

Manslaughter Motor Vehicle

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Elliott (28) NSWCCA 14.2.1991	Criminal negligence Motor vehicle	VG	MT 4y AT 1y 4m	AA FT 10m 25d backdated - immediate release	nil relevant	Truck driver collided with passenger coach – raining - before commencing journey aware of major fault in braking system which caused accident - criminality at lower end of scale Remorse
2.	Farrar NSWCCA 6.5.1991	Unlawful and dangerous - misc Motor vehicle		MT 13y 8m AT 4y 5m	AA MT 10y 8m AT 3y 8m	appalling driving record including culpable driving causing death	Drove car into side of tree killing police officer holding on to side of car Alcohol involved
3.	Jenkins NSWCCA 14.7.1993	Provocation Motor vehicle	VG	MT 2y 6m AT 3y 6m	AA MT 1y 6m AT 2y 6m	nil	Chinese woman met male victim with intention of plutonic relationship - victim attempted to force intercourse and offender took car with intention of escape - victim stood in front of car and was run over three times On appeal - SJ had not expected offender would serve sentence at gaol overlooking car park where offence took place
4.	Stevens (18) NSWCCA 13.8.1993	Unlawful and dangerous - misc Criminal negligence Motor vehicle	PG	MT 7y AT 2y 4m	AA MT 5y 6m AT 2y 6m		After drinking spree decided to steal car - killed owner who was seeking to prevent car being stolen

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5.	Cramp (55) (1999) 110 A Crim R 198 [1999] NSWCCA 324	Criminal negligence Unlawful and dangerous - misc Motor vehicle Victim under 18y	VG	MT 7y AT 2y 4m	AD	2 x PCA	“Worst case category” - allowed 16y intoxicated female to drive car at high speed - ran into telegraph pole killing driver - 3 young children in car - looking after victim and children who were neighbours.
6.	Ryan (27) [2000] NSWSC 724 Adams J	Unlawful and dangerous - misc Motor vehicle	PG 2 x Mansl	7y 10m NPP 5y 10m (2m PSC)		minor traffic infringements	Driver of semi-trailer struck two cars driving in oncoming lane of six lane highway divided by median strip - intentionally drove across median strip - affected by methamphetamines and tiredness - failed to comply with driving restriction and falsified logbook - took drug to keep alert and enhance driving, not intending to be intoxicated
7.	Do [2000] NSWCCA 459	Criminal negligence Motor vehicle Victim under 18y	VG 2 x Mansl	MT 3y AT 1y (each)	Crown AD	nil	Driver of heavily laden truck lost control on downward incline of major road colliding with car and crashing into residential property - killed driver of car and 13y occupant of house - failure to observe warning signal and initial abandonment of responsibility although facts did not establish deliberate acceleration
8.	Falzon (24) [2000] NSWCCA 530	Motor vehicle	VG Manslaughter PG Dangerous driving causing GBH	MT 9y AT 3y FT 4y	AA 10y NPP 7y 6m FT 4y	Long	Stole car and became involved in high speed police chase - collided with car at intersection killing one person and injuring another - travelled at high speed and disregarded road signs - under influence of heroin. On appeal found barrister negligent in advising appellant not to plead guilty – offender resentenced on basis of intention to plead guilty

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9.	<p>Clarke [2001] NSWSC 703 McClellan J</p> <p>Marsh [2001] NSWSC 1109 McClellan J</p> <p>[2002] NSWCCA 151</p>	<p>Unlawful and dangerous - assault</p> <p>Assault – general</p> <p>Motor vehicle</p>	<p>PG (25%) Manslaughter</p> <p>Carried in conveyance</p> <p>PG (20%) Manslaughter</p> <p>Rob in Co</p> <p>Take & drive</p>	<p>5y NPP 3y 6m</p> <p>FT 6m (concurrent)</p> <p>10y 4m NPP 7y 9m</p> <p>FT 6y</p> <p>FT 14m (all concurrent)</p>	Crown AD AD	<p>Lengthy</p> <p>Lengthy</p>	<p>Offenders stole car, grabbed victim's handbag and drove off - victim tried to get handbag back grabbing onto offender - M punched victim who fell and hit head on rear tyre - died of head injuries.</p> <p>C - surrendered to police - considerable remorse - high level of assistance to police - protective custody</p> <p>M - denied involvement - plea out of acknowledgment of evidence of co-offender - higher culpability than co-offender</p>
10.	<p>Hogan [2004] NSWSC 959 Barr J</p>	<p>Unlawful and dangerous - misc</p> <p>Motor vehicle</p>	<p>PG</p>	<p>4y NPP 2y 3m</p>		<p>Some priors related to turbulent relationship</p>	<p>Wife had history of depression with violent and attention seeking behaviour – while offender driving her to hospital victim attempted to leave car at traffic lights – began to accelerate to shut car door – victim fell out and suffered fatal injury</p> <p>Criminality very low – remorse</p>
11.	<p>Cameron (20) (2005) 157 A Crim R 70 [2005] NSWCCA 359</p>	<p>Motor vehicle</p>	<p>PG (22% on appeal) 3 x Mansl</p> <p>s.52A(4)</p>	<p>6y NPP 2y (each)</p> <p>FT 3y</p> <p>Total: 8y NPP 4y</p>	Crown AA 9y NPP 6y	<p>Priors – breached bond</p> <p>Subsequent offence of drive intoxicated</p>	<p>Permitted by owner to drive powerful car as birthday present – unlicensed, speeding and intoxicated – ignored warnings to slow down – collided with pole killing three passengers and injuring one passenger</p> <p>Protective custody</p>
12.	<p>Lawler (45) (2007) 169 A Crim R 415 [2007] NSWCCA 85</p>	<p>Motor vehicle</p>	<p>PG Manslaughter</p> <p>Dang driving causing GBH</p> <p>Dang driving causing GBH</p>	<p>10y 8m NPP 8y</p> <p>FT 2y</p> <p>FT 18m (concurrent)</p>	AD	<p>Traffic offences</p>	<p>Driver of prime mover approached slow moving traffic due to accident – unable to slow vehicle due to defective brakes – collided with 35 cars – one car incinerated killing driver – two drivers seriously injured – aware of braking problems – truck generally in poor condition, uninsured and unregistered due to financial difficulties</p> <p>Remorse</p>

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13.	Borkowski (37) (2009) 195 A Crim R 1 [2009] NSWCCA 102	Motor vehicle Unlawful and dangerous - misc	PG (25%) Manslaughter Manslaughter	FT 4y 7y NPP 4y <u>Total</u> 9y NPP 6y	Crown AD	Record	Street racing with two other cars along highway – collided with vehicle turning right killing occupants – speeding and under influence of alcohol and drugs Sentence manifestly inadequate but no intervention because of parity to co-offender
14.	Young (22) [2009] NSWCCA 298	Unlawful and dangerous - misc Motor vehicle	PG (12.5%)	8y NPP 5y	AD	Minor traffic matter	Heavily intoxicated after drinking at hotel – verbal and minor physical altercation between offenders' group and victim's group – drove car towards victim's group, mounted footpath and struck victim – intent to frighten – spontaneous offence – left scene of accident Remorse – good prospects of rehabilitation
15.	Reynolds (33) [2010] NSWSC 691 Grove J [2015] NSWCCA 29	Criminal negligence Motor vehicle (boat)	VG Manslaughter 5 x Mansl	6y 6m NPP 4y FT 4y <u>Total:</u> 7y 6m NPP 5y	Conviction AD	Nil	6 victims – boat collision – offender asked by friends to drop off keys to boat after work function – took workboat which he used in his employment – took large number of persons on boat – allowed PS to drive boat for short while – PS under influence of drugs and alcohol and did not have boat licence – boat collided with fishing boat – ought to have known PS unfit to drive boat and failed to supervise him. Remorse – good character – girlfriend was one of the victims

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16.	Iskov [2010] NSWSC 1074 Barr AJ [2011] NSWCCA 241	Criminal negligence Motor vehicle	PG (25%) Manslaughter s.86 s.33	12y NPP 7y 6m 10y NPP 7y 6m 8y NPP 6y <u>Total:</u> 18y NPP 13y 6m	AA 9y NPP 5y 3m 10y NPP 7y 6m 8y NPP 6y <u>Total:</u> 15y NPP 11y 3m		Entered car of estranged wife and assaulted her on wrist and head with hard, blunt instrument – drove around in victim’s car with victim in front seat unable to leave for three and a half hours – car collided with tree and victim killed by impact with windscreen – negligent in failing to obtain medical assistance for injuries, driving around with distressed passenger, failing to ensure victim wearing seat belt and collision with tree – negligence of driving not high Angered and depressed by marriage breakdown – suffering reactive depression
17.	Sparks (26 at offence – 49 at sentence) Stracey (26 at offence – 49 at sentence) [2010] NSWSC 1512 Adams J	Unlawful and dangerous – assault Assault – general Motor vehicle	PG (25%) Manslaughter Rob in Co AR Sched: 3 offences PG (25%) Manslaughter Rob in Co Sched: 2 offences	6y 9m NPP 3y 6m 3y 9m NPP 2y 4y 10m NPP 2y 6m <u>Total:</u> 7y 10m NPP 4y 6m 5y 3m NPP 2y 3y NPP 1y 6m (concurrent)		Lengthy record including recent charges Numerous offences until 1993	Manslaughter: 1987 – Stracey drove van past female pedestrians while Sparks attempted to grab bags – third victim struck head on kerb in attempt to resist robbery – abandoned van and stole car – took extensive steps to cover up involvement – offence opportunistic but part of pre-mediated pattern of criminal behaviour Sparks: robbed real estate with blood filled syringe and knife in 1997 - disturbed childhood – poly drug abuse – drug affected at time of offence – genuine remorse Stracey: rehabilitation from drug abuse in early 1990s – supportive family

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18.	Woodbridge (2010) 208 A Crim R 503 [2010] NSWCCA 185	Motor vehicle Criminal negligence	VG Manslaughter Agg driving cause GBH	3y NPP 2y FT 2y <u>Total:</u> 6y NPP 4y	Crown AA 7y NPP 4y FT 3y <u>Total:</u> 9y NPP 6y	High PCA	Female – drove intoxicated – crossed over to other side of road colliding with oncoming vehicle – one victim killed and second victim seriously injured – drove lengthy distance on busy highway on busy afternoon. Mental health issues – suffering depression – argument on morning with ex-husband and son caused offender to consume alcohol – good character.
19.	Duncan (36) [2012] NSWCCA 78	Motor vehicle Victim under 18y	PG 2 x Mansl 3 x Agg dangerous driving causing GBH	9y 6m NPP 5y (each) FT 3y <u>Total:</u> 12y 6m NPP 8y	AD		Female driving car load of passengers 3am on country road – encouraged male driver to reach excessive speeds on journey out – on return journey sought to better speed – passengers asking offender to slow down - missed bend and collided with trees – four passengers aged under 18y Remorse – mother to children – excellent prospects of rehabilitation
20.	Spark (23) [2012] NSWCCA 140	Motor vehicle	PG (25%) Manslaughter Manslaughter Sched: Agg BES Take and drive conveyance	13y 6m NPP 9y 9m 12y 6m NPP 8y 9m <u>Total</u> 15y NPP 11y 3m	AD	Significant record including car theft offences – breached parole	Broke into home and stole car keys – drove away car parked in driveway – next day drove stolen vehicle on incorrect side of road - collided with oncoming car killing driver and passenger – under influence of drugs and alcohol – police pursuit over 2.2km up to speeds of 185kph – continued at high speeds after pursuit terminated for 3.2km – wet conditions – unlicensed – very high level of culpability Genuine remorse
21.	Winter (43) [2012] NSWCCA 218	Motor vehicle	PG (25%) Manslaughter Manslaughter	3y 3y <u>Total</u> 4y NPP 2y	Crown AA 4y NPP 3y 4y NPP 3y <u>Total:</u> 9y NPP 6y		Female – suffered blackout due to undiagnosed epilepsy – hit two pedestrians – driving against medical orders after taking prescribed morphine and other drugs for migraine and smoking cannabis – previously suffered blackouts - not of highest order of culpability but driving in face of medical advice and knowledge of potential to lose consciousness places moral culpability at high level

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22.	Day (27) [2014] NSWCCA 333	Motor Vehicle Unlawful and dangerous - misc	PG (25%) Manslaughter s.52A(3) Sched: 2 x s.52A(3)	9y NPP 6y FT 3y <u>Total:</u> 10y NPP 7y	AD		Truck driver veered off motorway and struck four cyclists on shoulder – one killed and three injured – significantly impaired by cannabis – grossly exceeded permitted driving hours prior to collision – chronic and acute fatigue – no proper rest breaks – moral culpability of high order Experienced driver – suffering depression and anxiety from financial pressures – pressured to keep illegal hours by employer
23.	Gordon (42) [2017] NSWSC 574 Campbell J	Unlawful and dangerous - misc Motor vehicle	VG (murder trial – 15% for offer to plead)	10y NPP 6y 6m		Record for violent impulse when intoxicated	Afternoon and evening drinking with victim and other friends – started driving victim home when earlier argument reignited – victim alighted from car – offender accelerated in reverse and deliberately struck victim – offered initial assistance then left victim at side of road – both highly intoxicated – impulsive but serious offence Alcohol problem – health problems affecting custodial conditions
24.	Chandler (22) [2017] NSWSC 1758 Johnson J [2023] NSWCCA 59	Unlawful and dangerous - misc Motor Vehicle Victim under 18y	PG (5%) Manslaughter Sched: Take and drive MV Drive unlic Police pursuit offence	19y NPP 13y	AA 15y 8m NPP 10y 6m	breached bail – lengthy record – many driving offences – aggravating factor	Offender driving stolen car in police pursuit – drove through backyard killing 18m child – continued driving through park with adults and children and pursuit terminated – never held a licence to drive – previously lived in area and aware of proximity of park through backyard – held actual realisation of appreciable risk of serious injury – at gravest end of spectrum - aggravated by being committed in home of victim Extremely dysfunctional and difficult childhood resulting in early and heavy drug abuse – mental health issues – <i>Bugmy</i> considerations – institutionalised criminal – protective custody due to nature of offence On appeal: manifestly excessive
25.	Lees (41) [2019] NSWCCA 65	Motor vehicle Assault – domestic Unlawful and dangerous – misc	PG (10%) Manslaughter s.166 cert offences	16y NPP 12y 6m (concurrent)	AA 12y NPP 9y	Minor – breached two bonds	Female – deliberately drove at de facto standing several metres away – victim struck and dragged 30 metres under car – use of car as weapon – unplanned and spontaneous – no provocation – high range Difficult relationship – mental health issues On appeal: sentence manifestly excessive - failure to properly take into account mental health issues

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26.	Lord (56) [2020] NSWSC 82 Harrison J [2020] NSWCCA 208	Unlawful and dangerous Motor vehicle Drowning	PG (15%)	10y 8m NPP 8y	AD	nil	After argument with wife deliberately drove car into river with wife as passenger – dragged wife from car but she did not survive – unplanned – serious example Prior good character On appeal – sentence not unreasonable
27.	Fuller (33) [2020] NSWSC 1580 Cavanagh J [2022] NSWCCA 203	Stabbing – general Provocation Excessive self-defence	VG (at murder trial - 25% for offer to plead)	9y NPP 6y 3m	AA 8y 4m NPP 5y 8m	Assault, contravene AVO, driving.	Stabbed victim twice after victim deliberately drove into offender's car – brought two large knives to scene - offence committed in broad daylight with many witnesses – known to each other – ongoing conflict between offender and victim and family members - SJ determined not necessary to reach concluded view as to whether verdict based on provocation or excessive self-defence Drug abuse – disadvantage - good prospects of rehabilitation – remorse On appeal: increased discount for guilty plea from 20%
28.	Smith (40) [2020] NSWCCA 181	Motor vehicle	PG (25%) s.166 Cert: 3 offences	9y NPP 6y 3m Concurrent sentences	AA 7y 6m NPP 5y	2 PCA offences	Female drove intoxicated and under influence of cannabis – drove into post and hedge leaving car park – declined offer by acquaintance to drive home – struck speed hump and nearly struck young boy – fishtailed off road and struck signpost pulling panel off car – left road twice – continued to speed over distance then struck victim's car – victim died in hospital – alcohol level 0.261 – absolute abandonment of responsibility Dysfunctional and abusive childhood – abusive relationships as an adult – mental health issues and alcohol addiction - Bugmy considerations balanced with extreme gravity of offence Appeal: comparative cases establish manifestly excessive – bushfires and Covid affected contact with children

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29.	Crowley [2021] NSWCCA 45	Motor vehicle Criminal negligence Unlawful and dangerous - misc	PG (25%) Manslaughter s.52A(4) 2 x s.52A(4) Sched 2 x Cause bodily harm by driving	<u>Indicative</u> 11y 4y 6m 4y 8m <u>Aggregate:</u> 14y 3m NPP 10y	AD	Minor traffic	Drove car over sustained period at high speed – 140kph in 70kph zone – included driving on wrong side of road and on bicycle lane – intoxicated – police chase during early phase - sideswiped several vehicles – collided head on with car killing passenger and seriously injuring other passengers – high moral culpability and abandonment of responsibility – satisfied both criminal negligence and unlawful and dangerous act Good character – remorse – good prospects of rehabilitation – mental health issues
30.	Abdulrahman (36) [2021] NSWCCA 114	Motor vehicle	PG Manslaughter Drive disqualified Sched: 2 x possess drugs	<u>Indicative</u> 6y 9m 3m <u>Aggregate</u> 6y 10m NPP 4y 6m	Crown AA <u>Indicative</u> 10y 1m 3m <u>Aggregate</u> 10y 2m NPP 6y 8m	AOABH - firing firearm in public place - acc after fact manslaughter - demand property with menaces - low range PCA - dangerous driving – breached ICO	Speeding and driving while affected by drugs (ice and ecstasy) - struck and killed 12y male victim - failed to render assistance to dying child and instead stood by smoking cigarette and speaking on mobile telephone - able to think clearly enough to delete texts on phone, speak with family and concoct lie to tell police as to cause of accident. Drug abuse. On appeal: Sentencing judge failed to have regard to specific deterrence and need to protect community against further offending of similar nature – manifestly inadequate sentence - very high moral culpability given manner and circumstances of driving, drug usage and breach of conditional liberty for same conduct - lack of evidence of some prospect of not reoffending
31.	Byrne Cahill [2021] NSWCCA 185	Motor vehicle Criminal negligence	PG (25%) PG (25%)	10y 6m NPP 7y 10y 6m NPP 7y	AD	Driving offence nil	Street race – during break in TAFE studies each offending commenced driving to nearby café with passengers – pulled up at lights – spontaneous street race – collided with ute killing driver instantly – up to 143kph in 50kph zone – equal culpability – provisional drivers – danger to public and seriousness of offence increased by involvement of two cars – built up area of town – speed Youth – importance of general deterrence – both had good subjective case and remorse On appeal: sentences stern but not outside range

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32.	<p>Butler (27)</p> <p>Russell (34)</p> <p>[2021] NSWDC 666 Haesler SC DCJ</p> <p>(Russell) [2023] NSWCCA 196</p>	<p>Unlawful and dangerous</p> <p>Motor vehicle</p> <p>Accessory</p>	<p>VG Manslaughter</p> <p>2 x s.52A(3)</p> <p>PG (5%) Police pursuit</p> <p>Take and drive</p> <p>VG Manslaughter</p>	<p><u>Indicative:</u> 10y</p> <p>3y 6m</p> <p>1y 5m</p> <p>1y 5m</p> <p><u>Aggregate:</u> 13y NPP 9y 3m</p> <p>4y NPP 2y 11m</p>	<p>Conviction AD</p>	<p>Extensive record including police pursuit offence – breached parole and bail</p> <p>Lengthy</p>	<p>After attempting to extort money from male at service station offenders engaged in high speed pursuit of car with male and three other persons – matched speed and lane changes of pursued car at 160kph over 12km on motorway – pursued car struck by tanker due to speed resulting in death of passenger and serious injuries to second passenger and driver – offenders did not stop for accident and B took steps to avoid apprehension - car driven by B – R engaged in JCE to intimidate and stalk – supported B by presence and lesser culpability – serious motor vehicle offence B – Australian Aboriginal – difficult childhood aggravated by abuse suffered in juvenile detention – substance abuse - institutionalised R – substance abuse – institutionalised – family support</p>
33.	<p>Smith (32)</p> <p>[2022] NSWSC 269 Rothman J</p>	<p>Unlawful and dangerous – misc</p> <p>Motor vehicle</p>	<p>PG (5%)</p>	<p>8y 6m NPP 3y 6m</p>		<p>short</p>	<p>Present at home of victim during argument in backyard between victim and ex-girlfriend over her possessions – victim burning ex-girlfriend's possessions and acting in aggressive, violent and threatening manner – significant non-exculpatory provocation - offender drove at victim with ute pinning him to garage wall – intent to prevent further assault - victim died of internal injuries – well below mid-range In relationship with victim's ex-girlfriend – <i>Bugmy</i> factors applied – drug use at time of offending linked to background and mental health issues – remorse – facilitation of administration of justice – special circumstances including accumulation to existing sentences and proposed rehabilitation program</p>

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34.	Moananu (29) [2022] NSWCCA 85	Motor vehicle	PG (25%) 2 x Mansl Agg driving cause GBH	<u>Aggregate</u> 15y NPP 10m	AA <u>Aggregate</u> 12y 6m NPP 8y 4m	Refuse breath test, damage property.	Drove whilst intoxicated at excessive speed on freeway for 6km, crossed onto other side, crashed head-on with victims' vehicle - caused death of two victims, one of whom pregnant with well-advanced twins in utero who did not survive – further infliction of grave injuries on third surviving victim who suffered traumatic brain injury and other serious ongoing injuries. Dysfunctional traumatic background (<i>Bugmy</i>). CCA: Sentence manifestly excessive.
35.	Davidson [2022] NSWCCA 153	Motor vehicle Criminal negligence Victim under 18y	PG (25%) 4 x Mansl Agg driving cause GBH 2 x cause bodily harm	<u>Indicative</u> 14y 3m 6y 1y 4m <u>Aggregate</u> 28y NPP 21y	AA <u>Indicative</u> 10y 6m 5y 3m 1y 1m <u>Aggregate</u> 20y NPP 15y	Nil	Drove whilst under influence of drugs and alcohol at excessive speed - lost control of vehicle – mounted kerb, striking seven children from behind, dragging some of them along – four victims killed instantly – three victims injured, one with critical significant brain injuries – gross criminal negligence. Good subjective case – remorse, prospects of rehabilitation, prior good character - ADHD. CCA: sentence manifestly excessive.

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36.	Cook (37) [2023] NSWCCA 9	Motor vehicle Unlawful and dangerous – misc	PG (25%) 2 x Mansl Reckless cause GBH s.112(2) Supply meth Poss short. firearm Poss loaded firearm in public place Sched: 6 offense	<u>Indicative:</u> 6y 3y NPP 2y 3m 2y 3m 2y 3m NPP 1y 8m 18m 10m <u>Aggregate:</u> 14y NPP 9y	Crown AD	Moderate but escalating record – breached suspended sentences and bond	Pursued car in aggressive and predatory manner after \$7,000 drug rip off – unintentionally caused contact and subsequent crash – no intoxication – traveling at speed limit at time of offence – short period of driving on highway with light traffic - recovered money but provided no assistance – mid-range - other offences committed on separate occasions over six months – stole \$66,000 goods from property – supplied 72.25g methamphetamine on 55 occasions over four months – firearms located after search of property - offences in low-range Difficult childhood and personal life – <i>Bugmy</i> factors applied – some remorse – difficult custodial conditions On appeal: sentences lenient but not manifestly inadequate in view of sentences imposed in similar cases

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