

Dangerous Driving Causing GBH

s.52A(3) (NSW) Crimes Act

s.52A (3) ... vehicle driven by offender is involved in impact occasioning GBH of another person and driver was, at time of impact, driving vehicle:

- (a) under the influence of intoxicating liquor or of a drug, or
- (b) at a speed dangerous to another person or persons, or
- (c) in a manner dangerous to another person or persons.

Maximum penalty: 7 years

Commenced: 23.12.1994

CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
Smith NSWCCA 4.3.1998	2 x s.52A(3) Sched: 2 x s.52A(3)	PG	MT 2y 3m AT 9m	AD	Early juvenile record but since 'turned life around'	Overtook car across unbroken line on crest - collided with on-coming car - in country on dark, rainy, wet, very windy night - no alcohol/ drugs or excessive speed. Aboriginal with good character
Pine (49) NSWCCA 4.3.1998	3 x s.52A(3) Sched: Drive unlicensed	PG	MT 2y AT 18m	AD	PCA – assault - 6 x drive while disq	Argument with wife in car - veered to left, mounted kerb and struck a tree - alcohol reading: 0.149. Serious medical problems with life expectancy 5-7 years - alcohol problems.

Cases post- Jurisic 12.10.98 (Guideline Judgment)

CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
Jurisic (1998) 101 A Crim R 529	3 x s.52A(3)	PG	Home Det 18m 2y GBB	Crown AA MT 1y AT 1y (Backdated to commence date of original sentence)	Four driving related offences; many traffic offences	Driving along Warringah Freeway mid-afternoon - mounted kerb and hit wall - crossed back across six lanes, crossed median strip, entered oncoming traffic and hit V's car - father and two children injured - 0.05mg of cocaine in blood. Married, expecting child at time of offence.

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Pyritz (52) NSW CCA 23.11.1998	s.52A(3)	VG	2y PD Disq 12m	AA Fine \$1000 Exceptional circumstances.	Nil - minor traffic in long history of driving.	Female drove through intersection colliding with car - passenger injured - "Momentarily preoccupied", "careless as distinct from deliberate," "slightly more serious than momentary inattention" - intersection very dangerous - view obstructed - lower end of scale of seriousness Excellent character Fresh evidence on appeal - hormonal imbalance.
Austin (31) [1999] NSWCCA 101	4 x s.52A(3)	PG	MT 3y AT 1y (concurrent)	AD	Bad driving record including speeding, dangerous and negligent driving, unlicensed	Crossed double yellow lines at high speed on left-hand bend to overtake vehicle - lost control colliding with oncoming vehicle - injured driver and two passengers in other vehicle as well as own passenger.
Scott (26) [1999] NSWCCA 233	s.52A(3)	PG	MT 2y AT 2y	AD	negligent driving / fail to stop / exceed speed	Intoxicated (alcohol 0.160) - drove at high speed weaving through traffic and tailgating - clipped back of another car which veered onto wrong side of the road colliding with oncoming vehicle - "Not far removed from worst case."
Gleeson (25) [2000] NSWCCA 101	2 x s.52A(3)	PG	MT 18m AT 6m	AD	2 x low PCA	Lost control of car and drove into on-coming vehicle - excessive speed, intoxication and poor condition of tyres - intoxication just under s.52A(4) level – victim suffered serious orthopaedic injuries and head injuries.
Ardron (21) [2000] NSWCCA 412	s.52A(3) Sched: Unlic driving Self admin marijuana	PG	MT 1y 4m AT 1y 4m	AD	nil	Female - Driving fast and intoxicated lost control around a bend and injured passenger in back seat. Contrition - prior good character - efforts at rehabilitation.
Beckett (18) [2000] NSWCCA 424	s.52A(3)(c)	PG	2y NPP 12m	AD	Licence suspended due to poor driving subsequent to accident	Struck 4y child causing brain damage and quadriplegia - combination of factors constituted dangerous driving over crest in road, momentarily blocking view of road ahead - went beyond momentary or casual lapse of attention. Good character - catastrophic effect of accident on offender
Vitasovic (27) [2000] NSWCCA 323	s.52A(3)	PG	MT 22.5m AT 7.5m	AA error in characterising offence as "sustained course of dangerous driving" 2y NPP 12m	nil - speeding offences	Collided with car at intersection after applying brakes and skidding for 33 metres - child in other car suffered brain damage as result of collision - speeding (90kph in 60kph zone) Strong subjective case - genuine remorse - psychological problems making him vulnerable in gaol.

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Romanic (50) [2000] NSWCCA 524	s.52A(3)	PG	22m NPP 18m PD	Crown AA 12m NPP 9m	nil - six traffic infringements	Intoxicated and collided with car on opposite side of road injuring driver and passenger. Good subjective features;
Kilborn (28) [2001] NSWCCA 116	s.52A(3)(a)	PG	3y NPP 2y	AA 2y 6m NPP 15m	driving record not good but not so bad as to preclude leniency	Intoxicated struck taxi driver standing next to taxi on road - car out of control and struck two other cars injuring drivers - first victim suffered permanent brain damage - abandonment of responsibility - not gross but appreciable. Difficult childhood - high degree of remorse - concern for safety in custody - importance of rehabilitation - fragile psychological state.
Park [2001] NSWCCA 313	2 x s.52A(3)	PG	2y NPP 1y (concurrent)	AD	nil	Alcohol range 0.148-0.170 - collided with another car then tree - two passengers in appellant's car injured.
Kaddour [2002] NSWCCA 112	s.52A(3)	VG	6y NPP 4y 6m	AA 4y NPP 3y 3m	bad traffic record - repeated speeding offences - unlicensed	Driving in Lamborghini - crossed median strip and collided with on-coming traffic - speeding - no alcohol or drugs
Cook (21) [2002] NSWCCA 140	s.52A(3)	PG (17%)	22m NPP 12m	AD	nil	Collided with rear of another vehicle, resulting in severe injuries (brain damage and permanent disability) to other driver - excessive speed - left scene of accident but surrendered to police next day Remorse - good work history - settled family life.
Burke (19) [2002] NSWCCA 456	s.52A(3)	PG (17%)	18m NPP 13m 2w	AD	no criminal or traffic record	Learner driver in car without licensed driver - intoxicated and speeding - Lost control of car - Wet road - Passenger badly injured - Serious culpability Remorse and contrition - Evidence of prior good character
Shannon (47) [2003] NSWCCA 106	2 x s.52A(3) Sched: Drive under influ of drug Drive while disqualified	PG	18m NPP 9m (concurrent)	Crown AD	minor traffic record	Female - Veered to incorrect side of road and injured oncoming driver - 9 months later committed identical offence - on both occasions under influence of morphine and diazepam - On second occasion drove while licence suspended Exceptional circumstances - physical and mental problems - Major depressive disorder - Prescribed medication
Collins (29) [2003] NSWCCA 244	s.52A(3)(c) Sched: Fail to stop Drive disqual	PG (20% on appeal)	4y 6m NPP 3y 4.5m	AA 3y 3m NPP 2y 3m	Appalling	Became involved in altercation with persons at party next door – Drove off in car and collided with water main – Turned around and drove at group – Collided with male breaking leg – “rage” incident Protection

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Royal [2003] NSWCCA 275	s.52A(3)(c)	PG (20%)	16m NPP 4m	Crown AD (discretion)	No prior criminal convictions – minor speeding matter	Female - Took high dose of amphetamines prior to driving – Micro sleep – Collided with on-coming vehicle – Total abandonment of responsibility Severe mental and personality problems although limited relationship to offending
Clark [2003] NSWCCA 288	s.52A(3)(c)	PG	2y PD	AA 18m, suspended	Minor traffic	Drove over pedestrian at street corner – Accelerated from stop – Failed to ensure pedestrian away from car – Momentary judgment Carer of adult disabled child and wife – Exceptional community service – Exceptional impact on family
Brandt [2004] NSWCCA 3	s.52A(3)	PG (15%)	3y 6m NPP 2y	AD	No criminal record – unlicensed driver	Ran over pedestrian at crossing – Drove through red light – Raining with poor visibility – did not stop and made false report – permanent and serious injuries Difficult family life – family trauma at time of offence
Campton (31) [2004] NSWCCA 56	s.52A(3)	PG (25%)	2y 6m NPP 1y 6m PD	Crown AD (sentence inadequate but dismissed under exercise of discretion)	Poor driving record – includes criminal record for PCA	Drove through red light and collided with car – Driver injured – Intoxicated – Fled scene and lied about driving – Unlicensed – Car unregistered and uninsured Evidence of rehabilitation – Delay in bringing appeal
Whelan [2004] NSWCCA 379	s.52A(3)	PG	2y, suspended	Crown AD AA 2y NPP 12m Suspended	Poor driving record	Riding motor bike collided with turning traffic – Pillion passenger injured – Unable to avoid collision – Very low culpability – Intoxication Unlicensed, uninsured and unregistered – Remorse – Good character
Nilsson (29) [2005] NSWCCA 34	2 x s.52A(3)	PG (25%)	5y NPP 3y 9m	AA 4y 9m NPP 3y 9m	Dishonesty and driving offences – breached bail and bond	Failed to negotiate bend on busy road – crossed median strip and collided with oncoming traffic – injured driver and own passenger – under influence of drug – rohypnol and cannabis - unlicensed
Hicks (33) [2005] NSWCCA 90	2 x s.52A(3)(c) Sched Drive disq PCA	PG	16m NPP 12m	AD	Some prior driving offences	Driving over 100km speed limit, car left road and collided with road signs before rolling onto side – 2 passengers injured and in critical condition – BAC 0.064 – no recollection of event Alcohol and drugs – mental health problems – psychotic delusions – good prospects of rehabilitation
Dutton (28) [2005] NSWCCA 248	s.52A(3)(a)	PG	2y NPP 18m Suspended	Crown AA 2y NPP 15m (PD)	Minor	Female drove intoxicated – sideswiped parked motor vehicle and passenger lost hand

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Taylor [2006] NSWCCA 7	s.52A(3)	PG (20%)	2y NPP 12m	AD		Driver of wagon with trailer hit rear of car – car forced into pole causing serious injuries to driver - emotional turmoil, sleep deprivation, one beer, marijuana Deep remorse
Ford (20) [2006] NSWCCA 9	2 x s.52A(3)	PG	3y NPP 2y 3m	AA (only to restructure sentence – same effective sentence imposed)	Extensive record – breached bail and periodic detention – Poor traffic record	Speeding – Overtaken vehicles on crest across unbroken lines – collided oncoming vehicle – injured passenger and driver – angry at being overtaken by vehicles
Woodland (22) [2007] NSWCCA 29	s.52A(3)(c) Drive intox Drive unreg Drive unlic	PG (25%)	18m NPP 9m PD (\$600 fine)	Crown AD (exercise of discretion of court to dismiss appeal)	Nil – breached bail	After drinking at party borrowed car without asking to return to party – lost control and collided with tree – passenger injured De facto partner with child – prospects of rehabilitation
Money (57) [2007] NSWCCA 317	s.52A(3)	PG (15%)	4y 3m NPP 2y 9m	AD	Nil - number of traffic matters.	Whilst under influence of drugs drove erratically on Pacific Highway – missed a number of vehicles over 50km distance – drove on to wrong side of road causing collision - gross abandonment of responsibility – high level moral culpability.
Rosenthal [2008] NSWCCA 149	s.52A(3) Drive disqual	VG	3y 6m NPP 2y 6m FT 3m (concurrent)	AA 3y NPP 1y 9m	On bail - disqualified driver – speeding – traffic - dishonesty.	Under influence of ecstasy - left road colliding with safety barriers – caused injuries to pregnant girlfriend travelling as passenger – unborn child did not survive – offender also seriously injured - used ecstasy to control Tourette's disorder – offence less serious than if drug consumed solely for pleasure. Error in taking into account disqualified driver and on bail on question of “abandonment of responsibility.” Continued support from victim / partner.
Read (20) [2010] NSWCCA 78	2 x s.52A(3)	PG (25%)	2y NPP 12m Periodic Detention	Crown AA 18m NPP 14m	Nil - poor traffic record.	‘Burnouts’ in cul de sac outside party – hit two victims sitting by side of road. Intoxicated – student.
AB (44) [2011] NSWCCA 229	3 x s.52A(3) Take conveyance w/o consent	PG (25%)	Total: 3y 7m NPP 2y 1m	Crown AA Total: 6y 7m NPP 4y 9m	Drive manner dangerous - drive unlicensed - fail to stop	Three victims were passengers in offender's vehicle – drinking – Speeding on main road – Lost control, crossed to other side of road and collided into tree - never held driver's licence - disqualified driver at time of collision - high level of moral culpability -.15y victim rendered C2 tetraplegic – offender's 18y son lost arm and 15y son suffered multiple fractures.

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Stanyard (24) [2013] NSWCCA 134	2 x s.52A(3)	VG	5y 6m NPP 3y 6m	AD	Traffic infringements	4WD rolled after becoming airborne while driving over sand dune – two female passengers seriously injured – one passenger a tetraplegic – driving an approved activity – excessive speed – showing off – ignored warnings
Greaves (21) [2014] NSWCCA 194	s 52A(3) s 166: 4 offences	PG	19m 17d ICO	Crown AA (only to increase disqualification period)	High range PCA, drive whilst suspended	Intoxicated – drove vehicle at excessive speed whilst carrying number of passengers – collided with oncoming vehicle – passenger thrown from vehicle – paraplegic. Low IQ - personality defects and substance abuse problems - no evidence acted without appreciation of seriousness and wrongness of actions. Mental issues – high moral culpability
Primmer (19) [2015] NSWCCA 155	s.52A(3)(c)	PG (25%)	3y 6m NPP 2y 6m	AA 3y NPP 1y 7m	Driving offences	Drove car at excessive speed in residential area – lost control and collided with power pole – female passenger critically injured including irreversible brain damage – never held licence – some impairment due to drugs – car unregistered and uninsured – moral culpability high Remorse – low intelligence
Kerr [2016] NSWCCA 218	4 x s.52A(3) 3 x s.53 (injures by furious driving)	PG (25%)	Aggregate: 2y 3m NPP 18m	AD	Affray - agg robbery - drive whilst disq - mid-range PCA	Ran into back of group of seven cyclists - cyclists visible for distance of approximately 300m - did not slow down or take any action to avoid collision - driving at approximately 70km/h - inattentive for at least 17 seconds - Moral culpability above the lowest end.
Silvestri (41) [2016] NSWCCA 245	3 x s.52A(3)	PG (25%)	8y NPP 6y	AA 7y NPP 5y	Minor	Overtook car on bridge and collided with oncoming car – driver and passengers in other car injured – pregnant passenger lost baby and unable to have future children – under influence of methamphetamines Genuine remorse – good prospects of rehabilitation
Mansweto (41) [2018] NSWCCA 232	s.52A(3) s.52A(3) Sched: 2 offences	PG (10%)	3y 6m 2y <u>Agg:</u> 4y 6m NPP 2y 9m	AA 1y 10m 1y 5m <u>Agg:</u> 2y 4m NPP 1y 4m		Failure to secure steering wheel - a matter of omission and forgetfulness - crashed into a house after brakes failed and steering wheel detached from column – two female occupants of house injured – one victim lost her pregnancy - careless mechanical error by offender who was a mechanic - relatively low degree of moral culpability - oversight far lower in moral culpability than other continuing reckless conduct e.g. speed, overtaking unsafely, changing lanes aggressively overtired, affected by drugs or alcohol Good character – remorse – brain tumour operation making employment difficult

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Pullen (23) [2018] NSWCCA 264	s.52A(3) Fail to stop	PG (25%)	15m ICO	Crown AA 3y ICO (conditions include 650h CSO)	limited	Under influence of cannabis and alcohol drove friend short distance to get wallet – asked by friend to slow down - lost control during road works section and collided with parked truck – friend jumped to driver's side but leg trapped and injured – risk to road workers – speeding – P-plate driver – tried to run off twice Genuine remorse – difficult childhood turning to drugs and alcohol after death of father – excellent prospects of rehabilitation – already completed 50h community service
Thornton (23) [2020] NSWCCA 257	s.52A(3) s.52A(3)	PG (25%)	2y 1m 2y 7m <u>Agg:</u> 3y 8m NPP 2y	AD	Driving record	Collided with parked police car setting up for RBT in left hand lane – two police officers standing at boot injured – one officer had leg amputated – inattention due to texting – irresponsible abdication of responsibility for extended period Prior good character – remorse, guilt and shame – PTSD would make custody more onerous – good prospects of rehabilitation and low likelihood of re-offending On appeal: sentence not manifestly excessive
Ellis (57) [2020] NSWCCA 303	s.52A(3) s.53 Cause bodily harm through misconduct while in charge of vehicle [2y]	PG (25%)	<u>Indicative</u> 2y 6m 9m <u>Aggregate</u> 3y NPP 18m	AD	Appalling driving record	Truck driver collided into back of stationary vehicle waiting to turn into driveway – forced car into path of oncoming vehicle – failure to keep proper lookout – some brake defects although accident would still have happened – driving above speed limit – travelling too close to vehicle – two victims injured - lower end of mid-range Genuine remorse – accepted responsibility

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