

Robbery in Company with Wounding or GBH

s.98 (NSW) Crimes Act

s 98 Being armed with an offensive weapon, or instrument, or being in company with another person, robs, or assaults with intent to rob, any person, and immediately before, or at the time of, or immediately after, such robbery, or assault, wounds, or inflicts grievous bodily harm

Maximum Penalty: 25 years

Standard Non-Parole Period: 7 years (offences committed on or after 1.2.2003)

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	Pham (21) [1999] NSWCCA 362	s.98 Rob in Co with wounding s.97 - Rob in Co	PG	MT 4y 6m AT 18m MT 4y 6m AT 18m (concurrent)	AA MT 3y 9m AT 2y 3m MT 3y 9m AT 3y 9m (concurrent)	assault, SMV	Group of offenders set up meeting with victim - ambushed victim in car and took him to park - assaulted and robbed (s.98) - took victim to mother-in-law's house - tied up and robbed occupant (s.97)
2.	Stuart (30) [2001] NSWCCA 145	s.98 Rob in Co with GBH	PG	MT 3y 6m AT 2y 6m	AD	lengthy	Driver of getaway car - robbery of Chinese restaurant – victim's cheek fractured by butt of shotgun Induced by father to be involved
3.	Wate (19) [2001] NSWCCA 474	s.98 Rob in Co with wounding Sched: 8 x offences	PG	8y NPP 4y	AA Only to backdate sentence to take into account PSC.	priors	Robbed taxi driver with 2 co-offenders - co-offender threatened to kill driver and stabbed him several times - offender had arm around victim's neck
4.	Weldon (24) (2002) 136 A Crim R 55 [2002] NSWCCA 475	s.98 Rob in Co with GBH Mal wound	PG (20%)	6y NPP 3y FT 2y 6m (concurrent)	Crown AA 6y 9m NPP 4y 6m FT 2y 6m Total: 7y 9m NPP 5y 6m	lengthy record – breached recog	With co-offender forced entry into house of two brothers intending to steal cannabis – sustained assault on both victims using tomahawk, timber and rock – struggle continued outside then back in house – one victim sustained permanent damage to eyesight – deliberate and planned attack – co-offender leader and more culpable Aboriginal with unstable and violent upbringing Co-offender sentenced for s.98 armed robbery with wounding

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5.	Donovan (20) [2003] NSWCCA 324	s.98 Rob in Co with GBH s.98 Rob in Co with wounding Escape 2 x s.154A	VG VG PG PG	3y 6m NPP 2y 3y NPP 3y FT 1y FT 18m <u>Total:</u> 4y 6m NPP 3y	Crown AD	reasonably long – some violence	One of four offenders who escaped from Grafton Gaol – assaulted 19y male and his 47y mother intending to take their car – serious and sustained assault – both kicked and punched - offender least culpable and not physically involved in assault – escaped in car Mother died two weeks prior to escape – had been drinking and smoking cannabis prior to escape - Aboriginal
6.	El Andouri (19) [2004] NSWCCA 78 Co-offender FIDOW	Att AR Affray SMV s.98 Rob in Co with GBH	PG (20%)	5y NPP 2y 6m FT 2y 5y NPP 3y 16y NPP 9y <u>Total:</u> 18y 6m NPP 13y 6m	AA 5y NPP 2y 6m FT 2y 4y NPP 2y 3m 16y NPP 9y <u>Total:</u> 18y 6m NPP 11y 6m	minor – but breached bail when committing second offences	Attempted to rob hotel using replica pistol – one staff member assaulted and two tied up with bar towels – left without money when police called hotel – 8 months later stole motor vehicle with co-offenders – followed proprietor of service station taking money to bank – deliberately rammed back of victim's car then sustained assault causing serious and permanent brain damage – principal assailant Drug user Appeal in relation to SMV offence only – sentence reduced and commencement date changed to reduce accumulation of NPP
7.	Fidow [2004] NSWCCA 172 Co-Offender: EL ANDOURI	s.98 Rob in Co with GBH Sched: 7 dishonesty off	PG	11y NPP 8y	AD		Involved in carefully planned robbery of service station owner – victim's car deliberately rammed while transporting takings to bank – victim violently assaulted resulting in severe and permanent brain damage - top of range criminality – not primary offender

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8.	Makisi (25) (2004) 151 A Crim R 245 [2004] NSWCCA 333	Att s.98 Rob in Co with wounding 2 x s.95	VG	5y NPP 3y FT 4y <u>Total:</u> 6y NPP 4y	AD	minor	Part of group of about seven intoxicated males who chased three victims through a park – all three victims assaulted – two victims robbed Appeal based on parity only
9.	Nightingale (26) [2005] NSWCCA 147	s.98 Rob in Co with wounding s.97(1) Rob in Co AOABH	PG (20%)	6y 15w NPP 4y 37w FT 18m FT 18m <u>Total:</u> 8y 15w NPP 6y 37w	AA 6y 3d NPP 4y 22w 3d FT 18m FT 18m <u>Total:</u> 8y 1d NPP 6y 22w 1d	Lengthy – breached parole for robbery offence when committing assault offence	One of four offenders in taxi – all alighted from taxi and stood near driver front door when driver assaulted to head with instrument – joint criminal enterprise – four months later robbed two brothels on one day in company of co-offender - female at first brothel suffered small cut to head by offender using scissor-like implement – at second brothel held glass implement to throat of female and threatened to slash throat Long history of substance abuse
10.	LLM (17) [2005] NSWCCA 302	Att s.98 Rob in Co with wounding s.86(3)	PG (25%)	8y 4m NPP 5y 7y 6m NPP 5y (concurrent)	AA 6y 8m NPP 5y 6y 8m NPP 5y (concurrent)	lengthy record – breached control order for robbery offences	Co-offenders approached 17y male and mother in street armed with metal pole and broken bottle – demands made and mother's bag grabbed – offender alighted from car and punched male in face – victim also struck by metal pole – ten days later three offenders approached male standing next to car – threatened with knife and metal pole – forced into car and driven to ATM – offender followed in second car – money demanded and further threats made – victim assaulted when tried to escape Chaotic and violent childhood
11.	Can (40) [2007] NSWCCA 176	s.98 Rob in Co with wounding	VG	8y 6m NPP 5y 6m	AD	AR	With co-offender robbed diamond trader – million dollars worth of diamonds stolen – victim tied up, assaulted and threatened – principal offender
12.	PMW (16) [2009] NSWCCA 34	s.98 Rob in Co with wounding	PG	7y NPP 3y 6m	AA 5y 6m NPP 2y 9m	Priors	SNPP 7 years Robbed pizza delivery man with co-offender – struck victim with metal pole – co-offender stabbed victim in leg – stole mobile phone from car – upper level of seriousness Aboriginal – full admissions – mental health problems – parity

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13.	SS (15) JC (17) [2009] NSWCCA 114	s.98 Rob in Co with wounding s.98 Rob in Co with wounding 2 x s.97(1) Rob in Co s.97(1) AR Sched: 6 offences - 3 Rob in Co 2 x s.98 Rob in Co with wounding Sched: 4 rob in company offences	PG (25%) PG (50% plea and assist)	6y NPP 4y 6y 4d NPP 4y FT 3y FT 3y FT 3y <u>Total:</u> 7y NPP 4y 11m 27d 4y NPP 2y <u>Total</u> 4y 3m NPP 2y 3m	AA 6y NPP 3y 8m 6y NPP 3y 8m FT 3y FT 3y <u>Total:</u> 7y NPP 4y 8m AD	Breached bond for malicious damage nil	SNPP 7 years Both offenders involved in gang – became involved in robberies after threats – robbery of service stations and liquor stores in company with others – shop assistants assaulted – s.98(1) offences involved robbery of service stations armed with crowbar and baseball bat – two shop assistants assaulted with weapons and seriously injured SS – disrupted childhood – poor schooling record – early alcohol and drug abuse – good progress towards rehabilitation <u>JC</u> – assistance to authorities – physically abused as a child – early drug and alcohol abuse – remorse – good prospects of rehabilitation
14.	TJ (13) [2009] NSWCCA 99	s.98 Rob in Co with GBH	PG (20%)	21m NPP 6m	AD	Minor	SNPP 7 years Female – three offenders robbed 19y female at train station – punched, dragged and kicked victim to head – broken jaw – impulsive offence Intoxicated – difficult childhood after death of mother – evidence of rehabilitation
15.	MJ (17) CPD (17) [2010] NSWCCA 52	s.98 Rob in Co with GBH s.98 Rob in Co with GBH	PG (25%) PG (25%)	3y NPP 2y 3y NPP 2y	AD AD	Nil Driving offences	Three offender assaulted 25y old male waiting for taxi – punched, kicked and struck with hammer - victim suffered two jaw fractures – number of blows to body - mobile phone and keys stolen Intoxicated – early drug abuse

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16.	HMP (16) [2010] NSWCCA 63	s.98 Rob in Co with wounding s.97 Rob in Co Sched: 2 x robbery offences	PG (25%)	4y 6m NPP 2y 6m FT 2y (concurrent)	AD	Record – breached bail	SNPP 7 years Female involved in robbery or attempted robbery of four pedestrians with other offenders – did not assault any victim herself – last victim received serious injuries including broken wrist Neglected childhood – long history of drug abuse
17.	AE (15) [2010] NSWCCA 203	s.98 Rob in Co with wounding	PG	5y NPP 3y	AA 5y NPP 2y 6m		With group attacked and robbed male victim – offender stabbed victim causing wounds to legs. SJ erred in taking into account SNPP as guidepost when SNPP did not apply – sentence excessive given offender's youth - special circumstances – first time custody – need for lengthy supervision
18.	Mi Mankaryous (20) Me Mankaryous (26) [2011] NSWCCA 158	s.98 Rob in Co with wounding s.97(2) s.98 Rob in Co with wounding s.97(2)	PG PG (10%)	4y NPP 2y 5m 4y NPP 2y 5m (concurrent) 4y NPP 1y 5m 4y NPP 1y 5m (concurrent)	Crown AA 6y NPP 2y 5m 6y NPP 2y 5m (concurrent) 5y NPP 1y 5m 5y NPP 1y 5m (concurrent)	Record including assault – breached bond – prison offences Common assault	SNPP 7 years Brothers forced entry into victim's unit – male victim threatened with imitation pistol – female victim punched to face by first offender and kicked in head by second offender – offenders took clothes belonging to sister-in-law and additional property – made threats – degree of planning – close to mid-range of seriousness Evidence of rehabilitation – imminent release to parole
19.	KG (17) [2012] NSWCCA 10	Att s.98 Rob in Co with wounding	PG (25%)	3y 4m 15d NPP 2y 9d	AA 2y 6m NPP 18m		Four people involved in plan to rob drug dealer – offender and one other entered house – offender armed with hunting knife – co-offender armed with loaded gun – three shots fired – occupant received flesh wound Young and easily led by other co-offenders

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20.	Isaako (19) [2012] NSWCCA 115	s.98 Rob in Co with GBH s.95	PG (25%)	15y NPP 10y 11y NPP 6y <u>Total:</u> 19y NPP 14y	AA 15y NPP 10y 8y NPP 4y <u>Total:</u> 16y NPP 12y	nil	SNPP 7 years With co-offender attacked male walking home in early hours of morning – struck victim to head numerous times and stabbed in head – left in critical condition – serious and permanent injuries – 11 days later robbed male walking to train station – punched victim until unconscious Low intellectual functioning
21.	Ith (25) [2013] NSWCCA 280	s.98 Rob in Co with GBH Possess knife	VG	9y NPP 6y FT 6m (concurrent)	AD	Breached parole for armed robbery offences	SNPP 7 years Followed male victim from hotel onto street – robbed victim in company using knife – assaulted by offender – injury to eye – robbed of poker machine winnings and other money
22.	Brown [2013] NSWCCA 309	s.98 Rob in Co with GBH	PG	7y NPP 4y 6m	AD		SNPP 7 years With co-offender attacked victim- plan to rob someone to get money to buy drugs – took wallet and cards – obtained PIN and attempted to obtain cash – kicked and punched victim and made threats – victim suffered various injuries – significantly above mid-range objective seriousness.

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