Kidnapping

s.86(1) (NSW) *Crimes Act*

s 86(1) take or detain a person without their consent:

(a) with intent hold person for ransom

(a1) with the intention of committing a serious indictable offence, or (*subsection added 24.9.2012*)

(b) with intent of obtaining advantage

Maximum penalty: **14 years**

Commenced: **14.12.2001**

Originally numbered s.85A (14.12.2001-21.12.2001)

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
1.	**Lee** (31) [2003] NSWCCA 391	s.86(1)(b) Sched: s.33B s.114(1)(d) 3 x Assault	PG (25% on appeal)	6y 6m NPP 3y 6m	AA 5y NPP 2y 6m	Prior convictions – no custody	Entered school to steal money when teacher and students returned to classroom – hid in storeroom before emerging and locking teacher and students in room – pretended to have bomb – 3 children assaulted – threatened with knife – offence committed over 20 minutes Bizarre behaviour – insufficient weight given to mental illness
2.	**DRR** (23) [2004] NSWCCA 126	s.86(1)(b)	PG (20%)	4y 6m NPP 2y 3m	AD	Dishonesty, drugs, driving	Female victim provided offender with lift in return for assistance with loading car – behaviour became increasingly bizarre and threatening – took over driving – made threats to kill and rape – stopped car and forced victim to accompany him along street before being apprehended by police. Drug induced psychosis – remorse – dysfunctional family – sexually abused

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
3.	**Pearson** (25) [2004] NSWCCA 129 [2004] NSWCCA 151	s.85A(1)(b) s.85A(1)(b) s.85A(1)(b) Sched: 12 x s.85A(1) Possess knife at school	PG (22.5% on appeal)	8y NPP 5y 6m 6y NPP 4y 6y NPP 4y <u>Total</u> 8y 6m NPP 5y 6m	AA 5y NPP 3y 3y NPP 2y 3y NPP 2y <u>Total</u> 5y NPP 3y	Minor – breached bond	Entered classroom and detained teacher and children for one hour – can of petrol placed in middle of floor – children badly affected Upset over lack of access to daughter over Christmas – major depressive illness – possibly PTSD – suicidal – fresh evidence as to mental condition – stopped medication on medical advice
4.	**Falls** (33) [2004] NSWCCA 335	s.86(1)(b)	PG (20%)	8y NPP 6y	AA 6y NPP 4y 6m	Prior record includes aggravated sexual assault on 12y female victim returning home from school – breached parole	Followed 12y girl on way home from school – tried to force her into block of flats but she ran away – offender denied any sexual intent and said he only wanted to have conversation Had attended sex offender treatment in custody and on release – daily cannabis user - remorse
5.	**Chaplin** (2006) 160 A Crim R 85 [2006] NSWCCA 40	Attempt s.86(1)(b) s.61L	PG (25%)	6y NPP 4y 2y NPP 18m <u>Total</u>: 7y NPP 5y	AD	Breached parole for sexual offence	Followed 12y girl from school – placed cloth over month but desisted when she screamed – admitted he intended to touch breasts – followed 19y female on walking track touching her on stomach, head and vaginal area and kissing her on cheek – left when she screamed Intellectual impairment
6.	**RNM** [2006] NSWCCA 375	s.86(1)(b) s.59	VG at trial for s.86(2) PG	5y NPP 3y 9m (concurrent) 1y 4m NPP 12m	AD	Prior offences	Believed 16y male victim stole money from offender – approached victim at bustop and insisted he rob female taking money to bank – victim failed to carry out robbery – detained in car, driven to various places and verbally and physically abused in car – offences committed in company “Those sentences are, in my opinion, *<u>markedly lenient</u>* sentences”

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
7.	**Heine** [2008] NSWCCA 61	s.86(1)(b)	PG (15%)	4y NPP 2y	AD		Tied wife to bed with curtain tie – suspected wife was having an affair – threatened her with knife saying he would kill her. Mental disorder – depressive illness – alcohol dependence
8.	**Hussain** (32) [2010] NSWCCA 184	s.86(1)(b) Assault Assault Agg enter dwelling with intent to intimidate	PG (15%)	2y 2m NPP 10m FT 7d FT 1m 1y 4m NPP 8m Total: 2y 8m NPP 1y 4m	AD	Nil	During argument slapped wife across face – next day followed wife to house where she met lover – accompanied by wife's brother and his wife – broke into house through flyscreen on window – entered house with stick and struck male victim on torso – intention to intimidate – dragged wife to car and drove towards home – wife escaped at tollgate – impulsive offence Since reconciled – four children – sole income earner (co-offender sentenced for aggravated enter dwelling only)
9.	**Bott** (42) [2012] NSWCCA 191	s.86(1)(b) Sched: Intimidation	PG (25%)	2y 6m NPP 1y	AD	AOABH, conspiracy import proh import, stalk/intimidate,	Standover merchant – acting for principals who were trying to get money back for failed business venture – offender present at meeting to persuade victim, by intimidation, to co-operate - acted as enforcer, who was prepared to intimidate, use violence and kidnap - detained victim for short time – victim's arm twisted and placed in fear - car alarm activated stopping offence Supportive family – strong work history.
10.	**Belghar** (37) [2013] NSWCCA 245	s.86(1)(b) Assault	PG (10%)	4y 6m NPP 2y 6m FT 3m (concurrent)	AD		Approached sister-in-law in car park of shopping centre – slapped her on face – held her over four storey drop – intended to instil fear of death – seeking psychological advantage of asserting authority – angry about relationship with wife – impulsive act but made threat two months earlier – offence committed in presence of young nieces Underlying metal condition - delay

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
11.	**Agius** (42) [2014] NSWCCA 173	s.86(1)(b) AOABH AOABH Sched: 4 offences	PG (25%)	Indicative: 4y 3y 2y 3m Aggregate: 6y NPP 4y 6m	AD		Domestic violence – prolonged and degrading abuse over many months – on one occasion chained complainant to bed all night to prevent her leaving – threats to kills Drug addiction
12.	**Masters** [2019] NSWCCA 233	s.86(1)(b) Att s.195(1)(b) Sched 3 related offences	PG (25%)	Aggregate: 5y NPP 2y 6m	AA Indicative: 3y 18m Aggregate: 4y NPP 2y	minor	Insisted taxi driver continue driving long distance from Taree to Bulahdelah – made threats – insisted driver increase speed until travelling up to 200 kph – victim pulled into service station and escaped from vehicle after struggle – after causing significant damage to taxi offender walked across to second, closed service station and attempted to set fire to fuel in pumps – sustained effort using all seventeen pumps and branches from nearby park – no motive Suffering mental condition and recent change to medication impacted behaviour – true remorse – good character reports On appeal – failure to properly take into account mental illness and prospects of rehabilitation
13.	**AK** (56) [2020] NSWCCA 194	s.86(1)(b) s.86(1)(b) Agg threaten witness s.61I – sexual assault s.166 Certificate: 4 related offences Sched: s.111(1)	PG (during trial)	Indicative: 6y 5y 5y 3y 8m 10-12m Aggregate: 10y NPP 7y	AD	Offences of violence against victim – breached AVO	Male entered house of wife in breach of AVO – grabbed head and hair of wife and 15y step-daughter to prevent them leaving – detained both victims in dining room over several hours for 'psychological gratification' – discussed upcoming court appearance on charges against wife who agreed to change testimony – sexually assaulted wife in bedroom forcing intercourse – made continued threats – offences committed in presence of children, in home of victims and using actual and threatened violence - detainment and witness offence mid-range – sexual offence slightly above mid-range Suffering serious mental health issues On appeal: no error in finding mental health issues justified only slight reduction in culpability – no error in relation to special circumstances

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
14.	**Irwin** [2021] NSWCCA 172	s.86(1)(a1) s.66DA(a) Fail to comply with reporting cond Fail to comply with reporting cond	PG (25%)	Indicative: 7y 6m 3y 9m NPP 2y 9m 2y 3m 6m Aggregate: 10y NPP 7y 6m	AD	Breached reporting conditions after conviction for use of carriage service to access child pornography	Staying at partner's unoccupied premises, failing to report both address and contact with child under child offender registration – spoke to 7y child playing in street – walked victim inside house and locked door - removed victim's shorts removed own pants and held victim – released victim when grandmother and neighbours banged on door Intellectual disability – prospects of rehabilitation extremely guarded
15.	**Tuhi** (34) [2025] NSWCCA 115	s.86(1) s.61 s.61 s.61 s.166 certificate Intimidate Damage property	PG (10%)	Indicative: 4y 15m 21m 18m Aggregate 5y NPP 3y 12m 9m (concurrent)	AD	Breach ADVO, driving offences.	Prevented female partner from leaving offender's bedroom during argument – angry victim had spoken to male friends at hotel – blocked exit, pushed on to bed number of times with increasing level of ferocity - enraged and intoxicated - verbal abuse, intimidation and physical violence over a period of time, although unable to determine for how long detention occurred - sought psychological advantage – domestic violence - allowed victim to leave. Depressive disorder - alcohol use disorder – reasonable rehabilitation. CCA: Sentence not manifestly excessive.

Last updated: August 2025