

Manslaughter

Not Full Time Custodial Sentence

Maximum Penalty: 25 years (s.25 (NSW) Crimes Act)

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Bogunovich (1985) 16 A Crim R 456	Provocation Stabbing – domestic	PG	4y Bond			Stabbed husband after long history of domestic violence – on night of killing husband had struck offender outside club
2.	Roberts NSWSC Hunt J 31.8.1989	Unlawful and dangerous - shooting Shooting – domestic	PG	2y GBB		Nil	Aboriginal female shot husband - history of domestic violence - physical & psychological abuse - treated like a 'dog' - husband had ongoing affair - on day of offence violent argument - intended to shoot husband in leg but confrontation led to shooting in chest
3.	Gardner NSWSC Wood J 27.3.1992	Diminished Responsibility Provocation Shooting – domestic	PG	7y GBB			Shot husband under extreme stress – husband very ill with MS and physically dependent - child suffered cerebral palsy and was also utterly dependent - victim terrorised offender and kept gun beside bed – shot victim once, then buried and reported him as missing Extreme use of mechanisms of denial and repression developed to cope with major childhood traumas - son died in lead-up to trial - pregnant at time of sentencing - wholly exceptional case
4.	Peterson NSWSC 22.5.1992 Enderby J	Provocation Stabbing - domestic	PG	5y Bond (PSC 5m)		unimportant	Stabbed step brother in fight - element of self-defence - victim aggressively picked fight with offender - both had been drinking - no premeditation History of violence at hands of stepfather and brothers
5.	Spencer NSWSC Mathews J 18.12.1992	Provocation Stabbing – domestic	PG	3y PD		Nil	Killed de facto husband with single stab wound - history of domestic violence - victim physically and verbally abusing offender Fragile mental state

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6.	Woolsey NSWSC Newman J 19.8.1993	Unlawful and dangerous – stabbing Stabbing – domestic	PG	4y GBB		nil	History of domestic violence when victim drunk – offender assaulted during argument with victim - picked up knife to scare victim off and stabbed him
7.	Gilham (25) NSWSC Abadee J 7.4.1995	Provocation Stabbing - domestic	PG	5y Bond		nil	Stabbed brother who had just killed their parents Remorse - excellent prior character and prospects for rehabilitation
8.	Armstrong NSWSC B-Parker J 25.8.1995	Criminal negligence Victim under 18y Failure to provide	VG	4y GBB		Nil	Mother failed to seek medical attention for four hours after child placed in scalding water by de facto - de facto convicted of murder
9.	Varagnolo NSWSC McInerney J 21.3.1996	Unlawful and dangerous - stabbing Stabbing – domestic	PG	2y GBB		mal wound but not relevant	Long history of violent relationship with victim, including rape - night of killing violent argument, including assault on offender's young daughter - picked up knife with intention of frightening victim - stabbing occurred when victim moved towards offender Very deprived background – part Aboriginal - stolen generation
10.	Kennedy (70) NSWSC Greg James J 30.6.1998	Unlawful and dangerous - stabbing Stabbing – domestic	PG	3y GBB			Stabbed 78y husband once in stomach - died fourteen days later Culpability affected by mental conditions including dementia – intoxication – poor health – abused by husband
11.	Hall (1999) 108 A Crim R 209 [1999] NSWSC 738 Bell J	Criminal negligence Failure to provide	PG	5y GBB		minor	Victim staying with offender and co-offender H in caravan – assaulted by second co-offender S - offender failed to obtain help - all offenders intellectually impaired Female with good character S dealt with for mal inflict GBH H dealt with for acc after fact to infliction of GBH

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12.	Korhonen (16) [1999] NSWSC 933 Hulme J (K) [2000] NSWCCA 24	Diminished responsibility Provocation Juvenile offender Stabbing - domestic	VG	4y GBB	Crown AD	insignificant	Stabbed man he had been staying with – previous week had been sodomised by victim – provocation very high Developmental delays and profoundly disturbed - appalling childhood - gross psychiatric disturbances - ill-equipped to deal with stress - positive evidence of rehabilitation
13.	Wilson (40) [1999] NSWSC 1235 Newman J	Unlawful and dangerous - assault Drowning Assault - domestic	PG	3y GBB		Nil	Assaulted father on boat then threw body overboard wrongly believing him to be dead - father drowned - assault in response to threats made by father against offender's girlfriend - father violent record, on bail for conspiracy to murder Good character - service in Naval Reserve - early acknowledgment of guilt - genuine remorse - suffering abnormality of mind at time of offence
14.	Kennedy [2000] NSWSC 109 Barr J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB			Stabbed de facto husband in chest once during confrontation - circumstances of offence unclear but history of extreme and cruel domestic violence - spontaneous offence Genuine remorse – suicidal - violent childhood beaten first by mother then victim
15.	Jans (55) [2000] NSWSC 525 Grove J	Substantial impairment Stabbing - domestic	PG	PSC 6m 4y GBB		Nil	Stabbed wife with kitchen knife - found by police threatening to jump off 12 storey roof - undiagnosed Huntington's Chorea disease caused victim to become irrationally abusive to offender over long period of time - suffered major depressive episode at time of killing Forgiven by 3 children and low risk of re-offending
16.	Sette (31) [2000] NSWSC 648 Barr J	Substantial impairment Victim under 18y Stabbing - domestic	PG	2y suspended for 2y		nil	Female removed 1y son from adoptive parents during access visit - stabbed him and hid body in dam - impulsive killing - significant depressive illness for long period of time and in dissociated state at time of killing Forced into adoption by family - support of family – remorse - rehabilitation

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17.	Mika Sagato (2000) 116 A Crim R 31 [2000] NSWSC 852 Grove J	Unlawful and dangerous - misc Victim under 18y Drowning	PG	2y suspended sentence		Nil	Husband and wife held down 3y child while mother poured water down his throat - all held genuine religious beliefs about demons and believed child needed to be exorcised Mother of child found mentally ill Intense religious beliefs – remorse – parents to four children
18.	Sutcliffe (25) S McGoldrick (21) L McGoldrick (17) [2000] NSWSC 825 Adams J	Unlawful and dangerous - assault Juvenile offender Assault - general	PG	5y 3m NPP 3y 4y 5m NPP 2y 3m 2y 6m PD			Four offenders involved in pushing large rocks off motorway overpass attempting to strike truck trailers - one rock smashed through windscreen of victim's truck causing death - went to assistance of driver but attempted to conceal involvement in offence S: most culpable - limited intelligence – immature - psychological handicaps - genuine remorse - strict protection - good prospects of rehabilitation S.McG: less than average intelligence – immature – remorse - onerous conditions of bail L.McG: least culpable – immature – remorse
19.	Bateman [2000] NSWSC 867 Barr J	Substantial impairment Assault - domestic	PG	5y GBB		nil	Killed wife of 51y bashing her to death with hammer while asleep - both offender and wife ill – offender suffered major depression after house damaged by hailstones Deep remorse - condition of bond to continue with treatment program
20.	Li [2000] NSWSC 1088 Greg James J	Substantial impairment Victim under 18y	PG	5y GBB		nil	Mother killed young child intending to then kill self – manner of killing not stated Endogenous depression - remorse - retained family support.
21.	Suters (19 at offence – 27 at sentence) [2000] NSWSC 1116 Greg James J	Accessory Assault - general	PG	2y PD		nil	8 years ago involved in burglary at victim's house - victim assaulted and died from heart attack when surprised co-offender inside house - offender waited outside house and acted as lookout - helped remove body Good rehabilitation - assistance - <i>Ellis</i> discount – remorse Co-offender dealt with as accessory after homicide and placed on recog

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22.	Do [2001] NSWCCA 19	Criminal negligence Shooting - general	VG	MT 18m AT 18m PD	Conviction AD		Spent night in company with victim and friend drinking, smoking heroin and taking rohypnol and playing with victim's shotgun - pointed gun at victim and deliberately pressed after playing with safety catch - thought he had put safety catch back on
23.	Melrose [2001] NSWSC 847 McClellan J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB			Aboriginal woman stabbed partner during violent argument – victim had assaulted offender earlier in evening – long term domestic violence - isolated by move to another town and became depressed Remorseful and severe psychiatric reaction to killing - significant suicide risk
24.	ANG (16) [2001] NSWSC 758 Ireland AJ	Criminal negligence Drowning Juvenile offender	PG	2y suspended sentence		nil	Pushed unconscious body of 31y uncle into river - did so at earlier request of suicidal uncle - uncle suffered depression and intoxicated at time - offender under influence of drugs from drinks spiked without knowledge of offender Well respected youth - good family support - deeply affected by incident - rehabilitation.
25.	Richards (39) [2002] NSWSC 415 Kirby J	Substantial impairment Victim under 18y Poison / drug	PG (25%) Mansl 2 x Att murder	5y GBB (from date of sentence) FT 15m 10d (immediate release)		nil	Suffering delusional disorder focussed on perceived sexual abuse by fathers of children - faced losing custody of children at Family Court hearing - attempted to kill self and three children by carbon monoxide poisoning - only baby died Improvement in mental health - protective custody - remorse
26.	Yeoman (43) [2003] NSWSC 194 Buddin J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB		Nil	Stabbed de facto husband of 25 years once in heart - both heavily intoxicated – not fully aware of actions due to effect of intoxication - element of provocation and long history of domestic violence – stabbed victim on previous occasion Prior good character - isolation caused by recent move - grief over recent death of father - effect of imprisonment on 5y old son - genuine remorse - excellent prospects of rehabilitation

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27.	Dawes [2004] NSWCCA 363	Substantial impairment Assault – domestic Victim under 18y	PG	5y GBB	Crown AD	Nil	Mother suffocated 10y autistic son – suffering major depressive illness – unable to obtain proper assistance or intervention – victim very difficult to manage – verbal and physical abuse by husband – illness and death of family members – step father physically abusing daughter – made serious attempt at suicide Depressive illness - remorse and contrition – evidence of rehabilitation with daughter
28.	Nicol (86) [2005] NSWSC 547 Hulme J	Substantial impairment Assault – domestic	PG	2y NPP 1y Suspended		Nil	Assaulted wife with iron bar and asphyxiated her with plastic bag – intent to kill Elderly couple with many health problems – depression – genuine attempt at suicide
29.	Jukes (20) [2006] NSWSC 1065 Hoeben J [2008] NSWSC 126 Hoeben J	Unlawful and dangerous - stabbing Stabbing - domestic	PG	2y NPP 12m suspended On breach of suspended sentence 2y NPP 12m		Nil	Female – stabbed mother’s boyfriend during confrontation in kitchen – instinctive act – single stab wound – low range culpability Unfortunate background – mother to 5 children – youngest child disabled – immediate remorse – 90d PSC – 2y 6m rigorous reporting Sentence subsequently breached after commission of further offence of BES, failure to comply with reporting and counselling conditions and continued amphetamine addiction – pregnant at time of re-sentence
30.	Gow [2006] NSWDC 78 Berman DCJ	Criminal negligence Poison / drug	PG	18m NPP 12m suspended		Nil	Patient died from drug prescribed by doctor – prescribed wrong form of morphine – failed to properly instruct victim as to taking of drug – failed to write instructions on prescription as required – looked up wrong drug in writing out required amount – tired and under stress Remorse – admitted mistake openly in court – excellent character – caring doctor
31.	R. Sutton (63) M. Sutton (60) [2007] NSWSC 295 Barr J	Substantial impairment Unknown	PG PG	5y GBB 5y GBB		Nil Nil	Parents killed severely disabled 29y son suffering blindness, severe mental retardation and restriction of hearing – required surgery to stop brain infection which would cause temporary deafness and reduce quality of life – victim had difficulty in dealing with changes in life – spontaneous decision out of love for son – both offenders suffering major depressive illness brought on by years of stress and commitment to son – mother administered sedative – father killed victim – cause of death undisclosed - Severe depressive disorder Suicide risk – should not be separated

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32.	Irvine (20) [2008] NSWCCA 273	Unlawful and dangerous - assault Excessive self defence Assault - general	PG (25%)	3y NPP 2y PD	Crown AD	nil	Number of young people taking part in burnouts on street – victim crashed vehicle and left scene – offender and friend went after victim to tell him to return to scene and await police – victim intoxicated and abusive – offender punched victim in self-defence causing haemorrhage - victim had congenital abnormality causing weakness Strong subjective case – youth – rehabilitation
33.	HA (29) [2008] NSWSC 1368 Rothman J	Criminal negligence Victim under 18y Failure to provide	PG (35% plea and assist)	2y suspended sentence		Nil	Failed to obtain medical care for 4y son – son suffering numerous medical conditions resulting in severe malnutrition – died from pneumonia and kidney infection – need for medical care would have been obvious to parents – medical care declined due to genuine religious beliefs of HA and husband – husband older and dominating figure (although not abusive) – breach of trust - child otherwise well cared for – low level of culpability Mother to ten surviving children – husband died since arrest – subsequent support of family and providing good care for remaining children – remorse – borderline intelligence
34.	AJC (17) (2010) 207 A Crim R 307 [2010] NSWCCA 168	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (40% for plea and assist on appeal)	2y 6m NPP 18m PD	Crown AA 3y NPP 1y 9m PD	nil	Single punch to 20y male at show – been advised by co-accused that victim had tried earlier to fight physically vulnerable youth – followed victim and delivered unexpected punch to head – no provocation or opportunity for self-defence – innocent victim – impulsive attack of immature youth - committed in presence of child under 18y – below mid-range Genuine and deep remorse – voluntarily surrendered to police – assistance in relation to co-accused – publicly named by newspaper On appeal - discount for assistance excessive

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35.	Mathers [2011] NSWSC 339 Hall J	Substantial impairment Assault - domestic	PG	2y suspended sentence		Nil	Assisted partner to commit suicide - ingestion of amitriptyline tablets and final act of suffocation - long relationship of 22 years – victim suffered pain from spinal condition and expressed wish to die in suicide note – participation would not have been discovered but for offender’s disclosures to police – suffering depressive illness/adjustment disorder - only motive was to assist victim carry out her express intention - no lengthy period of planning or premeditation - culpability at low end of range of sentences for manslaughter - leniency due to disclosures, confession of guilt and plea of guilty
36.	MB (35 at offence – 41 at sentence) [2017] NSWSC 619 Beech-Jones J	Substantial impairment Drowning Young child	PG	4y GBB (little under 2y served in custody)		Nil significant	2010 offence - mother either drowned or failed to retrieve 6m daughter from water – reckless indifference to life – breach of trust – not planned Suffering schizoaffective disorder – become obsessed that daughter had genetic disorder despite testing showing no abnormality – found not fit to plead and sentenced to limiting term for murder – spent just under 2 years in custody before stabilising and entering plea for manslaughter Good personal support – prospects of rehabilitation – extra curial punishment – importance of supervision and reintegration into community
37.	Eckersley (66) [2021] NSWSC 562 Beech-Jones J	Substantial impairment Poison / drug	VG (murder trial – 25% for offer to plead)	2y CCO		Nil	Female killed 92y mother at nursing home by mixing pentobarbitone into her soup and spoon feeding it to her – suffering severe depressive disorder – distressed by mother’s suffering over many years as a result of deterioration in her health – not planned offence – formed intent to kill just prior to committing offence – acted out of love Aggravating factors – use of narcotic drug – in home of victim – breach of trust – victim vulnerable because of age Prior good character – good prospects of rehabilitation – remorse

Last Updated: May 2021

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