

Manslaughter

Context of Domestic Violence

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Hill (1981) 3 A Crim R 397	Provocation Shooting – domestic	VG Murder		Conviction AA Manslaughter substituted 4y 6m NPP 1y		Shot husband after many years of physical abuse - on night of killing husband had returned home drunk and violent
2.	Bogunovich (1985) 16 A Crim R 456	Provocation Stabbing – domestic	PG	4y Bond			Stabbed husband after long history of domestic violence – on night of killing husband had struck offender outside club
3.	Manning NSWCCA 15.4.1988	Unlawful and dangerous - shooting Shooting - domestic	PG	5y NPP 2y	AD	nil	Shot husband - good relationship with history of violent arguments – on night of killing had argument over phone - went to friend's house and obtained rifle - shot at husband in dark intending to frighten him when he arrived home
4.	Roberts NSWSC Hunt J 31.8.1989	Unlawful and dangerous - shooting Shooting – domestic	PG	2y GBB		Nil	Aboriginal female shot husband - history of domestic violence - physical & psychological abuse - treated like a 'dog' - husband had ongoing affair - on day of offence violent argument - intended to shoot husband in leg but confrontation led to shooting in chest
5.	Whalen NSWCCA 5.4.1991	Provocation Stabbing – domestic	PG	MT 5y AT 3y	AD		Killed husband with carving knife and axe - relationship had deteriorated - on day of killing verbally and physically abused by victim

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6.	Gardner NSWSC Wood J 27.3.1992	Diminished Responsibility Provocation Shooting – domestic	PG	7y GBB			Shot husband under extreme stress – husband very ill with MS and physically dependent - child suffered cerebral palsy and was also utterly dependent - victim terrorised offender and kept gun beside bed – shot victim once, then buried and reported him as missing Extreme use of mechanisms of denial and repression developed to cope with major childhood traumas - son died in lead-up to trial - pregnant at time of sentencing - wholly exceptional case
7.	Peterson NSWSC 22.5.1992 Enderby J	Provocation Stabbing - domestic	PG	5y Bond (PSC 5m)		unimportant	Stabbed step brother in fight - element of self-defence - victim aggressively picked fight with offender - both had been drinking - no premeditation History of violence at hands of stepfather and brothers
8.	McMillan NSWSC Slattery AJ 17.12.1992	Unlawful and dangerous - shooting Shooting - domestic	VG	MT 5y AT 3y		PCA and unlicensed driver	Turbulent relationship with female victim - on day of shooting victim told him to leave - pointed rifle at victim and it discharged - affected by alcohol
9.	Spencer NSWSC Mathews J 18.12.1992	Provocation Stabbing – domestic	PG	3y PD		Nil	Killed de facto husband with single stab wound - history of domestic violence - victim physically and verbally abusing offender Fragile mental state
10.	Morabito (1992) 62 A Crim R 82	Provocation Shooting – domestic Accessory	VG	MT 8y AT 2y 6m	AD	nil	Arranged for lover to shoot husband during day leave from gaol - victim had record for violence, involved in organised crime and history of domestic violence - lured victim to place of killing and supplied gun - genuine fear that victim would kill her and children if he found out about affair
11.	Woolsey NSWSC Newman J 19.8.1993	Unlawful and dangerous – stabbing Stabbing – domestic	PG	4y GBB		nil	History of domestic violence when victim drunk – offender assaulted during argument with victim - picked up knife to scare victim off and stabbed him
12.	Pavia NSWCCA 9.12.1994	Provocation Assault - domestic	VG	MT 9y AT 3y	AA MT 7y AT 3y	nil	Intense but turbulent homosexual relationship with victim - bashed victim with barbell and statuette - previous assaults on victim

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13.	Josifovski NSWSC Smart J 25.1.1995	Diminished responsibility Stabbing – domestic	PG	MT 6y 9m AT 6y 6m			Stabbed wife 51 times after she refused to have sex - considered killing himself but taken to police by relatives – suffering paranoid delusional disorder History of mental illness and paranoia – history of violent acts towards victim and threats on her life - Yugoslav migrant
14.	Simon NSWSC Bruce J 21.7.1995	Stabbing – domestic	PG	MT 2y AT 3y			Stabbed de facto husband during fight after day of drinking at hotel History of domestic violence
15.	McIntyre NSWSC McInerney J 15.3.1996	Provocation Stabbing – domestic	PG	MT 2y AT 4y		nil	Stabbed de facto husband when he grabbed her hair - prelude on previous occasions to serious assault - relationship characterised by inhumane treatment of offender - consumed drugs and alcohol
16.	Varagnolo NSWSC McInerney J 21.3.1996	Unlawful and dangerous - stabbing Stabbing – domestic	PG	2y GBB		mal wound but not relevant	Long history of violent relationship with victim, including rape - night of killing violent argument, including assault on offender's young daughter - picked up knife with intention of frightening victim - stabbing occurred when victim moved towards offender Very deprived background – part Aboriginal - stolen generation
17.	Carlson NSWCCA 25.11.1996	Diminished responsibility Assault – domestic	PG	MT 11y AT 5y	AD	long record, bond for DV	Assaulted de facto wife - substantial number of blows - violent relationship characterised by alcohol abuse - some provocative statements from victim prior to attack Permanent brain damage from car accident and alcohol - reduced self control
18.	Young (mid 30s) NSWSC Levine J 20.5.1998	Provocation Stabbing – domestic	PG	MT 3y AT 3y		2 bonds, mal damage, assault	7 stab wounds to husband - victim started assaulting offender in argument about wine consumption - offender 'snapped' and went into frenzy - no premeditation Stormy and volatile relationship - offender not passive, helpless victim - some prospects of rehabilitation
19.	Moore NSWCCA 16.6.1998	Unlawful and dangerous - stabbing Stabbing – domestic	PG	MT 2y 11m 21d AT 3y	AD	minor	Stabbed de facto husband during violent argument - history of violence and alcohol abuse Aboriginal with violent past, including domestic violence - pancreatitis, PTSD, borderline personality disorder - truly remorseful - commenced rehabilitation

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20.	Nardoni (26) [1999] NSWSC 1097 Grove J	Unlawful and dangerous - assault Assault - domestic	PG	MT 2y AT 3y (PSC 1y)		assault, mal injury, nuisance offences	Assaulted de facto wife - died of head injuries next morning Violent relationship - alcohol and drugs
21.	Sherry (38) [2000] NSWCCA 35	Unlawful and dangerous – stabbing Stabbing – domestic	VG	MT 2y 6m AT 2y 6m	Crown AA MT 3y 6m AT 2y 6m	lengthy but minor alcohol related record	Stabbed de facto wife during violent altercation - stabbed wife below ear History of volatile and violent relationship - alcohol problems
22.	Kennedy [2000] NSWSC 109 Barr J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB			Stabbed de facto husband in chest once during confrontation - circumstances of offence unclear but history of extreme and cruel domestic violence - spontaneous offence Genuine remorse – suicidal - violent childhood beaten first by mother then victim
23.	Kirkwood (63) [2000] NSWSC 184 Bell J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	MT 12m AT 18m		minor record	Aboriginal female had sexual relationship with victim for 4-5 years - violent argument where victim threw stool at offender and threatened her with knife - offender took knife and 'poked' victim in chest. Mildly intellectually handicapped – alcoholic - not prone to violence - health problems - carer for handicapped son.
24.	Vandersee (47) [2000] NSWSC 916 James J	Provocation Assault – domestic	VG (at murder trial)	8y NPP 5y		nil	Bashed sleeping husband to death with blunt end of a tomahawk or axe - provoked by domineering, controlling and cruel behaviour of victim over many years - medium degree of provocation Suffering mild depression at time of offence - made immediate admissions to police
25.	Ko (26) [2000] NSWSC 1130 Kirby J	Diminished responsibility Provocation Stabbing – domestic	PG	4y NPP 18m		Nil	Stabbed husband 17 times - married victim after he sexually assaulted her - unhappy and violent marriage - victim forced offender to have abortion and seeking divorce - offender isolated and suffering major depression - attempted suicide Exemplary life prior to offence - model prisoner - genuine remorse

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26.	Bolt (19) [2001] NSWSC 747 Hidden J (2001) 126 A Crim R 284 [2001] NSWCCA 487	Provocation Stabbing - domestic	VG (at murder trial - 25% for offer)	5y 6m NPP 2y 6m	Crown AA 6y NPP 3y 6m	criminal record related to difficult background	Stabbed mother to death - extremely dysfunctional childhood caused by violent and abusive treatment by mother - earlier in afternoon mother had ordered mentally ill daughter to leave house – lost control when mother verbally abused offender and poked him in chest - degree of provocation high Unlikely to re-offend in this way – need for much rehabilitation - genuine remorse
27.	Melrose [2001] NSWSC 847 McClellan J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB			Aboriginal woman stabbed partner during violent argument – victim had assaulted offender earlier in evening – long term domestic violence - isolated by move to another town and became depressed Remorseful and severe psychiatric reaction to killing - significant suicide risk
28.	Eriksson (23) [2001] NSWSC 781 Ireland AJ Co-offender: HILL	Negligence Child victim Failure to provide	PG (50% plea and assist)	3y NPP 18m		insignificant	Female - 2y son thrown into lounge by de facto – failed to obtain medical assistance despite deteriorating health of child - number of serious injuries inflicted on child by de facto over 10-14 days prior to death Difficult childhood - remorse - volatile and chaotic relationship with father of children then with co-offender - willing to give evidence against co-offender - will become blind within ten years - strict protection
29.	Whiting (35) [2002] NSWSC 827 Levine J	Unlawful and dangerous - stabbing Stabbing – domestic	PG (33%)	5y 4m NPP 3y		prior violence	Stabbed de facto wife during domestic dispute - both parties affected by alcohol - victim initiated attack with beer bottle and approached offender with knife - during struggle offender took knife and victim stabbed once Relationship characterised by violence of part of both victim and offender - suffering alcohol dependence and personality disorder - genuine remorse - strict protection
30.	Yeoman (43) [2003] NSWSC 194 Buddin J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB		Nil	Stabbed de facto husband of 25 years once in heart - both heavily intoxicated – not fully aware of actions due to effect of intoxication - element of provocation and long history of domestic violence – stabbed victim on previous occasion Prior good character - isolation caused by recent move - grief over recent death of father - effect of imprisonment on 5y old son - genuine remorse - excellent prospects of rehabilitation

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31.	O'Brien [2003] NSWCCA 121	Negligence Child victim Failure to provide	VG	5y NPP 2y	AD	Nil	1y daughter died of malnutrition – refused to take daughter to hospital when requested by doctor – claimed husband refused hospital treatment and she was threatened and dominated by him – suffering BWS Assistance against husband – protective custody
32.	Mercy [2004] NSWSC 472 Adams J	Unlawful and dangerous - stabbing Stabbing – domestic	PG (25%)	4y 1m NPP 2y 3m (3m PSC)		Nil	Female - stabbed de facto in back – intent to frighten – seeking to make stand in context of continuing physical and sexual abuse Aboriginal with deprived, violent and sexually abusive childhood – serious drinking problem – diabetic – recent coronary by-pass surgery – 8 children, including one with victim – never been in paid employment
33.	Dawes [2004] NSWCCA 363	Substantial impairment Assault – domestic Child victim	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 Depressive illness - remorse and contrition – evidence of rehabilitation with daughter
34.	Russell (48) [2006] NSWSC 722 Newman AJ	Provocation Stabbing - domestic	PG	6y NPP 3y			Female – stabbed de facto husband during confrontation – history of domestic violence – intent to inflict GBH Mildly intellectually handicapped – difficult personal life – brain injury from accident
35.	Cavanough (22) [2007] NSWSC 561 Whealy J	Unlawful and dangerous - stabbing Stabbing - domestic	VG (at murder trial – 10% for offer)	8y 2m NPP 5y			Female stabbed male de facto during domestic argument – spontaneous act – element of provocation – history of disputes – suffering depression and anxiety Aboriginal with deprived and violent childhood – sexual abuse – drug and alcohol addiction – functioning at borderline level – mother to 2y child – remorse – prospects of rehabilitation
36.	Stephenson (43) [2007] NSWSC 672 Hidden J [2008] NSWCCA 266	Unlawful and dangerous - assault Assault - domestic	PG	6y NPP 3y 6m	AD	Minor	During verbal argument punched female partner to head with closed fist several times – spontaneous offences – both victim and offender consumed drugs and alcohol during evening Volatile and obsessive relationship – drug and alcohol abuse – offence out of character – prospects of rehabilitation - remorse

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37.	Ferguson (36) [2008] NSWSC 761 Barr J	Substantial impairment Provocation Stabbing - domestic	PG	7y NPP 4y		Nil	Female entered sexual relationship with 22y male – unhappy relationship involving physical abuse, drug abuse and threats to kill – stabbed victim during argument – impulsive and sudden offence – element of provocation Major depressive disorder Also suffering amphetamine abuse disorder – sexually abused as a child – remorse – prior good character
38.	Zeilaa (73) [2009] NSWSC 532 Howie J	Substantial impairment Stabbing - domestic	PG (25%)	4y 10m NPP 2y 6m		Nil	Frenzied stabbing of 67y wife during argument over breakdown in relationship History of verbal and physical abuse - dementia
39.	Chant (41 – 48 at sentence) [2009] NSWSC 593 Howie J	Provocation Shooting - domestic	PG (5%) Mansl Interfering with human remains	4y 9m NPP 3y 4m FT 10m Total: 5y 4m NPP 3y 11m		nil	Female shot husband in head during argument – physically abusive relationship – gun initially produced by victim – dismembered body and disposed of in various locations Son assisted in hiding body
40.	Worrall (20) [2010] NSWSC 593 Fullerton J	Substantial impairment Stabbing - domestic	PG (25%)	6y NPP 4y 3m		Nil	Female stabbed 18y sister to death – difficult relationship characterised at times by physical fighting – purchased knife prior to killing – stabbed sister in neck as she emerged from bathroom Suffering serious hormonal condition requiring constant medication – medication caused obesity affecting self esteem and resulting in poor compliance with medication regime – mood disorder associated with non-compliance with medication prescribed for congenital adrenal hyperplasia Prior good character - remorse
41.	Doolan (43) [2010] NSWSC 615 Grove J	Unlawful and dangerous – stabbing Stabbing - domestic	PG (20%)	6y NPP 3y 9m		Minor record – alcohol related	Aboriginal female stabbed partner – volatile relationship characterised by alcoholism and violence – both intoxicated – chased victim with knife who responded in joking manner – stabbed once in chest – failed to appreciate dangerous nature of knife – lower end of scale of seriousness Distress and remorse – reasonably good prospects of rehabilitation

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42.	Duncan (44) [2010] NSWSC 1241 Hidden J	Unlawful and dangerous – stabbing Stabbing - domestic	PG (15%)	3y NPP 1y 4m		Minor – PCA offences	Female stabbed partner once in abdomen – victim came home from party, pushed offender out of bed and started argument over text message – offender grabbed knife in fear victim would continue assault – impulsive response in heat of argument - history of physical and verbal abuse – immediate remorse Excellent work record in welfare area – excellent prospects of rehabilitation
43.	Bugmy (27) [2011] NSWSC 357 McCallum J	Unlawful and dangerous - stabbing Stabbing - domestic	PG (25%)	8y 3m NPP 5y 6m		Breached parole for mal wounding of different de facto partner – appalling record of violence against de facto partners	Stabbed de facto partner in back – heavily intoxicated – use of weapon Drinking problem – breached condition of parole not to drink – breached apprehended violence order - psychosocial deprivation - alcohol and cannabis dependence including four-year history of petrol sniffing - very low intelligence
44.	Singh (22) [2012] NSWSC 637 McClellan CJ at CL	Provocation Stabbing - domestic	VG (at murder trial – 25% for offer)	8y NPP 6y		nil	Cut wife's throat with a Stanley knife during argument by ferocious attack – during argument verbally abused by brother-in-law on telephone and by victim – victim threatened to leave and have offender kicked out of country - married in India so both could move to Australia – long history of marital disharmony and violence – brutal and violent attack Immature with no family or friends for support – suffering psychiatric disorder at time of offending – good prospects of rehabilitation
45.	Rees (27) [2012] NSWSC 922 Grove AJ	Substantial impairment Child victim Drowning	VG (at murder trial – offer to plead)	5y NPP 3y 2m		nil	Female – drowned 17mth daughter by leaving in bath Ongoing destructive cruel relationship with father of child – lack of support - depression and depersonalisation led to actions which couldn't properly assess and control - otherwise loving and exemplary mother - good prospects rehabilitation
46.	Chen [2012] NSWSC 1000 Schmidt J	Substantial impairment Stabbing - domestic	PG (25%)	6y 9m NPP 3y 9m			Female fed ex-partner soup with sleeping tablets – stabbed sleeping victim causing serious injuries to penis and severing arteries – offender had history of emotional manipulation, cruelty towards son and dishonesty – panicked in repose to threats to take son Suffering depressive disorder

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47.	Seymour (24) [2012] NSWSC 1010 Price J	Excessive self defence Stabbing - domestic	VG (at murder trial)	6y 6m NPP 3y 6m		minor	Female stabbed mother in arm as act of excessive self-defence – victim bled to death - history of verbal and physical abuse by victim against offender – victim a drug user – deliberate stabbing – failed to assist victim but unaware could bleed to death – spontaneous offence Deprived and dysfunctional childhood – suffering depression at time of offence
48.	Pitt (40) [2012] NSWSC 1549 Latham J [2014] NSWCCA 70	Substantial Impairment Stabbing - domestic	PG (20%)	8y NPP 6y	AA 5y NPP 3y	minor	Victim and offender shared offender's housing commission house – prolonged physical argument where police called on numerous occasions and AVO taken out on behalf of offender – police declined to remove victim from house – offender stabbed victim in heart Lengthy history of mental illness - alcohol, persecutory beliefs concerning the actions of the victim, and untreated schizophrenia
49.	Bryce (41) [2014] NSWSC 1184 Beech-Jones J	Unlawful and dangerous – assault Assault - domestic	VG (at murder trial)	8y NPP 6y		Lengthy record including conviction for assault on former partner – breached bond	Assaulted female partner in their unit - subdural haematoma – no evidence as to how injury caused – offender did not realise assault dangerous – failure to obtain medical assistance aggravating factor although not aware injuries life threatening Dysfunctional people in dysfunctional relationship – history of violence by both parties
50.	Villalon (27) [2014] NSWSC 1261 Price J [2015] NSWCCA 229	Substantial impairment Stabbing – domestic	VG (murder trial – discount for offer increased to 25% on appeal)	8y NPP 5y 6m	7y 6m NPP 5y 1m	nil	Stepfather abusive towards offender - also concerned about inappropriate sexual behaviour towards offender's sister – stabbed stepfather and hit over head with hammer – element of provocation – unplanned offence Schizophrenia – low risk of re-offending - remorse.
51.	Merrick (No 5) (32) [2016] NSWSC 661 Wilson J [2017] NSWCCA 264	Unlawful and dangerous - assault Assault - domestic	VG (murder trial)	11y NPP 8y 3m	AD		Struck girlfriend with blow to the head - led to victim's death two weeks later – violent relationship Family support - hard-working background – prior good character

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52.	Tarrant (24) [2016] NSWSC 1155 Fagan J [2016] NSWCCA 21 [2018] NSWSC 774 Johnson J	Substantial Impairment Accessory Unknown	VG (murder trial - 35% for offer to plead and assistance)	10y 8m NPP 8y	AA Matter remitted for sentence 8y NPP 5y	Nil	Female arranged killing of partner by male lover – fed victim sleeping tablets then called co-offender to house – victim killed in unknown manner and body disposed of by co-offender – abusive relationship with victim since 15y – suffering chronic depressive disorder, PTSD and Battered Women’s Syndrome - aggravating factors were use of stupefying drug, in company, in victim’s home and planning Gave evidence against co-offender – remorse - mother to five children – exposed to serious domestic violence as a child – good prospects of rehabilitation - delay Co-offender <i>Roff</i> sentenced for murder: [2016] NSWSC 1151 / [2017] NSWCCA 208
53.	Dowdle (57) [2018] NSWSC 240 Hamill J	Assault – Domestic Substantial Impairment	PG (25%)	3y 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 Suffering major depressive disorder with underlying psychiatric conditions - remorse
54.	TP (mid 30s) [2018] NSWSC 369 Hamill J	Negligence Child victim Failure to provide	PG (20% plea and assist)	4y NPP 18m		minor traffic	Mother failed to remove 12y daughter from danger and obtain medical treatment – aware victim brutally subjected to severe physical abuse over many years by male partner – aware of extent and seriousness of abuse – offender and second daughter also subjected to abuse – failed to obtain medical treatment after threats by partner and fear of losing children although on occasions obtained treatment for herself Suffering batter women’s syndrome – PTSD and depression – significantly reduced culpability – onerous effect of custody Male partner sentenced for murder JK [2018] NSWSC 250

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55.	Cahill (25) [2018] NSWSC 1896 Johnson J	Substantial impairment Stabbing – domestic	PG (10%)	8y NPP 5y		lesser offences – breached bond for wounding victim	Female stabbed fiancé – background of volatile and violent relationship over several years – both out drinking evening of offence – victim becoming more belligerent – at home victim assaulted male accompanying group in mistaken belief male fancied offender – offender stabbed fiancé in neck – intent to cause GBH - suffering PTSD or major depressive disorder as a result of relationship – use of weapon aggravating factor – mid-range seriousness Immediate regret – excellent prospects of rehabilitation
56.	AS (22) [2018] NSWSC 930 Fullerton J	Negligence Child victim Failure to provide	PG (50% plea and assistance)	3y NPP 16m			Female - failed to remove 2y 8m daughter from abusive domestic relationship with partner and failed to obtain medical treatment – death of victim caused by assaults of male partner over two days – sustained assaults on child in week before fatal assault – offender also subjected to physical abuse and control by male partner History of sexual and physical abuse at hands of father, step mother and subsequent partners – chronic and complex mental health issues – good character
57.	French (32 at offences – 41 at sentence) [2021] NSWSC 1531 Dhanji J	Unlawful and dangerous – assault Assault - domestic	PG (10%) Mansl Dispose of corpse	9y NPP 6y 2y 8m NPP 2y <u>Total</u> 10y NPP 7y		Personal violence offences, AOABH, assault, destroy property by fire, aggravated sexual assault, detain with intent	Assaulted and killed female partner - concealed body - fatal assault culmination of assaults over a number of hours - where deceased's remains not found for five and a half years – deceased's disappearance subject of coronial inquest - history of domestic violence / personal violence offences against deceased. Background of deprivation - special circumstances.

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58.	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.

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