

Influencing Witnesses and Jurors

s.323 (NSW) Crimes Act

Commenced 25.11.1990

s.323 Do any act—

- (a) intending to procure, persuade, induce or otherwise cause any person called or to be called as a witness in any judicial proceeding to give false evidence or withhold true evidence or to not attend as a witness or not produce any thing in evidence pursuant to a summons or subpoena, or
- (b) intending, other than by the production of evidence and argument in open court, to influence any person (whether or not a particular person) in the person's conduct as a juror in any judicial proceeding, whether he or she has been sworn as a juror or not,

Maximum Penalty: 7 years.

Maximum Penalty: 14 years (if offence committed intending to procure a conviction or acquittal of any person of a serious indictable offence: s.324)

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
1.	Biddle NSWCCA 6.3.1997	s.323(a) [7y]	PG	8m PD Re-sentenced on breach to FT 9m	AA MT 25w AT 11w	dishonesty	Female offender faced public mischief and driving offences - threatened witness not to give evidence or offender would bring charges against witness' friend and "make things happen." Very difficult background
2.	Waskin (2003) 141 A Crim R 1 [2003] NSWCCA 96	s.323(a) [7y]	VG	Fine \$2000	Crown AA 18m PD	nil	Pharmacist used employee to deliver large quantities of Sudafed — charged with drug offences – put pressure on employee to give misleading evidence to police – Crown did not rely upon greater penalty at trial
3.	Sultan [2005] NSWCCA 461	s.323(b) [7y]	VG	1y 10m NPP 12m	AA 12m NPP 6m		On bail during trial for specially aggravated BES offence – approached husband of jury member working in service station – 'Just ask your wife to listen to the evidence carefully' – no threat or request to do something improper – no evidence juror was influenced On appeal: manifestly excessive in view of nature of comment

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4.	Lenard	s.323(a) [7y] Demand money with menaces: s.99(1)	VG	1y 11m NPP 1y 5m 2y 9m NPP 1y 2m <u>Total:</u> 3y 2m NPP 1y 7m	Crown AA 3y NPP 18m 4y NPP 1y 7m <u>Total:</u> 4y 6m NPP 2y 1m		L's uncle stole goods from victim – both offenders subjected victim to extortion campaign demanding money in return for goods – further demanded victim change police statement in order to exculpate uncle
	Fail [2006] NSWCCA 345	s.323(a) [7y] Demand money with menaces: s.99(1)	VG	2y NPP 18m 3y NPP 1y 3m <u>Total:</u> 3y 6m NPP 1y 9m	3y NPP 18m 4y NPP 1y 9m <u>Total:</u> 4y 6m NPP 2y 3m		
5.	Warby (2007) 171 A Crim R 575 [2007] NSWCCA 173	s.323(a) [7y]	PG (10%)	2y NPP 18m	AA 1y 4m NPP 1y	Assault, sexual assault, driving – breached bond	Facing charges of larceny in Local Court – approached witness and said “just tell the cop I wasn't involved ...” SJ erroneously sentenced for aggravated offence under s.324
6.	Black (19) [2008] NSWCCA 337	s.323(a) [7y]	PG (20%)	5y NPP 3y	AA 3y NPP 18m	Mal wound; car theft	From gaol sent witness threatening letters Substance abuse – difficult background – youth.

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	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
7.	Burton [2008] NSWCCA 128	s.323(a) [7y] 3 x Common assault 2 x AOABH Detain with intent obtain advantage	PG (25%)	3y GBB FT 3m / 9m 2y GBB FT 6m / 18m 2y 6m NPP 18m <u>Total</u> 2y 9m NPP 1y 9m	Crown AA 3y NPP 2y FT 6m / 9m / 14m FT 9m / 18m 3y NPP 2y 6m <u>Total</u> 4y 6m NPP 3y	On parole.	Subjected partner to domestic violence – while in custody made number of persistent telephone calls to partner attempting to influence her to withdraw charges
8.	Asplund (62) [2014] NSWCCA 237	s.323(a) [14y] Possess child pornography	PG	4y NPP 1y 6m FT 9m <u>Total:</u> 4y 9m NPP 2y 3m	AD		Charged with offences relating to sexually explicit communication and grooming of 13y child – had 17y son write statement to police taking responsibility for communications – also had son obtain supporting statements from two friends – extended period of offending – found in possession of child pornography on computer

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9.	Chidiac (34) [2015] NSWCCA 241	s.323(a) [7y] Knowingly take part in manufact proh drug Knowingly take part in supply proh drug Poss unauth firearm s.166 Certificate: Poss ammunition Sched: Supply	PG (10%)	<u>Indicative:</u> 3y 6m 4y 6m 4y 3y 1m <u>Aggregate:</u> 7y 2m NPP 5y 5m	AD	Two minor possession offences	Allowed premises to be used for manufacture of methylamphetamine – pills found at premises constituted 175.57g methylamphetamine and 9.78g ecstasy – .22 calibre revolver found at premises s.323 offence: abusive texts to former wife asking her not to give evidence – breached bail – trial aborted – separate criminality – mid range Long term drug user On appeal: indicative and aggregate sentences not excessive
10.	Cross (32) [2016] NSWCCA 214	s.323(a) [14y]	PG (25%)	5y NPP 3y	AA 3y 6m NPP 2y	On bond.	On remand for AOABH and reckless wounding against female ex-partner – made numerous phone calls to persuade victim to give false evidence, withhold true evidence and not attend as prosecution witness Good rehabilitation. On appeal - manifestly excessive - phone calls not accompanied by threats of violence
11.	Evans (30) [2017] NSWCCA 281	s.323(a) [7y] Indecent assault: s.61L s.166 Certificate Assault Sched: 4 offences	PG (20%)	<u>Indicative:</u> 3y 2m 3y 9m <u>Aggregate:</u> 5y 6m NPP 3y 6m	AA <u>Indicative:</u> 1y 3y 8m <u>Aggregate:</u> 3y 6m NPP 2y	Record for assault offences – no gaol	Offences committed against female partner on separate occasions – physical assaults – indecently assaulted victim by vigorously touching and rubbing exposed vaginal area – spontaneous offence done in anger – mid-range - texted victim multiple times asking her to withdraw charges – repetitive and emotionally manipulative – breached bail conditions On appeal: sentence for s.323 offence manifestly excessive – no threats of violence – well below mid-range

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12.	Agnew (a pseudonym) [2018] NSWCCA 128	s.323(a) [7y]	PG (combined – 1/3 rd on appeal)	1y 9m NPP 1y	AA 1y 4m NPP 11m		Little factual information – offered victim a Mercedes car if he dropped charges against offender – repeated offer over phone – declined by victim Error made in relation to assessment of assistance
13.	Majzoub (31-33) [2019] NSWCCA 94	2 x s.323(a): [14y] s.323(a): [14y] Threaten witness: 322 [14y] Assault 2 x AOABH Possess offensive weapon: s.33B(1)(a) Agg detain for advantage: s.86(2)(b) Reckless wounding: s.35(4) Detain for advantage: s.86(1)(b)	PG (12%) PG (20%) PG (20%) PG (20%) VG VG VG VG	<u>Indicative:</u> 3y 6m 3y 2m 4y 6m 2w 2y 6m 4y 4y 3y NPP 2y 3m 3y <u>Aggregate:</u> 12y NPP 9y	AD	Extensive – breached conditional liberty	Pattern of serious domestic violence against female partner – violence included striking victim's head with baseball bat, punching victim causing nose fracture and stabbing in leg – detained victim in unit over several days Public justice offences: threatened family of victim – sought to persuade victim not to give evidence through sister and brother of offender Exposed to violence during childhood – moderate prospects of rehabilitation On appeal: suggested errors of accumulation and manifest excess rejected

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14.	AK (56) [2020] NSWCCA 194	2 x Detain for advantage: s.86(1)(b) s.323(a) [14y] Sexual assault: s.611 s.166 Certificate: 4 related offences Sched: s.111(1)	PG	<u>Indicative:</u> 6y / 5y 5y 5y NPP 3y 8m 10m / 12m <u>Aggregate:</u> 10y NPP 7y	AD	Domestic violence offences	Offences committed against female partner and in breach of AVO – approached home of victim and detained her and children in house over several hours – forced penile / vaginal intercourse knowing victim not consenting – asked victim not to give evidence in upcoming domestic violence matter making threats – s.323 offence mid-range Mental health issues would make custody harder
15.	Simpson (a pseudonym) (40) [2026] NSWCCA 6	Sp agg detain for advantage: s.86(3) s.323(a) [7y] s.166 Certificate recklessly damage property	VG	10y 3y <u>Total:</u> 11y NPP 6y	AD	Old robbery and GIC offences – driving offences	Detained female victim in shed for twenty hours – angered that victim had endangered offender's 6y daughter in car crash – threatened and physically assaulted victim causing injuries – relied upon assistance of father and partner – elements of cruelty, torture and humiliation – high objective gravity – deliberately damaged car of victim's partner – thirteen months later sought to dissuade co-offender not to plead and give Crown evidence – mid-range offence Female – difficult childhood and personal life – son with physical disabilities

Last updated: Feb 2026

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