

Manslaughter Substantial Impairment

s 23A(1) A person who would otherwise be guilty of murder is not to be convicted of murder if:

- (a) ... person's capacity to understand events, or to judge whether actions were right or wrong, or to control himself or herself, was substantially impaired by an abnormality of mind arising from an underlying condition, and
- (b) impairment was so substantial as to warrant liability for murder being reduced to manslaughter.

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

Commenced: 3.4.1998 (replaced Diminished Responsibility)

Amended 27.3.2021

s.23A(1) A person who would otherwise be guilty of murder is not to be convicted of murder if—

- (a) ... person's capacity to understand events, or to judge whether the person's actions were right or wrong, or to control himself or herself, was substantially impaired by *a mental health impairment or a cognitive impairment*, and
- (b) the impairment was so substantial as to warrant liability for murder being reduced to manslaughter.

	Case (age if known)	Type	Basis	Plea	Sentence	Appeal	Record	Facts
1.	Dawney (30) [1999] NSWSC 944 Barr J	Substantial Impairment Child victim Assault – domestic	Major depressive illness - borderline and schizotypal personality disorder - stresses at time of offence	PG	MT 5y AT 3y		nil	Mother smothered 3y daughter - father of child taking Family Court action to gain custody Violent upbringing - history of sexual abuse

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2.	Tran (37) [1999] NSWSC 1146 Bell J	Substantial Impairment Stabbing - domestic	Severe depression	VG (at murder trial) Manslaughter Mal wound	MT 3y 6m AT 2y 6m FT 12m (concurrent)			Stabbed mother in law with scissors - wife stabbed in shoulder attempting to help - estrangement from wife caused primarily by victim - had gone to house of wife to see her resulting in confrontation with victim Excellent prospects of rehabilitation
3.	Wang [2000] NSWSC 447 Adams J	Unlawful and dangerous – assault Assault – domestic Substantial impairment Poison / drug Child victim	Severe depressive illness	PG Manslaughter (husband) Manslaughter (daughter)	6y NPP 4y 2y (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 Daughter suffering from cerebral palsy and worried no one would look after her
4.	Jans (55) [2000] NSWSC 525 Grove J	Substantial impairment Stabbing - domestic	Major depressive episode	PG	PSC 6m 4y GBB		Nil	Stabbed wife with kitchen knife - found by police threatening to jump off 12 storey roof - undiagnosed Huntington's Chorea disease caused victim to become irrationally abusive to offender over long period of time Forgiven by 3 children and low risk of re-offending
5.	Sette (31) [2000] NSWSC 648 Barr J	Substantial impairment Child victim Stabbing - domestic	Significant depressive illness for long period of time and in dissociated state at time of killing	PG	2y suspended for 2y		nil	Female removed 1y son from adoptive parents during access visit - stabbed him and hid body in dam - impulsive killing Forced into adoption by family - support of family – remorse - rehabilitation

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6.	Bateman [2000] NSWSC 867 Barr J	Substantial impairment Assault - domestic	Major depression	PG	5y GBB		nil	Killed wife of 51y bashing her to death with hammer while asleep - both offender and wife ill – offender suffered major depression after house damaged by hailstones Deep remorse - condition of bond to continue with treatment program
7.	Li [2000] NSWSC 1088 G.James J	Substantial impairment Child victim	Endogenous depression	PG	5y GBB		nil	Mother killed young child intending to then kill self – manner of killing not stated Remorse - retained family support.
8.	Hawkins (76) [2001] NSWSC 420 O'Keefe J	Substantial impairment Assault – domestic	Depression - adverse reaction to overdose of Zoloft (anti depressive medication)	PG (25%)	3y NPP 2y		nil	Strangled wife of nearly 50 years – suffering depression Offence completely out of character - excellent personal and family history - remorse - voluntarily surrendered to police - considered suicide but concerned about effect on daughter
9.	Connolly [2001] NSWSC 787 Dowd J	Substantial impairment Stabbing - domestic	Delusional disorder	PG (25%)	7y 6m NPP 4y 6m		minor record	Stabbed wife after forming unfounded suspicion she was unfaithful to him - delusional disorder focussed upon perceived unfaithfulness of wife - similar obsession with former wife - intoxicated at time of offence Remorse
10.	Pello (40) [2001] NSWSC 650 Hidden J	Substantial impairment Stabbing - domestic	Major depressive illness	PG	5y 6m NPP 3y		insignificant	Stabbed female sharing house after victim argued and abused other occupants of house for several hours - provocation assessed against background of stressful and exploitative environment of house - offence uncharacteristic - degree of provocation high and relevant to culpability Unhappy childhood in West Timor - miserable existence in Australia - genuine remorse - suffering psychiatric illness at time of offence - isolation in gaol
11.	Bartlett (51) [2001] NSWSC 685 Hidden J	Substantial impairment Assault – domestic	Personality disorder with schizotypal traits and chronic depression	PG	8y NPP 4y		nil	Struck victim with hammer several times during altercation in boarding house room

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12.	Scurr (34) [2001] NSWSC 727 Wood CJ at CL	Substantial Impairment Provocation Shooting – general	Depressive illness	VG (at murder trial) Manslaughter Manslaughter	6y NPP 3y 6y NPP 3y Total: 7y 3m NPP 4y 6m		Nil relevant	Deliberate shooting of two men at home of victim M – offender a central witness in fraud case against victim M – over several months threats made against offender, wife and children of victim in fraud case linked to both victims – shot fired into home of offender – frustrated at perceived inactivity of police investigating threats – after death threat against parents made by phone call drove from Katoomba to home of one M in Sydney – fired eight shots at victim M – second victim also shot - both provocation and substantial impairment resulting from depressive illness Excellent subjective case – out of character – extremely good prospects of rehabilitation – minimal prospects of re-offending – remorse – voluntarily surrendered to police - assaulted in custody due to role as witness
13.	Potts (34) [2001] NSWSC 753 Hidden J	Substantial impairment Stabbing - domestic	Schizophrenia	VG (at murder trial - 20% for offer)	7y NPP 3y 9m		armed robbery, minor drug and violence, street offences.	Stabbed father in frenzied attack - deeply affected by deaths of mother and two siblings - history of aggression during previous exacerbations of illness
14.	Santos (47) [2001] NSWSC 923 Levine J	Substantial impairment Stabbing - general	Depression and brain damage	PG (25%)	7y NPP 5y 3m		nil	Stabbed male 21 times in car park - believed victim having relationship with estranged wife - frenzied attack - carried knife for work purposes
15.	Laupama (29) [2001] NSWSC 1082 Bell J	Substantial impairment Assault - domestic Child victim	Major depressive illness - additionally diagnosed PTSD, social phobia, substance dependence	PG (just under 10%) Sched: Kidnapping	12y NPP 8y		assault	Hung de facto wife's 5y daughter in noose from pergola following separation from de facto Sexually assaulted as child

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16.	Murphy (44) [2002] NSWSC 150 Buddin J	Substantial impairment Stabbing - domestic	Major depressive illness	PG (25%)	7y 6m NPP 4y		nil	Stabbed estranged wife's lover in their bed – element of provocation combined with substantial impairment – spontaneous offence. Devastated by marriage breakdown - considerations of deterrence and retribution much reduced - remorse - good prospects of rehabilitation
17.	Richards (39) [2002] NSWSC 415 Kirby J	Substantial impairment Child victim Poison / drug	Delusional disorder	PG (25%) Manslaughter 2 x Att murder	5y GBB (from date of sentence) FT 15m 10d (immediate release)		nil	Suffering delusional disorder focussed on perceived sexual abuse by fathers of children - faced losing custody of children at Family Court hearing - attempted to kill self and three children by carbon monoxide poisoning - only baby died Improvement in mental health - protective custody - remorse
18.	Mabbott (35) [2002] NSWSC 502 Hidden J	Substantial impairment Stabbing - domestic	Schizophrenic illness	PG	7y NPP 3y 6m		lengthy record - summary	Female stabbed stepbrother in neck after being called a dog - prior de facto relationship with victim characterised by violence - suffering paranoid delusions since birth of youngest son and schizophrenic illness at time of offence Improvement in mental condition - chaotic life including drug addiction, turbulent relationships and prostitution
19.	Hucker (27) [2002] NSWSC 1068 Howie J	Substantial impairment Shooting - general	Paranoid schizophrenic (diagnosed after offence)	PG (15%)	9y 6m NPP 5y		nil	While on a shooting excursion shot good friend under delusional belief he had raped offender's mother, sister and grandmother - tried to get victim's father, who was present, to say victim had shot himself. Protective custody
20.	Dawes [2004] NSWCCA 363	Substantial impairment Assault – domestic Child victim	Depressive illness	PG	5y GBB	Crown AD	Nil	Mother suffocated 10y autistic son – 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 Remorse and contrition – evidence of rehabilitation with daughter

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21.	Nicol (86) [2005] NSWSC 547 Hulme J	Substantial impairment Assault – domestic	Depression	PG	2y NPP 1y Suspended		Nil	Assaulted wife with iron bar and asphyxiated her with plastic bag – intent to kill Elderly couple with many health problems – depression – genuine attempt at suicide
22.	Hantis (48) [2005] NSWSC 549 James J	Substantial impairment Shooting - domestic	Depression	VG (at murder trial) Manslaughter PG Poss unauthor firearm	8y NPP 4y FT 6m (concurrent)			Deliberate and premeditated killing of mother's de facto husband – angered by perception that victim stealing from business and assaulting mother Serious injuries from suicide attempt – remorse – good character - genuine attempt to commit suicide
23.	Gagalowicz (18) [2005] NSWSC 675 Adams J [2005] NSWCCA 452	Substantial impairment Assault - general	Drug-induced psychosis	VG (at murder trial – 20% for offer)	8y NPP 4y	Crown AA 10y NPP 6y	Nil	Assaulted drug supplier with cricket bat - psychotic episode caused by amphetamine use – dismembered body and buried in backyard Diabetic - long term drug abuse
24.	Massei [2005] NSWSC 1030 Adams J [2006] NSWSC 1298 Adams J	Substantial impairment Assault – domestic	Chronic and severe depression	PG (25%)	Sentence initially deferred 12m 5y 6m 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 Argentinian – separated from wife but on good terms – attempted suicide after lighting fire
25.	Zeng [2005] NSWSC 1344 McClellan CJ at CL	Substantial impairment Shooting - domestic	Major depressive disorder	PG (25%) Manslaughter Possess pistol	8y NPP 4y 6m FT 18m (concurrent)			Female shot female cousin in head – upset by victim's plan to move out of shared accommodation – possessed gun with intention of committing suicide – impulsive offence Remorse – Chinese national with language difficulties
26.	RG (44) [2006] NSWSC 21 Buddin J	Substantial Impairment Child victim Drowning	Psychotic illness	PG	3y NPP 1y 3m 2d (immediate release)		Minor	Mother drowned 5m daughter in river – substantial impairment in upper range Protective custody – family and community support – remorse – good prospects of rehabilitation

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27.	Wetherall (38) [2006] NSWSC 486 Patten AJ	Substantial impairment Stabbing - domestic	Stress disorder	PG (20%)	3y NPP 18m		Minor	Female – stabbed mother’s boyfriend during confrontation in kitchen – instinctive act – single stab wound – low range culpability Unfortunate background – mother to 5 children – youngest child disabled – immediate remorse – 90d PSC – 2y 6m rigorous reporting Sentence subsequently breached after commission of further offence of BES, failure to comply with reporting and counselling conditions and continued amphetamine addiction – pregnant at time of re-sentence
28.	Heatley [2006] NSWSC 1199 Whealy J [2008] NSWCCA 226	Substantial impairment Assault - general	Chronic psychotic disorder	PG (25%) Manslaughter s.97(2)	14y NPP 8y FT 4y Total: 18y NPP 12y	AD	Extensive – previously acquitted for AR on basis of mental illness	Prisoner kicked and punched to death cellmate in locked cell – suffering chronic psychotic disorder – unable to control urges – criminality of reasonably high order Also sentenced for bank robbery – armed with shortened firearm – voluntary disclosure of unknown guilt
29.	R. Sutton (63) M. Sutton (60) [2007] NSWSC 295 Barr J	Substantial impairment Unknown	Severe depressive disorder	PG PG	5y GBB 5y GBB		Nil Nil	Parents killed severely disabled 29y son suffering blindness, severe mental retardation and restriction of hearing – required surgery to stop brain infection which would cause temporary deafness and reduce quality of life – victim had difficulty in dealing with changes in life – spontaneous decision out of love for son – both offenders suffering major depressive illness brought on by years of stress and commitment to son – mother administered sedative – father killed victim – cause of death undisclosed Suicide risk – should not be separated
30.	Schultz (23) [2007] NSWSC 809 Barr J	Substantial impairment Assault – domestic Child victim	Depressive disorder	PG	7y NPP 3y 6m		Nil	Mother killed 9m daughter – shook baby and head struck against brick fireplace – unable to settle crying child – intent to do GBH – suffering depressive illness and possible other mental conditions exacerbated by cannabis use Remorse – prior good character

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31.	Antaky (50) [2007] NSWSC 1047 Hulme J	Substantial impairment Fight - shooting Shooting - domestic	Depressive disorder	VG (at murder trial)	8y NPP 6y		Nil	Shot brother-in-law during family dispute – victim displayed threatening behaviour toward offender's parents – offender had "fixed determination" to kill victim
32.	Mawson (60) [2007] NSWSC 1473 Adams J	Substantial impairment Shooting - general	Post-traumatic stress disorder	PG (25%)	7y NPP 4y		Minor record	Suffering PTSD from war service in Vietnam and brain damage – victim mentally unwell, delusional and dangerous - threatening and abusing offender's family – coincidental meeting resulted in offender shooting victim multiple times – offender's mental condition affected perception of events and ability to control actions Remorse
33.	Soon (71) [2008] NSWSC 622 Grove J	Substantial impairment Arson	Depression	PG (25%)	9y NPP 5y 6m		Nil	Female - set fire to house with estranged husband inside – husband quadriplegic and unable to leave bed – intent to kill – offence committed to prevent husband pursuing property claim in divorce proceedings – well planned offence
34.	Ferguson (36) [2008] NSWSC 761 Barr J	Substantial impairment Provocation Stabbing - domestic	Major depressive disorder	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 Also suffering amphetamine abuse disorder – sexually abused as a child – remorse – prior good character

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35.	Podesta (19) [2008] NSWSC 1204 McCallum J	Substantial impairment Stabbing - domestic	Schizophrenia	VG (at murder trial)	8y NPP 5y		Assault police – breached bond – minor traffic	Offender's mother received prank calls alleging to be from her boyfriend suggesting he had infected her with HIV – after confronting and arguing with victim offender followed victim down street and stabbed him multiple times – acting under delusional belief he would be assaulted by victim's associates – previously assaulted by victim in home invasion – impaired capacity to judge right from wrong – impaired capacity to control actions Chaotic and dysfunctional family life
36.	Fisher (36) [2009] NSWSC 348 Adams J	Substantial impairment Assault - domestic	Brain damage from car accident	PG (10%)	5y 6m NPP 3y		Minor assaults	Fatal assault of mother at home – circumstances and motive unknown – some history of violence against mother when angry or intoxicated – mother primary carer of offender after car accident caused major brain damage Remorse limited by mental capacity – difficulty in prison – continued danger to community
37.	Maric (32) [2009] NSWSC 346 Harrison J	Substantial impairment Shooting - general	Depressive disorder	PG (25%)	7y 6m NPP 5y		nil	Shot victim after victim made threats he would harm offender's family if he did not assist with drug cultivation - immediate surrender and confession to police – knew victim from school days - victim well-known as aggressive and intimidating – continuous intimidation from victim - offender began to abuse drugs and suffer from depressive disorder – offender's impairment at high end of spectrum – strong connection between depressed mental state and intimidation from victim Serbian background – wartime memories – no likelihood of reoffending or dangerousness – prior good character – trusted and loyal employee - remorse
38.	Paddock (78) [2009] NSWSC 369 Rothman J	Substantial impairment Assault - domestic	Paranoia and early dementia	PG (20%)	6y NPP 4y 3m		Nil	Suffocated 70y partner preparing to move out – attempted to kill self – mid-range – significant impairment

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39.	Zeilaa (73) [2009] NSWSC 532 Howie J	Substantial impairment Stabbing - domestic	Dementia	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
40.	Dowley (41) [2009] NSWSC 722 Hidden J	Substantial impairment Stabbing - domestic	Paranoid delusional disorder	PG (15%) Manslaughter SMV	11y NPP 7y FT 12m (concurrent)		Disturbing record for violence	Stabbed de facto partner and slit throat – took ice night before killing Drug addiction – not taking medication prior to offence – some insight
41.	White (21) [2009] NSWSC 809 Hidden J	Substantial impairment Stabbing - general	Schizophrenia – paranoid delusions	PG (15%)	10y NPP 6y		nil	Stabbed male acquaintance in block of residential units during struggle – high level of violence Long history of schizophrenia – cannabis and alcohol use
42.	Hevesi-Nagy (52) [2009] NSWSC 956 Grove J	Substantial impairment Stabbing - domestic	Delusional disorder of a persecutory nature substantially impairing capacity for self-control	VG (at murder trial – offer to plead)	10y NPP 6y		nil	Female – with 14y son struck sleeping father of son with tomahawk – son armed with knife – offence planned over extended period - son mentally ill – obsessed with keeping father from normal relationship with son Good prospects of rehabilitation
43.	Nguyen (No.2) (29) [2009] NSWSC 1120 Hoeben J	Substantial impairment Assault – domestic Child victim	Severe depression	VG Manslaughter Manslaughter	5y NPP 3y 5y NPP 3y <u>Total</u> 6y 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 Genuine remorse

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44.	Glanville (27) [2010] NSWSC 364 James J	Substantial impairment Excessive self defence Assault - domestic	Brain damage	VG (at murder trial – some discount for offer)	6y 8m NPP 5y		Not significant	Assaulted male acquaintance with baseball bat after victim forced entry into house – both intoxicated having been drinking together earlier – victim loudly and abusively seeking entry to unit – weakened arm and frontal lobe damage influenced perception of threat – mental functioning so affected as to constitute substantial impairment of the mind Mental health and drug problems
45.	Worrall (20) [2010] NSWSC 593 Fullerton J	Substantial impairment Stabbing - domestic	Suffering serious hormonal condition requiring constant medication	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
46.	Cavanagh [2010] NSWSC 670 Rothman J	Substantial impairment Assault – domestic	Depression	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 Major depressive illness from marriage breakdown and access to children – good character – good rehabilitation prospects – remorse

	Case (age if known)	Type	Basis	Plea	Sentence	Appeal	Record	Facts
47.	LTN (29) [2011] NSWSC 614 Hidden J	Substantial impairment Child victim Drowning	Schizoaffective disorder	PG (20%)	4y NPP 2y		nil	Drowned 2y daughter in canal – had been seeking to kill herself as well – impairment of very high order Good family support – good prospects of rehabilitation
48.	Mathers [2011] NSWSC 339 Hall J	Substantial impairment Assault - domestic	Depressive illness/adjustment disorder	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 – 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
49.	MB (16) [2011] NSWSC 1376 RS Hulme J	Substantial impairment Stabbing – general Juvenile offender	Extremely disturbed youth with significant behavioural problems	VG (at murder trial)	7y NPP 4y 6m		Nil	Walked 3km to victim's house and stabbed him in chest when he answered door – attempted to cover scene by setting fire to house Difficult background – suffered some physical and emotional abuse — suicide attempts – cannabis use – suffered some sexual abuse at hands of victim over several years – angered at dissension in family home – facilitated administration of justice in conduct of trial – reasonable prospects of rehabilitation
50.	Rees (27) [2012] NSWSC 922 Grove AJ	Substantial impairment Child victim Drowning	Adjustment disorder / severe depression	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

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51.	Chen [2012] NSWSC 1000 Schmidt J	Substantial impairment Stabbing - domestic	Depressive disorder	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 response to threats to take son
52.	Pitt (40) [2012] NSWSC 1549 Latham J [2014] NSWCCA 70	Substantial Impairment Stabbing - domestic	Schizophrenia and persecutory delusions	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
53.	Hollaway (22) [2013] NSWSC 218 Price J	Substantial impairment Stabbing - domestic	Substance abuse - psychosis	PG (20%)	5y 4m NPP 3y		Record but no prison	Female – while staying at home of male acquaintance after time in psychiatric unit reacted to perceived threat by victim that he would rape or murder her – grabbed knife in house and stabbed victim several times – body not discovered for several months – victim had brain damage causing sexual and violent inhibition – element of provocation History of mental illness – suffering psychosis – significant reduction in moral culpability – remorse – disrupted and abusive childhood including sexual abuse leading to early drug abuse
54.	McKnight (No.4) (29) [2014] NSWSC 1029 Campbell J	Substantial impairment Assault - general	Schizophrenic psychosis	VG (murder trial – 25% for offer)	8y NPP 6y		Car-jacking, goods in custody. On bond	Kicked male victim in head three times causing brain hemorrhage - believed victim had stolen money from him – intent to inflict really serious personal injury

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55.	Villalon (27) [2014] NSWSC 1261 Price J [2015] NSWCCA 229	Substantial impairment Stabbing – domestic	Schizophrenia	VG (murder trial – discount for offer 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 Low risk of re-offending - remorse
56.	Catley (27) [2014] NSWCCA 249	Substantial impairment Stabbing - domestic	Psychotic - depression	VG (murder trial) Manslaughter 2 x Animal cruelty	11y NPP 8y FT 2y Total: 12y NPP 9y	AD	minor	Assaulted mother and stabbed her twice during argument – killed two cats by slashing throats
57.	F Barbieri (45) [2014] NSWSC 1808 Hulme J	Accessory Substantial impairment Stabbing - general	Paranoia	PG (10%) Manslaughter Use off weapon to prevent apprehend Sched: 2 offences	9y NPP 6y 6m FT 4y 6m Total: 10y NPP 7y 6m		nil	Female lived with 19y son on rural property - relationship with neighbour became antagonistic – son fired crossbow at workers on neighbour's property – siege developed with police – attacked police with knife and sledgehammer – police officer fatally stabbed by son – mother aware of possibility of infliction of GBH – mother was dominant offender Suffered serious mental illness causing paranoia and social isolation Son sentenced for murder
58.	Parker (No.2) (55) [2016] NSWSC 813 Rothman J	Stabbing – domestic Substantial impairment	Severe cognitive deficits exacerbated by alcoholic abuse	VG (murder trial - 25% for offer to plea)	7y NPP 3y 6m		Record for violence	Female stabbed partner once in back – circumstances unclear – victim intoxicated and self-harming - below mid-range Aboriginal with deprived and dysfunctional childhood - involved in abusive relationships – profound remorse

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59.	Tarrant (24) [2016] NSWSC 1155 Fagan J [2016] NSWCCA 21 [2018] NSWSC 774 Johnson J	Substantial Impairment Accessory Unknown	Chronic depressive disorder - PTSD and battered women's syndrome	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 – aggravating factors: stupefying drug – in company – in victim's home – planned 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 <u>Roff</u> sentenced for murder
60.	Jenbare (52) [2016] NSWSC 1317 McCallum J	Substantial Impairment Stabbing – domestic	Severe – PTSD - depression and cognitive impairment	PG (25%)	9y NPP 5y		Nil	Stabbed female partner – victim planning to arrange fake marriage between herself and her nephew so he could live in Australia – offender did not agree - would have to make false declaration – abandonment - stabbed victim eight times Underlying condition of severe, post-traumatic stress disorder, depression and cognitive impairment as survivor of torture while political prisoner in Ethiopia and trauma in refugee camps - prior good character.
61.	Hart (No. 5) [2016] NSWSC 1612 Campbell J	Substantial Impairment Shooting - general	Stimulant use disorder or a substance induced psychotic disorder	VG at (murder trial - 20% for offer) Manslaughter 7 further offences dealt under s.168 <u>CPA</u>	8y NPP 5y 4m <u>Total:</u> 8y 4m NPP 5y 8m		Nil	Shot male victim in head with pen gun – argument over drugs – offender and victim worked together as drug dealers – both addicted to drug ice - impulsive, spontaneous act - offender substantially impaired Strong subjective case - very good prospects of rehabilitation - low risk of further offending – special circumstances
62.	Ukropina (57) [2016] NSWCCA 277	Substantial Impairment Stabbing – domestic	Suffering severe depression with psychotic tendencies	PG (25%)	6y 9m NPP 4y 9m	AA 6y NPP 4y	Nil	Father stabbed 29y daughter in back during argument Genuine remorse – suicide attempts in custody

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63.	Tikaram (38) [2016] NSWSC 1716 Harrison J	Substantial Impairment Assault – domestic	Schizophrenia	PG (25%)	6y NPP 3y			Killed father following argument – blunt force trauma to head and neck – both had been drinking – offender claimed victim taunting and baiting him - pattern of relationship for many years - history of physical altercations – low end of objective seriousness Characterised by relapses of psychosis evidenced by auditory hallucinations, delusions and thought disorder - support of mother and family
64.	Azar (18 at offence – 22 at sentence) [2017] NSWSC 586 Mathews AJ	Substantial impairment Assault – general	Schizophrenia	PG (15%)	7y NPP 4y		Possess drugs, BE&S	Pinched on bottom by male friend – probably gesture of friendship but offender felt insulted – with co-offender attacked victim with various objects including a pole – victim suffered serious blunt force injuries - unprovoked attack – spontaneous rather than premeditated – intent to inflict grievous bodily harm - mid-range objective seriousness Good prospects rehabilitation – youth - drug abuse Co-offender convicted and sentenced for murder
65.	MB (35 at offence – 41 at sentence) [2017] NSWSC 619 Beech-Jones J	Substantial impairment Drowning Child victim	Suffering schizoaffective disorder – major depressive disorder with psychotic features	PG	4y GBB (little under 2y PSC)		Nil significant	2010 offence - mother either drowned or failed to retrieve 6m daughter from water – reckless indifference to life – breach of trust – not planned Suffering schizoaffective disorder – major depressive disorder with psychotic features – became obsessed that daughter had genetic disorder despite testing showing no abnormality – found not fit to plead and sentenced to limiting term for murder – spent just under 2 years in custody before stabilising and entering plea for manslaughter Good personal support – prospects of rehabilitation – extra curial punishment – importance of supervision and reintegration into community

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	Case (age if known)	Type	Basis	Plea	Sentence	Appeal	Record	Facts
66.	Dowdle (57) [2018] NSWSC 240 Hamill J	Assault – General Substantial Impairment	Suffering major depressive disorder with underlying psychiatric conditions	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 Remorse
67.	Connors (29) [2018] NSWSC 1439 RA Hulme J	Substantial Impairment Assault - domestic	Schizophrenia – intellectually disabled	PG (25%)	5y 8m NPP 3y		nil	Offender bashed sleeping mother to death with hammer – had auditory hallucinations telling him to kill victim to save her soul. No prior violence to his mother before - exhibiting symptoms of mental illness for many years - schizophrenia – intellectually disabled - significantly reduced need for denunciation, retribution, personal or general deterrence – genuine remorse – low risk of reoffending – special circumstances
68.	Cahill (25) [2018] NSWSC 1896 Johnson J	Substantial impairment Stabbing – domestic	Suffering PTSD or major depressive disorder as a result of relationship	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 – use of weapon aggravating factor – mid-range seriousness Immediate regret – excellent prospects of rehabilitation

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	Case (age if known)	Type	Basis	Plea	Sentence	Appeal	Record	Facts
69.	Hutchison (36) [2019] NSWSC 25 Hamill J	Excessive self-defence Substantial impairment Assault – domestic	Chronic mental health issues arising from early child sexual assault	VG (murder trial – 25% for early offer)	9y 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 Drug abuse – difficult relationships
70.	Hill (37) [2019] NSWSC 733 Ierace J	Substantial Impairment Assault – general	Schizophrenia	PG (25%)	8y NPP 5y 6m		Armed rob	Punched and kicked male victim, causing victim to fall backwards and strike his head – strangers passing on street.
71.	Camilleri (25) [2021] NSWSC 221 Wilson J [2013] NSWCCA 106	Substantial impairment Stabbing – domestic	Multiple disorders - mild intellectual disability - autism - obsessive compulsive disorder - severe impact on capacity to function - prone to and unable to control outbursts of extreme rage	VG (murder trial – 17.5% on appeal)	21y NPP 16y 2m	AA 16y 6m NPP 12y	Assaults – harassment - limited criminal history due to diversion from justice system	Female - number of psychiatric and developmental disorders - tried to prevent mother (victim) from telephoning for ambulance to have offender admitted to hospital - stabbed victim to face and head - over 100 separate wounds inflicted ending in decapitation – used seven knives during prolonged attack – committed in presence of young child - gravity of offence – extreme violence - need for community protection. On appeal: erred in assessment of objective seriousness

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72.	Reid (No.2) (47) [2021] NSWSC 475 Johnson J	Stabbing – domestic Substantial Impairment	Underlying major depressive disorder on a background of personality disorder and alcohol use disorder	PG (10%) Manslaughter Manslaughter	<u>Indicative:</u> 7y 7y <u>Aggregate:</u> 10y 6m NPP 5y 6m		No	Stabbed parents one morning at their home – no rational motive, triggering event or argument – impairment at higher end of spectrum – mental illness distorted thinking – causal relationship to offending No history of violence but difficult to assess risk of re-offending where questions remain over mental health
73.	Krey (No.4) (19) [2021] NSWSC 826 Ierace J	Stabbing – general Substantial impairment	Intermittent explosive disorder, FASD and complex PTSD	VG (murder trial – 25% for offer)	11y NPP 6y 6m		Shoplifting dealt with under mental health provisions	Awoke late in afternoon in angry mood – threatened to stab mother who left house – male neighbour came to door then walked away – followed victim and stabbed him multiple times in front of neighbours – victim intoxicated and said something ‘mildly insulting’ – sustained attack with intent to kill – use of weapon – no motive – high objective seriousness History of neglect and exposure to extreme violence – out of home care with multiple and unstable placements – exhibiting violence and aggression from early age - father incarcerated for serious personal violence offence – parents had alcohol and drug issues – poor education and no employment – ceased taking medication several weeks earlier – <i>Bugmy</i> principles apply to both reduce moral culpability but increase need for community protection - prior good character – genuine remorse – prospects of rehabilitation dependent upon services and treatment

	Case (age if known)	Type	Basis	Plea	Sentence	Appeal	Record	Facts
74.	Eckersley (66) [2021] NSWSC 562 Beech-Jones J	Substantial impairment Poison / drug	Suffering severe depressive disorder	VG (murder trial – 25% for offer to plead)	2y CCO		Nil	Female killed 92y mother at nursing home by mixing pentobarbitone into her soup and spoon feeding it to her – suffering severe depressive disorder – distressed by mother’s suffering over many years as a result of deterioration in her health – not planned offence – formed intent to kill just prior to committing offence – acted out of love Aggravating factors – use of narcotic drug – in home of victim – breach of trust – victim vulnerable because of age Prior good character – good prospects of rehabilitation – remorse
75.	Srsa (53) [2021] NSWSC 924 Ierace J	Substantial impairment Stabbing - domestic	Multiple disorders including alcohol use disorder, panic disorder with agoraphobia, depressive disorder; mild neurocognitive disorder, anxiety disorder and PTSD	PG (25%)	7y 10m NPP 5y		Breach AVO	Female – stabbing of male partner once to chest following argument over victim taking money out of offender’s bank account and graffitng men’s toilets at hotel with offensive references to offender – pursued victim from house – element of provocation – capacity to control self substantially impaired – degree of impairment significantly more than required to activate defence – intent to cause GBH not kill – just below mid-range Alcohol abuse - upset about grandson undergoing heart surgery – remorse – good rehabilitation prospects – no history of violence
76.	Hong (62) [2021] NSWSC 1487 Hamill J	Substantial impairment Stabbing – domestic	major melancholic depressive disorder	PG (25%)	6y NPP 2y 6m		Nil	Stabbed wife of over 30 years in sudden and frenzied attack while babysitting grandchildren – over 40 stab wounds – spontaneous offence – committed in daughter’s house in proximity of children – use of weapon and violence – intent to kill Mental illness and covid restrictions impact custodial conditions – dangerousness – good character – good prospects of rehabilitation

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77.	Scott (No.3) (39) [2021] NSWSC 1646 N.Adams J	Substantial impairment Stabbing - general	Schizophrenia – mild intellectual disability – chronic alcoholism	VG (25% for offer)	9y NPP 6y		Lengthy – breached ICO for assault on mother in similar circumstances	While drinking with mother and male victim in victim's home threatened mother with large kitchen knife without warning – threatened mother with second knife – mother escaped when offender distracted by victim – victim continued to be threatened by offender then stabbed 31 times – frenzied and unprovoked attack – death caused by stab wound to heart and femoral artery in leg – moderately serious offence for SI manslaughter Moral culpability reduced for <i>Bugmy</i> factors – some reduction for mental illness but stopped medication and kept drinking – protection of society and specific deterrence – physical health issues – limited evidence of remorse and some guarded prospects of rehabilitation – some reduction for facilitation of justice in conduct of trial

Last Updated: May 2023