

Manslaughter

Unlawful and Dangerous - Shooting

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	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
2.	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
3.	Jennar NSWCCA 4.3.1991	Unlawful and dangerous – shooting Shooting - general	VG Manslaughter Rob with wound	20y NPP 15y (concurrent)	AA MT 7y 7m AT 2y 6m		Killed victim with shotgun - believed he had been ripped off in drug deal Affected by sleeping pills and need for drugs
4.	Ryan (46) NSWSC Abadee J 25.7.1991	Unlawful and dangerous - shooting Shooting - domestic	PG	MT 3y 4m AT 1y 1m (PSC 1.5m)			Shot wife with shotgun - deliberately placed gun near victim, threatening her Moderately affected by alcohol
5.	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

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6.	O'Brien (17) NSWCCA 29.4.1993	Unlawful and dangerous - shooting Juvenile offender Shooting – general	VG Manslaughter Shoot with intent	MT 7y AT 6y	AD	nil	Intoxicated youth had confrontation with victim and others on street - obtained gun from home then used it to facilitate escape from second confrontation
7.	Aslan (18) El Kerdi (17) NSWSC Ireland J 1.11.1994 Co-offender: EL BADAR	Unlawful and dangerous – shooting (El-Kerdi) Shooting – general Juvenile offender Accessory (Aslan) Fight - shooting	PG PG	MT 2y AT 3y (assistance) MT 3y AT 3y (assistance)		Record for violence – breached bail	Drive by shooting at dance party - three shots fired, killing one person and injuring another - retaliation for being forced to leave party after fight. El-Kerdi – shooter - possibly under the influence of Rohypnol at the time - early plea.
8.	Maguire NSWCCA 30.8.1995	Unlawful and dangerous - shooting Shooting – general	VG	MT 8y AT 2y	AD	priors but not for violence	Altercation at club with victim - returned with gun and resumed fight - accidental discharge - intoxicated
9.	Bessant (25 at offence) NSWSC Smart J 20.5.1998	Unlawful and dangerous - shooting Shooting - general	VG	MT 12y AT 6y		bad record - committed AR four days after shooting.	Re-determination under s.13A (1987) contracted to drive past and fire at house to frighten occupants - 5y girl killed - dispute between neighbours Substantial rehabilitation although minor drug matters in gaol - when eligible for release will have spent 15y 10m in gaol
10.	Papandrea [1999] NSWSC 978 Studdert J [2000] NSWCCA 499	Unlawful and dangerous - shooting Shooting - general	PG	MT 6y AT 3y	AD	not relevant	Shot acquaintance at close range - circumstances of shooting not clear - both affected by drugs

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11.	Oinonen (62) [1999] NSWCCA 310	Unlawful and dangerous - shooting Shooting - general	VG (at murder trial – offer to plead)	MT 8y AT 3y	AA MT 6y AT 3y	not stated	Intoxicated male confronted victim about stolen opals - fired at victim as he ran away
12.	Tran (39) [1999] NSWCCA 443	Unlawful and dangerous - shooting Shooting – domestic	PG	MT 4y 6m AT 1y 5m	AD	driving offences	Suspected teenage brother stealing from mother - accidentally shot victim in head with licensed pistol trying to scare him Married with 5 children
13.	Luong (17) [2000] NSWSC 505 Sully J	Unlawful & dangerous - shooting Negligence Juvenile offender Child victim Shooting - domestic	VG	4y NPP 2y		nil	Hosted party for school friends at family home - while displaying gun deliberately fired at 16y female friend mistakenly believing no live ammunition in gun Excellent subjective features
14.	Stelfox (21) [2001] NSWSC 630 Howie J (2002) 133 A Crim R 288 [2002] NSWCCA 331 Co-Offenders: SINGLETON DENTON	Accessory Shooting – general Unlawful and dangerous - shooting	PG (45% plea and assist)	5y NPP 2y 6m	AD	nil relevant	Male shot dead during attack by three men, including offender - pay back for insulting behaviour of victim towards mother of one offender - volunteered to join enterprise - aware of presence of shotgun - joint criminal enterprise to carry out unlawful and dangerous acts - intended to inflict harm with weapons capable of inflicting serious injury Offence out of character - mildly affected by drugs - depressed as result of offence - remorse

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15.	Pennisi (28) [2001] NSWSC 461 Bell J [2001] NSWCCA 326	Unlawful and dangerous - shooting Shooting - general	VG (at murder trial - 25% offer to plea and assist)	9y NPP 6y	AD	nil	Confronted manager of shopping centre with loaded .22 calibre Ruger semi-automatic rifle hoping to force him to drop civil suit - during struggle victim shot in stomach - panicked and fired ten shots at point blank range Voluntarily surrendered to police - depressed at time of offence because of failing business failing – truly remorseful
16.	Diab (19) [2003] NSWSC 978 Shaw J [2005] NSWCCA 64	Unlawful and dangerous - shooting Shooting – general Accessory	PG (25%) Sched: Affray 2 x Firearms offences	9y NPP 6y	AD	Nil	With juvenile co-offender became involved in altercation with 18y male on street - co-offender shot victim at close range in chest – unpremeditated - aware of presence of loaded gun but not aware co-offender would shoot 2 days before threatened male at service station with loaded pistol - prior good character and strong prospects of rehabilitation Co-offender MA sentenced for murder
17.	Van Oosterum (50) [2004] NSWSC 532 Greg James J	Unlawful and dangerous - shooting Shooting - general	PG (25%)	7y NPP 4y		Nil	Offender's gun discharged during struggle with victim on street – offender confronted victim over alleged relationship with offender's wife – no intent – in possession of gun to ensure victim listened Suffering depression and disordered thinking – emotionally distraught – grave loss of judgment - contrition – co-operation – prior good character – excellent prospects of rehabilitation
18.	M.Taufahema (25) [2007] NSWSC 959 Grove J Co-offender: J.TAUFHEMA	Unlawful and dangerous shooting Shooting – general Accessory	PG (18.5%)	11y NPP 7y		Priors including violence – breached parole	Driver of car with four occupants and unlicensed firearms – car stopped by highway patrol police officer – officer shot dead by co-offender – contemplated possibility that someone would discharge firearm without intent to kill or cause GBH Father to young daughter – prospects of rehabilitation – onerous conditions of custody for some period of incarceration – genuine remorse – history of trial and appeals raising element of double jeopardy

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19.	Kaiser (34) Hunt (19) [2007] NSWSC 1362 Barr J (Kasier) [2009] NSWCCA 130	Unlawful and dangerous - shooting Shooting – domestic Accessory	PG Sched: Supply amphet PG	10y 11m NPP 8y 2m 9y NPP 6y 9m	AD	Breached conditional liberty – record for ADVO offences Priors – breached conditional liberty	K angry with former lover over ending of relationship and drug debt – arranged for H to ‘deal with’ her – H fired three shots at house killing victim – carefully planned offence – K accessory in sense of not being shooter K – instigator and planner – drug addictions – bipolar disorder in remission H – chose to use gun
20.	Frazer (52) Spencer (37) [2007] NSWSC 1449 Howie J	Accessory Shooting – general Unlawful and dangerous - shooting	VG VG	11y NPP 7y 6m 13y NPP 9y 6m		Old record Extensive record	S organised armed robbery of male flatmate in early hours of morning – F and co-offender participated in robbery - during robbery co-offender shot victim in head – both aware co-offender armed with loaded firearm but did not foresee would be used with required intent Co-offender <i>Wilson</i> sentenced for murder: [2008] NSWSC 238
21.	Kari (19) H (16) [2008] NSWSC 993 Hidden J	Unlawful and dangerous - shooting Juvenile offender Shooting – general Accessory	PG (15%) Sched: Home invasion PG (15%) Sched: Rob in co	7y NPP 4y 6m 6y NPP 3y 6m		Dishonesty and drug offences – breached bail and bond Alarming record for violence – breached probation	Part of group of men attending victim’s house intending to shut down drug operation – K handed gun by H at last minute – during subsequent struggle K fired shot voluntarily but without intent hitting victim fatally in chest – reluctant participants K – remorse – family support – good prospects of rehabilitation H – prospects of rehabilitation

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22.	J.Taufahema [2007] NSWSC 1460 Grove J Co-offender: M.TAUFHEMA	Accessory Shooting – general Unlawful and dangerous - shooting	PG	11y NPP 7y <u>Total:</u> (see facts) 14y NPP 10y			One of four occupants in stolen car – co-offender shot police officer – participated in offence of unauthorised possession of firearms contemplating possible discharge of firearm without required intent Sentenced after earlier trial for related offences of unauthorised use of weapon to prevent lawful apprehension, attempted carjacking and use firearm without authority
23.	Seelin (37) [2009] NSWSC 286 Fullerton J	Unlawful and dangerous - shooting Shooting - domestic	PG (10%) Manslaughter Poss unauth firearm	7y 2m NPP 5y 4m FT 2y 6m (concurrent)		Nil	Friendly relationship with male neighbour soured – victim assaulted offender and made threats against family – offender kept loaded revolver in house with young children for some time before shooting – legitimate fear – on day of shooting spoke to victim over fence with loaded firearm concealed – victim later approached offender outside house and repeated threats – pursued offender into offender's house and damaged screen door – offender fired one shot through screen door – element of self defence and defence of young children in house Prior good character – offence out of character – sound prospects of rehabilitation – mild chronic depressive illness
24.	Scott (26 at offences – 37 at sentence) [2010] NSWSC 1026 Hidden J	Accessory Shooting – general Unlawful and dangerous - shooting	PG (15%) Manslaughter Armed Ass w/l rob	11y NPP 8y FT 5y <u>Total:</u> 12y NPP 9y		nil	Accessory before fact – arranged for co-offenders to cause ex-business partner physical harm and steal money – angered by soured business relationship – provided photo of victim and gun but no ammunition – victim shot dead in struggle – paid co-offender \$50,000 after being threatened – reasonable person would have anticipated risk of serious injury – no intent to have victim shot Co-offender Grupe [2007] NSWSC 1303 sentenced for murder

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25.	Forbes (20) [2011] NSWSC 1547 Harrison J Co-offender: SHEDDEN	Accessory Fight - shooting Shooting – general Unlawful and dangerous - shooting	PG (50% plea and assist)	3y NPP 1y 6m		nil	Continuation of earlier confrontation between two groups – offender one of group who gathered and planned assault – co-offender armed with gun – car driving victim and others stopped by group – victim emerged from car armed with weapon and shot by co-offender – offender was not armed but aware co-offenders were – shooting was not intended – no planning – contemplated unlawful and dangerous act was AOABH Protective custody – special circumstances – assistance to authorities - prior good character. Second co-offender sentenced for murder <i>Shedden</i> [2012] NSWSC 854
26.	Aslett (22) [2012] NSWSC 711 Harrison J Co-offender: WA ASLETT	Accessory Shooting – general Unlawful and dangerous - shooting	VG (at murder trial - 25% for offer)	6y 3m NPP 4y		Assault	Argument with male victim over alleged burning of brother's car – with cousin and brother confronted victim at his home – offender and cousin armed with machete and baseball bat – brother armed with handgun – victim offered unarmed fistfight – brother shot victim in back – all offenders fled scene – joint criminal enterprise to threaten or use unlawful violence - while armed just below mid-range Difficult childhood – temper problem – partner with young child
27.	Shedden (31) [2012] NSWSC 759 Fullerton J [2013] NSWCCA 225 Co-offender: FORBES	Unlawful and dangerous - shooting Shooting – general Fight - shooting Accessory	PG (25% plea and assist)	9y NPP 6y 9m	AD	violence	Male shot dead emerging from car that had been lured into suburban street – attack retaliation for earlier assault by victim on several members of group – offender allowed house to be used for planning of assault on victim and was present during attack - aware someone in group had gun – played principal role – high degree of criminality Protective custody - lost all contact with family, wife and children Brother sentenced for murder <i>Shedden</i> [2012] NSWSC 854

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28.	Mariam (24) [2012] NSWSC 1023 Latham J [2013] NSWCCA 338	Unlawful and dangerous - shooting Fight - shooting Shooting - general	VG (at murder trial – 15% for offer) Manslaughter Affray	7y 9m NPP 5y 9m FT 3y <u>Total:</u> 8y NPP 6y	Crown AA 12y NPP 8y 9m FT 4y <u>Total:</u> 13y NPP 9y 9m	Old robbery offences	Involved in arranged confrontation between two groups of male youths – fired up to ten cartridges from Ruger pistol at opposing group in car park – bullet struck truck driver across road killing him instantly – first to discharge firearm Married with two children – moderate prospects of rehabilitation
29.	O'Brien (19) McManus (19) Williams (23) [2012] NSWSC 1503 Price J	Unlawful and dangerous - shooting Shooting - general Accessory	PG (15%) Manslaughter s97(1) att rob in company PG (15%) Manslaughter s97(1) att rob in company PG (15%) Manslaughter s97(1) att rob in company	7y 10m NPP 5y 6m FT 4y 3m (concurrent) 7y 8m NPP 5y 4m FT 4y 1m (concurrent) 8y 1m NPP 5y 9m FT 4y 6m (concurrent)		Malicious wound, rob in co Rob in co, Driving with drugs Assaults, AOABH, on bond	Victim was part of group who had arranged to supply ecstasy to offenders – offenders planned to rob suppliers and on-sell drugs for significant financial gain - victim died from gunshot wound to head during robbery attempt – gun fired from vehicle driven by offenders - each offender sentenced on basis he did not fire gun and did not know of weapon O'Brien – substance abuse – schizophrenia McManus – substance abuse – good rehabilitation prospects Williams – tragic early life following death of mother – early use of drugs and alcohol – prospects of employment – family support - special circumstances

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30.	WA (20 - 16 at time of offence) [2012] NSWSC 1317 Button J [2014] NSWCCA 92 Co-offender ASLETT ASLETT	Unlawful and dangerous - shooting Juvenile offender Shooting – general	PG (25%)	8y NPP 6y	AD	Agg BES – BES - resist police – stalking - intimidation	Offender’s car allegedly set alight by neighbour – offender went with brother and cousin to confront victim – brother and cousin armed with baseball bat and machete – offender armed with loaded rifle – shot number of bullets parallel to ground – one bullet hit victim in back and penetrated heart – gross spontaneous overreaction Dysfunctional upbringing – remorse – rehabilitation prospects.
31.	Abbas (18) [2013] NSWSC 1379 Beech-Jones J [2014] NSWCCA 188	Unlawful and dangerous - shooting Shooting - general	PG (25%) Manslaughter AOABH in Company Poss proh pistol Sched: Poss ammo	11y NPP 7y FT 2y FT 3m <u>Total:</u> 11y NPP 8y	AD	minor	Attended home of friend carrying prohibited pistol to confront male acquaintance over drug debt – assaulted male to head – pistol discharged killing friend of offender
32.	Elsamad (19 at offence – 22 at sentence) [2020] NSWSC 1372 Hidden AJ	Unlawful and dangerous – shooting Shooting - general	VG (at murder trial - 15% for offer to plead)	10y NPP 7y		Robbery in company, dishonesty, possess drugs.	Shot victim – animosity between offender and victim – earlier episode of aggression by victim – offender deliberately obtained shotgun from apartment and confronted victim although acting impulsively Troubled background - limited intelligence - history of depression

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