

Murder

Avoid Apprehension / Cover Offence

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

Standard non-parole period (offences committed on or after 1.2.2003)

20 years

25 years - Where the victim was a police officer, emergency services worker, correctional officer, judicial officer, health worker, teacher, community worker, or other public official, exercising public or community functions and the offence arose because of the victim's occupation or voluntary work

Standard non-parole period (where conviction entered or plea of guilty made on or after 1.1.2008)

25 years - Where the victim a child under 18 years of age

	NAME (age if known)	PLEA	SENTENCE	APPEAL	SUMMARY OF RECORD	HOW KILLED	INVOLVEMENT & SUMMARY
1.	CATON (18) McDONALD (19) NSWSC 12.3.1993 Levine J NSWCCA 18.8.1994 (McDonald)	VG Murder PG Rob in Co PG	MT 10y AT 5y MT 18y AT 6y	AA MT 15y AT 7y	minor no violence but lengthy dishonesty.	shooting common purpose robbery intent kill	Intending to steal taxi told driver to get out and run - shot to prevent identification.

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2.	B FERNANDO (27) V FERNANDO (26) (1997) 95 A Crim R 533 NSWSC Abadee J 21.8.1997 [1999] NSWCCA 66	VG	Life Life	AD	lengthy lengthy	stabbing intent kill	Sexual assault and killing of nurse with machete at Walgett – victim surprised offenders as they were stealing her car – forcible abduction from safety of hospital - element of premeditation - in company - horrendous and savage injuries inflicted with extraordinary violence displaying callous indifference to human life - probably committed to prevent identification by victim Aboriginal cousins
3.	MHN (17y 10m at offence – 20 at sentence) NSWSC 29.10.1998 Kirby J Co-offender: TNT	PG	MT 16y AT 6y		Breached probation for AOABH – subsequent offences for violence	Cut throat with knife Intent kill	Part of group of four youths who took 17y male acquaintance to park area and assaulted causing serious injury –strangled, stabbed and throat cut – body dumped at building site – brutal crime – seeking to eliminate witness to earlier offence Vietnamese youth – suffering depression – Evidence of explosive temper Subsequently sentenced to concurrent sentence for manslaughter (<i>MHN</i> NSWSC 20.11.1998)
4.	HEARNE (19) [1999] NSWSC 605 Wood CJ at CL (2001) 124 A Crim R 451 [2001] NSWCCA 37	PG Murder Mal wound W/I to do GBH	MT 20y AT 7y FT 6y (concurrent)	AA 18y NPP 13y FT 6y Total: 21y NPP 16y	insignificant	stabbing intent GBH	Stabbed two off-duty police after offering them illegal drugs and they asked for identification - seeking to prevent apprehension - impulsive - not aware police officers. Remorse - surrendered self to police - youth.
5.	OFFER (35) [2000] NSWSC 839 G James J [2002] NSWCCA 341	PG Murder Att Murder Sched: 3 x solicit to murder	34y NPP 25y FT 10y (concurrent)	AD	of little relevance	cross bow intent kill	Attempt to kill three witnesses who were to give evidence against him in upcoming trial - offered friend money to take care of three persons - shot wife of one witness with cross bow when she answered door, causing permanent brain damage - shot dead another witness - "very highest criminality" - motivated by panic. Protective custody - family now in Ireland.

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6.	WRIGHT (25) [2001] NSWSC 1050 Adams J	PG Sched: Aggravated rob with wounding	22y NPP 15y 6m			Stabbing Intent to kill	Stabbed middle aged woman in own home - broke into home intending to rob victim - killed victim to prevent identification - previously worked for victim and husband - premeditated, cowardly and brutal attack. Troubled childhood - some prospects of rehabilitation - relative immaturity
7.	WHITFIELD (17) [2001] NSWSC 876 Adams J [2002] NSWCCA 501	VG	20y NPP 13y	Conviction and sentence AD	lengthy criminal record	stabbing intent GBH	Went armed with knives to victim's house with three others to commit robbery - stabbed victim three times probably in panic to escape. Disturbed and troubled childhood displaying early signs of behavioural difficulties – Aboriginal youth
8.	SUTESKI (23) (2002) 129 A Crim R 559 [2002] NSWSC 457 Kirby J (2002) 137 A Crim R 371 [2002] NSWCCA 509 Co-accused: IRANI	VG Murder PG 8 x s.178BA s.178BA Sched: 68 x s.178BA	22y NPP 16y 4y NPP 3y FT 3y <u>Total:</u> 24y NPP 18y	AD	nil	stabbing accessory before the fact intent GBH	Female accounts clerk committed extensive frauds upon company - paid co-offender to injure supervisor to keep him away from work - assisted on night of killing - victim stabbed to death - agreement to inflict gbh - weapons discussed Committed earlier frauds on different company - no charges when father repaid money
9.	HOLTON (25) [2002] NSWSC 775 Davidson AJ [2004] NSWCCA 214	VG Sched: 5 lesser offences	16y NPP 12y	Crown AD	extensive, although nothing as serious	driving reckless indifference	While driving stolen vehicle passenger committed bag snatch - subsequently became involved in high speed police pursuit - struck police officer attempting to stop car by placing road spikes and stick on road Troubled childhood - sexually assaulted – remorse
10.	KRSTEVSKI (25) [2002] NSWSC 977 Kirby J	VG	24y NPP 18y		minor fraud offences	assault intent to kill	Assaulted employer with heavy metal object - instant death - intended to cover up fraud and commit further fraud - premeditated offence

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11.	LO (22) [2003] NSWSC 582 Adams J Co-accused: NG LEW	PG (comb40%) Sched: Att AR	18y NPP 13y 6m		Breached bond for drug offences	Shooting Accessory	During attempted robbery of tavern manager shot in head by co-offender to prevent identification – offender did not foresee or intend death but intentionally assisted Assistance given against co-offender
12.	NG (28) [2003] NSWSC 781 Adams J [2011] NSWCCA 227 Co-accused: LO LEW	VG Murder s.97(2)	35y NPP 25y 9m FT 7y <u>Total:</u> 37y NPP 27y 9m	AA 30y NPP 22y 6m FT 7y <u>Total:</u> 31y NPP 23y 6m	Nil relevant	Shooting Accessory	Involved in robbery of Tavern – manager deliberately shot in head to prevent identification – not satisfied who fired shot
13.	PENISINI (24) [2003] NSWSC 892 Wood CJ at CL [2004] NSWCCA 339	PG Murder Unauth use of firearm Car jacking	34y NPP 23y FT 5y FT 6y <u>Total:</u> 36y NPP 25y	Crown AD	Serious violent offences – breached parole	Shooting Intent to kill	Deliberate shooting of police officer during attempt to apprehend stolen car containing four offenders – fired five shots through driver window of police car – attempted to take second car at gunpoint to facilitate escape – no premeditation or planning Tongan – genuine remorse – element of dangerousness to community Co-offenders M and J Taufahema sentenced for manslaughter
14.	WIGNEY (36) [2003] NSWSC 1136 Adams J [2004] NSWCCA 171 Co-offender: SMALE	PG (comb 35%) Murder AR Sched: 5 serious and unrelated off	13y 8m NPP 8y 6m 6y NPP 4y 6m <u>Total:</u> 16y 8m NPP 11y 6m	Crown AA 16y 3m NPP 12y 2m 6y NPP 4y 6m <u>Total:</u> 20y 9m NPP 16y 8m	Lengthy although less serious – breached parole	Shooting Felony murder	Robbed club using firearms – struggled with pursuing manager and shot him in chest Assistance against co-offender – genuine remorse – long history of drug abuse On appeal found error in finding reflexive discharge of weapon

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15.	TA'ALA NSWSC Davidson AJ 30.7.2004 [2008] NSWCCA 132	PG (just over 13%) Murder Murder	26y NPP 19y 6m 35y NPP 26y 6m <u>Total:</u> 47y NPP 38y 6m	AA 26y NPP 19y 6m 35y NPP 23y 3m <u>Total:</u> 47y NPP 35y 3m		Bashing and stabbing Intent to kill	Beat first victim with cricket bat over head – argument as to drug dealing – bashed and stabbed second female victim who had witnessed the attack. On appeal corrected SJ's intention to set NPP at 75% of total sentence
16.	ASLETT (33) [2004] NSWSC 1228 Wood CJ at CL [2006] NSWCCA 360	PG Murder 2 x s.61JA 8 x s.97(2) 2 x s.97(1) Sp agg kidnap Agg car jacking Att obtain money by deception 3 x LMV Sched: 9 offences	Life <u>Total other offences:</u> 36y NPP 28y	AA 28y NPP 22y <u>Total other offences:</u> 36y NPP 28y <u>Total:</u> 42y NPP 36y	Lengthy and disturbing – almost continuous custody since 11 years old – recently sentenced for brutal home invasion and sexual assault on 16y female occupant	Gunshot Felony murder	SNPP 20 years Murder involved attempt robbery of male proprietor of pharmacy – struggled with victim in car, took out loaded gun to threaten and gun discharged - other offences committed over 3 months – stole car with female occupant using knife and gun – sexually assaulted complainant twice – robberies of various retail premises using guns and knives Drug abuse – some remorse - finding of dangerousness – psychological profile suggests no hope of rehabilitation On appeal: erred in using other offences to impose life sentence for that did not alone warrant life sentence
17.	VILLA (36) [2005] NSWCCA 4	VG 2 x Murder 3 x Attempt murder	Life	AD	Minor	Shooting / Stabbing / Strangulation Intent to kill	Entered home to collect debt – tied up adults – shot male – shot, stabbed and strangled female – shot child in head twice – set fire to house to kill three children – attempt to avoid detection – overall culpability justifies life sentence

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18.	DEHAYBI (20) [2005] NSWSC 128 Levine J (2006) 160 A Crim R 392 [2006] NSWCCA 31	VG Murder s.33 AR	24y NPP 18y 12y NPP 9y FT 6y <u>Total:</u> 26y NPP 20y	AD / Crown AD	Breached bond for dishonesty offences	Stabbing Intent GBH	SNPP 20 years With brother pre-planned armed robbery of family attempting to sell engagement ring – during struggle fatally stabbed adult son and stabbed father in chest
19.	BARTON (47) [2007] NSWSC 651 Buddin J [2009] NSWCCA 164	VG Murder Manslaughter Att Murder	37y NPP 30y FT 5y FT 13y <u>Total:</u> 42y NPP 35y	AD	Old offence involving fire	Fire Intent to kill	SNPP 20 years Shot male acquaintance in back of head during argument – manslaughter by provocation – victim a violent man blackmailing offender over many years – genuine fear for safety – cared for victim's children during following day – dosed children with methadone and set fire to house – intent to cover killing of male – 3y girl killed in fire (murder) – 5y boy rescued by offender (att murder) – significant element of planning – relationship between manslaughter and subsequent offences – murder objectively worst case Ill health – protective custody – personality deficits exacerbated by victim's behaviour and death of mother
20.	DAVIS (26) [2008] NSWSC 55 Mathews AJ [2015] NSWCCA 90	VG	24y NPP 18y	AA 22y NPP 16y 6m	Lengthy – mal wounding under similar circumstances	Stabbing Intent GBH	SNPP 20 years Broke into apartment to steal property – stabbed male occupant in attempt to escape – victim died 3 days later from heart failure Disturbed and abusive childhood
21.	KLEIN (29) [2008] NSWSC 835 Buddin J	VG	22y NPP 16y 6m		Minor	Shooting Intent to kill	(2001) - Shot male acquaintance in chest and in back of head during confrontation over debt to offender's brother – no initial intent to kill – killed to prevent identification in moment of panic Good prospects of rehabilitation – out of character – strict bail conditions – long delay

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22.	MEHTA (42) [2009] NSWSC 814 Grove J	PG Murder Murder	30y Life		Assault on first wife – strangling and threat to kill	Strangulation Intent to kill	SNPP 20 years / 25 years Strangled wife during argument – verbal threats and physical assaults made previously – killed 9y step daughter to prevent her reporting killing to police – method of killing unclear – threw bodies over cliff in Blue Mountains – discovered by bushwalkers 4 weeks later – lied to police – had son assist in deception - killed wife for financial reasons – killing if step daughter worst case No evidence of remorse or rehabilitation
23.	JK (juvenile) [2012] NSWSC 710 Harrison J	PG (17.5%) Murder Attempted Agg BES Sched: 6 offences	15y NPP 10y FT 2y <u>Total:</u> 15y 9m NPP 10y 9m		Breached parole – record for dishonesty and car theft	Car Constructive murder	With group of young men stole cars – attempted to break into service station – attacked male victim and his adult son standing near car – stole car and drove out of service station – struck male victim on road who was attempting to escape on foot – no intent to run over or inflict harm – affected by alcohol Difficult and traumatic childhood – low intelligence – limited education - early drug and alcohol abuse – mental illness – Aboriginal youth
24.	HENZON (26) [2012] NSWSC 726 Hidden J	PG (25%) Murder 2 x obtain money by deception Sched: 2 x offences	18y NPP 13y FT 18m <u>Total:</u> 19y 6m NPP 14y 6m		nil	Suffocation Reckless indifference	SNPP 20 years Female bank teller stole \$16,000 from account of husband and wife customers – subsequently stole \$115,000 from account of 72y female bank customer – admitted to suffocating customer in home unit – circumstances of killing unclear Suffering long-term physical illness
25.	HUDD [2013] NSWCCA 57 Co-offender: BROWN	VG Murder 2 x AR s.33 Agg AOABH	27y NPP 20y 3m 10y NPP 7y 6m 5y NPP 3y 9m 2y NPP 18m <u>Total:</u> 28y 6m NPP 21y 9m	AD		Shooting Felony Murder	Two offenders involved in planned armed robbery of electrical store – three employees tied up – one employee shot dead by offender in pursuit Fresh evidence as to ill health

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26.	NADEN (40) [2013] NSWSC 759 Price J	PG Murder (20%) Murder Shoot w/i murder Agg indecent assault BES 15 x BES	28y NPP 21y Life 16y NPP 6y 4y NPP 2y 3y 6m NPP 1y FT 2y – 3y 6m		Offensive language, high- range PCA.	Strangulation Intent to kill	SNPP 20 years Indecently assaulted 12y daughter of acquaintance Murdered female cousin after she raised allegation offender had indecently assault 12y female - strangled victim then dismembered and buried body. 5 months later strangled female neighbour – had sexual intercourse with body – had been sexually attracted to victim On run from police for 7 years and committed multiple break and enter offences to survive – shot at police officers who approached camp Long standing low-grade depression and severe personality disorder – poor rehabilitation prospects – Aboriginal male
27.	DEAN (37) [2013] NSWSC 1027 Latham J [2015] NSWCCA 307	PG 11 x Murder 8 x s.35(2) Larceny as a clerk	Life 8y NPP 6y FT 5y	AD	Nil	Arson Reckless indifference	SNPP 20 years Nurse lit two fires in aged care nursing home – lit fires to cover theft of painkiller medication to feed long-term drug addiction – while fire burning retrieved drug log books and destroyed them – deliberate actions in not alerting fire brigade to second fire or assisting residents to escape Personality disorder – poly substance abuse disorder.
28.	JACOBS (No. 9) (49) [2013] NSWSC 1470 Button J	VG	Life		Lengthy - driving, multiple AR.	Shooting Intent to kill	SNPP 25 years Shot police officer – victim followed offender in police vehicle suspecting offender driving disqualified – both stopped then offender shot victim in chest at close range (3 metres) – motive unable to be determined. Drug abuse – learning difficulties as child.
29.	FORREST (50) [2014] NSWSC 1680 Hidden J	VG	25y NPP 19y		Old dishonesty offences	Poison Intent to kill	SNPP 20 years Female – carer for 84y male victim – misappropriated funds from sale of victim's house – poisoned victim with morphine tablets and killed him to hide misappropriation – attempted to cover tracks – pre-meditated Unhappy childhood – gambling problem – very poor health – possible terminal illness – difficult custodial conditions

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30.	E McKELLAR (18) B McKELLAR (28) [2014] NSWSC 1243 RA Hulme J	VG Murder Wound with intent Att AR	20y NPP 14y 8y NPP 6y 5y NPP 3y 9m <u>Total:</u> 24y NPP 18y		Lengthy – breached parole Lengthy – breached bail for assault offence	Stabbing Intent GBH Extended joint criminal enterprise	SNPP 20 years Four males attended home of victim with intent to rob – victim sold small amounts of cannabis on regular occasions – group brought machete and knife to scene - victim assaulted by BMcr at door to house – BMc pursued by victim and 17y son – son stabbed by EMc twice at request of BMC to 'kill the cunt' – victim surrounded and assaulted by four offenders – stabbed four times by EMc – spontaneous assault Aboriginal brothers with difficult background including domestic violence E McKellar very low intellectual functioning B McKellar suffering brain damage from accident
31.	M BARBIERI (19) [2014] NSWSC 1808 Hulme J [2016] NSWCCA 295	PG (15% on appeal) Sched: 4 offences	35y NPP 26y	AA 21y 3m NPP 15y	nil	Stabbing Intent to Kill	SNPP 25 years Male lived with mother on rural property - relationship with neighbour became antagonistic – fired crossbow at workers on neighbour's property – siege developed between police and offender and mother – attacked police with knife and sledgehammer – police officer fatally stabbed - mother was dominant offender Mother pleaded guilty to manslaughter Mother suffered serious mental illness causing paranoia and social isolation for both offenders – offender also developed serious mental illness - mandatory life sentence does not apply because of serious cognitive impairment

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32.	AX (23) [2015] NSWSC 317 Johnson J Co-offender: SYME	PG (25%)	26y 7m NPP 19y 11m		Destroy property; use offensive weapon	Assault Intent to kill	SNPP 20 years Lived with 76y male victim – planned to defraud victim taking \$30k from bank account using fraudulent cheque – victim discovered money missing from his account – attacked victim with tyre iron - numerous blows to head – substantial violence – motivated by greed and desire to hide fraud - above mid-range Disturbed upbringing – drug abuse – gambling - assistance to authorities – remorse – difficult to predict rehabilitation
33.	SYME (27) [2015] NSWSC 1609 Adams J Co-offender: AX	PG (15%)	21y NPP 12y		Minor	Assault Intent GBH	SNPP 20 years Female – 76y male victim bashed by co-offender (husband) so that victim would not discover they had taken money from victim's bank account – victim bashed to head with tyre lever and metal pipe Dysfunctional background – drug abuse
34.	FULLER (18) [2016] NSWSC 815 Rothman J	PG (not full 25%) Sched Add offences	24y 6m NPP 17y		Long record	Assault Intent GBH	SNPP 20 years Believed victim owed offender money for stolen goods sold on behalf of offender – lured victim to meeting – punched victim twice then frenzied attack with blunt end of tomahawk – feared victim would report stolen goods to police Aboriginal male - violent and abusive childhood - aggressive and psychopathic personality disorder
35.	KUMAR (54) [2016] NSWSC 1747 Mathews AJ	VG	23y NPP 17y		Nil record – breached bail for sexual offences against victim – history of domestic violence	Suffocation Intent kill	SNPP 20 years Broke into home of estranged wife and suffocated her – limited planning – unprovoked killing – motive almost certainly to prevent victim giving evidence in sexual assault charges – mid-range Fijian Indian – good prospects of rehabilitation

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36.	<p>CAMERON (62)</p> <p>FORWARD (21)</p> <p>[2016] NSWSC 1342 Fagan J</p> <p>[2017] NSWCCA 229 (Cameron)</p> <p>Co-offender: ZANKER</p>	<p>PG (40% comb) Murder</p> <p>(25%) Cultivate lge comm qty</p> <p>PG (30% comb) Murder</p> <p>(25%) Cultivate lge comm qty</p>	<p>24y NPP 18y</p> <p>10y NPP 7y 6m</p> <p><u>Total:</u> 28y NPP 22y</p> <p>21y NPP 15y 5m</p> <p>3y NPP 2y 3m (concurrent)</p>	AD	<p>Persistent offender in relation to cannabis – breached parole for cannabis offence</p> <p>Nil</p>	<p>Stabbing</p> <p>Intent to kill</p>	<p>SNPP 20 years</p> <p>C one of two principals in hydroponic cannabis plantation in shed at rear of property – F and victim two of several workers – concerns developed as to violence and instability of victim – plan developed to kill victim – grave dug in remote area one week prior to killing – victim fatally stabbed by F in sustained assault in cannabis shed in presence of C and two others – body buried in grave – pre-meditated - killed to protect planation and financial gain for C – brutal killing – in company – disposal of body</p> <p>Plonation involved 664 plants – highly organised and high volume commercial planation – involved some supply</p> <p>C – Principal in both offences</p> <p>F – willing participant – drug user probably impaired by substance intoxication at time of killing</p>
37.	<p>MURDOCH (30)</p> <p>[2016] NSWSC 1475 Mathews AJ</p>	<p>VG Murder</p> <p>Agg armed robbery</p>	<p>28y NPP 21y</p> <p>8y</p> <p><u>Total:</u> 30y NPP 22y 6m</p>		<p>Armed robbery, kidnapping, dishonesty.</p>	<p>Shooting</p> <p>At least intent GBH</p>	<p>SNPP 20 years</p> <p>With co-offender robbed store – offender shot store employee during robbery at close range - motive to enable co-offender to escape after he had been lawfully captured - robbed second victim of a sum of cash while armed with pistol - above midline of objective seriousness.</p> <p>Institutionalised - dysfunctional background – illiterate – drug abuse from young age - acquired brain disorder - substance abuse disorder - personality disorder</p>

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38.	HAINES (No.3) (46) [2016] NSWSC 1812 Garling J [2018] NSWCCA 269	VG 2 x Murder	<u>Indicative</u> 30y NPP 22y 6m <u>Aggregate</u> 36y NPP 27y	AD	Minor drug possession	Injected with insulin Intent to kill	SNPP 20 years Female nurse at aged care facility injected two residents with insulin shortly after being advised they had made complaint about her care – caused coma – aggravated by being committed in ‘home’ of victim, abuse of trust and vulnerable victims – deliberate and calculated act but short term planning – no prolonged pain and suffering – significantly above mid-range Difficult childhood – previous findings of misconduct as a nurse and subject to reporting conditions at time of offending
39.	O’CONNOR (61) [2018] NSWSC 1734 RA Hulme J	VG 3 x Murder	Life		minor – old assaults	Shooting Intent to kill	SNPP 20 years Became enraged upon learning girlfriend had gone home with male acquaintance following argument with offender – drove out to property of male victim and shot him, girlfriend and male victim’s 28y son in head and chest – set fire to caravan with body of male victim – motivated by jealousy - shot son to eliminate potential witness – “intended to blast every essence of life from each of his victims ... causing the most horrific injuries imaginable” – time to consider actions – offences aggravated by being related to domestic relationship and committed in home of two victims Prior good character
40.	HOLDEM (34 at offence – 44 at sentence) [2018] NSWSC 1677 RA Hulme J	PG 2 x Murder	Life		includes assault and child sexual assault	Assault / Suffocation Intent to kill	SNPP 20 years / 25 years Male travelled with 20y female and her 2y daughter from Northern Territory – took adult victim to Belangalo Forest and murdered her by stomping or leaning on chest and throat – motive for killing unclear – complete disdain for victim as human being - sexually abused victim at time or shortly after death and took photos – took victim’s daughter and suffocated her en route back to Northern Territory – dumped body in suitcase by side of road – planned to sexually assault child although not clear if this occurred – prompted in part by need to cover up killing of mother - bodies remained unidentified for many years – sent phone messages to victim’s mother and accessed victim’s bank account for several years – level of culpability so extreme Abusive childhood – regular drug user – actions show danger to community

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41.	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

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