

## Cause GBH With Intent to Cause GBH

s.33(1)(b) (NSW) *Crimes Act*

### s 33(1)(b) Cause GBH with intent to cause GBH

**Maximum Penalty:** 25 years

**Standard non-parole period:** 7 years (offences committed on or after 1.2.2003)

**Commenced:** 15.2.2008

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
1.	Miria <a href="#">[2009] NSWCCA 68</a>	s.33(1)(b)	PG (25%)	2y suspended	Crown AA 4y NPP 2y	Beer glass	assaults	<b>SNPP 7 years</b> Hit victim in back of head with beer glass at hotel - level of grievous bodily harm not high - lower than mid-range.
2.	Holten <a href="#">[2009] NSWCCA 234</a>	s.33(1)(b)	PG (25%)	6y NPP 3y 6m	AD	Punch and bite	Lengthy including numerous violence offences.	<b>SNPP 7 years</b> 16y male victim approached offender concerned about female in offender's company – offender threw punch at victim – struggle commenced – police approached and observed offender to bite victim's ear - permanent disfigurement to ear - mid range. Intoxicated at time - alcohol addiction.
3.	Stunden (19) <a href="#">[2011] NSWCCA 8</a>	s.33(1)(b)  Larceny  Sched: Possess cannabis	PG (25%)	3y NPP 2y Periodic Detention  \$500 fine	Crown AA 4y NPP 2y 6m	Punching and kicking	Breached bond for assault and property damage	<b>SNPP 7y</b> Altercation with 16y outside high school – upset over break up with girlfriend who had commenced relationship with victim – sustained punching and kicking - element of provocation that victim summoned offender to scene and started fight by throwing his bike at offender – serious facial and eye injuries - effectively blind in one eye - only marginally less than mid-range Rehabilitation

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

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4.	<b>JM</b> (17) <a href="#">[2012] NSWCCA 83</a>	s.33(1)(b)  Affray	PG (10%)	7y NPP 4y  FT 12m (concurrent)	AA 5y NPP 3y  FT 12m (concurrent)	Punching and kicking	Nil	Street fight after party between youths – kicked and punched victim and bashed head against bitumen – element of pre-meditation – serious long-term injuries - involved in assault on second victim – intoxicated and responding to earlier racial slur Strict bail conditions – Aboriginal youth - remorse – excellent prospects of rehabilitation
5.	<b>AM</b> (16) <a href="#">[2012] NSWCCA 203</a>	s.33(1)(b)	PG (25%)	7y NPP 3y	AD	Punching, kicking and stomping	Nil	Unprovoked attack upon innocent stranger – victim punched repeatedly to face – prone victim then kicked and stomped on head – suffered traumatic brain injury – permanent cognitive impairment Affected by alcohol - dysfunctional background – strong subjective features
6.	<b>Bugmy</b> (31) <a href="#">[2012] NSWCCA 223</a>  <a href="#">[2014] NSWCCA 322</a>	s.33(1)(b)  2 x s.60A(1) (assault prison officer)	PG (25%)	6y NPP 4y  FT 8m  <b>Total:</b> 6y 3m NPP 4y 3m	After High Court appeal matter returned  Crown AD (in exercise of discretion)	Pool balls	Lengthy	<b>SNPP 7 years</b> While on remand in prison became angry at visiting hours – threatened prison officer – threw pool balls at two officers – threw pool ball at third officer striking him in eye – loss of site, PTSD and loss of career – spontaneous offence Aboriginal male with difficult childhood – mental disorder
7.	<b>Galbraith</b> (27) <a href="#">[2013] NSWSC 284</a> Harrison J	s.33(1)(b)  Affray	VG	3y NPP 2y  FT 6m (concurrent)		Punch	Nil	<b>SNPP 7 years</b> Party in street where offender's brother lived caused some disruption – offender and third brother came to house then all left in car – came across three victims who had attended party – offender hit one victim to head who fell unconscious to ground – friend of victim killed when he ran into oncoming car trying to escape – unplanned –unprovoked vicious attack. Prior good character – rehabilitation prospects – remorse.
8.	<b>Duncombe</b> (21) <a href="#">[2013] NSWCCA 271</a>	s.33(1)(b)  Sched: Affray	PG (10%)	8y NPP 5y	AD	Sledge- hammer	AOABH, damage property, BES - on parole.	<b>SNPP 7 years</b> Hit victim on back and to head and face with sledgehammer – altercation between neighbours – large group of persons confronting one another – victim suffered fractures and injuries confining him to hospital for 9 days. Drug use – limited intellectual capacity

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9.	<b>Tuuta</b> (19) <a href="#">[2014] NSWCCA 40</a>	s.33(1)(b)	VG	6y NPP 3y 7m 6d	Crown AA 6y 8m NPP 5y	Punch	Breached parole for similar offence – record for violence	<b>SNPP 7 years</b> Punched female acquaintance waiting for taxi several times to face – unprovoked and unexpected attack – fractured jaw Drug abuse
10.	<b>Peters</b> <a href="#">[2014] NSWCCA 49</a>	s.33(1)(b)  s.35(4)	VG	10y NPP 6y 6m  3y NPP 2y  <u>Total:</u> 11y NPP 7y 6m	AD	Pipe and knife		<b>SNPP 7 years</b> Struck victim working on rural property from behind with pipe – struggled on ground striking victim to head several times - threatened to cut throat then used knife to saw off part of victim's index and little fingers – mid range - planning
11.	<b>Lolesio</b> <a href="#">[2014] NSWCCA 219</a>	2 x s.33(1)(b)	VG	4y NPP 2y	Crown AA 7y NPP 4y	Assault	juvenile	<b>SNPP 7 years</b> Assaulted 6w baby on two occasions 7 days apart – caused 14 fractures to legs, ankles, feet and ribs – injuries to arms – haematoma caused by severe shaking Low intellectual capacity – suffering stress – good prospects of rehabilitation
12.	<b>Dacey</b> (27) <a href="#">[2014] NSWSC 1452</a> RA Hulme J	s.33(1)(b)	VG (at murder trial)	7y NPP 5y		Knife	Lengthy	<b>SNPP 7 years</b> Stabbed victim during argument over drugs and money – victim died a few days later – in company of offender's brother – barely knew victim - spontaneous offence - slightly below mid-range. Institutionalised – drug addiction – low prospects rehabilitation.
13.	<b>De Wet</b> <a href="#">[2015] NSWCCA 23</a>	s.33(1)(b)  s.86(3)	PG (10%)	9y NPP 6y  FT 4y  <u>Total:</u> 10y NPP 7y	AD	Punching, kicking and choking	Lengthy – including violence	<b>SNPP 7 years</b> Leader of group of males who kidnapped victim from home – sustained assault – kicked, punched and choked – offender bit off part of ear Drug abuse

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14.	<b>Thornton</b> (39) <a href="#">[2015] NSWCCA 94</a>	s.33(1)(b)  AOABH	PG (10%)	6y 4m NPP 4y  FT 1y  <u>Total:</u> 7y 4m NPP 5y	AD	Punching and kicking	record includes violence	<b>SNPP 7 years</b> Unprovoked punch to head of male victim at nightclub – caused unconsciousness – found victim’s brother making phone call in foyer and punched him to head – with co-offender continued to punch and kick second victim to unconsciousness and caused fracture to side of face – intoxicated Violent childhood – suffering PTSD
15.	<b>Z</b> (23) <a href="#">[2015] NSWCCA 274</a>	s.33(1)(b)  Unauth possess proh firearm  Supply pistol to unauth person  Supply proh weapon to unauth person	VG  PG  (combined 50% to all)	8y NPP 3y 9m  4y NPP 2y 7m  4y NPP 3y 3m  6y NPP 3y 10m  <u>Total:</u> 12y NPP 7y 9m	AD	Gun	Violence – breached bonds	<b>SNPP 7 years (10 years – firearms sale / 3 years firearm possession)</b> Member of criminal gang shot victim from rival gang outside victim’s home – shot in both thighs – second shot while victim on ground – towards high range – sold .45 calibre Sig Sauer P220 self-loading pistol used in shooting to undercover operative – not loaded – mid-range – sold 9mm Parabellum calibre sub machine gun in working order with ammunition to same operative – above mid-range – on arrest found in possession of shortened and loaded s.357 Magnum revolving cylinder fire rifle – above mid-range Born in Iran and forced to flee with family On appeal: no error in sentence
16.	<b>Bajouri</b> (30) <a href="#">[2016] NSWCCA 20</a>	s.33(1)(b)  Common assault	PG (10%)	8y NPP 5y  FT 3m (concurrent)	AD	Punching and stomping	Violence offences	<b>SNPP 7 years</b> Punched victim in face – while victim lying on ground stomped on face – suffered fractured facial bones - required internal fixation with plate and screw which will remain in place permanently Ex-professional footballer – involved in car accident which ruined his career – alcohol abuse - depression
17.	<b>Wainwright</b> (32) <a href="#">[2016] NSWCCA 19</a>	s.33(1)(b)	PG (10%)	8y 1m NPP 5y	AD	Pushing and stomping – terracotta pot	Malicious wounding	<b>SNPP 7 years</b> Pushed female friend, who fell and was knocked unconscious – stomped and broke terracotta pot on head - suffered significant injuries - appalling savage sustained attack - repeated assaults upon defenceless young woman lying unconscious. Difficult upbringing.

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18.	<b>Ngatamariki</b> <a href="#">[2016] NSWCCA 155</a>	s.33(1)(b)	VG	5y NPP 3y	AD	Punching	AOABH (same victim)	<b>SNPP 7 years</b> Assaulted female partner – punched victim to head causing five separate facial fractures – serious injuries. Remorse – unplanned.
19.	<b>Campbell</b> <a href="#">[2016] NSWCCA 170</a>	s.33(1)(b)	PG (10%)	7y 2m NPP 5y	AD	Punching and striking with elbow		<b>SNPP 7 years</b> Assaulted male victim at hotel whilst out drinking – acquainted with each other through Thai boxing – struck victim to face using elbow with great force - used Thai boxing technique – punched victim lying on ground – no provocation Alcohol issues.
20.	<b>Dong, M</b> (21)	s.33(1)(b)	PG (10%)	2y suspended	Crown AD (exercise of discretion)	Fence palings	Nil	<b>SNPP 7 years</b> Assaulted older male victim - victim had been arguing with and assaulting females in families of offenders – offenders came to talk with victim – victim attacked offenders with stick – offenders responded by attacking victim with fence palings that were lying nearby - returned to victim and recommenced attack – victim unconscious, suffered fractures to head and jawbone requiring surgery – sustained attack – not premeditated. Each offender of good character – students – from troubled overseas country – rehabilitation Discretion to dismiss because each offender showed successful rehabilitation in 3 years since offence
	<b>Marial</b> (19)	s.33(1)(b)	PG (10%)	2y suspended			nil	
	<b>Dong, A</b> (19)	s.33(1)(b)	PG (10%)	2y suspended			nil	
	<b>Mathiang</b> (20) <a href="#">[2016] NSWCCA 195</a>	s.33(1)(b)	PG (10%)	2y suspended			nil	
21.	<b>Medcalf</b> (31) <a href="#">[2016] NSWCCA 209</a>	s.33(1)(b)	PG (25%)	12y NPP 8y 9m	AA 9y 9m NPP 7y 3m	Assault	nil	<b>SNPP 7 years</b> Entered premises with electrical tape – struck female cleaner twice to side of head causing unconsciousness – placed second female cleaner in headlock and punched until unconscious – wrapped electrical tape around mouth of one victim – higher than mid-range Prior good character – genuine remorse
		s.111(2) – aggravated enter with intent		7y NPP 5y 3m				
				Total: 13y NPP 9y 8m	Total: 10y 9m NPP 8y 3m			
22.	<b>Benson</b> <a href="#">[2016] NSWCCA 267</a>	s.33(1)(b)	VG	5y 6m NPP 3y	AD	knife		<b>SNPP 7 years</b> Female stabbed former husband with 17cm bladed kitchen knife while he was assisting with pool – unprovoked attack

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23.	AB (20) <a href="#">[2017] NSWCCA 88</a>	s.33(1)(b)	PG (20% - 25% combined)	6y 8m NPP 3y	Crown AA 6y 8m NPP 4y 4m	Baseball bat – kicking	Breach bond for affray – other minor offences	<b>SNPP 7 years</b> Assaulted ex-boyfriend of wife after learning of affair – in company with co-offender in park using baseball bat and kicking victim in head – permanent and significant physical and cognitive injuries - planned offence – well above mid-range Born in Iraq – traumatic childhood – some psychiatric conditions
24.	Nolan <a href="#">[2017] NSWCCA 91</a>	s.33(1)(b)	PG (10%)	12y 6m NPP 8y 6m	Crown AA 15y 3m NPP 11y 6m	Assault		<b>SNPP 7 years</b> Assaulted 7-month-old nephew of de-facto – suffered brain injury resulting in catastrophic permanent debilitating and life-threatening conditions - breach of trust - offence not planned. In intellectual disability range and adaptive skills in mild intellectual disability range - prior good character - unlikely to re-offend - prospects of rehabilitation – remorse.
25.	Fadel (20) <a href="#">[2017] NSWCCA 134</a>	s.33(1)(b)  Intimidate	VG	6y 8m NPP 4y 2m  FT 6m  <u>Total:</u> 6y 10m NPP 4y 4m	AD	Kick to head	Nil	<b>SNPP 7 years</b> Violent affray broke out between neighbours on front lawn – history of disagreement – made threat to shoot member of neighbouring family – put work boots on and kicked second member in head – just below mid- range Difficult childhood – prior good character
26.	Smith <a href="#">[2017] NSWCCA 175</a>	s.33(1)(b)  Sched: Common assault	PG (15%)	4y 3m NPP 2y 1m	AD	Kicked with boots	nil	<b>SNPP 7 years</b> Female – forcibly kicked ex-husband in the head 3-4 times while he was on floor in hotel during altercation – altercation started by offender’s current partner who attacked and punched victim and his friend – extended scuffle – offender resisted attempts by security staff to restrain her – kicked security guard in arm – spontaneous offence – towards lower end of mid-range – angry at lack of contact with daughters Effect of depression on imprisonment – prior good character

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27.	<b>Fouani</b> <a href="#">[2018] NSWCCA 230</a>	s.33(1)(b)  Recruit child to carry out criminal activity	PG	12y NPP 9y  FT 5y  <u>Total:</u> 14y NPP 10y	Crown AA 16y NPP 2y  FT 5y  <u>Total:</u> 18y NPP 13y 6m	Petrol and set alight / burns		<b>SNPP 7 years</b> Began relationship with female victim – offender upset victim would not stop working as a prostitute – recruited MF to pour petrol on victim and set her alight – planned offence – suffered severe burns to 45% of body and face - recruitment of MF more serious and morally culpable by use of threats against MF's family and pistol - upper level of seriousness - sexual jealousy Absence of remorse or contrition
28.	<b>Tohifolau</b> (20) <a href="#">[2018] NSWCCA 283</a>	s.33(1)(b)	PG (5%)	12y 4m NPP 9y	AD	Assault	includes violence	<b>SNPP 7 years</b> Entered cell in correctional centre and assaulted prisoner – victim suffered permanent brain danger and will require assistance for life – no motive – senseless violence No remorse
29.	<b>Anderson</b> <a href="#">[2019] NSWCCA 256</a>	s.33(1)(b)  Steal property from dwelling	VG  PG (25%)	15y NPP 11y  FT 15m (concurrent)	AD	Assault	lengthy record including significant violence – breached conditional liberty	<b>SNPP 7 years</b> Argued with friend in his home over debt – punched victim unconscious – continued assaulted by punching and stomping on motionless victim on floor – left home taking victim's property – spontaneous offence – no weapon – caused catastrophic and lifelong injuries – upper range of seriousness Suffering chronic paranoid schizophrenic condition although not linked to offence – moderate to high risk of re-offending – guarded prospects of rehabilitation On appeal: sentence within range in view of nature of injuries and savagery of attack
30.	<b>Horvath</b> (24) <a href="#">[2019] NSWCCA 285</a>	s.33(1)(b)	PG (10%)	7y NPP 4y	AD	Car	nil serious	<b>SNPP 7 years</b> Victim visiting offender's neighbour – history of disputes between offender's family and neighbours – after initial confrontation drove at victim standing in street and struck at low speed – reversed car then accelerated to strike victim and run over his legs – reversed car back over victim's foot – deliberate acts – not spontaneous – no provocation – in presence of victim's stepdaughter – mid-range Remorse and some insight – good prospects of rehabilitation – deprived childhood but not <i>Bugmy</i> level

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31.	<b>Field</b> (40) <a href="#">[2020] NSWCCA 105</a>	s.33(1)(b)	VG	6y NPP 4y	AD	Knife	Drugs. Damage property, larceny, drive disqualified. On bond.	<b>SNPP 7 years</b> Excessive self-defence - Victim punched applicant as applicant in relationship with victim's girlfriend – applicant stabbed victim in stomach. Spontaneous – below mid-range - remorse Aboriginal male – dysfunctional violent childhood - drug addiction.
32.	<b>Coats</b> (44) <a href="#">[2020] NSWSC 1236</a> Campbell J	s.33(1)(b)	PG (25%)	6y NPP 4y		Mattock handle	Assault, AOABH, cultivate prohibited plant, BES. On bail.	<b>SNPP 7 years</b> Struck single blow with mattock handle to victim's head – victim died – acquitted of attempted murder-acted in response to seeing friend badly injured after fight between friend and victim – under influence of drugs - intent of inflicting really serious injury - intent formed spontaneously. Troubled upbringing - drug addiction.
33.	<b>Noonan</b> <a href="#">[2020] NSWCCA 346</a>	s.33(1)(b)  Sched: 4 offences  s.166 3 offences	PG (25%)	10y 6m NPP 7y	AA 9y NPP 6y	Hatchet	Nil.	<b>SNPP 7 years</b> Under care of aunt and uncle - struck uncle a number of times in head, abdomen and leg areas with a hatchet - victim suffered serious injuries including traumatic brain injury. Deprived upbringing – schizophrenia – psychotic episodes. CCA: Sentence manifestly excessive in circumstances of mental illness and broader subjective case.
34.	<b>Tammer-Spence</b> (25) <a href="#">[2021] NSWCCA 90</a>	s.33(1)(b)  s.86(2)(b) Aggravated kidnap  s.99(2) Demand money with menaced in company	PG (no discount)	5y 6m NPP 3y 6m  5y  3y  <u>Aggregate:</u> 7y NPP 4y	AD	Hot water	Armed robbery	<b>SNPP 7 years</b> Prison inmate – attacked fellow prisoner over payment of protection money owed by victim – poured hot water in kettle over victim's head – with fellow inmate threatened victim in shower not to tell anyone what had happened - violent and unprovoked attack - victim suffered permanent scarring; burns to 15% of body; underwent number of surgeries; hospital for three months. Drug abuse early age - profound childhood deprivation – risk of becoming “institutionalised” – <i>Bugmy</i> applied.

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35.	<b>Kuruppu</b> (50) <a href="#">[2021] NSWCCA 261</a>	s.33(1)(b)	VG	5y NPP 2y 6m	AD	Hot water	Domestic violence, assault, agg BE, choking, mid-range PCA.	<b>SNPP 7 years</b> Prison on remand – attacked fellow prisoner / cellmate during argument – poured / threw boiling water from kettle – victim suffered second degree burns to 10% of body - unprovoked attack but did not involve much planning or forward thinking.
36.	<b>Wornes</b> (46) <a href="#">[2022] NSWCCA 184</a>	s.33(1)(b)  s.166 Certificate 2 x Contravene AVO  Sched: 2 x assault	PG (25%)	8y NPP 5y  s.10A conviction no penalty recorded	AA 6y NPP 4y	Knife	Nil - on bail for assault offences involving same victim	<b>SNPP 7 years</b> Female - unprovoked and sustained stabbing attack - domestic violence offences on 47y male partner. Dysfunctional background, psychiatric history, personality disorder – alcohol use disorder. CCA: error in finding applicant's personality disorder did not attract <i>De La Rosa</i> principles
37.	<b>Henwood</b> (46) <a href="#">[2023] NSWCCA 154</a>	s.33(1)(b)	PG (25%)	14y NPP 10y	AD	Petrol and ignited.	Prior matters of personal violence.	<b>SNPP 7 years</b> Doused half-brother in petrol and ignited it - significant substantial injuries - burns to 68% of body, both legs, both hands, abdomen and back – part of house also caught fire - stated intention was to burn house not brother. Drug and alcohol abuse - poor impulse control resulting from psychiatric conditions.
38.	<b>Bhatt</b> (59) <a href="#">[2024] NSWCCA 214</a>	s.33(1)(b)	PG (25%)	4y 6m NPP 2y 6m	AD	Struck head with cricket bat		<b>SNPP 7 years</b> Struck male neighbour to head with cricket bat following disputes – unprovoked, deliberate, vicious attack - attack only ceased when strangers intervened and distracted offender – victim suffered fractures; metal plate inserted for jaw deformities. Impoverished childhood and adversity - self-esteem issues; anxiety, depression – consistent employment; stable marriage; well-respected - prior good character - good prospects rehabilitation. CCA: No error finding that mental health did not contribute to offending; or that provocation not a mitigating factor.

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39.	Soars (53) <a href="#">[2024] NSWCCA 218</a>	s.33(1)(b)	VG	9y NPP 6y 6m	AD	Num chucks	Limited – breached conditional liberty	<b>SNPP 7 years</b> Struck male stranger walking past house at night with num chucks – unprovoked attach on unarmed male – sustained although short lived attack – no pre-planning - life-threatening injuries – left victim on relatively busy road – upper middle range Difficult childhood – mental health balanced by danger to community On appeal: sentence stern but not excessive
40.	Karim (20) <a href="#">[2024] NSWCCA 234</a>	s.33(1)(b)  s.611  Supply drug ongoing s.25A DMTA  Sched: Intentionally choke s.37(2)	PG (10%)	<u>Indicative</u> 10y 6m NPP 7y  2y 6m NPP 20m  3y  <u>Aggregate:</u> 12y NPP 8y	Crown AA <u>Indicative</u> 13y NPP 8y 8m  5y NPP 3y 4m  3y  <u>Aggregate:</u> 15y NPP 10y	Assault	Drugs, driving. On conditional liberty.	<b>SNPP 7 years</b> Domestic violence offences against pregnant wife – foetal demise in utero confirmed / baby died - victim 20 weeks pregnant – offender wanted victim to terminate pregnancy – during argument, sustained violent attack during which stomped, kicked and kneeled on victim's stomach with objective of killing foetus - inserted top of finger into victim's vagina three times to ascertain whether objective achieved - victim attended hospital following assault where foetal demise in utero confirmed. Intellectual ability borderline range – mental health – limited remorse, insight. CCA: Sentence manifestly inadequate.
41.	Hemsworth (41) <a href="#">[2025] NSWCCA 2</a>	s.33(1)(b)  s.43A: failure to care for child causing danger of death  s.319: attempt pervert course of justice	VG  VG  PG (15%)	<u>Indicative:</u> 16y NPP 12y  3y 6m  3y  <u>Aggregate:</u> 18y 6m NPP 13y 10m	AD	Kick	Limited history	<b>SNPP 7 years</b> Kicked 23m stepdaughter – refused to allow mother to contact ambulance fearing involvement of police – victim taken to hospital three days later – lied to hospital, police and court – caused widespread, catastrophic and permanent injuries – a little below high range – s.319 offence involved attempted false alibi – towards bottom end of midrange History of violent father and substance abuse from early age – no acceptance of responsibility or remorse – medium risk of re-offending – reasonable prospects of rehabilitation On appeal: error in failure to refer to assistance given in unrelated offence – on re-sentence no discount justified in view of nature and seriousness of these offences

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42.	Sampson <a href="#">[2025] NSWCCA_25</a>	s.33(1)(b)  Sched: Contravene ADVO	PG (10%)	5y NPP 3y	AA 4y 6m NPP 2y 8m	Garden stake	Domestic violence, drug offences, firearms. On bail.	<b>SNPP 7 years</b> Assaulted female partner - during argument, struck victim with garden stake in right eye area - victim suffers very limited vision in right eye with no substantial improvement - history of domestic violence - intoxicated by alcohol and drugs. Special circumstances: childhood trauma, alcohol/substance use disorder, PTSD, risk institutionalisation. CCA: Error as to application of discount for guilty plea, failure to refer to general deterrence.

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