

Murder

Offences Committed Prior to 2003 – Delayed Sentencing

Maximum Penalty: Life (s.19A (NSW) Crimes Act)

The following cases involve offences committed before 2003 (introduction of SNPP) where sentencing has been significantly delayed. Since other murder sentence tables are grouped according to the year a sentence is imposed this table assists in identifying old offences for the purpose of comparative sentencing.

The cases are ordered according to the time of the offence.

Note: the effect of statutory provisions relating to the application of sentencing patterns and practices

Under s.21B(1) (NSW) Crimes (Sentencing Procedure) Act a court must sentence an offender in accordance with the sentencing patterns and practices at the time of sentencing unless the offender can establish exceptional circumstances.

The relevant standard non-parole period is that which applied at the time of the offence: s.21B(5)

These provisions apply to proceedings that commenced at or after the commencement of the amendments on 18.10.2022

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|----|--|------|----------------|--------|----------------------|-------------------------------|---|
| 1. | DAWSON (34 at offence - 74 at sentence) [2022] NSWSC 1632 Harrison J [2024] NSWCCA 98 | VG | 24y NPP 18y | AD | Nil | Intent to kill Unknown | (1982) Killed spouse to be free to continue relationship with teenage lover – made plans to kill victim at home – arranged for daughters to be cared for so could dispose of victim's body without interruption – victim's body never found - evidence does not reveal how victim killed -delay 36 years. Good prospects rehabilitation – unlikely to reoffend - deteriorating physical and cognitive health – significant likelihood offender will not survive to become eligible for parole. |

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| 2. | BOWIE (72) [2023] NSWSC 207 Yehia J | VG | 24y NPP 18y | | Shoot at with intent to murder, sexual offences, forgery, property destruction. | Intent to kill | (1982) Killed wife - delay of 40 years between offence and sentence - motive to have relationship with another woman – offender “coerced” deceased to write letters to create impression that deceased had left home voluntarily - disposal of body in such a way to elude detection – body never found – no valid conclusions can be reached about nature of act that caused death - degree of planning and premeditation, although not extensive or sophisticated. Guarded prospects rehabilitation – no remorse - medical conditions that can be treated in custody. |
| 3. | ADAMS (31 at offence – 64 at sentence) [2017] NSWSC 179 Button J [2017] NSWCCA 215 | VG | 20y NPP 15y | Conviction AD | Rape conviction prior to murder – committed in similar circumstances – nil relevant convictions since murder | Asphyxiation Constructive murder | (1983) gave lift home to female stranger from wine bar – falsely claimed to be police officer – placed fatal pressure on windpipe in attempt to force intercourse – disposed of body Long standing tendency to strangle women who resisted sexual advances – no subjective material placed on sentence – minimal discount for delay |
| 4. | WARWICK (No.94) (33-35 at time of offences / 73 at sentence) [2020] NSWSC 1168 Garling J | VG 3 x Murder 2 x explode device with intent murder: s.28 Place explosive device with intent murder: s.30 Place explosive device with intent damage building: s.204 13 x by explosion cause GBH: s.46 | Life 25y 15y 10y (Aggregate) 25y | | No significance | Shot Explosive devices/bomb Intent to kill | (1980-1985) – ‘Family Court bomber’ – acted against anyone considered to be acting contrary to interests in maintaining access to daughter and preserving own financial position during Family Court proceedings - shot and killed Family Court judge at his home with children inside – bombed home of second judge while children present - bombed Family Court – bombed home of third judge killing judge’s wife – planted bomb in car of solicitor of ex-wife – caused explosion at premises of Jehovah’s Witnesses killing one person and injuring others - sophisticated planning, preparation and careful conduct - sustained course of conduct – highest objective seriousness |
| 5. | FLEMING (30) [2007] NSWSC 673 Studdert J | VG | 21y NPP 16y | | One prior for rape in 1976 | Strangulation | (1984) - Predator took female walking home from car at night – strangled then sexually assaulted body Physical disability including amputated leg – serious personality disorder |

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| 6. | DUKAGJINI (No.2) (30 at offence – 65 at sentence) [2021] NSWSC 1668 Fagan J [2023] NSWCCA 210 | VG | 20y NPP 13y | AD | Record for housebreaking – no other violence | Strangled and assaulted | (1986) Broke into residential house and surprised by female occupant – panicked and killed victim with electrical cord and piece of wood – killing aggravated by being in home of victim Albanian – no risk of violent re-offending – long period of no offending On appeal: no error in refusal to apply s.22A facilitation of justice discount |
| 7. | EARLY (No.8) (41 at offence – 77 at sentence) [2023] NSWSC 1222 Yehia J | VG | 22y NPP 15y 6m | | On bail at time of offence – history of sexual offences prior to 1991 | Assault Intent GBH Accessorial liability | (1987) Party to agreement by group of males to assault victim and cause really serious harm in park with reputation as ‘gay beat’ – vulnerable victim alone in park in early hours of morning – chased and assaulted by group – multiple injuries - motivated by hatred or prejudice against homosexual males – previously involved in group assaults on males in same park Advanced age – mental health issues – sexually assaulted in boys homes and prison – no remorse - some prospects of rehabilitation – unlikely to re-offend Sentenced according to practices at time of offence |
| 8. | MITCHELL (37 at offence – 62 at sentence) [2012] NSWSC 694 Hidden J | PG (25%) | 14y NPP 10y | | nil | Strangulation and suffocation Reckless indifference | (1987) during argument with de facto wife strangled her with pantyhose and suffocated with pillow – spontaneous offence and out of character On the run until voluntarily attended police station in 2011 – genuine remorse – good prospects of rehabilitation |
| 9. | KATSI (17 at offence – 44 at sentence) [2015] NSWSC 1890 Fagan J [2018] NSWCCA 9 | VG Murder s.61D(1) | 20y NPP 15y FT 6y (concurrent) | AD | Subsequent record for petty offences involving dishonesty and assault | Strangulation Intent to kill | (1988) – forced entry into neighbouring unit – sexually assaulted and strangled 66y female occupant - set fire to contents of unit Abusing drugs and alcohol at time of offence – subsequent 27y demonstrates no risk of re-offending |
| 10. | HICKSON (30 at offence– 61 at sentence) [2020] NSWSC 340 Davies J | VG | 22y NPP 15y | | lengthy including violence – breached conditional liberty | Stabbed / assault Intent GBH | (1989) Stalked bookmaker for several months planning robbery – victim stabbed and assaulted in garage after returning from track at night with cash – offender stabbed victim in presence of second man – robbery that went wrong – objective seriousness increased by use of knife – above mid-range Delay – DNA match – physical and mental health issues Consideration of sentences at time of offence |

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| 11. | AFU (23 at offence – 51 at sentence) [2018] NSWSC 1127 RA Hulme J | VG Murder | 20y NPP 15y | | significant record at time of offending | Stabbing intent to kill | (1990) paid \$10,000 by co-offender to kill wife in staged break in – entered house through balcony left unlocked by co-offender and stabbed victim 23 times – high range – co-offender Caleo convicted of solicit to murder Born in Tonga – difficult childhood in poverty – substance abuser since teenage years – at time of offending immersed in criminal world – subsequently returned to Tonga, married and has six children – good prospects of rehabilitation – isolation from family |
| 12. | MATTHEWS (43 at sentence) [2014] NSWSC 608 Bellew J | PG (10%) Sched Sex offence | 21y 6m NPP 16y 3m | | Mostly dishonesty – some minor violence | Assault Intent to kill | (1992) Involved in taking female prostitute to bush area - victim sexually assaulted – offender struck victim to head with large rock – killing not planned Subsequently suffered traumatic brain injury from an assault – genuine remorse |
| 13. | DEBS (42 at offence) [2012] NSWSC 119 RS Hulme J | VG | Life | | Lengthy – serving life sentences for subsequent murders in Victoria | Shot Intent to kill | (1995) Shot female prostitute in head after having sexual intercourse in remote area – no sign of struggle – demonstrated inhumanity and cold bloodedness – no normal or rational motive - an exercise of power or for some thrill or satisfaction Killed prostitute in similar circumstances in 1997: <u>Debs</u> [2007] VSC 220 / [2008] VSCA 240 Killed two police officers in 1998: <u>Debs</u> [2003] VSC 30 |
| 14. | BURRELL (42 at offence – 55 at sentence) [2008] NSWSC 30 Kirby J [2009] NSWCCA 193 | VG | 28y NPP 21y | Conviction AD | Minor at time of offence – conviction for subsequent murder | Unknown Intent to kill | (1995) Owed money to 74y female friend of family – unable to repay loan - invited her around to house – circumstances of murder known – body never found – planning |
| 15. | ANDERSON [2006] NSWCCA 156 | VG | 17y NPP 11y | AD | | Strangulation Intent to kill | (1995) strangled husband with cord and buried him under house – premeditated offence Deteriorating health – advanced age – two trials |

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| 16. | SALES (31 at offence / 56 at sentence) [2020] NSWSC 1183 Garling J | PG (40% combined) Murder Solicit murder | 15y NPP 8y 6m 12y NPP 7y 2m <u>Total:</u> 18y NPP 11y 6m | | Recent lengthy sentences imposed for multiple sexual violence offences | Assault / choke Intent to kill | (1995) - lured 54y male associate to bushland area promising search for buried money – victim dug deep hole – assaulted victim with baseball bat then choked him to death using bat – offence committed in presence of brother – body buried in hole and never recovered – planned offence – gratuitous cruelty – very serious example That evening solicited brother to kill offender's ex-partner – threatened to kill brother – careful planning to set mental health defence for brother – charged with breach of AVO against victim – brother shot at victim with shortened firearm in foyer of courthouse causing serious injury – toward upper end of range Some remorse – some discount for voluntary admissions – background of sexual and physical violence and abuse Sentence imposed partially concurrent to very lengthy existing sentence for sexual offences |
| 17. | KILINCER [2022] NSWSC 1625 Wilson J | VG | 22y NPP 16y 6m | | Dishonesty offences before and after offence – offence breached conditional liberty | Assault Intent to kill | (1995) fatally assaulted employer at workshop – spontaneous and brutal assault using tools and machinery – continued assault after victim fell to ground - victim planned to terminate offender's employment due to continual theft of money – stole money from wallet and cash register – covered involvement resulting in lengthy delay – grave breach of trust – extreme violence Delay meant some measure of rehabilitation and lesser sentencing range – no remorse – gambling addiction placed offender in precarious financial position |
| 18. | LANE (21 at offence - 36 at sentence) [2011] NSWSC 289 Whealy J [2013] NSWCCA 317 | VG Murder 3 x False swearing | 18y NPP 13y 5m 9m (concurrent) | Conviction AD | nil | Unknown Intent to kill | (1996) Mother disposed of 2-day old daughter – body never found and no information as to circumstances of or motive for killing – killing relatively spontaneous – suffering disordered personality - false swearing offences related to false information contained in affidavits used for adoption of other children – birth of daughter and two other children kept secret from friends and family Strong character testimonials – rehabilitation – mother to 9y daughter – low level of protective custody |

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| 19. | TRAN (16 at offence / 22 at sentence) [2002] NSWSC 394 Sully J Co-offenders: PHAM NGUYEN | PG Murder Unlawfully imprison | 14y NPP 9y FT 12m (concurrent) | | no criminal history | shooting intent to kill | (1996) Involved in gang - agreed to shoot victim for older friend - took victim to oval at night and shot him four times - degree of coercion and manipulation Subsequently assaulted and moved interstate with girlfriend and baby daughter - established new life - 4 year delay - excellent work record - good prospects of rehabilitation - genuine remorse - assistance - protective custody |
| 20. | P PHAM (18 at offence) NGUYEN (17 at offence) [2002] NSWSC 1261 Sully J Co-offender: TRAN | VG VG | 16y NPP 11y 17y 38w NPP 11y 38w (cumulative to existing sentences – see facts) | | record not significant appalling record for violence - includes murder and manslaughter | shooting intent to kill | (1996) Execution in context of gang involvement - victim taken to oval by offenders at night and shot four times by co-offender PP - Vietnamese - difficult childhood - refugee - drugs - need for psychiatric care - important co-operation with police N - Traumatized childhood - serious depression - Serving sentences for Murder: 29.10.1998 Kirby J Manslaughter: 20.11.1998 Kirby J Murder: [2000] NSWSC 1177 Total sentence 31y NPP 25y |
| 21. | TNT (16 at offence / 22 at sentence) [2002] NSWSC 537 Hidden J Co-offender: MHN | PG (combined 50%) | 10y NPP 6y (cumulative to existing sentences – see facts) | | | stabbing accessory | (1996) With 2 co-offenders took 18y victim from coffee shop to nearby street and assaulted him – victim tied up in house then taken to garage - further assaults committed in garage - victim stabbed in throat by co-offender in absence of offender Disturbed childhood - at time of killings involved in gang and under influence of co-offender - subsequent to killings left gang and seriously assaulted - moved interstate with pregnant girlfriend - evidence of good character - volunteered guilt - assistance to authorities Sentenced one month earlier for unconnected murder committed 8 days earlier: Tran [2002] NSWSC 394 Total Sentence: 23y 3m NPP 14y 3m |

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| 22. | MTN (17) [2002] NSWSC 1160 O'Keefe J | VG Murder PG Mal wound Affray | 16y 6m NPP 11y FT 3y FT 12m <u>Total:</u> 17y 6m NPP 12y | | not relevant | stabbing intent GBH | (1997) Gang attack on 2 victims outside amusement centre - mistakenly believed victim belonged to gang responsible for assault on friend – one victim stabbed in shoulder - second victim stabbed in heart - leader of attack Remorse - married with one child - borderline intelligence - good prospects of rehabilitation - disturbed background |
| 23. | FESUS (27 at offence – 48 at sentence) [2018] NSWSC 176 Johnson J | VG | 22y NPP 16y 6m | | nil record – before or after murder | Strangulation Intent to kill | (1997) killed 18y wife during argument over victim leaving – strangled victim and buried body near beach – two young children present in house – maintained wife had left him – made anonymous phone calls as to whereabouts of body when required to prove wife dead for social security Suffering cancer in remission |
| 24. | BUNCE (37 at offence – 47 at sentence) [2007] NSWSC 469 Price J [2009] NSWCCA 281 | PG (25%) | 24y NPP 18y | AD | Criminal record | Strangulation Intent to kill | (1997) Strangled sister-in-law – victim tied to bed in preparation for voluntary pornographic video – voluntary sexual intercourse - carefully planned offence – intent to kill prior to travelling to house – revenge – high degree of criminality Psychopathic personality |
| 25. | VALIUKAS (33 at offence – 43 at sentence) [2009] NSWSC 808 Hulme J | VG | 18y NPP 13y 6m | | nil | Strangled | (1999) Strangled former partner in her home during argument –volatile relationship – suffering dissociative episode at time of killing – visions of violent father and person who molested him as a child – not fully aware of acts - spontaneous offence - took body and children to mother's house and hid body in shed – lied about disappearance of victim – confessed to police 9 years later – offence below mid-range Prior good character – difficult custodial conditions |

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| 26. | RUMSBY (No.6) (30 / 31 at offences – 56 at sentence) [2023] NSWSC 916 RA Hulme AJ | VG Murder Att choke with intent to sexually assault | 27y NPP 19y 10y NPP 7y 6m Total: 32y NPP 24y | | Breached recog – subsequent conviction for indecent assault offences | Asphyxiation Intent to kill | (1998/1999) Approached 18y female waiting outside house in early hours of morning – punched victim to face, forced her to ground, continued punching and attempted sexual assault – 12 mths later followed 17y female walking home along dark road in early hours of morning – sexually motivated attack – suffocated victim – spontaneous offences – elements of brutal violence Old sentencing patterns applied – facilitation of justice – difficult childhood – physical health issues |
| 27. | CAMELO-GOMEZ (48 at sentence) [2022] NSWSC 1559 Wilson J | VG | 20y NPP 14y | | Nil | Strangulation / stabbing Intent to kill Joint criminal enterprise | (2001) – Female - joint criminal enterprise with boyfriend CC to kill offender's mother – financial motive – also motivated by wanting CC's love - plan to kill victim to take control of victim's assets for money to start business - offence committed in home of victim – not established whether offender or CC was assailant or whether both had role in inflicting fatal injuries - death by ligature strangulation from behind - when victim lay on floor, stabbed to neck – premeditated. Vulnerable to manipulation by CC – unstable personality – obsessed with CC - delay - special circumstances – separation from children |
| 28. | HAINES (36 at offence – 49 at sentence) [2015] NSWSC 390 RS Hulme AJ [2016] NSWCCA 90 | PG (25% on appeal) | 17y NPP 12y 9m | AA 15y NPP 11y 3m | Lengthy record but no significant violence or robbery | Stabbing Intent GBH | (2001) – female – stabbed shopkeeper in chest – grabbed knife from shop – motive and circumstances of killing unclear Originally found unfit to plead and given limiting term of 17y – found fit to plead in 2013 Aboriginal with neglected and difficult childhood – low intelligence – constant absconder from school and home On appeal - exceptional case - reason for delay in entering guilty plea must be taken into account |

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