# Manslaughter

## Assault - Asphyxiation / Strangulation

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

| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|---|---|---|---|---|---|---|---|
| 1. | **Dodd**<br>(1991) 57 A Crim R 349<br>NSWCCA | Unlawful and dangerous - assault<br><br>Assault – general<br><br>Strangulation | PG | 3y PD | Crown AA<br>FT 3y | | Strangled victim after she refused sex - voluntary disclosure of guilt to otherwise unsolved crime after 10 years - had sex with woman's body - affected by drugs |
| 2. | **Haynes**<br>NSWSC<br>Studdert J<br>25.3.1994 | Diminished responsibility<br><br>Victim under 18y<br><br>Assault – domestic<br><br>Strangulation | PG<br>2 x Mansl | MT 6y<br>AT 6y | | driving offence | Strangled and suffocated daughter and stepdaughter during access after argument with estranged wife - children told him they could not see him again and had been subjected to sexual abuse<br>Obsessive personality and depressive disorder - news from children triggered catastrophic depression |
| 3. | **Forsyth**<br>(20)<br>NSWSC<br>Finlay J<br>26.7.1994 | Diminished responsibility<br><br>Assault – domestic<br><br>Strangulation | PG | MT 4y<br>AT 4y | | | Bashed / strangled girlfriend's mother<br>Brain damage caused by assault - loss of self-control |

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| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|---|---|---|---|---|---|---|---|
| 4. | **Dawney**<br>(30)<br>[1999] NSWSC 944<br>Barr J | Substantial Impairment<br><br>Victim under 18y<br><br>Assault – domestic<br><br>Asphyxiation | PG | MT 5y<br>AT 3y | | nil | Mother smothered 3y daughter - father of child taking Family Court action to gain custody<br>Violent upbringing - history of sexual abuse - major depressive illness - borderline and schizotypal personality disorder - stresses at time of offence |
| 5. | **Nguyen**<br>(mid 40s)<br>[1999] NSWCCA 333 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Asphyxiation | PG<br>Mansl<br><br>Kidnapping<br><br>2 x Mal discharge rifle<br><br>Sched:<br>6 x discharge firearm | MT 6y<br>AT 4y<br><br>FT 4y<br><br>FT 4y<br>(all concurrent) | AD | nil | Went to ex-girlfriend's house armed with rifle to confront her about money owing - tied up sister and mother - siege developed when police arrived, and gunfire exchanged - mother died from asphyxiation caused by being gagged and rib broken |
| 6. | **Duthie**<br>(35)<br>[1999] NSWSC 1224<br>Newman J | Diminished responsibility<br><br>Assault – general<br><br>Strangulation | PG | MT 5y<br>AT 3y | | long criminal record | Strangled friend/cell mate in suicide pact - both prisoners on remand and intended to commit suicide – euthanasia<br>Suffering chronic schizophrenia - hepatitis C |

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|---|---|---|---|---|---|---|---|
| 7. | **Wang**<br>[2000] NSWSC 447<br>Adams J | Unlawful and dangerous – assault<br><br>Assault – domestic<br><br>Strangulation<br><br>Substantial impairment<br><br>Poison / drug<br><br>Victim under 18y | PG<br>Mansl husband<br><br><br><br><br>Mansl daughter | 6y<br>NPP 4y<br><br><br><br><br>2y<br>(concurrent) | | nil | Female strangled husband and poisoned 1y daughter - attempting to kill self when found by police - accidentally killed husband trying to keep him from preventing her killing herself and daughter<br>Severe depressive illness - daughter suffering from cerebral palsy and worried no one would look after her |
| 8. | **Graham**<br>(20)<br>[2000] NSWSC 1033<br>Whealy J | Unlawful and dangerous - assault<br><br>Assault – general<br><br>Strangulation | VG<br>(at murder trial) | 5y<br>NPP 3y | | nil | Became involved in homosexual encounter with stranger in park - pursued by victim when changed mind and attempted to disengage - strangled victim in headlock acting in unreasonable fear for safety<br>Youth - good character - suffering depression - isolated incident |
| 9. | **Hawkins**<br>(76)<br>[2001] NSWSC 420<br>O'Keefe J | Substantial impairment<br><br>Assault – domestic<br><br>Strangulation | PG<br>(25%) | 3y<br>NPP 2y | | nil | Strangled wife of nearly 50 years – suffering depression - adverse reaction to overdose of Zoloft (anti depressive medication)<br>Offence completely out of character - excellent personal and family history - remorse - voluntarily surrendered to police - considered suicide but concerned about effect on daughter |
| 10. | **Adamson**<br>(19)<br>[2001] NSWSC 499<br>Howie J<br><br>(2002) 132 A Crim R 511<br>[2002] NSWCCA 349 | Unlawful and dangerous - assault<br><br>Assault – general<br><br>Asphyxiation | PG<br>(10%)<br>Mansl<br><br>2 x s.61J | 11y<br>NPP 7y 6m<br><br><br>8y<br><br><u>Total</u>:<br>14y<br>NPP 10y 6m | AD | malicious wounding | During party had vaginal and anal intercourse with victim knowing she was not consenting - deliberately placed hand over victim's mouth and nose to prevent her calling out, causing asphyxiation<br>Raised alarm and attempted to resuscitate victim |

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|---|---|---|---|---|---|---|---|
| **11.** | **Masson**<br>(23)<br>[2001] NSWSC 1037<br>Howie J | Unlawful and dangerous - assault<br><br>Assault – general<br><br>Accessory<br><br>Asphyxiation | VG<br>(at murder trial)<br><br>Rob with wounding<br><br>Larceny | 7y 6m<br>NPP 4y 6m<br><br>FT 3y 6m<br><br>FT 18m<br>(all concurrent) | | nil | Went with co-offender to house of 75y female acquaintance to borrow money – co-offender unexpectedly suffocated – continued involvement in robbery out of fear - contemplated unlawful and dangerous act by co-offender during robbery - aware that co-offender had knife<br>Supportive family<br>Offender dealt with for murder |
| **12.** | **Laupama**<br>(29)<br>[2001] NSWSC 1082<br>Bell J | Substantial impairment<br><br>Assault - domestic<br><br>Victim under 18y<br><br>Hanging | PG<br>(just under 10%)<br><br>Sched: Kidnapping | 12y<br>NPP 8y | | assault | Hung de facto wife's 5y daughter in noose from pergola following separation from de facto<br>Major depressive illness with PTSD, social phobia, substance dependence - sexually assaulted as child |
| **13.** | **Tran**<br>(25)<br>[2003] NSWSC 373<br>Greg James J | Unlawful and dangerous – assault<br><br>Assault – domestic<br><br>Asphyxiation | PG | 5y<br>NPP 2y 3m | | Nil | Went to bed with partner – both intoxicated – killed partner during night possibly by suffocation – verging on automatism due to intoxication and sleep disorder – vague as to details – disposed of body – lower end of culpability<br>Prior good character – good prospects of rehabilitation – Vietnamese |
| **14.** | **Hoerler**<br>(20)<br>[2003] NSWSC 1187<br>Miles AJ<br><br>(2004) 147 A Crim R 520<br>[2004] NSWCCA 184 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y<br><br>Asphyxiation | PG<br>(10%)<br><br>Sched:<br>5 unrelated offences | 11y<br>NPP 8y 3m | Crown AA<br>14y 4m<br>NPP 10y 9m | Mal damage, burglary, assaults | Multiple injuries to 7m son of de facto – punch forced lower teeth into roof of mouth – punch to abdomen – clamp to toes causing breaks – died by asphyxiation or vomit inhalation<br>Protective custody |

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| 15. | **Dawes** [2004] NSWCCA 363 | Substantial impairment<br><br>Assault – domestic<br><br>Victim under 18y<br><br>Asphyxiation | 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<br>Depressive illness - remorse and contrition – evidence of rehabilitation with daughter |
| 16. | **Hamoui [No.4]** (27) [2005] NSWSC 279 Kirby J | Provocation<br><br>Assault – domestic<br><br>Strangulation | VG (at murder trial) | 11y<br>NPP 8y | | Serious offences involving violence – breached bail | Strangled girlfriend and left body in car –circumstances of killing not clear – victim bound at some stage – intent to kill – gratuitous cruelty – victim's relationships with other men probable provocation<br>Physically and emotionally abused as a child – no contrition but evidence of rehabilitation in jail – resumed religious studies – engaged to sister of another inmate – possible mental illness |
| 17. | **Nicol** (86) [2005] NSWSC 547 Hulme J | Substantial impairment<br><br>Assault – domestic<br><br>Asphyxiation | PG | 2y<br>NPP 1y<br>Suspended | | Nil | Assaulted wife with iron bar and asphyxiated her with plastic bag – intent to kill<br>Elderly couple with many health problems – depression – genuine attempt at suicide |
| 18. | **Massei** [2005] NSWSC 1030 Adams J<br><br>[2006] NSWSC 1298 Adams J | Substantial impairment<br><br>Assault – domestic<br><br>Asphyxiation | PG (25%) | Sentencing initially deferred for 12m<br><br>5y 6m<br>NPP 2y 9m 14d | | | Awoke during night and struck wife with glass ornament – placed sufficient pressure on throat to break bone – doused victim with accelerant and set fire to unit – cause of death probably suffocation or asphyxiation – victim died before burned by fire<br>Suffering chronic and severe depression – Argentinian – separated from wife but on good terms – attempted suicide after lighting fire |

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|---|---|---|---|---|---|---|---|
| **19.** | **Leach**<br>(23)<br>[2007] NSWSC 429<br>Hulme J<br><br>(2008) 183 A Crim R 1<br>[2008] NSWCCA 73 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y<br><br>Asphyxiation | PG<br>(10%)<br><br>Sched:<br>2 x AOABH | 7y 6m<br>NPP 4y 6m | AA<br>6y<br>NPP 3y 6m | Nil | Father killed 7w daughter by asphyxiation – sat on unsettled daughter to stop her crying – assault offences constituted by hitting victim on head with hand<br>Intellectually disabled – depressive disorder – frustrated at inability to settle child – good character – remorse – excellent prospects of rehabilitation |
| **20.** | **Hansell**<br>(31)<br>[2007] NSWSC 1136<br>Latham J | Excessive self defence<br><br>Assault – domestic<br><br>Strangulation | PG<br>(15%) | 3y 4m<br>NPP 2y | | Nil relevant | After evening of drinking with friends victim turned violent and seriously assaulted offender's brother and wife – offender held victim around neck blocking airway – intent to restrain not choke – element of punishment and recklessness – lower end of scale of seriousness<br>Good character – married with daughter – genuine remorse |
| **21.** | **Frost**<br>[2008] NSWSC 220<br>Barr J | Provocation<br><br>Assault – domestic<br><br>Strangulation | PG | 6y<br>NPP 3y 6m | | Nil | Ex-wife visited from Philippines and asked to take youngest daughter back for purpose of prostitution – choked ex-wife – panicked and buried body – left trail suggesting victim returned to Philippines |
| **22.** | **Paddock**<br>(78)<br>[2009] NSWSC 369<br>Rothman J | Substantial impairment<br><br>Assault – domestic<br><br>Asphyxiation | PG<br>(20%) | 6y<br>NPP 4y 3m | | Nil | Suffocated 70y partner preparing to move out – attempted to kill self – mid-range – significant impairment<br>Paranoia and early dementia |
| **23.** | **Nguyen (No.2)**<br>(29)<br>[2009] NSWSC 1120<br>Hoeben J | Substantial impairment<br><br>Assault – domestic<br><br>Victim under 18y<br><br>Asphyxiation | VG<br>Manslaughter<br><br>Manslaughter | 5y<br>NPP 3y<br><br>5y<br>NPP 3y<br><br>Total<br>6y<br>NPP 4y | | nil | Vietnamese mother killed 5y son and 3y daughter – attempted to kill children with rat poison – suffocated both children then took poison herself – made several unsuccessful attempts at suicide - distressed at husband's infidelity and leaving relationship – severe depression – killings had an element of retribution although primarily altruistic<br>Severe depression<br>Genuine remorse |

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|---|---|---|---|---|---|---|---|
| **24.** | **Gloginya** (41) [2009] NSWSC 1435 McCallum J | Unlawful and dangerous<br><br>Assault – domestic<br><br>Strangulation | PG (10%) | 7y 8m NPP 4y 9m | | Record for lesser offences of violence – no offences since 1998 | Shared residence as carer for 56y male victim – difficult relationship and offender had taken recent steps to end responsibilities – spontaneous offence – Strangled victim although circumstances of killing unclear<br>Suffering brain injury |
| **25.** | **Cavanagh** [2010] NSWSC 670 Rothman J | Substantial impairment<br><br>Assault – domestic<br><br>Strangulation | VG (at murder trial – 25% for offer) | 9y NPP 5y | | nil | Strangled mother with extension cord - separated from wife and children – victim loaned money to offender to assist with keeping his home for children – home transferred into victim's name – relationship between victim and offender deteriorated – victim suffering from early dementia – offender suggested they move into separate premises – victim responded by telling offender and children to leave - offender attacked victim – brutal killing – approaches but not in worst category<br>Major depressive illness from marriage breakdown and access to children – good character – good rehabilitation prospects – remorse |
| **26.** | **Mathers** [2011] NSWSC 339 Hall J | Substantial impairment<br><br>Asphyxiation<br><br>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 |

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|---|---|---|---|---|---|---|---|
| **27.** | **Li**<br>(22)<br>[2012] NSWSC 477<br>Adamson J | Unlawful and dangerous – assault<br><br>Assault – domestic<br><br>Asphyxiation | PG<br>(25%)<br>Mansl<br><br>Agg Rob<br><br>8 x Obtain money by deception | 10y 6m<br>NPP 7y<br><br>FT 6y<br><br>FT 1y<br><br>Total<br>12y<br>NPP 8y 6m | | Nil | 63y male met with offender for sexual encounters on various occasions – male found at home bound and gagged - died by asphyxiation – offender had beaten and bound victim and left him abandoned – taken ATM cards and made number of withdrawals totalling $7k – did not check to see whether victim was alright<br>Student from China - support from family. |
| **28.** | **McCann**<br>(67)<br>[2012] NSWSC 1462<br>Barr AJ | Excessive self defence<br><br>Assault – domestic<br><br>Strangulation | VG<br>(murder trial) | 7y<br>NPP 3y 6m | | Nil | Strangled boarder staying at offender's home with nylon cord after argument – offender disliked and feared victim – mental issues gave rise to increasingly erratic behaviour by offender<br>Depression / bipolar – prior good character. |
| **29.** | **Kain**<br>[2013] NSWSC 638<br>Adams J | Unlawful and dangerous - assault<br><br>Assault - domestic<br><br>Strangulation | PG<br>(25%) | 6y 9m<br>NPP 4y | | Nil | Strangled mother following argument – had lived together – immediately called sister and confessed<br>Offence out of character - offender suffered dementia - state of mind likely to have prevented him truly appreciating likely outcome of his actions - cognitive impairment caused by brain damage caused delay in processing information – dementia caused loss of control in extent of violence inflicted |
| **30.** | **Salcedo**<br>(24)<br>[2014] NSWSC 1099<br>Adams J | Unlawful and dangerous<br><br>Assault – domestic<br><br>Strangulation | VG<br>(murder trial - 15% for offer) | 4y<br>NPP 2y | | Record including low level violence – breached suspended sentence and bail | Pulled and twisted scarf on girlfriend as she tried to stop him leaving unit – caused compression of blood vessel but no other injury – moderate force only - very unexpected death – did not intend harm – no argument – victim amphetamines intoxication significantly contributed to death - well within lowest range<br>History of psychotic symptoms and schizophrenia – drug use - reduced moral culpability and general deterrence but increased focus on personal deterrence |

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|---|---|---|---|---|---|---|---|
| **31.** | **Telemete**<br>(30)<br>[2015] NSWSC 909<br>Adams J | Unlawful and dangerous - assault<br><br>Assault – general<br><br>Asphyxiation<br><br>Fight - assault<br><br>Accessory | VG<br>(murder trial – 25% for offer) | 7y 6m<br>NPP 4y 6m | | Trivial offence | Fight between group of Samoan born men and victim and friends after midnight on street – all intoxicated – victim assaulted and kicked by co-offender – offender inflicted some injuries – victim died from positional asphyxiation – offender left scene unaware of seriousness of injuries<br>Genuine remorse – out of character – good prospects of rehabilitation |
| **32.** | **Duffy (No.7)**<br>(34)<br>[2015] NSWSC 1321<br>Davies J<br><br>[2017] NSWCCA 77 | Unlawful and dangerous - assault<br><br>Assault - General<br><br>Accessory<br><br>Strangulation | VG<br>(murder trial)<br>Mansl<br><br>PG<br>(25%)<br>Steal from dwelling house | 12y<br>NPP 8y<br><br>FT 2y<br><br>Total:<br>12y 8m<br>NPP 8y 8m | AD | Contravening domestic violence restrictions, break and enter, behave offensive manner. | Co-offender strangled female victim with belt around her neck while offender held victim down - victim met co-offender at hotel and invited offender, co-offender and others to parents' place – all parties affected by drug and alcohol – victim killed after sexual involvement with offender – buried in shallow grave at property – guns and other property stolen from property after killing - spontaneous killing - above mid-range of objective seriousness<br>No psychiatric or psychological issues - drug and alcohol abuse – lack of remorse – poor prospects of rehabilitation – continued illicit drug use in custody - supportive family.<br>Co-offender sentenced for murder: *Evans* [2015] NSWSC 254 |
| **33.** | **Errington**<br>(29)<br>[2018] NSWSC 79<br>Adamson J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Asphyxiation | VG<br>(at murder trial – 35% for offer to plead and assistance) | 8y 5m<br>NPP 6y 4m | | AR - robbery - firearm offences | Offender and girlfriend came to live with half-brother – offender's ice addiction caused serous tension with victim – following argument offender punched and assaulted victim with cooking pot causing loss of consciousness - hog-tied and gagged victim and left him in unit – returned two hours later to discover victim had died as a result of cardiac arrest or asphyxiation - did not contact police but made arrangements for escape - above mid-range but not in most serious category.<br>Assistance – remorse – drug addiction<br>Note: co-offender acquitted on appeal: [2019] NSWCCA 260 |

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| **34.** | **Dowdle**<br>(57)<br>[2018] NSWSC 240<br>Hamill J | Assault – Domestic<br><br>Substantial Impairment<br><br>Asphyxiation | PG<br>(25%) | 3y<br>NPP 2y | | PCA | Female - killed adult son severely disabled from car accident – disability caused son to drink and be physically abusive towards mother over long period – received little support - administered sedatives then placed plastic bag over head<br>Suffering major depressive disorder with underlying psychiatric conditions - remorse |
| **35.** | **Patel**<br>(30)<br>[2018] NSWSC 952<br>Lonergan J<br><br>[2019] NSWCCA 170 | Excessive self-defence<br><br>Asphyxiation / strangulation<br><br>Assault - general | VG<br>(murder trial - 15% for offer to plead) | 9y 4m<br>NPP 7y | AD | Nil | Female - killed female victim – victim to marry offender's friend with whom offender had been sexually involved – in confrontation offender threatened by victim with knife resulting in physical struggle - victim died by strangulation and suffocation – failure by offender to try to resuscitate or call 000 - serious offence of its kind – killing occurred in home of victim.<br>Good prospects rehabilitation - good character - unlikely to reoffend |
| **36.** | **Hutchison**<br>(36)<br>[2019] NSWSC 25<br>Hamill J<br><br>Co-offender: WILKINSON | Excessive self-defence<br><br>Substantial impairment<br><br>Assault – domestic<br><br>Asphyxiation | VG<br>(murder trial – 25% for early offer) | 9y<br>NPP 5y 6m | | Nil | Female – brutal premeditated attack on ex-husband in company of new fiancé - tricked victim into returning home to extract confession that victim had abused or mistreated their two children - victim struck and punched numerous times suffering broken nose - use of electric prod - offence committed in presence of 9y son - victim aspirated food into lungs and died of asphyxia – body placed in boot of car and dumped on roadside - precise roles of each offender not known though evidence shows H was major perpetrator - most serious example of manslaughter due to planning and premeditation of assault - intention to inflict GBH formed after attack while offender in a rage – offender's compromised mental state led to belief actions necessary to protect children due to allegations by children – excessive response - mother kills children's father<br>Chronic mental health issues arising from early child sexual assault – drug abuse – difficult relationships |

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| 37. | **Wilkinson** (39) [2019] NSWSC 235 Hamill J<br><br>Co-offender: HUTCHINSON | Assault – domestic<br><br>Asphyxiation<br><br>Accessory | VG (at murder trial – 25% for offer) | 8y NPP 4y 9m | | minor offences | Planned assault of partner's ex-husband to obtain confession to his assaults on son – victim lured to his own home where he was assaulted by co-offender – offender involved in assault to lesser extent - injuries and ligature caused asphyxiation – committed in company, in presence of victim's 9y son and in home of victim – panicked when victim died and dumped body by side of dirt road<br>Prior good character – good prospects of rehabilitation - remorse |
| 38. | **Davidson (No.3)** [2020] NSWSC 58 Davies J | Unlawful and dangerous - assault<br><br>Assault – General<br><br>Strangulation | VG (at murder trial) | 11y NPP 7y | | serious violent offences | Unable to form intent for murder due to intoxication from drugs – walked into cell of another prisoner during day and closed door – choked victim and assaulted him fracturing several ribs – offender left cell and victim found by another prisoner – sustained assault – no history of animosity - mid range seriousness - offence committed while awaiting sentence for attempt to choke different cell mate - major factor in offending was drugs although underlying mental illness also taken into account – deterrence and community protection significant<br>Commenced drug use as a child – very low intellectual capacity – onerous custodial conditions as a result of offences – institutionalised – special circumstances |
| 39. | **Songcuan (No.3)** (73) [2023] NSWSC 183 Campbell J | Strangulation / choking<br><br>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.<br>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.<br>Advanced age – good character. |

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| 40. | **Valencia Valencia (No.3)** (20) [2023] NSWSC 780 Yehia J | Assault – general<br><br>Unlawful and dangerous act<br><br>Asphyxiation | VG (murder trial – 25% for offer) | 10y NPP 6y 9m | | nil | Offender paid victim for sexual services in her home – became angry when realised victim transgender and started punching victim – during struggle asphyxiated victim with lamp chord across neck – sought to conceal presence and left unit then country without seeking assistance for victim – spontaneous offence – mid-range Colombian national – remorse - discount for facilitation of administration of justice – difficulties in custody – isolation – good prospects of rehabilitation – unlikely to re-offend |
| 41. | **Godfrey** (20) [2023] NSWSC 1312 Cavanagh J | Assault – general<br><br>Strangulation<br><br>Excessive self-defence | PG (25%) | 4y 9m NPP 2y 10m | | Limited history | Killed male victim by applying Brazilian jiu-jitsu hold known as "rear naked choke" – become involved in struggle with another drug addict in hallway outside unit – maintained choke hold beyond reasonable time for self-defence – degree of unreasonableness not extreme or high – persistence of lawful conduct – did not use available weapon<br>Very difficult and traumatic teenage years with violence, drugs and mental health issues reduced moral culpability – remorse – excellent prospects of rehabilitation |
| 42. | **Fraser** (22) [2025] NSWSC 1202 Chen J | Assault – general<br><br>Unlawful and dangerous<br><br>Accessorial | PG (25% - total combined discount unknown) | 6y 6m NPP 4y 2m | | Driving offence | Male friend attended unit residence of offender and co-offender to collect drugs – victim overpowered by co-offender and forced to ground – at request offender provided duct tape which was placed over victim's mouth – co-offender held victim in chokehold while offender sat on legs – victim vomited and suffocated – unsuccessful attempt made to resuscitate but no medical assistance called – body kept in unit for several days until arrangements made with third person to place body in cabinet and throw into river – joint criminal enterprise – co-offender primary offender – planned assault in attempt to recover drug debt – flown to Germany and not returned – moderately serious manslaughter<br>Prior good character – genuine remorse – good prospects of rehabilitation – unlikely to re-offend – impact of mental health on custodial conditions – special circumstances |



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