

Manslaughter

Accessory After the Fact

Maximum Penalty: 5 years

s.18 (NSW) Crimes Act – offence of manslaughter

s.350 (NSW) Crimes Act – punishment for accessory after the fact to serious indictable offence

| | Case (age if known) | Offence | Plea | Sentence | Appeal | Record | Facts |
|----|--|--|------|----------|-----------------------|---|--|
| 1. | Huntington (16) [1999] NSWSC 1314 Hidden J | Accessory after the fact to manslaughter | PG | 2y GBB | | Drugs, dishonesty and firearms offences | (1992) Called to home of victim by principal offender S – observed body of V on garage floor and assisted in burying body – S older, made some threats and paid small amounts of money to offender – dealt with for unlawful disposal of body and placed on probation – did not reveal involvement of S until 1997 Difficult family circumstances at time of offence – completely rehabilitated |
| 2. | Strahan (25) [2003] NSWCCA 397 | Accessory after the fact to manslaughter | PG | 3y PD | AA 3y NPP 2y 3m | | Drove principal offender R to V for purpose of giving V a beating – V died when R punched and kicked him to head – offender assisted to wrap and dispose of body and burn lounge and clothes with V's blood – offence undetected for 6 months Remorse – evidence of rehabilitation |
| 3. | Sharp (23) (2004) 142 A Crim R 140 [2004] NSWSC 111 Howie J | Accessory after the fact to manslaughter | VG | 2y PD | | Nil | Female - V killed by offender's partner, W, during struggle at unit occupied by offender and W – drunken argument over V leaving - V struck on head with hammer – substantial provocation – assisted W to remove body from unit and drove him to property where W dismembered and disposed of body – cleaned unit – continued to cover up offence with multiple false statements – active participant in cover up Motivated by relationship with W – no contrition - prior good character – mother to young child |

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| 4. | <p>Arnold (41)</p> <p>Isaacs (41)</p> <p>Sulman (35) [2005] NSWSC 1244 Latham J</p> | <p>Accessory before the fact to manslaughter</p> <p>Accessory after the fact to manslaughter</p> <p>Accessory before the fact to manslaughter</p> <p>Accessory after the fact to manslaughter</p> <p>Accessory after the fact to manslaughter</p> | <p>PG (15%)</p> <p>PG (15%)</p> <p>PG (15%)</p> | <p>3y NPP 18m</p> <p>3y NPP 12m</p> <p>Total: 4y NPP 2y 6m</p> <p>2y NPP 12m</p> <p>2y NPP 13m</p> <p>Total: 2y 6m NPP 1y 7m</p> <p>2y NPP 19m</p> | | <p>AOABH</p> <p>Nil</p> <p>Nil</p> | <p>V fatally assaulted by principal offender - P - who dumped body at truck stop – revenge for perceived sexual relationship between V and daughter A – female partner of P – sought to locate V in order to have P exact revenge - after death sought to prevent witness and daughter revealing possible motive to police – some remorse – difficult childhood including sexual abuse I – female friend to co-offenders – lured V to home knowing he would be assaulted by P – after death cleaned room to remove traces of blood – prior good character – difficult childhood with sexual abuse – good prospects of rehabilitation - remorse S – partner of I – provided accurate instructions as to where to clean room to remove blood traces – lied to police - remorse - prior good character – difficult personal life – good prospects of rehabilitation – protective custody</p> <p>(Note – sentenced on the basis maximum penalty for both offences was 25 years)</p> |
| 5. | <p>Sandilands (34) [2007] NSWSC 452 Adams J</p> | <p>Accessory after the fact to manslaughter</p> | <p>PG (25%)</p> | <p>3y NPP 2y 1m 26d</p> | | <p>Robbery and dishonesty offences</p> | <p>V fatally stabbed in act of excessive self-defence by principal offender H in home of offender – offender assisted in disposing of body and cleaning up room – lied to police on several occasions – believed H had acted in self defence Troubled childhood – drug abuse Note: SJ would have imposed sentence of 2y 6m NPP 1y but offender already served total NPP on remand</p> |

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| 6. | Abdulrahman (22) (2007) 171 A Crim R 419 [2007] NSWSC 578 Studdert J | Accessory after the fact to manslaughter | PG (15%) | 2y 6m NPP 2y PD 13m pre-sentence custody | | Drug offence and demand money offence – no custody | Offender and principal offender D staying in unit with ex-girlfriend B - V killed in unit during altercation over drug dealing – shot after first threatening D with handgun – offender present at time of shooting – offender remained with D and assisted in forcing B to also stay with them for several days Good prospects of rehabilitation – 13 months pre-sentence custody taken into account |
| 7. | L.Jones (42) [2007] NSWSC 1333 Buddin J | Accessory after the fact to manslaughter | VG (at trial for accessory after the fact to murder) | 2y GBB | | Nil | Assailants and victims all members of Romany gypsy families – in aggressive altercation one V fatally stabbed and second male badly injured – not clear which assailant responsible for fatal stabbing – element of self-defence and provocation – offender not present at scene but subsequently wiped machete and sword clean of blood – motivated by desire to protect husband – spontaneous and limited offence – lower end of spectrum Powerful subjective case - impact of husband's incarceration on offender and two teenage children – prior good character |
| 8. | Hamid (19) [2008] NSWSC 993 Hidden J | Accessory after the fact to manslaughter Enter dwelling in company with intent to steal Sched: Causing danger with a firearm | PG (15%) | FT 18m 4y 6m NPP 2y 3m <u>Total:</u> 6y NPP 3y 9m | | Minor offence | (2003) One of four men attending V's house intending to shut down drug operation – offender stayed outside house – V shot in struggle – all four fled house – offender fired shots into air to frighten off pursuer – reluctant participant – in subsequent days assisted two co-offenders evade justice – encouraged them to obtain false identities and leave country – approached possible witness to ensure silence – distinguished from cases where offender seeking to protect loved one Unrelated home invasion occurred five months earlier where two men assaulted Prospects of rehabilitation – remorse |

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| 9. | Salah (32) [2008] NSWSC 311 Johnson J [2008] NSWCCA 170 | Accessory after the fact to manslaughter | PG (10%) | 3y NPP 1y 11m | AA 3y NPP 1y 9m 25d | Assault in Israel | Brother of principal offender DS – on morning of offender V assaulted DS and made threats to kill – in second confrontation that evening V assaulted offender and threatened DS with knife who grabbed knife and stabbed V six times – excessive self-defence – assisted by leaving scene of stabbing immediately with DS, non-disclosure of whereabouts of car and bloodstained pole used in offence and attempt to dispose of blood stained clothes - assistance continued for two days - 'relatively confined assistance' over short period of time Israeli national – relationship to principal offender On appeal: NPP manifestly excessive – reduced to allow immediate release |
| 10. | Rodriguez (44 at offence – 60 at sentence) [2012] NSWSC 663 Hidden J | Accessory after the fact to manslaughter | VG At trial for accessory after the fact to murder | 2y suspended | | nil | (1995) V fatally stabbed during robbery involving offender's son and second male – offender arranged for collection and disposal of knife used in killing from friend of family who had been given knife and cleaned it of blood – father assisting son – importance of general deterrence Born in El Salvador – forced to leave country because of political membership – good character – married with five children – poor health |
| 11. | TT (43) [2014] NSWCCA 206 | Accessory after the fact to manslaughter | VG | 4y NPP 3y | AD | minor | Female - offender's mother killed young girl who was living with offender, by throwing hammer at V's head – offender organised for disposal of body and lied to as to whereabouts of V over 2 years – at upper end of seriousness – age of victim – aware of circumstances of death – nature and length of assistance – callous and coldhearted Difficult upbringing – depression – no remorse Consideration of factors relating to seriousness of offences of this kind |

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| 12. | Bechalany (35) [2018] NSWSC 502 Hidden AJ | Accessory after the fact to manslaughter | PG | 2y GBB | | Nil | Female – wife of principal offender B – witnessed B stabbing V in leg from front seat of car – remained with B in car – B advised by phone V died and then assaulted by two males – shortly after offender purchased overseas ticket on B's behalf knowing he had killed V by unlawful and dangerous act – B arrested at airport next morning – acted out of fear of B although also some concern for him – low moral culpability History of violent and abusive relationship – suffering severe depression – genuine remorse – entitled to 25% discount for plea – separated from B - mother to four children – very good prospects of rehabilitation – on bail conditions for three years |
| 13. | YA (17) [2019] NSWSC 180 Wilson J | Access after the fact to manslaughter | PG discount not specified | 12m CCO – 84h community service work 21 days pre-sentence custody taken into account | | Nil – subsequent offences | Male victim killed in apartment by male who worked as drug courier for offender – stabbing occurred during argument over drug business – offender brought carpet cleaning equipment to apartment at request of primary offender – upon becoming aware of killing assisted in cleaning apartment and removing and attempting to destroy property from scene of offence – moderate degree of gravity 23y at sentence – shortly to be married – some remorse – drug user at time of offence |
| 14. | Ferris (a pseudonym) (54) [2020] NSWCCA 325 | Access after the fact to manslaughter s.315(1)(a) Sched: Steal copper pipes | PG (40% combined) | <u>Indicative:</u> 2y 6m 1y 6m <u>Aggregate:</u> 2y 10m NPP 1y 6m | AD | Record – breached bail for serious sexual offences at time of offending | Present in industrial area with two men preparing to steal copper piping – heard principal offender M strike victim to head causing fracture and immediate unconsciousness – left area with M after unsuccessful attempt to revive V – returned to pick up tools and again left victim – took steps to conceal involvement – lied to police in collusion with M over 7 months – motivated by desire to protect own interest and assist M - 8 months after arrest wrote to partner to dissuade her from making statement to police Drug user – genuine contrition – assistance |

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