Recklessly Cause GBH

s.35(2) (NSW) *Crimes Act*

s 35 (2) Cause grievous bodily harm to any person reckless as to causing actual bodily harm

Maximum Penalty: **10 years**

Standard non-parole period: **4 years (where conviction entered or guilty plea accepted on or after 1.1.2008)**

Commenced: **27.9.2007**

Wording substituted: **21.6.2012**

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
1.	**Thawer** (33) [2009] NSWCCA 158	s.35(2)	PG (15% on appeal)	16m suspended sentence	Crown AA 3y NPP 16m	Knife	Nil	**SNPP – 4 years** Resident of Wesley Mission stabbed another resident during argument – three stab wounds to abdomen – excessive response to self-defence and provocation – towards lower end of mid-range Mental condition
2.	**Gillon** (37) [2009] NSWCCA 277	s.35(2)	PG (25%)	4y NPP 3y	AD	Punch and kick	Lengthy - assault, violence	**SNPP – 4 years** Assaulted victim after victim hit de facto who was offender's cousin - kicked and punched victim while on ground – various injuries including fractured jaw, nose and ribs - mid-range offence. Aboriginal male.
3.	**Spooner** (18) [2009] NSWCCA 247	s.35(2)	PG (25%)	4y NPP 1y 10m	AD	Glass	Nil	**SNPP – 4 years** Smashed glass in victim's face during altercation at club – victim had arm in plaster cast – victim lost sight in one eye as a result of incident - above mid-range objective seriousness.
4.	**Butters** (21) [2010] NSWCCA 1	s.35(2)	PG (25%)	4y 6m NPP 3y	AD	Glass	Nil	**SNPP – 4 years** Victim intervened after offender grabbed female companion on buttocks at hotel - smashed glass into victim's face – eye later surgically removed – intoxicated Prior good character but history of alcohol abuse - remorse

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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5.	**Dunn** [2010] NSWCCA 128	s.35(2)	PG (17%)	2y 6m NPP 15m	AD	Punch and knee		**SNPP – 4 years** Involved in fight with neighbour in street – both men exchanged punches – grabbed victim to head and kneed him in face causing facial fractures and loss of sight to eye – long term feud
6.	**Campbell-Stephen** [2010] NSWCCA 204	s.35(2) Sched: Common assault	PG	3y 6m NPP 2y	AD	Punch		**SNPP – 4 years** Single blow to victim who fell and hit head on pavement – suffered serious head injury with multiple skull fractures and brain swelling – argument at club - mid-range objective seriousness.
7.	**Dosen** (50) [2010] NSWCCA 283	s.35(2)	PG (25%)	3y NPP 18m	AD	Glass	Breached bond for assault	**SNPP – 4 years** Offender and two companions forcefully ejected from hotel by victim – threw glass at victim striking him in head – angry at treatment – spontaneous offence – significant injuries – slightly less than mid-range Suffering depression and back injury
8.	**Mumberson** [2011] NSWCCA 54	s.35(2)	PG (10% on appeal)	1y 8m Suspended sentence	Crown AA 2y 3m NPP 1y 3m	Car	High range PCA	**SNPP – 4 years** Riding as passenger in vehicle being driven by girlfriend – Highly intoxicated and in emotional and aggressive state following argument on phone with friend - told girlfriend where to drive – grabbed steering wheel causing vehicle to collide – girlfriend suffered serious spinal injuries – no recollection of events - unusual case. Good character.
9.	**Moss** (48) [2011] NSWCCA 86	s.35(2)	VG	3y 9m NPP 2y	AD	Punch	Stealing, assault, street offences, breach AVO (same victim) - history stopped in 1997 and did not resume until 2008	**SNPP – 4 years** Lived in same Department of Housing development as 53y female victim – history of altercations – punched victim several times – victim suffered fractured nose – injuries at lower end of spectrum. Mental illness – on bond
10.	**Weir** [2011] NSWCCA 123	s.35(2) s.195 – Destroy property	PG (10%)	4y NPP 1y 6m FT 3m (concurrent)	AA 3y NPP 1y 6m FT 3m (concurrent)	Claw hammer	Lengthy	**SNPP – 4 years** Attacked neighbour in apartment block following history of disputes – struck victim in forearm and to forehead – damaged victim's door - mid-range. Mental illness On appeal - denial of procedural fairness at sentence

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11.	**Reberger** (25) [2011] NSWCCA 97	s.35(2)	PG (25%)	4y 10m 15d NPP 2y 11m 2d	AA 3y 9m NPP 2y 3m	Beer glass	Driving	**SNPP – 4 years** Glassed victim to side of face – victim suffered permanent loss of vision to right eye – spontaneous attack – victim had intervened in argument between offender and other persons - offender intoxicated – mid-range Mental impairment
12.	**O'Connor** [2011] NSWCCA 161	s.35(2)	PG (10%)	4y NPP 2y 6m	AD	Punch	Long record including assaults – breached bonds	**SNPP – 4 years** Punched female performing traffic control duties twice in mouth – facial injuries and broken leg from fall – spontaneous offence – mid range severity Dysfunctional childhood – drug and alcohol abuse – PTSD – some evidence of rehabilitation – extra curial punishment from injuries inflicted when being restrained
13.	**Arnold** (39) [2011] NSWCCA 150	s.35(2) s.35(4) AOABH	PG (25%)	3y NPP 2y 2y 3m NPP 1y 4m FT 9m Total: 3y 3m NPP 2y 4m	AA 3y NPP 1y 10m 2y 3m NPP 1y 4m FT 9m Total: 3y 3m NPP 1y 10m	Punch and kick	insignificant	**SNPP – 4 years** Drinking with victims in pub – pushed male friend to ground and several kicks to body and head – struck female friend across face and head butted second male friend when they attempted to intervene – affected by alcohol Out of character
14.	**Passaris** (54) [2011] NSWCCA 216	s.35(2)	PG (10-15%)	8y NPP 6y	AD	Truck	Old assault offences	**SNPP – 4 years** Truck driver drove over the lower half of another truck driver standing between offender's truck and victim's truck – extensive lifelong injuries – well above mid-range
15.	**Ross** (45) [2012] NSWCCA 161	s.35(2)	PG (10%)	4y 6m NPP 3y 4m	AA 3y 8m NPP 2y 9m	Piece of wood	Lengthy record including violence	**SNPP – 4 years** During argument over dog and kitten struck male neighbour twice with piece of wood – blow to back caused serious internal injuries – mid range Drug user

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16.	**Dungay** (23) [2012] NSWCCA 197	s.35(2)	PG (25%)	1y 9m Suspended	Crown AD	Punch	Juvenile offences	**SNPP – 4 years** Collided with male victim while being removed from night club – during altercation punched victim once to head – victim unconscious before hitting ground – fracture of skull - no memory of incident but accepted responsibility – both intoxicated Significant rehabilitation since difficult childhood
17.	**Blackwell** [2012] NSWCCA 227	s.35(2)	VG (at trial for s.33 - 13% for offer)	4y 4m NPP 2y 8m	Crown AD	Glass	minor	**SNPP – 4 years** Struck male stranger at hotel with glass – loss of eye and facial scarring – intoxicated – not aware glass in hand Evidence of rehabilitation
18.	**Galbraith, B** (25) **Galbraith, R** (19) [2013] NSWSC 284 Harrison J	s. 35(2) Affray s.35(2) Affray	VG VG	1y 8m suspended 2y GBB 1y 8m suspended 2y GBB		Punch	Nil Nil	**SNPP – 4 years** Co-offender (brother) struck victim who fell unconscious to ground – both offenders present co-offender confronted victim and friends who had attended party in their neighbourhood – unplanned – one of victim's friends was killed when he ran into oncoming car as he tried to escape – neither offender directly assaulted victim - each sentenced on basis of consequences of participation in events that included assault upon victim Prior good character – rehabilitation prospects – remorse – strong subjective case
19.	**Brown** [2014] NSWCCA 215	s.35(2)	PG (10%)	4y 10m NPP 3y 4m	AD	Punch	Lengthy	**SNPP – 4 years** Following argument punched female partner to both sides of head – suffered fractured jaw and bruising – underwent surgery - mid-range Alcohol abuse.
20.	**Pound** (32) [2015] NSWCCA 54	s.35(2) Carry firearms with disregard Sched: Cultivate	PG (25%)	6y NPP 3y 6m FT 3y 6m <u>Total</u>: 7y 6m NPP 5y	AA 6y NPP 4y FT 3y 6m <u>Total</u>: 6y NPP 4y	Gun	property offences and assault offence	**SNPP – 4 years** Victim and three friends present at offender's unit after night out drinking – offender playing with gun and pointed at victim – victim pushed gun away and gun discharged – victim loss of eye and reduced vision in second eye – not deliberate shooting – high degree of recklessness Difficult childhood resulting in early drug and alcohol abuse

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21.	**Daniels** [2016] NSWCCA 35	s.35(2)	PG (25%)	4y 6m NPP 3y	AD	Punch	Agg B&E, violence offences.	**SNPP – 4 years** Single punch to male victim outside hotel – mistaken belief that victim had assaulted offender's friend – unprovoked attack - no warning - punched victim to jaw – required surgery and permanent bone plates - mid-range Alcohol abuse.
22.	**Mulligan** [2016] NSWCCA 47	s.35(2)	PG (25%)	15m Suspended	Crown AA 18m NPP 12m	Punch	Minor – some assault	**SNPP – 4 years** Offender and victim both walking dogs – dogs became involved in scuffle – offender left dog and returned to punch victim in face three times – fractures – ongoing injuries
23.	**Hona** (20) [2016] NSWCCA 119	s.35(2)	PG (25%)	6y 9m NPP 4y 9m	AD	Punch	Violence, resist police, affray, take and drive conveyance	**SNPP – 4 years** Assaulted male at Bondi – punched victim who fell to ground then stomped on chest – purposely sought out victim who made it clear he did not want confrontation - suffered severe head injury, coma and serious continuing injury and rehabilitation. Alcohol and drug abuse.
24.	**Siemek** (36) [2017] NSWCCA 18	s.35(2) Breach of ADVO	PG (15%)	3y 9m NPP 2y FT 6m	AD	Punch and assault	Numerous domestic violence and drug offences – breached suspended sentence and ADVO	**SNPP – 4 years** Dragged ex-wife out window by hair – dragged her to front veranda punching face and jumping on chest – tried to strike with metal ornament – threat to kill – dragged face first down stairs – stepped on head and face – mid range offence Suffering bi-polar and substance abuse disorder – manic state due to not being medicated -
25.	**Lewin** (18) [2017] NSWCCA 65	s.35(2)	VG	3y 9m NPP 2y 3m	AD	Glass bottle of alcohol		**SNPP – 4 years** During party smashed bottle of alcohol into face of 17y causing significant injuries and some permanent impairment to vision – below mid-range
26.	**Longworth** [2017] NSWCCA 119	s.35(2)	VG (25%)	4y 10m NPP 3y	AD	Punch		**SNPP – 4 years** Single punch to security guard who refused offender entry to licenced premises on grounds offender intoxicated – punched victim to head when he was not looking - upper reaches of grievous bodily harm - critical long-term traumatic brain injuries Good character – remorse - very good prospects rehabilitation

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27.	**Merillo** (26) [2017] NSWCCA 173	s.35(2)	PG (25%)	2y ICO	Crown AD (exercise of discretion)	Glass		**SNPP – 4 years** Head-butted male stranger on dance floor in club – asked by victim to leave female alone – during short struggle struck victim in face with glass causing permanent reduction in sight – not deliberate use of glass – below mid-range Generally good character – remorse – difficult childhood On appeal sentence inadequate but mental condition deteriorated, risk of self-harm increased and good compliance with ICO
28.	**Stevens** [2017] NSWCCA 216	s.35(2)	PG (10%)	4y 6m NPP 2y 9m	AD	Punch	AOABH (similar offending)	**SNPP – 4 years** Single punch / blow - struck male stranger from behind in unprovoked attack causing victim to fall to ground and lose consciousness – suffered number of injuries including haemorrhagic contusion of brain, permanent scarring, intermittent headaches, flashbacks, nightmares and rapid mood swings – high degree of violence - not planned or premeditated
29.	**Darcy-Shillingsworth** (30) [2017] NSWCCA 224	s.35(2) s.59(1) s.35(4)	VG	21m suspended 21m suspended 150h CSO	Crown AA 2y 6m 12m Aggregate: 2y 6m NPP 15m	Punch and hit	Nil - AVO (same victim)	**SNPP – 4 years** Struck female partner causing her to fall backwards onto ground and smash beer bottle she was holding, deeply lacerating her hand and wrist –s.35(4) - hit victim in face knocking her to ground – s.59(1) – punched victim's father in head several times causing him to fall and fracture ankle – s.35(2) - domestic / relationship violence - gratuitous nature of continued attack cannot be explained by momentary loss of control caused by anger - indicates continuing vicious streak Aboriginal male – alcohol abuse
30.	**Wick** (35) [2017] NSWCCA 244	s.35(2)	VG	4y NPP 1y 6m	AD	Glass	Minor alcohol related	**SNPP – 4 years** Sat at table in bar with strangers – smashed glass over eye of male victim with no warning – caused lacerations and nerve damage that was subsequently repaired (injuries at low end of scale) – at trial challenged issue of causing GBH only Suffered long term depression and anxiety – genuine remorse

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31.	**Ussher-Clarke** [2018] NSWCCA 61	s.35(2) s.323(a)- persuade witness give false evidence	VG PG	5y NPP 3y 9m 2y 10m Aggregate: 5y 6m NPP 4y	Conviction AD	Kick		**SNPP – 4 years** Kicked 12 weeks pregnant female partner in abdomen causing miscarriage – offender made number of phone calls to victim asking her to lie to police
32.	**Anae** (27) [2018] NSWCCA 73	s.35(2)	PG (25%)	4y 6m NPP 3y 4m	AD	Slap	assault and resist arrest offences	**SNPP – 4 years** Angered by relationship between male victim and offender's cousin – took victim aside for a talk and slapped him across mouth – victim fell back and hit head on road causing brain injury – above mid-range – some permanent damage Easily angered when intoxicated
33.	**Kaderavek** [2018] NSWCCA 92	s.35(2) Assault Intent pervert course of justice Sched: Damage property		6y NPP 4y 16m 12m Aggregate: 7y NPP 5y	AA 6y NPP 4y 16m 12m Aggregate: 7y NPP 4y 6m	Punch	record for violence	**SNPP – 4 years** Assaulted female partner – squeezed victim's throat hard causing difficult breathing – two weeks later punched victim in face causing three fractures to jaw – claimed injuries occurred in home invasion and smashed up house to support story – mid-level seriousness – history of violence in relationship
34.	**Patsan** (22) [2018] NSWCCA 129	s.35(2) Sched: AOABH	PG (25%)	2y 3m NPP 1y 4m	AD	Punch	nil	**SNPP – 4 years** Punched female partner during argument – recent history of physical abuse and damaging victim's property – suffered broken jaw requiring surgery - just below middle range - domestic violence. Remorse - good prospects of rehabilitation- unlikely to re-offend – mental health

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35.	**BJ** (21) [2018] NSWCCA 231	s.35(2) Sched: Fail to take care of child	PG	6y NPP 4y	AD	Burns caused by hot liquid	Driving offences	**SNPP – 4 years** Offender poured very hot liquid to body of 6m son – burns to chest area, lesions to face, thigh and further injury to lower abdomen and underneath scrotum and penis - deliberate - absence of any explanation as to motive or circumstances Good character – unlikely to reoffend
36.	**Tepania** (22) [2018] NSWCCA 247	s.35(2) AOABH s.166: AOABH Assault Sched: Assault	PG (25%)	4y 6m NPP 2y 8m FT 12m s.10A s.10A Aggregate 5y NPP 3y	AD	Hot running water	assaults – breached conditional liberty	**SNPP – 4 years** Placed 10m son of de facto into bath with hot water running causing serious burns – returned and took victim out of bath then dropped on floor – placed victim in bed and forced bottle into mouth causing further injury – struck victim to head – night before had assaulted female partner and male friend after night of drinking and taking drugs – still hung over next day – in anger smashed lego tower forcing ambulance officer to take evasive action – mid range offences Childhood of profound disadvantage and neglect – intellectual impairment
37.	**Ewan** (25) [2019] NSWCCA 17	s.35(2)	PG (25%)	2y 6m NPP 1y 3m	AD	Punch	AOABH	**SNPP – 4 years** Ran up to male victim walking down laneway and punched him in head from behind – victim fell forward and hit unprotected face on path – victim had earlier that day had verbal argument with offender's father over parked car – cowardly and unprovoked attack Reasonable prospects of rehabilitation
38.	**Manocha** [2019] NSWCCA 122	s.35(2) s.43A – failure to provide necessities	VG	Total: 7y NPP 4y 6m	AD	Thrown or pushed	Nil	**SNPP – 4 years** Female offender - 11 month old baby in offender's care suffered numerous severe injuries resulting in severe traumatic brain injury – precise details unknown - mechanism of injury required child to have been thrown, flung or pushed onto hard surface causing high level of rotation of head, neck and impact to skull

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39.	**Crimmins** (23) [2019] NSWCCA 268	s.35(2)	PG	6y NPP 4y	AD	Fight/ pushed	Nil	**SNPP – 4 years** Fight with friend whilst heavily intoxicated – victim suffered traumatic brain injury (described as life threatening), language, memory and hearing impairment, cognitive function impairment – gave false accounts to police.
40.	**Waterfall** [2019] NSWCCA 281	s.35(2)	VG	5y 9m NPP 3y 9m	AD	Punched	Nil	**SNPP – 4 years** Correctional prison officer working at gaol / prison – assaulted inmate – punched victim repeatedly to jaw – victim required surgery due to fracture – victim did not admit assault out of fear – assault captured on CCTV.
41.	**SS** (25) [2021] NSWCCA 58	s.35(2)	PG (25%)	1y 9m NPP 12m	Crown AA 4y 6m NPP 3y	Shaken / shook	Nil	**SNPP – 4 years** Father shook four-week old baby daughter out of frustration when victim would not stop crying – victim left with permanent brain damage. Father to two children - genuine remorse - good prospects of rehabilitation - unlikely to reoffend CCA: Sentence manifestly inadequate – error in allowing discount for assistance - seriousness at top of mid-range
42.	**CW** [2022] NSWCCA 50	s.35(2) Sched: 2 x AOABH	PG (25%)	4y 6m NPP 2y 10m	AD	Assault	Violence offences, domestic violence - on CCO.	**SNPP – 4 years** Assaulted 10 week old baby daughter – multiple rib fractures – additional assaults resulting in fractured wrist and bruising to face – impulsive. Personal history of trauma, dysfunction and violence – mental health – rehabilitation prospects guarded.
43.	**Wass** (50) [2022] NSWCCA 143	s.35(2)	PG	2y 4m NPP 1y 4m	AD	Snowboard	Wear police uniform, violence and firearms (diverted under mental health legislation), assault, affray, firearms (discharged under mental health legislation), stealing	**SNPP – 4 years** Offender dressed as Chewbacca at ski resort – ongoing dispute with male victim – victim told offender to leave due to complaints that children frightened of him – offender hit victim with snowboard to jaw, continued to strike victim as he lay on ground – victim required surgery, suffered damaged teeth and facial wounds – unprovoked, significant violence. Open to sentencing judge to accept expert opinion that applicant's difficulties stem from low self-esteem, prior negative experiences, and inability to deal with life stresses; not persuaded applicant had schizophrenia or major mental illness.

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44.	**Owen** (30) [2022] NSWCCA 214	s.35(2)	PG (25%)	3y NPP 18m	AD	Fist	Nil	**SNPP – 4 years** During altercation between two groups on street at night hit victim to side of head with closed fist – both seeking to break up fight - caused fractured skull and brain damage – assessed as mid-range on appeal Remorse – prior good character – low risk of re-offending – difficult childhood On appeal: error in failure to assess objective seriousness – no lesser sentence warranted
45.	**Miles** (27) [2023] NSWCCA 90	s.35(2) s.33B(2) s.61 Drive disqualified	PG (10%)	Indicative 3y 2m 1y 3m 3m 3m Aggregate 3y 9m NPP 2y 9m	AA 2y 6m 1y 3m 2m 2m Aggregate 3y 3m NPP 2y 3m	Metal bar	Lengthy. On conditional liberty.	**SNPP – 4 years** With 2 co-offenders beat victim over money dispute with metal bars – wounds to forehead and legs. On appeal: failure of legal representatives to present subjective case - significant subjective case – disadvantage - *Bugmy* - mental health conditions - intellectual disability (borderline) - Generalised Anxiety Disorder moderately depressed mood. Remorse – some prospects of rehabilitation - lesser risk of reoffending - special circumstances.
46.	**Saliba** (33) [2023] NSWCCA 298	s.7(1) Unauth possess pistol s.35(2) s.93G(1) s.166 Cert – acquire ammunitions	PG (10%)	Indicative: 8y 1m NPP 5y 6y 3m NPP 3y 10m 6y 9m NPP 4y 2m 3m Aggregate: 9y NPP 5y 6m	AD	Firearm	Shoot with intent GBH, Wound with intent GBH, Affray, AOABH	**SNPP 4 years** Member of same criminal organisation as victim - feared victim intended to shoot him after receiving threats - acquired pistol to defend himself – victim sent threatening messages and attended at applicant's address - victim walked rapidly towards applicant's home - applicant approached carrying pistol (count 1) and fired twice in rapid succession (count 2) - first shot occasioned gunshot wound to victim's jaw and second caused a wound to chest (anterior thoracic) and left projectile in back - discharged third shot in victim's direction, which did not strike (count 3) - discharge of weapon on a public thoroughfare in a residential neighbourhood. Special circumstances.

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47.	**SR** (51) [2024] NSWCCA 43	s.35(2)	PG	1y 10m NPP 1y	AA 12m Intensive Correction Order (ICO)	Fists	Dated offences for offensive language, resist arrest, driving low-range PCA. More recent driving mid-range PCA.	**SNPP 4 years** Punched 14y old stepson to head number of times following verbal argument – domestic violence offence – offending occurred after offender returned home from social event - "mildly intoxicated"- victim suffered orbital floor socket fracture requiring surgical repair with insertion of titanium plate; continued blurred vision, reduced range of movement to eye, intermittent numbness to side of face. Problematic alcohol use. CCA: SJ failed to follow legislative process in considering whether ICO could apply. ICO would enable continuing therapy and employment - manage depressive, anger and anxiety symptoms which led to offending – remorse – good rehabilitation.
48.	**Aiga** (28) [2024] NSWCCA 175	s.35(2) s.61 assault	PG (25%)	Aggregate 4y 6m NPP 2y 6m	AD	Glass	Affray, destroy property, robbery in company, drive mid-range PCA, breach CCO, possess proh weapon. On conditional liberty.	**SNPP 4 years** "Glassed" female bar attendant / bartender - grabbed victim's head with one hand and intentionally smashed glass into face with other - caused significant wound to face, required surgery, permanent facial scarring - victim sought to stop offender from aggressively fighting with girlfriend, who was victim's work colleague. PTSD, childhood trauma, alcoholism, mental health. CCA: Errors as to findings of fact – on resentence, longer aggregate sentence reached – in those circumstances, appeal dismissed.

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49.	**Dent** [2025] NSWCCA 43	s.35(2)	PG (10%)	5y 4m NPP 4y	AD	Axe	Nil	**SNPP 4 years** At hardware store while affected by drugs, attacked random, unsuspecting member of public with an axe - approached victim from behind, swung axe at back of victim's head - victim fell, briefly lost consciousness, suffered permanent hearing loss in both ears – not entirely impulsive, involved measure of planning in view of behaviour immediately before attack in selecting a spanner, then crowbar, then axe. Remorse, prior good character, good prospects rehabilitation - childhood social disadvantage – *Bugmy*. CCA: Sentence not manifestly excessive.
50.	**Abdallah** [2025] NSWCCA 98	s.35(2)	PG (25%)	2y 3m NPP 1y 2m	AD	Fists and kick		**SNPP 4 years** At football match verbally abused victim linesman (a registered referee) - victim struck applicant on head with wrist brace end of linesman flag causing applicant to fall – after separation and some minutes, applicant returned considerable distance and attacked victim – victim swung at applicant – applicant hit victim causing him to fall, hit in head three times, punched multiple times and kicked to head once whilst on ground – victim suffered displaced fractures to jaw, surgery to insert three plates, lost four teeth. Provocation from victim towards lower end – applicant's reaction excessive - should not have been at game as suspended as spectator for previous conduct. CCA: Open to SJ that provocation by victim did not mitigate to any significant extent sentence or objective seriousness.

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51.	**Stobinski** [2025] NSWCCA 97	s.35(2) Assault Sched: Assault	PG (25%)	Indicative: 3y 4m 3m Aggregate 3y 4m NPP 2y	AA Indicative: 2y 6m 1y 6m 3m Aggregate 2y 6m NPP 1y 6m	Push and kick	AOABH, assault, stealing, minor assault, assault police, drugs, dishonesty.	**SNPP 4 years** Offender made racist comments to victim - victim approached whilst filming offender - offender shoved victim downstairs, kicked stomach – caused displaced fracture right hip and ankle fracture. Drug abuse - brain injury impairment – anxiety, depression, PTSD. CCA: SJ failed to engage legal principles after finding mental health issues and brain injury negatively impacted on decision making and contributed to offending. Moral culpability slightly reduced, based on brain injury and psychiatric condition of PTSD or depressive disorder - impulsivity and emotional regulation impacted by psychiatric and cognitive issues – special circumstances - lower mid-range.
52.	**Burnham** (28) [2025] NSWCCA 149	s.35(2)	PG (25%)	4y 5m NPP 2y 9m	AD	Punched, stomped on head	Possess drug, AOABH, supply commercial qty cannabis, deal proceeds crime, larceny, damage property, drive with illicit drug	**SNPP 4 years** Offender and victim "drug associates" – argument over money offender believed victim owed him – escalation in verbal confrontation instigated by victim - victim elbowed offender in mouth causing lip to split – offender acted initially in self-defence – punching each other – victim fell to ground, offender stomped on victim's head more than once - victim suffered traumatic brain injury and fractured ribs. Childhood deprivation – early cannabis use – mental health – remorse - rehabilitation prospects depend on ability to cease drug use - special circumstances. CCA: SJ did not err in not taking into account any provocation by victim where provocation not put at sentence below.

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53.	**Jones** (22) [2026] NSWCCA 36	s.35(2) s.166 Cert: s.195(1)(a) Destroy property	PG (25%)	Indicative 5y NPP 3y 3m Aggregate 5y NPP 3y	AD	Punched, kicked	Agg robbery, agg BES, assault police, breach ADVO, intimidation. On parole.	**SNPP 4 years** Assaulted 18y old female partner – after argument, followed victim along street, punched in face causing victim to fall, dragged victim by hooded top along ground to gutter, booted foot into jaw with force – victim ran, offender again followed, punched and kicked victim multiple times – victim's jaw broken in two places. No remorse – indigenous background - moral culpability reduced by deprived background. CCA: No error as to commencement date / backdating of sentence.

Last Updated: April 2026