NPP 2y                      | 6y<br>NPP 3y                   |                |                        |  |
|     |  | s.97(2)              |  | 5y<br>NPP 1y                      | 5y<br>NPP 3y                   |                |                        |  |
|     |  | s.97(2)              |  | 7y<br>NPP 1y                      | 7y<br>NPP 3y                   |                |                        |  |
|     |  | Sched<br>19 offences |  | <u>Total</u><br>16y<br>NPP 10y    | <u>Total</u><br>12y<br>NPP 8y  |                |                        |  |
| 13. | Baroudi<br>(21)<br><a href="#">[2007] NSWCCA<br/>48</a>            | s.97(2)              | PG<br>(40% assist –<br>discount for<br>plea not<br>quantified) | 5y<br>NPP 3y                      | AD                             | nil            |                        | <b>s.97(2) / 2 x s.97(1)</b><br>With co-offender robbed chemist of money and drugs<br>using pistol to threaten staff – s.97(1) offences involved<br>robberies of hotel with co-offender using pistol to<br>threaten staff – on one occasion three people tied up<br>and detained in poker room – |
|     |  | 2 x s.97(1)          |  | FT 2y 6m                          |                                |                |                        |  |
|     |  | 3 x s.86(2)(a)       |  | FT 12m                            |                                |                |                        |  |
|     |  |                      |  | <u>Total:</u><br>6y<br>NPP 4y     |                                |                |                        |  |

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|-----|---|--|-------------|--|--------|----------|--|---|
| 14. | <b>Baleiovalau</b><br>(27)<br><a href="#">[2009] NSWCCA 153</a> | s.97(2)<br><br>s.97(2)<br><br>s.97(2)                    | PG<br>(20%) | 6y 6m<br>NPP 4y 6m<br><br>6y 6m<br>NPP 3y 6m<br><br>5y 6m<br>NPP 3y 6m<br><br><u>Total:</u><br>10y 6m<br>NPP 7y 6m | AD     | Firearm  | Serious -<br>similar<br>offences -<br>aggravated<br>robberies,<br>goods in<br>custody. | <b>3 x s.97(2)</b><br>With three co-offenders robbed credit union, business<br>and hotel.<br>Drug addiction.  |
| 15. | <b>TA</b><br>(25)<br><a href="#">[2009] NSWCCA 196</a>          | 2 x s 97(2)<br><br>Attempt s.97(2)                       | VG          | 6y<br>NPP 4y<br><br>5y<br>NPP 3y<br><br><u>Total:</u><br>8y<br>NPP 6y  | AD     | Pistol   | Agg B&E -<br>driving whilst<br>disq –<br>breached<br>parole                            | <b>3 x s.97(2)</b><br>With two co-offenders, using stolen vehicle, robbed two<br>licensed premises and attempted to rob a third in one<br>night – brandished pistol and co-offender had samurai<br>sword - treats made to three separate groups of<br>persons - more than \$91k obtained from two premises<br>– disguised, wore gloves and used two-way radios to<br>communicate - significant degree of criminal<br>professionalism - executed with degree of military<br>precision. |
| 16. | <b>Kidd</b><br>(53)<br><a href="#">[2009] NSWCCA 229</a>        | s.97(2)<br><br>s.97(2)<br><br>Attempt s.97(1)<br><br>SMV | VG          | 8y<br>NPP 6y<br><br>10y<br>NPP 6y<br><br>6y<br>NPP 4y<br><br>FT 12m<br><br><u>Total:</u><br>16y<br>NPP 12y         | AD     | firearms | Lengthy record<br>although not<br>as serious –<br>breached<br>bond                     | <b>2 x s.97(2) / s.97(1)</b><br>Sophisticated level of planning – first home invasion<br>involved robbery of female alone with children –<br>attempted to rob bank but failed to gain entry – second<br>home invasion involved considerable violence inflicted<br>on male occupant and significant damage – old<br>offences   |

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|-----|---|---|-------------|---|---|-------------------------------|---|---|
| 17. | <b>Penfold</b><br><br><br><br><br><br><b>Ward</b><br><a href="#">[2010] NSWCCA 61</a> | s.97(2)<br><br>s.97(2)<br><br>Receiving | PG<br>(25%) | 6y 9m<br>NPP 5y<br><br>18y<br>NPP 11y 6m<br><br>FT 2y<br><br><u>Total:</u><br>19y<br>NPP 12y 6m | AD  | Shotgun;<br>machete<br>handle | "serious", on<br>GBB<br><br><br><br><br><br>No prior<br>offences of<br>this type. | <b>2 x s.97(2)</b><br>Robbed two victims of large amount of cash – shot male victim through window at close range – victim suffered horrendous and permanent injuries – struck female victim on head with machete handle – significant planning |
| 18. | <b>Aguirre</b><br>(19)<br><a href="#">[2010] NSWCCA 115</a>                           | s.97(2)<br><br>s.97(2)<br><br>Agg SMV   | PG<br>(25%) | 6y<br>NPP 4y<br><br>FT 6y<br><br>FT 4y<br><br><u>Total:</u><br>12y<br>NPP 8y                    | AA<br>6y<br>NPP 4y<br><br>FT 6y<br><br>6y<br>NPP 4y<br><br><u>Total:</u><br>12y<br>NPP 8y | firearms                      | Breached bail   | <b>2 x s.97(2)</b><br>Robbed male victim of car threatening him with knives – robbed security truck with three co-offenders armed with firearms – 3 months later robbed armoured guards using semi-automatic weapons                            |

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|-----|---|---|-------------|--|--|------------------------|---|--|
| 19. | <b>Johnson</b><br><br><br><br><br><br><b>Moody</b><br><br><a href="#">[2010] NSWCCA 124</a> | s.97(2)<br><br>2 x s.97(2)<br><br>Sched:<br>3 Rob offences<br><br>s.97(2)<br><br>2 x s.97(2)<br><br>Poss prohibited<br>firearm<br><br>Sched:<br>3 Rob offences<br>Possess firearm | PG          | 7y 10m<br>NPP 4y 10m<br><br>FT 4y<br><br><u>Total:</u><br>9y 10m<br>NPP 6y 10m<br><br>9y<br>NPP 6y<br><br>FT 5y<br><br>3y<br>NPP 2y<br><br><u>Total:</u><br>11y 6m<br>NPP 8y | AD<br><br><br><br><br>AD                                 | Shortened<br>.22 rifle | Driving and<br>dishonesty<br>offences<br><br><br><br><br><br>Serious record | <b>3 x s.97(2)</b><br>Robbed fast food outlets armed with shortened .22 rifle – J drove car and M conducted robbery – offences committed over 5 weeks – some planning and preparation involved   |
| 20. | <b>Moore</b><br>(55)<br><a href="#">[2010] NSWCCA 188</a>                                   | 2 x s.97(2)<br><br>Sched:<br>2 offences   | PG<br>(25%) | 10y<br>NPP 8y<br><br><u>Total:</u><br>15y<br>NPP 10y   | AA<br>10y<br>NPP 6y<br><br><u>Total</u><br>12y<br>NPP 8y | Replica toy<br>pistol  | Similar<br>offences -<br>breached<br>parole                                 | <b>2 x s.97(2)</b><br>Robbed credit union using toy plastic gun – no actual violence – low level seriousness<br>Gambling problem   |
| 21. | <b>Bell</b><br>(21)<br><a href="#">[2011] NSWCCA 14</a>                                     | 3 x s.97(2)   | PG          | 5y<br>NPP 2y<br><br><u>Total</u><br>5y 3m<br>NPP 2y 3m   | Crown AD   | Firearm                | Affray,<br>common<br>assault  | <b>3 x s.97(2)</b><br>First two offences occurred on same day at same bottle shop – third offence occurred on same day at different bottle shop – stole \$1200 and two bottles of alcohol<br>Good prospects of rehabilitation – committed offences to pay off drug debts |

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|-----|--|--|------------------|---|---|---------------------------|---|--|
| 22. | <b>Wilcox</b><br>(29-31)<br><a href="#">[2011] NSWCCA 42</a> | s.97(2)<br><br>s.97(2)<br><br>s.97(1) - Assault with intent AR<br><br>Sched:<br>s.97(2)<br>Pervert course of justice | VG<br><br><br>PG | 13y<br>NPP 8y<br><br>FT 6y<br><br>FT 6y<br><br><u>Total:</u><br>19y<br>NPP 14y                | AA<br>12y<br>NPP 8y<br><br>FT 6y<br><br>FT 6y<br><br><u>Total</u><br>16y<br>NPP 12y               | Sawn-off rifle and pistol | Record including one AR                                 | <b>2 x s.97(2) / s.97(1)</b><br>Robbed hotel with co-offender armed with sawn-off rifle and pistol – manager struck across nose by co-offender - \$27,982.50 stolen – 21 days later robbed RSL in similar circumstances – stole \$33,332.93  |
| 23. | <b>Jodeh</b><br>(18-19)<br><a href="#">[2011] NSWCCA 194</a> | s.97(2)<br><br>s.97(2)<br><br>s.97(2)<br><br>s.35(1)(b)<br><br>Sched:<br>2 offences                                  | PG<br>(15%)      | FT 4y<br><br>FT 4y 6m<br><br>10y<br>NPP 5y<br><br>FT 2y<br><br><u>Total</u><br>16y<br>NPP 11y | AA<br>FT 4y<br><br>FT 4y 6m<br><br>10<br>NPP 5y<br><br>FT 2y<br><br><u>Total</u><br>14y<br>NPP 9y | Firearms                  | Nil – later offences breached bail for earlier offences | <b>3 x s.97(2)</b><br>With co-offender held up security guard with revolver and stole \$29,000 – 2 days later robbed taxi service with co-offender and took \$17,000 – co-offender discharged 4-5 rounds from revolver – robbed security guard with two co-offenders and stole \$72,241 – gun held to face of victim and another gun discharged – involved in group assault on doorman<br>Suffered serious injuries in motor bike accident prior to offences |
| 24. | <b>Gebara</b><br>(23)<br><a href="#">[2012] NSWCCA 107</a>   | 2 x s.97(2)  | PG<br>(20%)      | 5y<br>NPP 3y<br><br><u>Total</u><br>6y<br>NPP 4y  | AD  | Firearms                  |   | <b>2 x s.97(2)</b><br>With co-offender robbed brothel – co-offender armed with 9mm handgun – no evidence handgun loaded – offender pushed doorman towards till – obtained \$1400 - two days later offender waited in car while 2 armed co-offenders robbed supermarket – obtained \$800 and cigarettes – offender drove car away – aware one co-offender armed<br>Long-term psychological issues – employed – supportive of his siblings and family.         |

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|-----|--|---|---------------|---|--------|--|--|---|
| 25. | <b>Somba</b><br>(32)<br><a href="#">[2012] NSWCCA 214</a>    | s.97(2)<br>s.97(2) – Assault with intent to AR<br>s.97(2) – Assault with intent to AR<br>Sched:<br>2 offences | PG<br>(15%)   | FT 5y 6m<br>FT 5y<br>8y<br>NPP 5y<br><u>Total</u><br>11y<br>NPP 8y                                  | AD     | Firearms                                     | Robbery offences – released to parole 4 months prior to current offences | <b>3 x s.97(2)</b><br>Armed robbery of bank with shotgun in company – stole \$21,870 - two attempted armed robberies of banks in company – co-offender armed with pistol  |
| 26. | <b>RD</b><br>(17)<br><a href="#">[2013] NSWCCA 306</a>       | 2 x s.97(2)<br>s.97(2)<br>Sched:<br>2 x s 97(2)   | PG<br>(10%)   | 7y 3m<br>NPP 4y<br>8y 6m<br>NPP 4y 3m<br><u>Total</u><br>11y 3m<br>NPP 7y                           | AD     | knife, replica firearms, baseball bat, sword | stealing, rob in co, BES   | <b>3 x s.97(2)</b><br>Robbed three hotels with co-offenders – various weapons – disguised in balaclavas – on first offence assaulted hotel patron.<br>Very difficult upbringing – drug and alcohol abuse from young age – Aboriginal background   |
| 27. | <b>Gaggioli</b><br><a href="#">[2014] NSWCCA 246</a>         | 3 x s.97(2)   | PG<br>(25%)   | 5y 6m<br>NPP 3y<br><u>Total:</u><br>6y<br>NPP 3y 6m   | AD     | Black handgun                                | Limited – breached bond  | <b>3 x s.97(2)</b><br>With co-offender followed three male victims who withdrew money – entered car where victims sitting and demanded they drive to new location – took money and possessions and left<br>Evidence of rehabilitation from drug addiction – genuine remorse – excellent prospects rehabilitation.   |
| 28. | <b>Rangihuna</b><br>(27)<br><a href="#">[2015] NSWCCA 48</a> | s.97(2) – Assault with intent to AR<br>s.97(2)<br>s.97(2)<br>Sched:<br>Larceny<br>Agg B&E                     | PG<br>(12.5%) | 7y<br>NPP 5y 3m<br>5y 8m<br>NPP 4y 3m<br>5y 3m<br>NPP 2y 3m<br><u>Total:</u><br>11y 3m<br>NPP 8y 3m | AD     | Replica pistol                               | Armed rob, AOABH   | <b>3 x s.97(2)</b><br>Entered hotel and robbed patron of \$100 – offender armed with replica pistol and co-offenders armed with axe – robbed service station operator of \$1500 armed with replica pistol and co-offender armed with knife–robbed hotel of \$19k armed with pistol and co-offenders armed with pipe or bar – offences involved violence and threats to patrons and staff – concealed faces - offences very serious with great deal of violence – actual violence not just threats – level of planning<br>Few subjective factors - alcohol and illicit drug abuse from age of 16 |

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|     | Case<br>(age if known)  | Offences   | Plea         | Sentence  | Appeal   | Weapon                       | Record  | Other Features  |
|-----|---|--|--------------|---|--|------------------------------|---|---|
| 29. | <b>Shahzad</b><br>(21-22)<br><a href="#">[2016] NSWCCA 94</a>   | s.97(2)<br><br>s.97(2)<br><br>Consp s.97(2)<br><br>Sched:<br>Carried in stolen vehicle                           | VG           | 7y 4m<br><br>7y 3m<br><br>5y 3m<br><br><u>Aggregate</u><br>9y 6m<br>NPP 6y                          | AA<br>6y 9m<br><br>6y 8m<br><br>4y 10m<br><br><u>Aggregate</u><br>8y 9m<br>NPP 5y 6m | Pistol with silencer – knife | Common assault  | <b>3 x s.97(2)</b><br>Robbed bottle shop and hotel with two co-offenders – staff and customers threatened with pistol and knife – observed carrying out surveillance for robbery of second hotel – no differences in culpability<br>Born in Pakistan – suffering PTSD and alcohol / drug abuse as result of traumatic experiences as young man after return for arranged marriage<br>On appeal issue of parity only |
| 30. | <b>Humphries</b><br>(34)<br><br><b>Ponfield</b><br>(24)<br><br><a href="#">[2016] NSWCCA 86</a><br><br><a href="#">[2016] NSWCCA 91</a> | 2 x s. 97(2)<br><br>2 x s.97(2)  | VG<br><br>VG | 7y 6m<br>NPP 5y<br><br>6y<br>NPP 2y 3m<br>(each – concurrent)                                       | AA<br>6y<br>NPP 3y 9m<br><br>AD  | Pistol, Knife                | Agg BES – breached bail<br><br>Assault, AOABH, firearms, Agg BES – breached paroled | <b>2 x s.97(2)</b><br>Robbed hotel with third co-offender – H armed with pistol – P armed with knife – stole two amounts of cash totalling \$37k<br>On appeal - parity  |
| 31. | <b>Afu</b><br><a href="#">[2017] NSWCCA 240</a>   | Att s.97(2)<br><br>s.97(2)<br><br>Accessory after s.97(2)<br><br>Possess proh weapon<br><br>Sched:<br>2 offences | PG<br>(10%)  | 4y<br><br>5y 10m<br><br>1y 9m<br><br>3y 6m<br>NPP 2y<br><br><u>Aggregate:</u><br>7y 6m<br>NPP 4y 6m | AD   | rifle, pistol and axe        |   | <b>3 x s.97(2)</b><br>With co-offenders entered hotel, armed with rifle, pistol and axe - staff able to avoid confrontation – same evening offenders entered another hotel, threatened staff, armed with same weapons as earlier - took over \$20,000 – vehicle used in robbery of third hotel tracked to offender's home where police found proceeds of robbery including rifle used in robbery                    |

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|-----|---|--|-------------|---|--|-------------------|-------------------------------------|--|
| 32. | <b>Mousavi</b><br>(19)<br><a href="#">[2019] NSWCCA 121</a>                                 | Att s.97(2)<br>Att s.97(2)<br>Prohibited possession of firearm | PG<br>(25%) | 3y<br><br>5y<br><br>2y 6m<br><br><u>Aggregate:</u><br>6y<br>NPP 3y 6m | AD   | replica firearm   | driving – AR                        | <b>2 x s.97(2)</b><br>Threatened 17y male on street with weapon in waistband – left when victim had no money – same day threatened male victim in car – during struggle victim struck to head and neck – firearm offence related to weapon used in robberies<br>Born in Iraq – difficult childhood – introduced to drugs by father – mental health |
| 33. | <b>Karacic</b><br>(45)<br><a href="#">[2019] NSWCCA 195</a>                                 | 2 x s.97(2)  | VG          | <u>Aggregate:</u><br>6y 3m<br>NPP 4y 2m                               | AD   | Firearm           | Lengthy including AR                | <b>2 x s.97(2)</b><br>Robbed pharmacy - asked shopkeeper and pharmacist for access to store safe - took money from register and took drugs from store safe, shopkeeper and pharmacist<br>Offences committed to obtain drugs - drug use history.  |
| 34. | <b>Nabalarua</b><br>(26)<br><a href="#">[2020] NSWCCA 68</a><br><br>Co-offender:<br>QUINLAN | 3 x s.97(2)<br><br>Sched:<br>s.97(2)<br>s.154A(1)(b)           | PG<br>(10%) | <u>Aggregate:</u><br>13y<br>NPP 8y                                    | AA<br><u>Aggregate:</u><br>11y 6m<br>NPP 6y 9m | Shortened firearm | Armed robbery                       | <b>3 x s.97(2)</b><br>With 2 co-offenders robbed hotels, wearing balaclavas, carrying two sawn off shotguns – took \$29k, \$24k, \$40k<br>Social deprivation – <i>Bugmy</i> considerations – drug use<br>On appeal: error as to fact-finding and procedural unfairness   |
| 35. | <b>Quinlan</b><br>(30)<br><a href="#">[2021] NSWCCA 21</a><br><br>Co-offender:<br>NABALARUA | 3 x s.97(2)<br><br>Sched:<br>2 x s.154A(1)(b)                  | PG<br>(10%) | <u>Aggregate:</u><br>12y<br>NPP 8y 3m                                 | AA<br><u>Aggregate:</u><br>11y 6m<br>NPP 6y 9m | Shortened firearm | Earlier offences of different types | <b>3 x s.97(2)</b><br>With 2 co-offenders robbed hotels, wearing balaclavas, carrying two sawn off shotguns – took \$29k, \$24k, \$40k<br>Difficult background childhood – Fijian / Aboriginal - drug use – good rehabilitation prospects<br>On appeal: error as to fact-finding and procedural unfairness.  |

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|     | Case<br>(age if known)  | Offences   | Plea                | Sentence  | Appeal                                       | Weapon  | Record  | Other Features  |
|-----|---|--|---------------------|---|--|---|---|---|
| 36. | <p><b>JC1</b><br/>(17y 4m)</p> <p><b>GN</b><br/>(16y 4m)</p> <p><a href="#">[2021] NSWCCA 183</a></p> | <p>s.97(2)</p> <p>s.97(2) – Assault with intent to AR</p> <p>Larceny</p> <p>s.97(2)</p> <p>s.97(2) – Assault with intent to AR</p> <p>Larceny</p>      | <p>PG</p> <p>PG</p> | <p><u>Indicative:</u><br/>3y</p> <p>2y 6m</p> <p>2y</p> <p><u>Aggregate:</u><br/>4y 3m<br/>NPP 2y 6m</p> <p><u>Indicative:</u><br/>3y 3m</p> <p>3y</p> <p>2y</p> <p><u>Aggregate:</u><br/>4y 6m<br/>NPP 2y 9m</p> | <p>AA<br/>To backdate sentence</p> <p>AD</p> | <p>Self-loading paintball gun</p> <p>Handgun (air pistols)</p> <p>Knife</p> | <p>Similar offences – dishonesty offences – breached conditional liberty</p> <p>Nil prior</p> | <p><b>2 x s.97(2)</b></p> <p>Three offenders involved in robbery of two brothels – GN armed with gun – forced entry into brothels and assaulted occupants – demanded money and stole some cash and property – JC1 less culpable</p> <p>JC1 – oldest offender – seeking fast money – major depressive disorder – medium to low-risk of re-offending – remorse – some steps to rehabilitation</p> <p>GN – deprived childhood including violence – immaturity</p> <p>On appeal: SJ failed to properly apply totality principles for JC1 in relation to existing sentence</p> |
| 37. | <p><b>Makouk</b><br/>(19)</p> <p><a href="#">[2023] NSWCCA 142</a></p>                                | <p>s.97(2)</p> <p>s.97(2)</p> <p>s.97(1)</p> <p>s.166 Certificate: Possess unauth pistol</p> <p>Possess unreg firearm</p> <p>Sched:<br/>5 offences</p> | <p>PG<br/>(25%)</p> | <p><u>Indicative:</u><br/>5y</p> <p>4y 6m</p> <p>3y 9m</p> <p>9m NPP 6m</p> <p>6m</p> <p><u>Aggregate</u><br/>6y<br/>NPP 3y 6m</p>  | <p>AD</p>                                    | <p>Handgun (air pistols)</p> <p>Knife</p>                                   | <p>Nil</p>  | <p><b>2 x s.97(2) / s.97(1)</b></p> <p>Three street robberies committed over three days - wearing “hoodie” and black surgical mask, pointed gun at two victims walking down street - obtained watches and valuable items - with co-offender ran up and pointed guns at victims demanding they hand over wallets, phones and other property - obtained electronic equipment</p> <p>Very deprived upbringing - good prospects of rehabilitation – special circumstances.</p>  |

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|-----|---|--|-------------|--|--------|----------------|--------|--|
| 38. | Miller<br><a href="#">[2023] NSWCCA 267</a> | s.97(2) Assault with intent to rob in company armed with dangerous weapon<br><br>s.97(2) Rob in company armed with dangerous weapon<br><br>s.97(2) Rob in company armed with dangerous weapon<br><br>Sched:<br>3 x s.97(2) | PG<br>(25%) | <u>Indicative:</u><br>6y<br><br>5y<br><br>4y 9m<br><br><u>Aggregate:</u><br>7y<br>NPP 4y | AD     | Loaded firearm |        | <b>3 x s.97(2)</b><br>With three co-offenders robbed men playing poker in private residential unit – co-offender held loaded firearm and shot male victim in mouth – victims threatened - \$12,000-13,700 stolen – some planning and use of inside man<br>Insight into offending – good prospects of rehabilitation – contrition – moral culpability reduced by traumatic upbringing – drug addiction and mental illness<br>On appeal: no error in assessment of seriousness of offences |

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