

**Manslaughter**  
**Provocation – Extreme**  
**Offences committed on or after 13.6.2014**

**s 23(1) (NSW) Crimes Act**

If it appears act causing death was in response to extreme provocation jury is to acquit accused of murder and find accused guilty of manslaughter

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

(for offence committed prior to 13.6.2014 see separate table: Provocation – Old Provisions)

|    | Case<br>(age if known)                                                                                     | Type                                                                        | Plea                                             | Sentence        | Appeal                   | Record                                  | Facts                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------|-----------------|--------------------------|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Fuller<br>(33)<br><a href="#">[2020] NSWSC 1580</a><br>Cavanagh J<br><br><a href="#">[2022] NSWCCA 203</a> | Stabbing – general<br><br>Extreme provocation<br><br>Excessive self-defence | VG<br>(at murder trial - 25% for offer to plead) | 9y<br>NPP 6y 3m | AA<br>8y 4m<br>NPP 5y 8m | Assault,<br>contravene<br>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<br>Drug abuse – disadvantage - good prospects of rehabilitation – remorse<br>On appeal: increased discount for guilty plea from 20% |
| 2. | Cust<br>(20 at offence – 23 at sentence)<br><a href="#">[2021] NSWSC 1515</a><br>Wilson J                  | Extreme provocation<br><br>Stabbing - general                               | VG<br>25% for early offer to PG                  | 6y<br>NPP 4y 6m |                          | Nil                                     | Attempted sexual assault of offender by male deceased – woke up finding deceased trying to rub his penis on offender – stabbed multiple times – tried to burn house down - immediate complaint and admissions by offender – extreme provocation of a high order.<br>Supportive family - good prospects of rehabilitation - evidence of remorse - strong subjective case – had led worthy life.                                                                                                                                |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

|    | Case<br>(age if known)                                                           | Type                                                  | Plea                                    | Sentence        | Appeal | Record | Facts                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 3. | <b>Songcuan (No.3)</b><br>(73)<br><a href="#">[2023] NSWSC 183</a><br>Campbell J | Strangulation /<br>choking<br><br>Extreme provocation | VG<br>(murder trial –<br>25% for offer) | 7y 6m<br>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.<br>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.<br>Advanced age – good character. |

Last Updated: March 2023