

Manslaughter
Provocation – Extreme
Offences committed on or after 13.6.2014

s 23(1) (NSW) Crimes Act

If it appears act causing death was in response to extreme provocation jury is to acquit accused of murder and find accused guilty of manslaughter

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

(for offence committed prior to 13.6.2014 see separate table: Provocation – Old Provisions)

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Fuller (33) [2020] NSWSC 1580 Cavanagh J [2022] NSWCCA 203	Stabbing – general Extreme provocation Excessive self-defence	VG (at murder trial - 25% for offer to plead)	9y NPP 6y 3m	AA 8y 4m NPP 5y 8m	Assault, contravene AVO, driving.	Stabbed victim twice after victim deliberately drove into offender's car – brought two large knives to scene - offence committed in broad daylight with many witnesses – known to each other – ongoing conflict between offender and victim and family members - SJ determined not necessary to reach concluded view as to whether verdict based on provocation or excessive self-defence Drug abuse – disadvantage - good prospects of rehabilitation – remorse On appeal: increased discount for guilty plea from 20%
2.	Cust (20 at offence – 23 at sentence) [2021] NSWSC 1515 Wilson J	Extreme provocation Stabbing - general	VG 25% for early offer to PG	6y NPP 4y 6m		Nil	Attempted sexual assault of offender by male deceased – woke up finding deceased trying to rub his penis on offender – stabbed multiple times – tried to burn house down - immediate complaint and admissions by offender – extreme provocation of a high order. Supportive family - good prospects of rehabilitation - evidence of remorse - strong subjective case – had led worthy life.

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
3.	Songcuan (No.3) (73) [2023] NSWSC 183 Campbell J	Strangulation / choking Extreme provocation	VG (murder trial – 25% for offer)	7y 6m NPP 6y		Nil	Strangled wife who wrongly believed offender having affair – deceased aggressive and physically violent toward offender – offender felt he “had no choice but to silence her” - put arm around throat and his hand over mouth, applied pressure until deceased calmed down and stopped breathing - attempted to make scene look like a suicide with fake suicide note by deceased. Cumulative provocation over years by deceased, aggressive and controlling towards offender, with physical violence and threatening to kill him if unfaithful - provocation intensifying over short period up to killing, with degree of physical violence in minutes leading up to offender losing immediate self-control. Advanced age – good character.

Last Updated: March 2023