

## Manslaughter

### Accessory After the Fact

**Maximum Penalty: 5 years**

**s.18 (NSW) Crimes Act – offence of manslaughter**

**s.350 (NSW) Crimes Act – punishment for accessory after the fact to serious indictable offence**

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
1.	<b>Huntington</b> (16) <a href="#">[1999] NSWSC 1314</a> Hidden J	Accessory after the fact to manslaughter	PG	2y GBB		Drugs, dishonesty and firearms offences	(1992) Called to home of victim by principal offender S – observed body of V on garage floor and assisted in burying body – S older, made some threats and paid small amounts of money to offender – dealt with for unlawful disposal of body and placed on probation – did not reveal involvement of S until 1997 Difficult family circumstances at time of offence – completely rehabilitated
2.	<b>Strahan</b> (25) <a href="#">[2003] NSWCCA 397</a>	Accessory after the fact to manslaughter	PG	3y PD	AA 3y NPP 2y 3m		Drove principal offender R to V for purpose of giving V a beating – V died when R punched and kicked him to head – offender assisted to wrap and dispose of body and burn lounge and clothes with V's blood – offence undetected for 6 months Remorse – evidence of rehabilitation
3.	<b>Sharp</b> (23) (2004) 142 A Crim R 140 <a href="#">[2004] NSWSC 111</a> Howie J	Accessory after the fact to manslaughter	VG	2y PD		Nil	Female - V killed by offender's partner, W, during struggle at unit occupied by offender and W – drunken argument over V leaving - V struck on head with hammer – substantial provocation – assisted W to remove body from unit and drove him to property where W dismembered and disposed of body – cleaned unit – continued to cover up offence with multiple false statements – active participant in cover up Motivated by relationship with W – no contrition - prior good character – mother to young child

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4.	<p><b>Arnold</b> (41)</p> <p><b>Isaacs</b> (41)</p> <p><b>Sulman</b> (35) <a href="#">[2005] NSWSC 1244</a> Latham J</p>	<p>Accessory before the fact to manslaughter</p> <p>Accessory after the fact to manslaughter</p> <p>Accessory before the fact to manslaughter</p> <p>Accessory after the fact to manslaughter</p> <p>Accessory after the fact to manslaughter</p>	<p>PG (15%)</p> <p>PG (15%)</p> <p>PG (15%)</p>	<p>3y NPP 18m</p> <p>3y NPP 12m</p> <p>Total: 4y NPP 2y 6m</p> <p>2y NPP 12m</p> <p>2y NPP 13m</p> <p>Total: 2y 6m NPP 1y 7m</p> <p>2y NPP 19m</p>		<p>AOABH</p> <p>Nil</p> <p>Nil</p>	<p>V fatally assaulted by principal offender - P - who dumped body at truck stop – revenge for perceived sexual relationship between V and daughter A – female partner of P – sought to locate V in order to have P exact revenge - after death sought to prevent witness and daughter revealing possible motive to police – some remorse – difficult childhood including sexual abuse I – female friend to co-offenders – lured V to home knowing he would be assaulted by P – after death cleaned room to remove traces of blood – prior good character – difficult childhood with sexual abuse – good prospects of rehabilitation - remorse S – partner of I – provided accurate instructions as to where to clean room to remove blood traces – lied to police - remorse - prior good character – difficult personal life – good prospects of rehabilitation – protective custody</p> <p><b>(Note – sentenced on the basis maximum penalty for both offences was 25 years)</b></p>
5.	<p><b>Sandilands</b> (34) <a href="#">[2007] NSWSC 452</a> Adams J</p>	<p>Accessory after the fact to manslaughter</p>	<p>PG (25%)</p>	<p>3y NPP 2y 1m 26d</p>		<p>Robbery and dishonesty offences</p>	<p>V fatally stabbed in act of excessive self-defence by principal offender H in home of offender – offender assisted in disposing of body and cleaning up room – lied to police on several occasions – believed H had acted in self defence Troubled childhood – drug abuse Note: SJ would have imposed sentence of 2y 6m NPP 1y but offender already served total NPP on remand</p>

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6.	<b>Abdulrahman</b> (22) (2007) 171 A Crim R 419 <a href="#">[2007] NSWSC 578</a> Studdert J	Accessory after the fact to manslaughter	PG (15%)	2y 6m NPP 2y PD  13m pre-sentence custody		Drug offence and demand money offence – no custody	Offender and principal offender D staying in unit with ex-girlfriend B - V killed in unit during altercation over drug dealing – shot after first threatening D with handgun – offender present at time of shooting – offender remained with D and assisted in forcing B to also stay with them for several days Good prospects of rehabilitation – 13 months pre-sentence custody taken into account
7.	<b>L.Jones</b> (42) <a href="#">[2007] NSWSC 1333</a> Buddin J	Accessory after the fact to manslaughter	VG (at trial for accessory after the fact to murder)	2y GBB		Nil	Assailants and victims all members of Romany gypsy families – in aggressive altercation one V fatally stabbed and second male badly injured – not clear which assailant responsible for fatal stabbing – element of self-defence and provocation – offender not present at scene but subsequently wiped machete and sword clean of blood – motivated by desire to protect husband – spontaneous and limited offence – lower end of spectrum Powerful subjective case - impact of husband's incarceration on offender and two teenage children – prior good character
8.	<b>Hamid</b> (19) <a href="#">[2008] NSWSC 993</a> Hidden J	Accessory after the fact to manslaughter  Enter dwelling in company with intent to steal  Sched: Causing danger with a firearm	PG (15%)	FT 18m  4y 6m NPP 2y 3m  <u>Total:</u> 6y NPP 3y 9m		Minor offence	(2003) One of four men attending V's house intending to shut down drug operation – offender stayed outside house – V shot in struggle – all four fled house – offender fired shots into air to frighten off pursuer – reluctant participant – in subsequent days assisted two co-offenders evade justice – encouraged them to obtain false identities and leave country – approached possible witness to ensure silence – distinguished from cases where offender seeking to protect loved one Unrelated home invasion occurred five months earlier where two men assaulted Prospects of rehabilitation – remorse

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9.	<b>Salah</b> (32) <a href="#">[2008] NSWSC 311</a> Johnson J  <a href="#">[2008] NSWCCA 170</a>	Accessory after the fact to manslaughter	PG (10%)	3y NPP 1y 11m	AA 3y NPP 1y 9m 25d	Assault in Israel	Brother of principal offender DS – on morning of offender V assaulted DS and made threats to kill – in second confrontation that evening V assaulted offender and threatened DS with knife who grabbed knife and stabbed V six times – excessive self-defence – assisted by leaving scene of stabbing immediately with DS, non-disclosure of whereabouts of car and bloodstained pole used in offence and attempt to dispose of blood stained clothes - assistance continued for two days - 'relatively confined assistance' over short period of time Israeli national – relationship to principal offender On appeal: NPP manifestly excessive – reduced to allow immediate release
10.	<b>Rodriguez</b> (44 at offence – 60 at sentence) <a href="#">[2012] NSWSC 663</a> Hidden J	Accessory after the fact to manslaughter	VG At trial for accessory after the fact to murder	2y suspended		nil	(1995) V fatally stabbed during robbery involving offender's son and second male – offender arranged for collection and disposal of knife used in killing from friend of family who had been given knife and cleaned it of blood – father assisting son – importance of general deterrence Born in El Salvador – forced to leave country because of political membership – good character – married with five children – poor health
11.	<b>TT</b> (43) <a href="#">[2014] NSWCCA 206</a>	Accessory after the fact to manslaughter	VG	4y NPP 3y	AD	minor	Female - offender's mother killed young girl who was living with offender, by throwing hammer at V's head – offender organised for disposal of body and lied to as to whereabouts of V over 2 years – at upper end of seriousness – age of victim – aware of circumstances of death – nature and length of assistance – callous and coldhearted Difficult upbringing – depression – no remorse Consideration of factors relating to seriousness of offences of this kind

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12.	<b>Bechalany</b> (35) <a href="#">[2018] NSWSC 502</a> Hidden AJ	Accessory after the fact to manslaughter	PG	2y GBB		Nil	Female – wife of principal offender B – witnessed B stabbing V in leg from front seat of car – remained with B in car – B advised by phone V died and then assaulted by two males – shortly after offender purchased overseas ticket on B's behalf knowing he had killed V by unlawful and dangerous act – B arrested at airport next morning – acted out of fear of B although also some concern for him – low moral culpability History of violent and abusive relationship – suffering severe depression – genuine remorse – entitled to 25% discount for plea – separated from B - mother to four children – very good prospects of rehabilitation – on bail conditions for three years
13.	<b>YA</b> (17) <a href="#">[2019] NSWSC 180</a> Wilson J	Access after the fact to manslaughter	PG discount not specified	12m CCO – 84h community service work  21 days pre-sentence custody taken into account		Nil – subsequent offences	Male victim killed in apartment by male who worked as drug courier for offender – stabbing occurred during argument over drug business – offender brought carpet cleaning equipment to apartment at request of primary offender – upon becoming aware of killing assisted in cleaning apartment and removing and attempting to destroy property from scene of offence – moderate degree of gravity 23y at sentence – shortly to be married – some remorse – drug user at time of offence
14.	<b>Ferris (a pseudonym)</b> (54) <a href="#">[2020] NSWCCA 325</a>	Access after the fact to manslaughter  s.315(1)(a)  Sched: Steal copper pipes	PG (40% combined)	<u>Indicative:</u> 2y 6m  1y 6m  <u>Aggregate:</u> 2y 10m NPP 1y 6m	AD	Record – breached bail for serious sexual offences at time of offending	Present in industrial area with two men preparing to steal copper piping – heard principal offender M strike victim to head causing fracture and immediate unconsciousness – left area with M after unsuccessful attempt to revive V – returned to pick up tools and again left victim – took steps to conceal involvement – lied to police in collusion with M over 7 months – motivated by desire to protect own interest and assist M - 8 months after arrest wrote to partner to dissuade her from making statement to police Drug user – genuine contrition – assistance

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15.	Quinn (No.1) (25) <a href="#">[2021] NSWSC 493</a> N.Adams J	Access after the fact to manslaughter	VG At murder trial	2y CCO		Nil	Female - male victim killed by offender's boyfriend during violent home invasion by victim – victim chased and killed with samurai sword – act of excessive self-defence - offender present at time of home invasion and killing – left with boyfriend and spent several days with boyfriend checking into hotels – voluntary surrender to police – assistance occurred from when offender realised victim dead to when offenders decided to contact police – minimal effect on investigation – acted out of loyalty to boyfriend – comfortably below mid-range Difficult childhood – mental and behavioural health issues including untreated ADHD – heavy cannabis user related to ADHD – dealing in drug – excellent prospects of rehabilitation Reference to factors in <u>TT</u>

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